

**THE WEST BENGAL VALUE
ADDED TAX ACT, 2003.
(WEST BENGAL ACT XXXVII OF 2003)**

**[Incorporating amendment under the WB Act I of 2014
(Notification No. 440-L. dated 11.03.2014) & Notification
No. 848 F.T. dated 28.05.2014]**

**GOVERNMENT OF WEST BENGAL
DIRECTORATE OF COMMERCIAL
TAXES**

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(WEST BENGAL ACT XXXVII OF 2003)
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THE WEST BENGAL VALUE ADDED TAX ACT, 2003

(West Bengal Act XXXVII of 2003)

An Act to levy tax on sale of goods in West Bengal on the basis of value added to such goods at each stage of sale of such goods and on purchases of certain goods in West Bengal in specified circumstances and to provide for matters connected therewith or incidental thereto.

Whereas it is expedient to provide for the levy of tax on sale of goods in West Bengal on the basis of value added to such goods at each stage of sale of such goods and on purchases of certain goods in West Bengal in specified circumstances and to provide for matters connected therewith or incidental thereto.

It is hereby enacted in the Fifty-fifth year of the Republic of India, by the Legislature of West Bengal, as follows:-

CHAPTER I

(Preliminary)

1. Short title, extent and commencement.- (1) This Act may be called the West Bengal Value Added Tax Act, 2003.

(2) It extends to the whole of West Bengal.

(3) This section shall come into force at once; and the remaining provisions of this Act shall come into force on such date or dates as the State Government, may, by notification, appoint, and different dates may be appointed for different provisions of this Act.

2. Definitions.- In this Act, unless the context otherwise requires,-

(1) **'Additional Commissioner'** means Additional Commissioner of Sales Tax appointed under sub-section (1) of section 5;

(2) **'Appellate and Revisional Board'** means the West Bengal Sales Tax Appellate and Revisional Board constituted under section 7;

(3) **'appointed day'** in relation to any provision of this Act, means the date on which such provision comes into force;

(3A) **'appropriate Government treasury'** means-

(a) In the case of a dealer in Kolkata,-

(i) The Kolkata branch of the Reserve Bank of India for payments under the Act

exceeding five hundred rupees, and

- (ii) Such head office , main office, branch or branch offices of any bank in Kolkata as may be authorised in this behalf by the State Government for the purpose of accepting deposits for payments under the Act, and

- (b) In other cases, the treasury or sub-treasury of the sub-division where the dealer's place of business is situated or, in the event of a dealer having more than one place of business, where the chief branch or head office of the business is situated;

(4)' **Bureau**' means the Bureau of Investigation constituted under section 8;

(5) '**Business**' includes --

- (a) any trade, commerce, manufacture, execution of works contract or any adventure or concern in the nature of trade, commerce, manufacture or execution of works contract, whether or not such trade , commerce, manufacture, execution of works contract, adventure or concern is carried on with the motive to make profit and whether or not any profit accrues from such trade, commerce, manufacture, execution of works, adventure or concern ; and

- (b) any transaction in connection with, or ancillary or incidental to, such trade, commerce, manufacture, execution of works contract, adventure, or concern;

(6) '**Capital goods**' means plant and machinery including components, spare parts and accessories of such plant and machinery, other than civil structure, for use directly in the manufacture of goods and pollution control equipments for use in the manufacture of goods, in the State and such other goods as the State Government , may , ¹[by notification specify].

(7) '**casual dealer**' means a person other than a dealer who, whether as principal, agent or in any other capacity, has occasional transaction involving buying, selling, supplying or distributing goods in West Bengal whether for cash or deferred payment, or for commission, remuneration or other valuable consideration and includes, whether he has fixed place of business in West Bengal or not,-

- (a) a transporter, carrier or transporting agent , as defined in clause (52) who, while carrying any goods in his goods vehicle as defined in clause (16) , fails to disclose the name and address of the consignor or consignee within West Bengal or fails to furnish a copy of the invoice, challan, transport receipt or consignment note or documents of like nature in respect of such goods, or

- (b) an owner or lessee or occupier of a warehouse who fails to disclose the name or address of the owner of any goods stored at his ware house or fails to satisfy the Commissioner that such goods are for his personal use or consumption, and such transporter, carrier or transporting agent or owner or lessee or occupier of a warehouse, shall be deemed to have purchased such goods on his own account;

(8) '**Commissioner**' means the Commissioner of Sales Tax , appointed under sub-section (1) of section 3 ;

(9) '**company**' means a company as defined in section 3 of the Companies Act, 1956, (1 of 1956) and includes a body corporate or corporation within the meaning of clause (7) of section (2), or a foreign company referred to in section 591, of that Act;

(10) '**contractual transfer price**' in relation to any period, means the aggregate of the amount received or receivable by a dealer in respect of transfer of property in goods (whether as goods or in some other form) in the execution of any works contract, as defined in clause (57) Whether executed partly or fully during such period. Here goods are used to mean all kinds of moveable property other than goods taxable under the W B S T Act 1994.

(11) '**dealer**' means any person who carries on the business of selling or purchasing goods in West Bengal or any person making sales under section 14, and includes-

(a) 'an occupier of a jute mill or shipper of jute',

(b) 'Government, a local authority, a statutory body, a trust or other body corporate which , or a liquidator or receiver appointed by a court in respect of a person, being ,a dealer as defined in this clause, who, whether or not in the course of business, sells, supplies or distributes directly or otherwise goods for cash or deferred payment or for commission, remuneration or other valuable consideration,

(c) a society including a co-operative society, club, or any association which sells goods to its members or others for cash, or for deferred payment, or for commission, or for remuneration, or for valuable consideration,

(d) a factor, broker, a commission agent, a del credere agent, an auctioneer, an agent for handling or transporting of goods, or handling of documents of title to the goods, or any other mercantile agent, by whatever name called, and whether of the same description as herein before mentioned or not, who carries on the business of selling of goods and who has, in the customary course of business, authority to sell goods belonging to principal.

(12) '**digital signature**' means authentication of any electronic record by a person by means of an electronic method or procedure in accordance with the provisions of section 3 of the Information Technology Act, 2000 (21 of 2000);

(13) '**director**' in relation to a company, includes any person occupying the position of director, by whatever name called;

(14) '**electronic record**' means data, record or data generated , image or sound stored, received or sent in an electronic form as defined in clause (r) of sub-section (1) of section (2) of the Information Technology Act, 2000 (21 of 2000) and includes micro film or computer generated micro film;

(14A) '**fair market value**' in relation to any goods, means the price which such goods would ordinarily fetch on sale in the open market on the date of sale or despatch or transfer of such goods;

(15) '**Goods**' includes all kinds of moveable property other than,

a) actionable claim, stocks, shares or securities,

(b) country liquor,

(c) foreign liquor, whether made in India or not, including brandy, whisky, vodka, rum, liquor, cordials, bitters and wines or a mixture thereof, beer, ale, porter, cider, perry, and other similar fermented liquors,

(cc) rectified spirit and Extra Neutral Alcohol (ENA)

(d) lottery tickets, and

(e) motor spirit of any kind;

(16) '**goods vehicle**' means any motor vehicle as defined in clause (28) of section 2 of the Motor Vehicle Act, 1988 (59 of 1988), constructed or adapted for use for transportation of goods or any motor vehicle not so constructed or adapted when used for the transportation of goods, and includes a trailer attached to such vehicle and any means of transportation including an animal to carry goods from one point to another point;

(17) '**Government**' means the Central Government, the Government of any State or the Government of any union territory;

(17A) '**Import**' means bringing goods in West Bengal from any place outside West Bengal or from any other country;

(18) '**Input tax**' in relation to a tax period on or after coming into force of this Act, means the amount of tax,--

(a) paid or payable under this Act, other than under section 11, by a registered dealer, other than those enjoying composition under any of the sub-sections of section 16 or sub-section (4) of section 18, to a registered dealer, or a dealer who has made an application under sub-section (1) of section 24 within thirty days from the date of liability to pay tax under the Act, at the time of purchasing taxable goods, other than such taxable goods as may be prescribed, during that period,

(b) *Omitted.*

(c) *Omitted.*

(19) '**input tax credit**' or '**input tax rebate**' in relation to any period, means the setting off the

amount of input tax, or part thereof, by a registered dealer against the amount of his output tax;

(19A) '**intra-state contractual transfer price**' means contractual transfer price as referred to in section 14, ²[in respect of works executed within West Bengal], but excluding sale price for sales of goods in the course of interstate trade or commerce, or outside the State, or in the course of export out of the territory of India or import into the territory of India as referred to in section 3, section 4 or section 5 of the Central Sales Tax Act, 1956. (74 of 1956);

(20) '**interest due**' means the amount of interest which remains unpaid after the expiry of the date specified in the notice of demand issued in this behalf under this Act or the rules made thereunder;

(20A) '**interest payable**' means the amount of interest payable under section 33 or section 34 or section 34A;

(20B) '**jute**' means the plant known botanically as belonging to the genus *Cochlospermum*, and includes all the species of that genus, whether known commonly as pat, kosta, nalia, or by any other name, and also means the plant known botanically as *hibiscus cannabinus* or commonly known as mesta;

(21) '**jute-mill**' means a factory as defined to be a factory under, the Factories Act, 1948 (63 of 1948) which is engaged wholly or in part in the manufacture of jute products;

(22) '**manufacture**' with all its grammatical variations and cognate expressions, means producing, making, extracting or processing any goods and includes rearing of seedlings or plants, and raising of man-made forest or other natural resources like minerals, coal etc. for sale;

(22A) '**maximum retail price**' in respect of goods taxable under the Act, means maximum price printed on the package of any goods at which such goods may be sold to the ultimate customer, whether such price is inclusive of tax or not;

(22B) '**motor spirit**' means any liquid or admixture of liquids which is ordinarily used directly or indirectly as fuel for a motor vehicle or stationary internal combustion engine.

Explanation.-- For the purpose of this clause, the expression 'motor vehicle' shall include any means of carriage, conveyance or transport by land, air or water;

(23) '**net tax**' in relation to any period, means-

(a) in case of a registered dealer, other than those referred to in sub-clause (c) and sub-clause (d), the amount of output tax in excess of the net tax credit, as referred to in sub-section (17) of section 22, claimed by such registered dealer in accordance with the provisions of this Act and the rules made there under,

(b) in case of any dealer other than a registered dealer, the amount of output tax,

(c) in case of registered dealer paying tax at a compounded rate under any of the sections of section 16, or sub-section (4) of section 18, the amount of output tax,

(d) in case of a registered dealer, other than those referred to in sub-clause (a) and sub-clause (c) enjoying deferment of payment of tax, or tax holiday, or remission of tax under clause (a) , clause (b), or clause (c) respectively of sub-section (1) of section 118, the amount of output tax;

(24) '**notification**' means a notification published in the *Official Gazette*;

(25) '**occupier of a jute mill**' means the person who has ultimate control over the affairs of the jute-mill ;

(26) '**Output tax**', in relation to any period means the aggregate amount of tax payable by a dealer liable to pay tax under section 10, section 11, section 12, section 14, sub-section (3) of section 24 and section 27C, and includes tax payable at the compounded rate under any of the sections of section 16 or sub-section (4) of section 18, in respect of any sale, or purchase of goods or execution of works contract made by him in West Bengal.

(27) '**partnership**', '**partner**' and '**firm**' shall have the meanings respectively assigned to them in the Indian Partnership Act, 1932 (9 of 1932);

(28) '**penalty due**' means the penalty found to be unpaid after the expiry of the date specified in the notice of demand issued in this behalf under this Act, or rules made there under;

(29) '**place of business**' means a place from where a dealer sells goods or where he keeps accounts, registers or documents, including those in the form of electronic records relating to sales or purchase of goods or execution of works contract and digital signature certificate granted under sub-section (4) of section 35 of the Information Technology Act, 2000 (21 of 2000), relating to his business , and includes any place where the dealer processes, produces, or manufactures goods or executes works contract and any warehouse of such dealer;

(30) '**prescribed**' means prescribed by rules made under this Act;

(30A) '**prevailing market price**' means such whole sale price of any goods in force in the market as published by the Bureau of Applied Economics and Statistics of the State or any other authorised agency or in the newspaper and in cases where n such wholesale price as published is available, the price at which goods of the kind or quality is sold by the West Bengal Essential Commodities Supply Corporation Ltd or any other similar agency on the date of sale of such goods;

(31) '**principal officer**' in relation to a company, means the director or managing director of such company, or the secretary authorised to act as principal officer by the Board of Directors of such company;

(31A) '**principal place of business**' means any place of business where a dealer keeps all accounts, registers, documents including those in the form of electronic records, and digital signature certificate granted under sub-section(4) of section 35 of the Information Technology Act ,2000, relating to his business and, includes the chief branch or head office within West Bengal;

(32) *omitted* .

(33) *omitted* .

(34) '**purchase**' means any transfer of property in goods to the person making the purchase for cash or deferred payment or other valuable consideration, but does not include a transfer by way of mortgage, hypothecation, charge or pledge;

(35) '**purchase price**' means any amount of valuable consideration paid or payable by a person for the purchase of any goods less than any sum allowed as cash discount, commission or commercial rebate granted at the time of, or before delivery of goods but including cost of freight or delivery, or distribution or installation or insurance or any sum charged for anything done by the dealer in respect of the goods at the time of or before delivery thereof other than interest if separately charged;

(36) '**raw jute**' means the fibre of jute which has not been subjected to any process of spinning for weaving, and includes jute cuttings, whether loose or packed in drums or bales;

(36A) '**resale**' means sale of any goods purchased within West Bengal in the same form in which such goods are purchased or without using such goods in such manner which amounts to or results in manufacture;

(36B) '**return period**' means a period , as may be prescribed, for which a return is due under the Act;

(36C) '**reverse credit**' means reversal or returning by a dealer, by way of deduction from the amount of input tax credit or input tax rebate for a period ,the amount of input tax credit or input tax rebate , availed by him during any period which was not entitled to or became disentitled subsequent to the enjoyment of such input tax credit or input tax rebate.

(37) '**rules**' means the rules made under this Act;

(38) '**registered**' means registered under section 24;

(39) '**sale**' means any transfer of property in goods for cash, deferred payment or other valuable consideration and includes--

(a) any transfer other than in pursuance of a contract, of property in any goods for cash deferred payment or other valuable consideration,

(b) any delivery of goods on hire-purchase or any system of payment of instalment,

(c) any transfer of the right to use any goods for any purpose(whether or not for a specified period) for cash deferred payment and valuable consideration,

(d) any supply, by way of, or as part of any service or any other manner whatsoever of goods being food or any other article for human consumption or any drink (whether or intoxicating)

where such supply or service is for cash, deferred payment or valuable consideration,

(e) any supply of goods by any incorporated association or body of persons to a member thereof for cash, deferred payment or valuable consideration,

and such transfer, delivery or supply of goods shall be deemed to be sale of those goods by the person or unincorporated association or body of 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, but does not include a mortgage, hypothecation, charge or pledge.

Explanation-I. -- A sale shall be deemed to take place in West Bengal if the goods are in West Bengal,--

(a) in the case of specific and ascertained goods at the time of contract of sale is made; and

(b) In case of unascertained or future goods at time of their appropriation to the contract of sale by the seller whether the assent of the buyer to such appropriation is prior or subsequent to the appropriation.

Provided that where there is a single contract of sale in respect of goods situated in West Bengal as well as in places outside West Bengal, provision of this explanation shall apply as if there were a separate contract of sale in respect of goods situated in West Bengal.

Explanation II.--The transfer of property involved in supply or distribution of goods by a society (including a co-operative Society), club, firm or any association to its member for cash, deferred payment or other valuable consideration whether or not in course of business, shall be deemed to be a sale for the purposes of this Act.

(40) '**sale in West Bengal**' when used with respect to a sale made by a dealer, includes a sale deemed to have been taken place in West Bengal in the course of inter-State trade or commerce or in the course of export out of the territory of India;

(41) '**sale price**' means any amount payable to a dealer or casual dealer as valuable consideration for the sale other than the sale referred to in section 14 of any goods and includes--

- a) any sum charged for anything done by the dealer or casual dealer in respect of such goods at the time of delivery, or before delivery, of such goods,
- b) any sum charged for freight, delivery, distribution, installation, by such dealer at the time of delivery, or before delivery, of such goods,
- c) any tax, duty, or charges levied or leviable (other than the amount of tax separately charged under this Act, subject to the provision as mentioned in the *Explanation*, tax levied under the West Bengal Motor Vehicles Tax Act, 1979(W. B. Act IX of 1979) and cess levied under the West Bengal Transport Infrastructure Development Fund Act, 2002 (West Ben. Act XXI of

2002) in respect of such goods,

but does not include any sum allowed as cash discount, commission or other commercial rebate on the value of such goods at the time of delivery, or before delivery of such goods and interest if separately charged.

Explanation.-- For purposes of this clause, the expression 'sale price' of a dealer, enjoying payment of tax at a compounded rate under sub-section (3) of section 16 or sub-section (4) of section 18, or selling to any person other than a dealer of goods upon which maximum retail price or referred to in clause (22A) is applicable and where such maximum retail price is inclusive of sales tax, shall include any tax payable under this Act, including the tax referred to in section 10, or section 12;

(42) '**shipper of jute**' means any person who purchases raw jute and supplies it himself or by an agent to any person including himself outside West Bengal;

(43) '**Special Commissioner**' means a Special Commissioner appointed under sub-section (1) of section 4 ;

(44) '**State Government**' means the Government of West Bengal,

(45) '**tax**' means the tax due as defined in clause (46) or tax payable as defined in clause (49) under this Act;

(46) '**tax due**' means the amount of tax which remains unpaid after the expiry of the date specified in the notice of demand issued in this behalf under this Act or the rules made there under;

(47) '**taxable goods**' means goods other than those specified in schedule A;

(48) '**tax invoice**' means an invoice containing such particulars as may be prescribed;

(49) '**tax payable**' means the tax payable under this Act on sales or purchases effected or for execution of works contract by a dealer or casual dealer but does not include tax due as defined in clause (46) ;

(50) '**tax period**' means such period, as may be prescribed, for which tax is payable under this Act;

(51) '**Tax Recovery Officer**' means a Tax Recovery Officer appointed by the State Government under sub-section (4) of section 55;

(52) '**transporter, carrier or transporting agent**' means a person who carries on the business of transporting goods on account of any other person into, or outside, or within, West Bengal.

Explanation: For the purposes of the Act, the expression 'transporting agent', shall also include a clearing, forwarding, shipping and handling agent;

(53) '**Tribunal**' means the West Bengal Taxation Tribunal established under section 3 of the West

Bengal Taxation Tribunal Act, 1987 (West Ben. Act VIII of 1987);

(54) '**Turnover of purchases**', In relation to any period, means, -

(a) *Omitted.*

(b) in case of a shipper of jute liable to pay tax under section 11, the aggregate of the purchase prices or parts of purchase prices payable by such shipper of jute in respect of the quantities of raw jute purchased by him in West Bengal and despatched by him during such period to any place outside West Bengal by any means of transit,

(c) in case of any dealer liable to pay tax under section 12, the aggregate of purchase prices or parts of purchase prices payable by such dealer in respect of goods purchased by him during such period for use of such goods in West Bengal, after deducting the amounts, if any, refunded to seller during such period in respect of any such goods purchased but returned to the seller within six month of such purchase;

(55) '**turnover of sales**', in relation to any period, means the aggregate of sale prices or parts of sale-prices received or receivable by a dealer in respect of sales as defined in 2(39) of this Act and in clause (g) of section 2 of the Central Sales Tax Act, 1956 (74 of 1956) made during such period after deducting there from--

(a) the sale prices or parts of sale prices, if any, in respect of sale of goods during such period, which are shown to the satisfaction of the Commissioner to have been purchased by the dealer in West Bengal, upon payment of tax on the maximum retail price of such goods or where tax on the maximum retail price of such goods were paid in West Bengal in an earlier occasion, and

(b) the amount if any refunded by the dealer in respect of any such goods returned or rejected by the purchaser within six months from the date of such sales ;

(56) '**warehouse**' means an enclosure , building, or place where a dealer casual dealer or any other person keeps stock of goods, and include a vessel, vehicle or godown;

(57) '**works contract**' means any agreement for carrying out for cash, deferred payment or other valuable consideration--

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

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

(c) the overhaul or repair of-

(i) any motor vehicle,

- (ii) any sea going vessel, river-craft or steamer,
- (iii) any other vessel propelled by internal combustion engine or by any other mechanical means,
- (iv) railway engine ,
- (v) any aircraft, or
- (vi) any component or accessory part of any of the goods mentioned in item no.(1)to (v), or

(d) the fitting of, assembling, altering ornamenting, finishing, furnishing, improving, processing, photocopying, developing, treating, adapting or printing on any goods;

(58) '**year**' means the year commencing on the first day of April and ending on the last day of March;

(59) '**zero-rated sale**' means a sale of any goods on which no tax is chargeable but credit for the input tax related to that sale is admissible.

1. Subs. by S. 4(1)(a) of W. B. Act I of 2014 w. e. f. 01.07.2014 for "by notification, specify, but shall not include second hand plant and machinery".
2. Subs. by S. 4(1)(b) of W. B. Act I of 2014 w. e. f. 01.09.2011 for "in respect of works contract executed within West Bengal"

CHAPTER II

Taxing Authorities, Appellate and Revisional Board and Bureau.

3. Commissioner.- - (1) For carrying out the purposes of this Act, the State Government may appoint a person to be the Commissioner of Sales Tax.

(2) The Commissioner 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) The Commissioner may--

(a) withdraw to himself from a Special Commissioner, or an Additional Commissioner, or any person appointed under section 6 any case or matter which the Special Commissioner or the Additional Commissioner or such person is competent to deal with in exercise or performance of the powers or duties specified under sub-section(2) of section 4 or sub-section (2) of section 5 or sub-section(2) of section 6 respectively; or

(b) transfer any case or matter from a Special Commissioner competent to deal with the same to another Special Commissioner so competent; or

(c) transfer any case or matter from an Additional Commissioner competent to deal with the

same to another Additional Commissioner so competent; or

(d) transfer any case or matter from any person appointed under section 6 competent to deal with the same to another person appointed under that section so competent.

(4) subject to such restrictions and conditions as may be prescribed, the Commissioner may, by an order in writing, delegate any of his powers under this Act except those under sub-section (13) of section 93.

(5) Any person appointed as Commissioner under the West Bengal Sales Tax Act, 1994 (West Ben. Act XLIX of 1994), and continuing in office as such immediately before the appointed day, be deemed to have been appointed under this Act and shall continue in office as such till such person ceases to be Commissioner.

4. Special Commissioner.- (1) The State Government may appoint one or more persons to be the Special Commissioner of Sales Tax.

(2) The Special Commissioner shall have such powers , and shall be entitled to perform such duties, of the Commissioner as the State Government may, by notification, specify.

(3) Any reference to the Commissioner in this Act shall in respect of the powers and duties specified by the notification under sub-section (20) be deemed to include a reference to the Special Commissioner.

(4) Any person appointed as the Special Commissioner under the West Bengal Sales Act 1994(West Ben. Act XLIX of 1994), and continuing in office as such immediately before the appointed day, shall on and from the appointed day, be deemed to have been appointed under this Act and shall continue in office as such till such person ceases to be the Special Commissioner.

5. Additional Commissioner.- (1) The State Government may appoint one or more persons to be Additional Commissioner of Sales Tax, and such person or persons shall assist the Commissioner.

(2) An Additional Commissioner shall have such of the powers, and shall be entitled to perform such of the duties, of the Commissioner as the State Government may, by notification, specify.

(3) Any reference to the Commissioner in this Act shall, in respect of the powers and duties specified in the notification under sub-section(2), be deemed to include a reference to an Additional Commissioner.

(4) Any person appointed as the Additional Commissioner under The West Bengal Sales Tax Act, 1994, and continuing in office as such immediately before the appointed day, shall on and from the appointed day, be deemed to have been appointed under this Act and shall continue in office as such till such person ceases to be the Additional Commissioner.

6. Other persons appointed to assist the Commissioner.- (1) The State Government may appoint such other persons to assist the Commissioner as it thinks fit and may specify the area or areas over

which such persons shall exercise jurisdiction.

(2) The persons appointed under sub-section (1) shall exercise such powers as may be conferred or prescribed by this Act or delegated to them in writing by the Commissioner under sub-section (4) of section 3.

(3) Any person appointed to assist the Commissioner, under the West Bengal Sales Tax Act, 1994, (West Ben. Act XLIX of 1994) and continuing in office as such immediately before the appointed day, shall, on and from the appointed day, be deemed to have been appointed under this Act and shall continue to be the person appointed to assist the Commissioner.

7. Appellate and Revisional Board.- (1) The State Government ¹[may constitute a West Bengal Sales Tax Appellate and Revisional Board in Kolkata, and its different benches in other districts of the State, for discharging the functions as referred to in section 87].

(2) The State Government shall appoint such number of members of the Appellate and Revisional Board as the State Government thinks fit and shall appoint one of the members of the Appellate and Revisional Board to be the President thereof(hereinafter referred to in this section as the President).

(3) The qualification, conditions of service and tenure of members constituting the Appellate and Revisional Board shall be such as may be prescribed.

(4) No decision or action of the Appellate and Revisional Board shall be called in question merely on the ground of any vacancy in the Appellate and Revisional Board.

(5) The functions of the Appellate and Revisional Board may be discharged by any of the members sitting either singly, or in Benches of two or more members , as may be determined by the President.

(6) If the members of a Bench are divided , the decision shall be the decision of the majority, if there be a majority, but if the members are equally divided , they shall state the point or points on which they differ, and the case shall be referred by the President for hearing on such point or points to one or more members of the Appellate and Revisional Board, and such point or points shall be decided according to the majority of the members of the Appellate and Revisional Board, who heard the case including those who first heard it:

Provided that if at any time , the Appellate and Revisional Board consists of only two members and they are divided , the decision of the Appellate and Revisional Board shall be that of the President.

(7) Subject to the previous sanction of the State Government, the Appellate and Revisional Board shall, for the purpose of regulating its procedure (including the place or places at which the Appellate and Revisional Board , the Benches or the members thereof shall sit) and providing the rules of business , make regulations consistent with the provisions of this Act and the rules made there under:

Provided that the regulations so made shall be published in the *Official Gazette*.

(8) The Appellate and Revisional Board shall have the power to award costs in any matter decided by it for such amount as it may consider reasonably justified in the facts and circumstances of the case.

(9) The amount of cost awarded by the Appellate and Revisional Board against a dealer shall be recoverable from him as it were tax due from him under this Act and, in case of default by him, such dues shall be recovered as an arrear of land revenue:

Provided that the provisions of section 9 and section 10 of the Bengal Public Demand Recovery Act, 1913 (West Ben. Act III of 1913) shall not apply to a proceedings for recovery of any cost awarded under this sub-section.

(10) On the cost being awarded by the Appellate and Revisional Board against the state Government, the Commissioner shall arrange for payment of such cost.

(11) The President or any member of the West Bengal Commercial Taxes Appellate and Revisional Board appointed under West Bengal Sales Tax Act, 1994 (West Ben. Act XLIX of 1994) and continuing in office as such immediately before the appointed day, shall, on and from the appointed day, be deemed to have been appointed as President or the member of the Appellate and Revisional Board under this Act and shall continue in office as such till he ceases to be such President or member.

1. Subs. by S. 4(2) of W. B. Act I of 2014 w. e. f. 01.01.2015 for “ may constitute a West Bengal Sales Tax Appellate and Revisional Board for discharging the functions as referred to in section 87”.

8. Bureau of Investigation.- (1) The State Government may constitute a Bureau of Investigation for discharging the functions referred to in sub-section (3).

(2) The Bureau shall consist of such numbers of operational units, and such numbers of Special Commissioners or Additional Commissioners (hereinafter referred to as the Special Officers), as the State Government may deem fit to appoint and such number of other persons appointed under sub-section (1) of section 6 to assist the Commissioner as may be required for discharging its functions under the Act.

(3) The Bureau may, on information or its own motion or when the State Government or the Commissioner so directs, carry out investigation or hold inquiry in to any case of alleged or suspected evasion of tax as well as malpractices so connected therewith and send a report in respect thereof to the Commissioner.

(4) The Bureau may, for the purpose of carrying out any investigation or inquiry under sub-section (3) , exercise all the powers under section 42, section 66, section 66A, section 66AA, section 67, section 68, section 69, section 70, section 71, section 72, section 74, section 75, section 76, section

77, section 78, section 79, section 80 and section 81.

(5) The Commissioner may , on receipt of a report under sub-section (3) require the Bureau to transfer to him any accounts, registers or documents including those in the form of electronic records relating to the said report seized by the Bureau and such accounts, registers or documents shall be retained by the Commissioner for further period , if necessary ,subject to the provisions of section 67.

(6) The Bureau may, with the prior approval of the Commissioner, require any person appointed under sub-section(1) of section 6 to assist the Commissioner to transfer to it any accounts, registers or documents including those in the form of electronic records seized by him from any dealer or person under section 67 and, on such transfer, such accounts, registers or documents shall, subject to the provisions of that section, be retained by the Bureau for carrying out the purposes referred to in sub-section (3) and sub-section(7).

(7) The Bureau may, after a case has been investigated or inquired into by it, by order, make assessment including provisional assessment or re-assessment of net tax or any other tax , net tax credit, determine interest or late fee, impose penalty, or collect or enforce payment of tax, interest, late fee or penalty, in respect of such case under this Act.

(8) A Special Officer shall assign such functions of the Bureau to such of the persons referred to in sub-section (2) as he may think fit.

(9) The Bureau shall have, for carrying out the purposes of this Act, the same powers as are referred to in section 91.

(10) For the removal of doubts, it is hereby declared that subject to other provisions of this Act, a Special Officer shall be competent to exercise all the powers which are exercisable under this Act by a Special Commissioner or an Additional Commissioner, as the case may be, and any person appointed under sub-section (1) of section 6 to assist the Commissioner when appointed in the Bureau, shall be competent to exercise all the powers which are exercisable by such person under this Act and the rules made there under.

(11) Notwithstanding anything contained in sub-section (1) of section 6, a Special Officer or other persons appointed in the Bureau shall have jurisdiction over the whole of West Bengal.

(12) The Bureau of Investigation constituted under the West Bengal Sales Tax Act, 1994 (West Ben. Act XLIX of 1994) and continuing to have jurisdiction and powers under that Act immediately before the appointed day, shall, on and from the appointed day, be deemed to have been constituted, and shall have jurisdiction and powers under this Act, and the Special Officer and other persons appointed under sub-section (1) of section 6 of that Act to assist the Commissioner appointed in the Bureau of Investigation as aforesaid and continuing in office immediately before the appointed day, shall on and from the appointed day, be deemed to have been appointed in the Bureau under this Act and shall continue in office as such till such Special Officer or other person ceases to be

appointed in the Bureau.

8A. Establishment of West Bengal Value Added Tax Settlement Commission. – (1) The State Government may, by notification, establish a Commission to be known as West Bengal Value Added Tax Settlement Commission (hereinafter referred to as the ‘Settlement Commission’) to discharge the function assigned to it under this act.

(2) The Settlement Commission shall consist of not less than three members.

(3) No person shall be eligible for appointment as member of the Settlement commission, unless--

(a) he is an Additional Commissioner or a Special Commissioner; or

(b) he has been, prior to his retirement on superannuation from the service of the State Government, an Additional Commissioner or a Special Commissioner.

(4) A member of a Settlement Commission shall hold office for a term of two years from the date on which he enters upon his office or until he attains the age of sixty-two years, whichever is earlier.

(5) The terms and conditions of appointment, salary or allowances payable to a member shall be such as may be prescribed.

(6) A member of Settlement Commission shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code 1860 (45 of 1960).

(7) The settlement Commission shall sit in the Bench of three members at such place, and discharge its functions in such manner, as may be prescribed.

8B. Filing of application to Settlement Commission.- (1) Dealer who intends to make an application for settlement of any case to the Settlement Commission, shall--

(a) in case of any pending case, within one hundred and twenty days from the date of coming into force of this section; or

(b) in any other case, within one hundred twenty days or within such further time as may be allowed by the Settlement Commission from the date of receipt of notice of demand, the date of commencement of proceedings under section 93 or the date of registration of a dealer as a sick unit, as the case may be, apply, in such form, and in such manner, as may be prescribed:

Provided that an appeal which has been preferred after the expiry of the period prescribed for filing of such appeal shall not be taken into consideration for the purposes of this section.

(2) The dealer shall, in his application, state the terms and conditions on which he is willing to settle the case.

Explanation,- For the purposes of this section , 'case' means –

- (a) any proceedings out of an offence alleged to have been committed under section 93;
- (b) a notice of demand has been served to a dealer for realisation of tax, interest or penalty, if any, on an assessment which is inconsistent with an assessment made earlier under the Act due to application of different rate of tax in respect of any goods or non-admissibility of claim of such dealer in respect of this assessment, in spite of the fact that no amendment in the provisions of, or no addition, alteration or modification in the schedule to, the Act has been made during the period of such earlier assessment and this assessment or in spite of the fact that a particular practice or procedure has been followed by the dealer in respect of such earlier assessment;
- (c) a notice of demand served to a dealer for realisation of tax, interest or penalty, if any, on an assessment made under the Act, where the dealer claims by producing verifiable documents that the rate of tax made applicable in respect of any goods in such assessment is different from the rate applicable in respect of such goods under the normal trade practice;
- (d) a notice of demand served to a dealer for realisation of tax, interest and penalty if any, on an assessment made or for realisation of penalty imposed other than in assessment , under this Act or the Central Sales Tax Act, 1956 (74 of 1956) where such amount of tax, interest and penalty, if any, remains unrealised from the dealer who has been registered as a sick unit with the Board for Industrial and Financial Reconstruction;
- (e) a notice of demand served to a dealer for realisation of tax, interest, late fee and penalty if any, on an assessment made in respect of any period which ended on the 31 day of March, 2007 where the dealer had *bona fide* either not collected and paid no tax or collected and paid at a lower rate than actual rate of tax applicable, on certain sale or on sale of certain goods, as the case may be, and where the dealer claims by producing relevant evidences that such non-payment of tax or payment of tax at a rate lower than the actual rate is mistake of law during such year or part thereof;
- (f) a notice of demand has been served to a dealer on or before 31st day of March, 2007, for realisation of penalty imposed under section 96, where the dealer has removed the cause of imposition of such penalty by way of making of payment of tax which would have been avoided as referred to in sub-section (1) of the said section.

8C. Proceedings before Settlement Commission.- (1) On receipt of the application under section 8B, the Settlement Commission shall give an opportunity of hearing to the dealer making such application.

(2) After hearing the dealer concerned, the Settlement Commission shall refer the matter to the Commissioner for obtaining his views therein.

(3) where the Commissioner on the reference of the application under sub-section (2) for his views,

finds that such application is not a fit case for settlement by the Settlement Commission, the Settlement Commission shall, prima facie, reject such application based on such findings of the Commissioner.

(4) Where the Commissioner on reference of the application under sub-section(2) for his views , agrees to the terms and conditions of the dealer, the Settlement Commission shall prepare a report, in writing, in respect of such terms and conditions of settlement.

(5) The Settlement Commission shall, after preparing a report under sub-section (4) , forward it to the State Government for approval, and upon approval of such report by the State Government, the Settlement Commission shall settle the case on payment by the dealer concerned of such sum as may be determined by it and in such manner as may be prescribed.

(6) The Settlement Commission shall settle the case within a period of three months from the date of receipt of the application and in case the dealer and the Commissioner cannot agree to the terms and conditions of settlement, the application shall stand rejected at the expiry of the period of such three months;

Provided that in case any application cannot be disposed of within a period of three months from the date of receipt of such application for any reason other than disagreement of terms and conditions of settlement between the dealer and the Commissioner, the Commissioner shall state in his order the reasons of such delay.

(7) The provision of section 91 shall apply, *mutatis mutandis*, to the Settlement Commission.

8D. Bar to further proceedings in respect of case settled by Settlement Commission.-- Upon settlement of the case by the Settlement Commission under section 8C,--

- (a) the demand involved in the case shall be deemed to have been fully satisfied and the pending case or cases shall not be proceeded with any further; or
- (b) no proceedings by way of review or revision shall be taken in respect of such case; or
- (c) the proceedings as referred to in clause (a) of *Explanation* to section 8B shall not be further proceeded with.

9. Persons appointed under this Act shall be deemed to be public servants.-- All persons appointed under this Act to exercise any power or to perform any function there under shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

CHAPTER III

Incidence and Levy of Tax

10. Incidence of tax.-- (1) Every dealer, who is liable to pay tax immediately before the appointed day under any provision, other than under section 15 of the West Bengal Sales Tax Act, 1994, and who

would have continued to be so liable under the said Act on such appointed day had this Act not come into force, shall in addition to the tax, if any, payable by him under any other provisions of this Act, be liable to pay tax under this Act on all his sales, other than those referred to in section 14, effected on and from such appointed day.

(2) Every dealer to whom the provisions of sub-section (1) do not apply and whose gross turnover of sales calculated from the commencement of the year ending on the day immediately before the appointed day, exceeds the taxable quantum, as applicable to him under the West Bengal Sales Tax Act, 1994, (West Ben. Act XLIX of 1994) on the last day of such year shall, in addition to the tax, if any, payable by him under any other provisions of this Act, be liable to pay tax under this Act on all his sales, other than those referred to in section 14, effected on and from such appointed day.

(3) Every dealer to whom the provisions of sub-section (1) or sub-section (2) do not apply, shall, in addition to his liability to pay tax, if any, under any other provisions of this Act, be liable to pay tax under this Act,--

(a) on all his sales, other than those referred to in section 14, of goods which have been imported by him from any place outside West Bengal with effect from the day on which he effects first sale of such goods; or

(b) on all his sales, other than those referred to in section 14, of goods effected on or after the date immediately following the date on which his turnover of sales calculated from the commencement of any year exceeds, at any time within such year, such taxable quantum, as may be prescribed, and different taxable quantum may be prescribed for different goods or for different classes of dealers:

Provided that the taxable quantum as may be prescribed under this clause shall not exceed five lakh rupees.

(4) Every dealer who has been registered under sub-section (2) of section 24 for his application under clause (b) of sub-section (1) of that section, on any date prior to the date on which his turnover of sales exceeds the taxable quantum referred to in clause (b) of sub-section (3), he shall be liable to pay tax on all his sales from the date of such registration.

(5) Every dealer who incurs liability to pay tax under sub-section (3) of section 27C, shall, notwithstanding that his turnover of sales does not exceed the taxable quantum referred to in clause (b) of sub-section (3), also be liable, in addition to the tax, if any, payable by him under any other provisions of this Act, to pay tax on sales by him of goods from the date of transfer of business.

(6) Every dealer who incurs liability to pay tax ¹[under section 14], shall, notwithstanding that his turnover of sales does not exceed the taxable quantum referred to in clause (b) of sub-section (3), also be liable, in addition to the tax payable by him under section 14, to pay tax on sales of goods effected by him under this section on and from the day he incurs liability to pay tax under that section.

(7) Any dealer who is liable to pay tax under the Central Sales Tax Act, 1956, (74 of 1956) shall, notwithstanding that his turnover of sales under the Act does not exceed taxable quantum referred to in clause (b) of sub-section (3), also be liable to pay tax under this Act on all sales of goods effected by him on and from the date on which he becomes liable to pay tax under that Act.

(8) Every dealer who has become liable to pay tax under this section, shall continue to be so liable until the expiry of three consecutive years commencing on and from the appointed day and such further period after the date of such expiry as may be prescribed, during each of which,--

(a) he has not effected any sale of goods imported by him from outside into West Bengal; or

(b) his turnover of sales has failed to exceed the taxable quantum referred to in clause (b) of sub-section (3),

and on expiry of such three years or such further period, his liability to pay tax shall cease:

Provided that where a dealer has become liable to pay tax under sub-section (6) or sub-section (7) and has not separately incurred liability to pay tax under sub-section (3), he shall continue to be so liable until his liability ceased under section 14 or under the Central Sales Tax Act, 1956, as the case may be.

(9) The provisions of sub-section (3) or sub-section (4), or sub-section (5) or sub-section (6), or sub-section (7), as the case may be, shall apply to dealer whose liability to pay tax ceases under sub-section (8) as if such dealer has not ever become liable to pay tax under this section.

(10) The Commissioner shall, after making such enquiry as he may think necessary and after giving the dealer an opportunity of being heard, fix the date on and from which such dealer has become liable to pay tax under this section.

1. Subs. by S. 4(3) of W. B. Act I of 2014 w. e. f. 01.07.2014 for "under sub-section(2) or sub-section (3) or sub-section (4) of section 14".

11. Incidence of tax on purchase of raw jute.-- (1) Every dealer who, as shipper of jute, has been liable immediately before the appointed day to pay tax under section 12 of the West Bengal Sales Tax Act, 1994, (West Ben. Act XLIX of 1994), and who would have continued to be so liable on such appointed day under that Act had this Act not come into force, shall, in addition to his liability to pay tax, if any, under any other provisions of this Act and subject to the provisions of sub-section (3), be liable to pay on all his purchases of raw jute in West Bengal with effect from the appointed day.

(2) Every dealer, being a shipper of jute to whom the provisions of sub-section (1) do not apply, shall, in addition to his liability to pay tax, if any, under any other provisions of this Act and subject to the provisions of sub-section (3), be liable to pay tax on all his purchases of raw jute in West Bengal from the date of first purchase effected on or after the appointed day.

(3) The dealer referred to in sub-section (1) or sub-section (2), as the case may be, shall be liable to

pay tax on such part of his turnover of purchases of raw jute in West Bengal as referred to in sub-clause (b) of clause (54) of section 2 which remains after deducting there from such purchases which are shown to the satisfaction of the Commissioner to have taken place in the course of interstate trade or commerce within the meaning of section 3 of the Central Sales Tax Act 1956 (74 of 1956) or in the course of import of goods into, or export of the goods out of the territory of India within the meaning of section 5 of that Act.

(4) Every dealer who incurs liability to pay tax under this section, shall continue to be so liable until the expiry of three consecutive years commencing on or after the appointed day and such further period after the date of such expiry as may be prescribed, during each of which, he has not effected any purchase of raw jute in West Bengal.

(5) The provisions of sub-section (2) shall apply to every dealer whose liability to pay tax ceases under sub-section (4) as if such dealer had not ever become liable to pay tax under this section.

12. Contingent liability to pay tax on purchase.- (1) Every registered dealer, other than those enjoying composition under sub-section (3), sub-section (3A) or sub-section (3B) or sub-section (6), of section 16 or sub-section (4) of section 18, shall, in addition to the tax payable under any other provisions of this Act, be liable to pay tax on that part of his turnover of purchases which represents—

(a) purchases of goods which are not meant for the purposes specified in clause (a) to clause (i), of sub-section (4) of section 22; or

(b) purchases of goods specified in the Negative List appended to section 22 where no input tax credit or input tax rebate is allowed.

(2) Every registered dealer enjoying composition under any of the sub-sections of section 16 or under sub-section (4) of section 18, shall, in addition to tax payable under any other provisions of this Act, be liable to pay tax on turnover of purchases where his turnover of sales or contractual transfer price, as the case may be, in the previous year, or in case of a dealer registered in a year, from the start of the year, is more than rupees fifty lakh.

13. omitted.

14. Liability to pay tax on transfer of property in goods involved in the execution of works contract.-

(1) Notwithstanding anything contained elsewhere in this Act, any transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract in West Bengal shall be deemed to be a sale of those goods by the person making the transfer and a purchase of those goods by the person to whom such transfer is made,

(2) Every dealer, who is liable on the day immediately before appointed day to pay tax under section 15 of the West Bengal Sales Tax Act, 1994 (West Ben. XLIX 1994) and who would have continued to be so liable under the said Act on such appointed day had not this Act come into force, shall, in

addition to the tax, if any, payable by him under any other provisions of this Act, be liable to pay tax on all transfers of property in goods involved in the execution of works contract referred to in sub-section (1), from such appointed day, at the rate specified in section 18.

(3) Every dealer to whom the provisions of sub-section (2) do not apply and whose contractual transfer price calculated from the commencement of the year ending on the day immediately before the appointed day exceeds the amount prescribed under section 15 of the West Bengal Sales Tax Act, 1994(West Ben. XLIX 1994), on the last day of such year shall, in addition to the tax, if any, payable by him under any other provisions of this Act, be liable to pay tax on all transfer of property in goods involved in the execution of works contract referred to in sub-section (1), from such appointed day, at the rate specified in section 18.

(4) Every dealer to whom the provisions of sub-section (2) or sub-section (3) do not apply ,shall, if his contractual transfer price calculated from the commencement of any year, exceeds five lakh rupees at any time within such year , be liable, in addition to the tax, if any, payable by him under any other provisions of this Act, to pay tax on all transfers of property in goods involved in the execution of works contract referred to in sub-section (1) at the rate specified in section 18 on and from the day immediately following the day on which such contractual transfer price first exceeds five lakh rupees.

(5) Every dealer who has been registered under sub-section (2) of section 24 for his application under clause (b) of sub-section (1) of that section, on any date prior to the date on which his contractual transfer price exceeds five lakh rupees, shall be liable to pay tax on all transfers of property in goods involved in the execution of works contract referred to in sub-section (1) at the rate specified in section 18 on and from the date of such registration.

(6) Every dealer who incurs liability to pay tax under sub-section (3) of section 27C, shall, notwithstanding that his contractual transfer price does not exceed five lakh rupees, also be liable , in addition to the tax, if any, payable by him under any other provisions of this Act, to pay tax on transfer by him of property in goods involved in the execution of works contract referred to in sub-section(1) at the rate specified in section 18 on and from the date of transfer of business.

(7) Every dealer who incurs liability to pay tax under section 10 or section 11, shall notwithstanding that his contractual transfer price does not exceed five lakh rupees, also be liable, in addition to the tax payable by him under any other provisions of this Act, to pay tax on transfer by him of property in goods involved in the execution of works contract referred to in sub-section (1) at the rate specified in section 18 on and from the day he incurs liability to pay tax under that section.

(8) Every dealer who has become liable to pay tax under this Section, shall continue to be so liable until the expiry of three consecutive years commencing on or after the appointed day, during each of which his contractual transfer price does not exceed five lakh rupees and such further period after the date of expiry as may be prescribed, and on expiry of three years or further period ,his liability to pay tax shall cease:

Provided that where a dealer has become liable to pay tax under sub-section (7) and has not incurred liability to pay tax under sub-section (4), he shall continue to be so liable until his liability ceases under section 10 or section 11.

(9) The provisions of sub-section (4) or sub-section (5) or sub-section (6), as the case may be, shall apply to every dealer whose liability to pay tax ceases under sub-section (8) as if such dealer had not ever become liable to pay tax under this section.

(10) The Commissioner, after making enquiry as he may think necessary and after giving the dealer an opportunity of being heard, shall fix the date on and from which such dealer shall become liable to pay tax under this section.

15. Liability of a casual dealer to pay tax.— Every casual dealer shall be liable to pay tax –

(a) on all his sales in West Bengal of goods brought by him from any place outside West Bengal either by way of purchase from a person or procured by him otherwise, and

(b) on his every purchase of goods in West Bengal, after deducting there from--

(i) purchase of goods, sales of which are declared tax free under section 21;

(ii) purchase which are shown to the satisfaction of commissioner to have taken place in the course of inter-State trade or commerce within the meaning of section 3 of the Central Sales Tax Act, 1956 (74 of 1956) or in the course of import of goods into, or export of goods out of the territory of India within the meaning of section 5 of that Act;

(iii) purchase of goods which are shown to the satisfaction of the Commissioner to have been made from a registered dealer in West Bengal;

Provided that the burden of proving that any purchase effected by a casual dealer is not liable to tax shall be on such casual dealer.

16. Levy of tax on sales.— (1) Subject to the provisions of sub-section (2), the tax payable by a dealer, who is liable to pay tax under section 10, or sub-section (3) of section 24, or sub-section (3) of section 27C on his turnover of sales, shall be levied on such part of his turnover of sales as remains after deducting there from-

(a) sales of goods declared tax-free under section 21;

(b) sales of goods which are shown to the satisfaction of the Commissioner not to have taken place in West Bengal, or to have taken place in course of inter-state trade or commerce, within the meaning of section 3 of the Central Sales Tax Act, 1956, or in the course of import of the goods into, or export of goods out of the territory of India within the meaning of section 5 of that Act;

(ba) sales of goods which are Zero rated as specified in Schedule AA

(c) such other sales on such conditions and restrictions as may be prescribed.

(2) The tax payable by a dealer on the turnover of sales as referred to in sub-section (1), shall be levied--

(a) at the rate of one *per centum* of such part of his turnover of sales as represents sales of any goods specified in schedule B;

(b) at the rate of five *per centum* of such part of his turnover of sales as represents sales of –

(i) such capital goods, as the State Government may, by notification, specify; and

(ii) any goods specified in schedule C;

(ba) at the rate of fourteen decimal five zero *per centum* of such part of his turnover of sales as represents sales of any goods specified in schedule CA;

(c) at such rate as may be fixed by the State Government under section 19, on such part of his turnover of sales as represents sales of any goods specified in schedule D.

Explanation.- For the purposes of this sub-section, it is hereby declared that the export of the goods out of the territory of India shall be zero rated *i.e.* tax paid under this Act shall be refunded or adjusted, as the case may be, against the output tax payable, if any, by a dealer.

(2A) When taxable goods are sold together with containers or packing materials, notwithstanding anything contained in sub-section (2) the rate of tax applicable to such containers or packing materials, as the case may be, shall be the same as that applicable to the goods contained, or packed, and the sale price of the containers or packing materials, whether shown separately or not, shall be included in the sale price of goods.

(2B) Where the sale of any goods, which is exempt from tax, is packed in any container or in any packing materials, then notwithstanding anything contained in sub-section (2), the sale of such container or packing material shall also be exempt from tax.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), any registered dealer having liability to pay tax under this Act, may, at his option--

(a) if his gross sales in the year ending on the day preceding the appointed day does not exceed fifty lakh rupees; or

(b) if his turnover of sales in the preceding year commencing on or after the appointed day does not exceed fifty lakh rupees, or

(c) if his turnover of sales during the period from the commencement of the year in which he gets himself registered to the date of his registration , does not exceed fifty lakh rupees, pay tax at such compounded rate not exceeding one *per centum* of the total turnover of sales of such dealer in the year for which such option is required to be exercised, or a fixed amount and subject to such conditions and restrictions as may be prescribed, for each tax period of the year in lieu of tax payable under sub-section (2), on all his sales:

Provided that the registered dealer having liability to pay tax under this Act as stated in this sub-section shall not include--

(a) an importer; or

(b) a manufacturer; or

(c) a dealer engaged in execution of works contract; or

(ca) a dealer who has purchased tea sold under the auspices of any tea auction centre in West Bengal duly authorised by the Indian Tea Board; or

(d) a dealer who transfers goods otherwise than by way of sale within or outside the State; or

(e) a dealer who sells goods within the meaning of section 3 of the central Sales Tax Act, 1956(74 of 1956); or

(f) a dealer who sells goods in the course of import of the goods into , export of the goods out of, the territory of India within the meaning of section 5 of the Central Sales Tax Act, 1956;

Provided further that such dealer shall not be entitled to issue tax invoice referred to in clause (48) of section 2 of the Act:

Provided also that a registered dealer who, in addition to the purchase of goods in course of his business in a year, have also received goods from the supplier within or outside West Bengal, on branch transfer or consignment basis, for which no price has been paid, shall not be entitled to opt for payment of tax under such compounded rate:

Provided also that if during the period of enjoyment of payment of tax at compounded rate, turnover of sales of a dealer exceeds fifty lakh rupees, he shall become ineligible to pay tax under this sub-section from the commencement of the month immediately following the month during which his turnover of sales exceeded such sum.

(3A) Notwithstanding anything contained in sub-section (1) or sub-section(2), a registered dealer

being a club having liability to pay tax under the Act, selling goods to its members or others , may, at his option, pay tax, in lieu of tax payable under sub-section (2) for each tax period of a year, at such compounded rate not exceeding one per centum of the total turnover of sales of such dealer in the year for which such option is required to be exercised, or a fixed amount, and subject to such conditions and restrictions, as may be prescribed.

Provided that such dealer shall not be entitled to issue Tax-Invoice as referred to in clause (48) of section 2 of the Act.

(3B) Notwithstanding anything contained in sub-section(1) or sub-section (2), a registered dealer having liability to pay tax under the Act, who makes sale by way of transferring the right to use any goods as mentioned in sub-section(c) of clause (39) of section 2, may, at his option, pay tax, in lieu of tax payable under sub-section (2), for each tax period of a year, at such compounded rate not exceeding two per centum as the State Government may, by notification, specify, on the turnover of sales of such goods on which tax is payable, subject to such restrictions and conditions as may be prescribed.

Provided that such dealer shall not be entitled to issue tax invoice referred to in clause (48) of section 2 of the Act.

(4) Notwithstanding anything contained in sub-section (2) and sub-section (2A), any registered dealer, who imports into or manufactures such goods in West Bengal as may be notified by the State Government may , at his option, pay, in lieu of the tax payable by him on sale price of such goods under this section, tax at such rate on the maximum retail price of such goods as may be specified in that notification, and different rates may be fixed for items of such goods:

Provided that where a dealer has purchased any goods,-

(a)from a importer or a manufacturer upon payment of tax on the maximum retail price of such goods ; or

(b)from another registered dealer where tax on the maximum retail price of such goods was paid in West Bengal in an earlier occasion,

the purchasing dealer, irrespective of whether he is registered or not, while making sale of such goods in West Bengal, shall, notwithstanding anything contained elsewhere in this Act, be entitled to recover from the buyer the amount of tax paid by him at time of purchase of such goods under such conditions and restrictions, and in such manner, as may be prescribed.

(5) Any registered dealer , who intends to opt for payment of tax at the compounded rate under sub-section (3) or under sub-section (3A) of this section, shall exercise his option for a year or part of the year in which he gets himself registered , by making an application to the Commissioner in such manner, and within such time, as may be prescribed, and an option exercised by a registered dealer to pay tax at the compounded rate in terms of any of the sub-sections of this section, shall be deemed to be final and irrevocable for that year or part of that year, as the case may be, for which such an option has been exercised, subject to the conditions mentioned in sub-section (3).

(6) Notwithstanding anything contained in sub-section (1), or sub-section (2), a registered dealer having liability to pay tax under the Act, who makes sale of such cooked foods, non-alcoholic beverages manufactured by him in West Bengal, as are specified in schedule CA, from his hotel, mandap, restaurant or any eating house in West Bengal, may, at his option,--

if his turnover of sales of such goods, as referred to in this sub-section in the preceding year does not exceed twenty five lakh rupees; or

if his turnover of sales of such goods, as referred to in this sub-section, during the period from the commencement of the year in which he gets himself registered to the date of registration does not exceed twenty five lakh rupees,

pay, in lieu of tax payable, under sub-section (2), tax for each tax period of the year, at such compounded rate not exceeding four per centum as the state Government , may, by notification specify on his turnover of sales of such goods, on which tax is payable, in the year for which such option is required to be exercised, subject to the restrictions conditions as may be prescribed.

Provided that such dealer shall not be entitled to issue tax invoice referred to in clause (48) of section 2 of the Act.

Provided further that if during the period of enjoyment of payment of tax at compounded rate, turnover of sales of such goods as referred to in this sub-section of a dealer exceeds twenty five lakh rupees, he shall become ineligible to pay tax under this sub-section from the commencement of the month immediately following the month during which his turnover of sales exceeded such sum.

Explanation I: For the purpose of this sub-section , the word hotel shall have the same meaning as assigned to it in the West Bengal Entertainments and Luxuries (Hotel and Restaurant)Tax Act, 1972.

Explanation II: For the purpose of this sub-section , the word mandap means any immovable property as defined in section 3 of the Transfer of Property Act, 1882, and includes any furniture, fixtures, light fittings and floor coverings therein let out for consideration for organising any official, social and business function.

(7) Any registered dealer , who intends to opt for payment under sub-section (6) of this section, shall exercise his option for a year or part of the year in which he gets himself registered, by making an application to the Commissioner in such manner, and within such time, as may be prescribed and such an option exercised by a registered dealer shall be deemed to be final and irrevocable for that year or part of that year, as the case may be, for which such option has been prescribed, subject to the conditions mentioned in sub-section (3).

16A. Levy of tax on sales by casual dealer.-- (1) The tax payable by a casual dealer under clause (a) of section 15 shall be levied on such part of sale price which remains after deducting there from-

(a) sales of goods declared tax free under section 21;

(b) sales of goods which are shown to the satisfaction of the Commissioner to have taken place in the course of inter-state trade or commerce within the meaning of section 3 of the Central Sales Tax Act, 1956, (74 of 1956), or in the course of import of the goods out of the territory of India within the meaning of section 5 of that Act.

(2) The tax payable by a casual dealer as referred to in sub-section (1), shall be levied at the rate of tax applicable to a sale of such goods under sub-section (2) of section 16.

17. levy of tax on turnover of purchases.-- (1) The tax payable by a dealer, who is liable to pay tax on his turnover of purchases under section 11 or section 12 shall be levied-

(a) in the case of a dealer liable to pay tax under section 11, at the rate of two *per centum* on such part of the turnover of purchases of raw jute as referred to in sub-section (3) of section 11; and

(b) in the case of a dealer liable to pay tax under section 12, at the rate of tax applicable to a sale of such goods under sub-section (2) of section 16, on his taxable turnover of purchases.

(2) the expression "taxable turnover of purchases" as stated in clause (b) of sub-section (1), shall mean, in the case of a registered dealer, that part of his turnover of purchases, which remains after deducting there from-

(a) purchases of goods, sales of which are declared tax-free under section 21,

(b) purchases of goods which are shown to the satisfaction of Commissioner to have taken place in the course of inter-state trade or commerce within the meaning of section 3 of the Central Sales Tax Act, 1956, (74 of 1956) or in the course of import of goods into, or export of goods out of the territory of India within the meaning of section 5 of that Act,

(c) purchases of goods which are shown to the satisfaction of the Commissioner to have been made from the registered dealer in West Bengal;

(d) such other purchases as may be prescribed.

(3) The burden of proof shall lie on the dealer who claims any purchase not liable to be taxed under sub-section (1).

17A. Levy of tax on purchases by the casual dealers.--The tax payable by a casual dealer shall be levied on his purchases, as referred to in clause (b) of section 15, at the rate of tax as applicable to a sale of such goods under sub-section (2) of section 16.

18. Levy of tax on taxable contractual transfer price.--(1) Subject to the provision of sub-section (2), the tax payable by a dealer, who is liable to pay tax under section 14 or sub-section (3) of section 24 or sub-section (3) of section 27C for transfer of property in goods involved in the execution of works contract, shall be levied on taxable contractual transfer price-

(a) at the rate of five *per centum* , where goods represents those specified in section 14 of the Central Sales Tax Act, 1956 (74 of 1956); and

(aa) at the rate of five *per centum*, where goods represents those involved in printing materials, including lamination thereon, and

(b) at the rate of fourteen decimal five zero *per centum*, where goods represents other than those specified in clause (a) or clause (aa).

(2) The expression 'taxable contractual transfer price' for a period as stated in sub-section (1), shall mean, in the case of dealer who is liable to pay tax on transfer of property in goods involved in the execution of works contract under section 14 or sub-section (3) of section 24 or sub-section (3) of section 27C, that part of his intra- state contractual transfer price which remains after deducting there from-

(a) contractual transfer of goods, sales of which are declared tax-free under section 21;

(b) charges towards labour, service and other charges as may be prescribed;

(c) amounts paid to a sub-contractor for execution of works contract, whether fully or in part, where the dealer claiming such deduction produces proof to the satisfaction of the Commissioner that-

(i) the sub-contractor is a registered dealer liable to pay tax under section 14; and

(ii) an invoice has been raised by such sub-contractor to such dealer for the amount claimed as deduction; and

(iii) the amount of such transaction is included by such sub-contractor in his return furnished under section 32; and

(iv) there is no transfer of property in goods (whether as goods or in some other form) from such sub-contractor to the dealer in respect of such works contract;

(d) such other amounts or contractual transfers as may be prescribed.

(3) Where in respect of contractual transfer price referred to in clause (10) of section 2, the works contractor does not maintain proper accounts , or the amounts maintained by him are not worthy of credence, and the amount actually incurred towards charges for labour and other services, or profit relating to supply and services, or the taxable contractual transfer price for applying proper rate of tax, are not ascertainable, such charges for labour or services, or such profit, or such contractual transfer price shall, for the purpose of deductions , notwithstanding anything contained elsewhere in this section, be determined on the basis of such percentage of the value of the works contract as may be prescribed and different percentages may be prescribed for different type of works contract.

(4) Notwithstanding anything contained elsewhere in this section, any registered dealer, who is liable to pay tax under section 14 or sub-section (3) of section 24 or sub-section (3) of section 27C for transfer of property in goods involved in the execution of works contract, and who is not engaged in –

(a) making sale as referred to in sub-clause (ii) of clause(g) of section 2 of the Central Sales Tax Act, 1956,(74 of 1956); or

(b) making sale in the course of import of the goods into, or export of goods out of, the territory of India within the meaning of section 5 of the Central Sales Tax Act, 1956; or

(ba) reselling of goods; or

(c) transferring goods otherwise than by way of sale for execution of works contract outside the State,

may, at his option, pay at such compounded rate not less than two *per centum* and not exceeding five *per centum* of the aggregate of the amount received or receivable by such dealer and subject to such conditions and restrictions as may be prescribed, for each month of the year in lieu of the amount of tax payable by him under sub-section (1):

Provided that such dealer shall not be entitled to issue tax invoice referred to in clause(48) of section 2 of the Act.

Provided further that an option exercised by a registered dealer under this sub-section shall be deemed to be final and irrevocable for that year or part of that year for which such an option has been exercised.

19. Power of the State Government to fix rates of tax on sale of goods specified in Schedule D .--

The State Government may, by notification, fix the rate of tax, with prospective or retrospective effect, not exceeding thirty per centum of the turnover of sales of goods specified in Schedule D, and different rates may be fixed for different items of such goods.

20. Power of the State Government to amend Schedules.– The State Government , after giving by notification not less than fourteen days’ notice of its intention so to do, may, by notification, with prospective or retrospective effect, add to, amend, or alter any Schedule to this Act.

21.Tax free sale of goods.-- No tax shall be payable under this Act on sale of goods specified in column(2) of Schedule A, subject to the conditions and exceptions, if any, set out in the corresponding entry in column (3) thereof.

21A. Zero –rated sale.-- (1) Notwithstanding anything contained in section 16 or 16A , sale of goods between persons, whether dealer or not, or organisation as specified in column (2) of Schedule AA, shall be Zero rated as defined in clause (59) of section 2.

(2) Where any goods are sold in the course of export within the meaning of section 5 of the

Central Sales Tax Act, 1956 (74 of 1956), such sale shall be zero rated as defined in clause (59) of section 2.

22. Input tax credit or input tax rebate by a registered dealer.- (1) Every registered dealer other than those specified elsewhere in the Act, shall be entitled to claim input tax credit or input tax rebate, as defined in clause (19) of section 2, and in such manner, and subjects to such conditions and restrictions, as may be prescribed.

(2) The input tax credit or input tax rebate, as referred to in sub-section (1) shall be allowed to the registered dealer who has purchased taxable goods (hereinafter referred to as the purchasing dealer) during a tax period for use by him in West Bengal subject to the provision as laid down in sub-section (3) to sub-section (20).

(3) Where a registered dealer, or a dealer who has made an application under sub-section (1) of section 24 within thirty days from the date of incurring liability to pay tax under this Act, without entering into a transaction of sale, issues to another dealer tax invoice with the intention to defraud the Government revenue, the Government may, after making such enquiry as he thinks fit and after giving the dealer a reasonable opportunity of being heard, deny the benefit of input tax credit or input tax rebate to such dealers issuing or accepting such tax invoice, either prospectively or retrospectively, for the full tax period from such date as may deem fit and proper.

(4) Subject to other provision of this section, the input tax credit or input tax rebate shall be allowed to the extent of the amount of tax paid or payable by the purchasing dealer on his purchase of taxable goods, other than such taxable goods specified in the Negative List appended to this section, made in the State from a dealer when such goods are purchased for-

(a) sale or resale by him in West Bengal; or

(b) sale in the course of inter-state trade or commerce within the meaning of section 3 of the Central Sales Tax Act, 1956 (74 of 1956); or

(c) use as containers or materials for packing of taxable goods intended for sale, in the state or in the course of inter-state trade or commerce within the meaning of section 3 of the Central Sales Tax Act, 1956; or

(ca) use as containers or materials for packing of goods intended for sale in the course of export out of India within the meaning of section 5 of the Central Sales Tax Act, 1956 (74 of 1956); or

(d) use as raw materials [and consumable stores withdrawn w.e.f. 1/4/2008] required for the purpose of manufacture of taxable goods intended for sale in the State or in the course of inter-state trade or commerce within the meaning of section 3 of the Central Sales Tax Act, 1956;

(e) use as containers or packing materials for use in the packing of goods so manufactured as referred to in clause (d) above; or

(f) use in the execution of works contract; or

(g) use as capital goods required, for the purpose of manufacture or resale of taxable goods or for execution of works contract, as the case may be, and purchases of such goods as are capitalised in the books of account of such manufacturer, works contractor or reseller as the case may be; or

(h) use as raw materials, capital goods required for the purpose of manufacture of any goods to be resold in the course of export under section 5 of the Central Sales Tax Act, 1956, and containers or packing materials for use of packing of goods so manufactured; or

(i) making zero rated sales other than those referred to in clause (h) above:

Provided that if purchased goods are used partially for the purposes specified in this sub-section, the input tax credit or the input tax rebate shall be allowed to the extent they are used for the purposes specified in this sub-section:

Provided further that notwithstanding anything contained in clause (g), input tax credit or input tax rebate under that clause shall be allowed irrespective of whether purchases of such capital goods as components, spare parts and accessories of plant and machinery, referred to in clause (6) of section 2, are capitalised in the books of account of a manufacturer or not.

(5) The input tax credit or input tax rebate shall not be claimed by the purchasing dealer until he receives-

(a) original tax invoice as referred to in sub-section (1) of section 64 issued in the prescribed manner evidencing the amount of tax, from the registered dealer, or a dealer who has made an application under sub-section (1) of section 24 within thirty days from the date of incurring liability to pay tax under the Act, from whom he has purchased the goods:

Provided that if the original tax invoice issued to a registered dealer is lost from his custody, the purchasing dealer shall, on making an application to the Commissioner in such manner as may be prescribed, be entitled to claim input tax credit or input tax rebate on the strength of the order, if any, by the Commissioner under this sub-section; and

(b) *Omitted.*

(6) If the input tax credit or input tax rebate available to a registered dealer for a year exceeds the output tax for that year, the excess input tax credit or input tax rebate shall be carried forward to the next year, in the manner as may be prescribed.

(7) Where the taxable goods purchased are-

(a) despatched outside the State otherwise than by way of sale; or

(b) used as raw materials in the manufacture of taxable goods, or in the packing of goods so manufactured, and the goods so manufactured are despatched outside the State otherwise than by way of sale,

the registered dealer shall be entitled to input tax credit or input tax rebate of the amount of input tax paid or payable under clause (18) of section 2 calculated at the applicable rate which exceeds the amount calculated at the rate of or such other rate as may be prescribed:

Provided that no input tax credit or input tax rebate shall be allowed to such dealer unless the amount of input tax calculated at the applicable rate exceeds the amount calculated at the rate of three per centum or such other rate as may be prescribed:

Provided further that where a registered dealer has already enjoyed input tax credit or input tax rebate at a rate which is more than the rate he is eligible under this sub-section, his input tax credit or input tax rebate shall be reversed to the extent to which he is not eligible.

(8) Notwithstanding anything contained elsewhere in this Act, and subject to the provisions of sub-section (8A), when a dealer enjoying deferment of payment of tax under clause (a), or tax holiday under clause (b) or remission of payment of tax under clause (c), of sub-section (1) of section 118, as the case may be, purchases in West Bengal, taxable goods which are used as raw materials in the manufacture of taxable goods or in the packing of goods so manufactured, or which are used as capital goods required for the purpose of manufacture of taxable goods, such dealer shall not be entitled to input tax rebate during the period of such enjoyment which shall be accumulated and carried forward until the expiry of such period of deferment, or tax holiday, or remission, as the case may be:

Provided that such dealer shall be entitled to such accumulated input tax credit or input tax rebate after the expiry of such period of deferment, tax holiday or remission, as the case may be, in such manner and subject to such conditions and restrictions, as may be prescribed:

Provided further that where in certain circumstances the output tax on sale of such goods in West Bengal by such dealer is not deferred, exempted, remitted, as the case may be, such dealer shall be entitled to input tax credit or input tax rebate in respect of purchases of such taxable goods within West Bengal:

Provided also that where the goods manufactured by using such goods have been exported out of the territory of India, such dealer shall be entitled to refund of input tax credit or input tax rebate in respect of such purchases of taxable goods within West Bengal.

(8A) Notwithstanding anything contained elsewhere in the Act, a dealer as referred to in sub-section (8), in lieu of allowing his input tax credit or input tax rebate to be accumulated and carried

forward until the expiry of his period of deferment, or tax holiday, or remission, as the case may be, may, at his option, and subject to such conditions and restrictions as may be prescribed, be entitled to refund of seventy per centum of the accumulated input tax credit or input tax rebate in respect of a year in such manner as may be prescribed:

Provided that where a dealer has exercised option for refund in respect of any quarter of a year under this sub-section, such option shall be deemed to be final and irrevocable for all subsequent quarters of the year for which such dealer is eligible for benefit under clause (a), or clause (b), or clause (c), of sub-section (1) of section 118.

(9) Notwithstanding anything contrary contained elsewhere in this Act, a registered dealer as referred to in sub-section(1), shall be entitled to input tax credit or input tax rebate on taxable goods, other than capital goods, lying in stock of such dealer on the date on which he became liable to pay tax under this Act irrespective of the fact that such dealer has not paid input tax under this Act, in such manner and subject to such conditions and restrictions , as may be prescribed, when such goods are purchased for-

(a) sale or resale by him in West Bengal ; or

(b) sale in the course of inter-state trade or commerce within the meaning of section 3 of the Central Sales Tax Act, 1956 (74 of 1956); or

(c) use as containers or materials for packing of taxable goods intended for sale, in West Bengal or in the course of inter-state trade or commerce within the meaning of section 3 of the Central Sales Tax Act, 1956; or

(d) use as raw materials required for the purpose of manufacture of taxable goods intended for sale in West Bengal or in the course of inter-state trade or commerce within the meaning of section 3 of the Central Sales Tax Act, 1956; or

(e) use as containers or packing materials for use in the packing of goods so manufactured as referred to in clause (d) above; or

(f) use in the execution of works contract; or

(g) use as raw materials required for the purpose of manufacture of any goods to be sold in the course of export under section 5 of the Central Sales Tax Act, 1956, and containers and packing materials for use in the packing of goods so manufactured; or

(h) making zero rate sale other than those referred to in clause (g) above:

Provided further that the burden of proof that such goods are meant for purposes mentioned in clause (a) to (h) shall lie on such dealer.

(10) The methods used by a registered dealer in a year to determine the extent to which goods are sold. Used, consumed or supplied, or intended to be sold, used, consumed or supplied, shall be

fair, reasonable and uniform throughout the year:

Provided that the Commissioner may, after giving a registered dealer an opportunity of being heard and for reasons to be recorded in writing, reject the method adopted by such dealer and re-determine the amount of input tax credit or input tax rebate.

(11) *Omitted.*

(12) Notwithstanding anything contained elsewhere in this section, no input tax credit or input tax rebate shall be allowed for purchases-

(a) made from a registered dealer who has been allowed to pay tax at a compounded rate under any of the sub-sections of section 16, or sub section (4) of section 18; or

(b) made in the course of inter-state trade or commerce within the meaning of section 3 of the Central Sales Tax Act, 1956 (74 of 1956),

(c) made in the course of import from outside the country within the meaning of sub-section (2) of section 5 of the Central Sales Tax Act, 1956; or

(d) made for use in business as defined in sub-clause (a) of clause (5) of section 2, but are subsequently used for any other purposes ; or

(da) made from a registered dealer who obtained registration on the basis of false or incorrect documents or false or incorrect representations and whose certificate of registration has been cancelled in accordance with the provisions of clause(c) of sub-section (1) of section 29; or

(db) made from a registered dealer who is found upon enquiry not to have existed, at the time of sale of goods, at the address as disclosed in tax invoices produced, or as the case may be, at the address as disclosed at the time of registration, subject to the amendment made under section 27 or amendment application as moved under section 27A; if any, or

(e) of such goods and under such circumstances, as are specified in the Negative List appended to this section.

(13) Where –

(a) a registered dealer-

(i) purchases goods for the purposes specified in sub-section (4) and such goods are used fully or partly for purposes other than those specified in that sub-section ; or

(ii) purchases goods and such goods are used fully or partly, for such purposes for which enjoyment of input tax credit or input tax rebate is not permissible; or

(iii) purchases goods and avails input tax credit or input tax rebate on such purchases

on which he is not entitled to enjoy input tax credit or input tax rebate; or

(b) a registered dealer has enjoyed input tax credit or input tax rebate, in respect of goods other than the capital goods lying in stock on the appointed day, or under sub-section (9), but such goods, prior to such enjoyment or after, has been so damaged or destroyed that such goods are unsaleable,

the input tax credit or input tax rebate, if availed of, for such goods, shall be reversed to that extent to which he is not eligible in the tax period during which such use has taken place, in such manner, as may be prescribed.

(13A) Where per unit sale price of any goods is less than per unit purchase price of such goods, input tax credit or input tax rebate in respect of such goods shall be restricted to the amount of output tax payable on sale of such goods:

Provided that where a registered dealer has already enjoyed input tax credit or input tax rebate in excess of what is admissible according to this sub-section, such excess credit shall be reversed to the extent to which he is not eligible.

(13B) Where any goods purchased in the State are subsequently sold at subsidised price, the input tax credit or input tax rebate in respect of such goods shall be restricted to the amount of output tax payable on sale of such goods.

(14) Where a registered dealer has purchased any taxable goods from a dealer who has made an application under sub-section (1) of section 24 within thirty days from the date of incurring liability to pay tax under the Act, and if the application for registration of the selling dealer is rejected subsequently, the purchasing dealer shall be entitled to input tax credit or input tax rebate against such purchases made till the date of order of rejection of such application.

(15) Where a transferee lessee or licensee is a dealer deemed to be registered under section 27B or where a transferee, lessee or licensee is a dealer who has incurred liability to pay tax under section 27C and is registered under section 24, as the case may be, such transferee, lessee, or licensee shall after making adjustments by way of reverse credit, if any, arising out of such transfer, be entitled to the input tax credit or input tax rebate, lying unutilised in the account of the transferor, lessor, or licensor, as the case may be, subject to the satisfaction of the Commissioner that such input tax credit or input tax rebate has not earlier been availed of by such transferor, lessor, or licensor.

(16) Where any purchaser being a registered dealer to whom a credit note or a debit note has been issued under section 44, as a consequence of which the input tax credit or input tax rebate availed of by him in any period in respect of which the purchase of goods relates, becomes either short or excess, such registered dealer shall compensate such short or excess by adjusting the amount of input tax credit or input tax rebate allowed to him in respect of the tax period in which

the credit note or debit note, as the case may be, has been issued subject to such conditions as may be prescribed.

(17) The net tax credit for a tax period or a part thereof shall be determined in the following manner, namely-

$$\text{Net tax credit} = A + B - C$$

Where 'A' represents the amount of input tax credit or input tax rebate, for the tax period, which the dealer is entitled to under sub-section (1) subject to other provisions of this section and including input tax credit or input tax rebate availed in short of the eligible amount as referred to in sub-section (16) during the preceding tax periods not exceeding twelve English calendar months;

'B' represents outstanding input tax credit or input tax rebate brought forward as determined from the previous tax period;

'C' represents reverse tax credit as determined under the second proviso to sub-section (7) or sub-section (13) or sub-section (15) and includes the amount of input tax credit or input tax rebate availed in excess of the eligible amount as referred to in sub-section (16).

(18) The State Government may, by notification, specify any class of dealers that shall not be entitled to input tax credit or input tax rebate whether in full or in part.

(19) Where a registered dealer transfers any goods to an auctioneer or a broker or any other agent, such auctioneer or broker or any other agent shall not be entitled to get any input tax credit or input tax rebate.

(20) The burden of proof on the admissibility of the amount of input tax credit or input tax rebate, shall lie on the registered purchasing dealer.

NEGATIVE LIST

[See sub-section (4) and sub-section 12(e) of section 22]

List of goods not eligible for input tax credit or input tax rebate

Serial No.	Description of goods	Exceptions
(1)	(2)	(3)
1.	Air conditioning units, air coolers, fans, and air circulators.	When the registered dealer is in the business of dealing in such goods.
2.	All automobiles including commercial vehicles, and two or three wheelers, and	When the registered dealer is a works contractor and uses such goods in the execution of works contract, or when the

	spare parts for repair and maintenance thereof.	registered dealer is in the business of dealing in such goods.
3.	Crude oil.	When the registered dealer is in the business of dealing in crude oil or of manufacturing any goods taxable under the Act using crude oil as a raw material.
4.	Food , beverages and tobacco products.	When the registered dealer is in the business of dealing in such goods.
5.	Building materials, namely bricks, sand, cement, stone-chips, iron and steel, as referred to in section 14 of the CST Act, 1956(74 of 1956), marble tiles, doors , windows, sanitary fittings, bath fittings, drain pipes and all other materials used in construction , reconstruction or repair of a civil structure or parts thereof.	When the registered dealer is a works contractor and uses such goods in the execution of works contract, or when the registered dealer is in the business of dealing in such goods.
6.	Office equipments.	When the registered dealer is in the business of dealing in such goods.
7.	Furniture, fixture including electrical fixtures and fittings.	When the registered dealer is in the business of dealing in such goods.
8.	Taxable goods which are used as capital goods and raw materials required in the manufacture of goods specified in schedule A or used in the packing of goods so manufactured and not sold in the course of export.	
9.	Goods purchased and accounted for in business but utilised for the purpose of providing facility to the employees including any residential accommodation	
10.	Goods used for personal consumption or received as gifts.	
11.	Taxable goods purchased for use in business other than that as defined in sub-clause (a) of clause (50) of section 2.	
12.	Coal other than coal used as raw material in the manufacture of goods, furnace oil , or	When the registered dealer is in the business of dealing in such goods.

	any other fuel, used for any purpose .	
13.	Generators and parts and accessories thereof used for captive consumption.	When the registered dealer is in the business of dealing in such goods.
14.	Industrial L.P.G.	When the registered dealer is in the business of dealing in such goods.

22A. Penalty for false claim of input tax credit or input tax rebate.-- (1) Where any registered dealer has claimed input tax credit or input tax rebate for a period without entering into a valid transaction of purchase with another registered dealer in West Bengal resulting in claim of a higher amount of input tax credit or input tax rebate than is admissible to him, the Commissioner may, by way of separate proceeding independent of any scrutiny, verification, audit, assessment, appeal, revision, or review for such period and after giving in the prescribed manner, a reasonable opportunity of being heard to such dealer, impose, in addition to any tax levied or leviable or penalty imposed or imposable under this Act for such period, by an order in writing, a penalty of a sum calculated at such per centum, not less than twenty five per centum and not exceeding one hundred fifty per centum, as specified in sub-section (2), of the amount of input tax credit or input tax rebate claimed in excess than is admissible to him:

Provided that no penalty under this section shall be imposed if action has been taken under sub-section (3) of section 22, or penalty has been imposed under section 96, on such dealer. for the same facts and *vice versa*.

(2) For the purposes of imposition of penalty under sub-section (1), the *per centum* shall be as follows,--

(a) at the rate of twenty five per centum where the dealer admits in writing the fact of such ineligible claim of input tax credit or input tax rebate and pays the full amount of tax involved in such ineligible claim along with interest thereon within one month of inspection or enquiry leading to detection of such ineligible claim, or within one month of initiation of the proceeding for such period for imposition of penalty under sub section (1), or within one month of initiation of the proceeding for assessment or appeal or revision or review for such period, as the case may be, whichever is earlier;

(b) at the rate of one hundred fifty per centum in all other cases ;

Provided that a dealer may make application within the period mentioned in clause (a) to the Commissioner , with proof of payment of thirty per centum of the full amount of tax involved in such ineligible claim of input tax credit or input tax rebate as admitted in writing, for granting of instalment for payment of the balance amount of such tax along with interest , and upon such application by the dealer the Commissioner, may, allow such

dealer to make payment of the balance admitted amount of tax involved in such ineligible claim along with interest thereon in monthly instalments of not more than ten months and upon payment of the full admitted amount of tax involved in such ineligible claim along with interest thereon, penalty under sub-section (1) shall be imposed at the percentage specified in clause (a):

Provided further that if the dealer fails to pay the full amount of tax as per instalments granted under the first proviso, then the penalty under sub-section (1) shall be imposed at the rate of one hundred and fifty per centum of the amount of tax involved in such ineligible claim:

Provided also that if it is found that the amount of tax involved in such ineligible claim of input tax credit or input tax rebate by a dealer is in excess of the amount admitted in writing by the dealer under clause (a), the penalty under sub-section (1) shall be imposed at the rate of one hundred and fifty per centum of that part of the amount of tax involved in such ineligible claim of input tax credit or input tax rebate which has not been admitted by the dealer in writing.

(3) Nothing contained in the above mentioned provisions shall be construed to affect liability of the dealer to pay interest under the Act by grant of instalment for payment of the admitted amount of tax by the dealer.

22B. Penalty for issue of tax invoice without sale or without delivery of goods.- (1) Where a registered dealer has issued tax invoice to another registered dealer in any period--

(a) without entering into a valid transaction of sale of goods, or

(b) without effecting any consequent delivery of goods,

the Commissioner, may, by way of a separate proceeding independent of any scrutiny, verification, audit, assessment, appeal, revision or review for such period after giving in the prescribed manner, a reasonable opportunity of being heard to such dealer, impose, in addition to any tax levied or leviable or penalty imposed or imposable under this Act for such period, by an order in writing, a penalty of a sum calculated at such percentage, not less than one hundred and twenty five per centum and not exceeding two hundred and fifty per centum as specified in sub-section (2), of the amount of tax involved in the tax invoices issued by him in the situations referred to in clause (a) and clause (b);

Provided that no penalty under this section shall be imposed if action has been taken against the dealer under sub-section (3) of section 22 for the same facts and *vice versa*.

(2) For the purposes of imposition of penalty under sub-section (1) the percentages shall be as follows-

(a) at the rate of one hundred twenty five per centum where the dealer admits in writing

the fact of such issue of tax invoice and pays within one month of inspection or enquiry leading to detection of issue of tax invoice or within one month of initiation of proceeding for the purpose of imposition of penalty under sub-section (1) or within one month of initiation of the proceeding of assessment or appeal or revision or review for such period, as the case may be, whichever is earlier, an amount towards penalty equal to one hundred and twenty five per centum of the full amount of tax shown in such tax invoices issued by him in the situations referred to in clause (a) and clause (b) of sub-section (1);

(b) at the rate of two hundred fifty per centum in all other cases;

Provided that a dealer may make application within the period mentioned in clause (a) to the Commissioner, with proof of payment of thirty per centum of the penalty imposable under clause (a), for granting the instalments for not more than ten months the balance amount towards penalty so imposable, and upon payment of such full amount, penalty under the sub-section (1) shall be imposed at the percentage specified in clause (a):

Provided further that if the dealer fails to pay the full amount of penalty imposable as per instalment granted, if any, under the first proviso, then the penalty under sub-section 1) shall be imposed at the rate of two hundred fifty per centum of the amount of tax shown in such tax invoices issued by him in the situations referred to in clause (a) and clause (b) of sub-section (1):

Provided also that if it is found that the amount of tax involved in such issue of tax invoices by a dealer under clause (a) then penalty under sub-section (1) shall be imposed at the rate of two hundred fifty per centum on that part of the amount of tax, involved in such tax invoices issued by him in the situations referred to in clause (a) of sub-section (1), which has not been admitted by the dealer in writing.

CHAPTER IV

Registration of a dealer , enrolment of a transporter, carrier or transporting agent, demand of security, amendment or cancellation of registration of a dealer or enrolment of a transporter, carrier or transporting agent, information to be furnished by a casual dealer, dealer in certain cases.

PART I

Registration of a dealer, enrolment of a transporter, carrier or transporting agent, demand of security, amendment or cancellation of registration either *suo motu* or on the basis of information by a dealer and amendment or cancellation of enrolment of a transporter, carrier or transporting agent.

23. Bar to carry on business as a dealer without being registered,-- (1) No dealer who has become liable to pay tax under section 10 , or section 11, or section 14, shall carry on business unless he gets himself registered:

Provided that the provisions of this sub-section shall be deemed not to have been contravened, if the dealer having applied, within the prescribed time as specified in sub-section (2), for such registration is engaged in such business and where such application has not been disposed of:

Provided further that where a dealer has become liable to pay tax under the provisions of section 10 and deals in only such goods as specified in schedule A, such dealer may, notwithstanding anything contained in this sub-section, carry on business without getting himself registered,

(2) A dealer referred to in sub-section (1) shall, within thirty days from the date from which he is liable to pay tax under section 10, or section 11, or section 14, or sub-section (3) of section 27C, make an application for registration to the Commissioner as provided in sub-section (1) of section 24.

(3) Notwithstanding anything contained in sub-section (1), where a dealer has become liable to pay tax under sub-section(1) of section 10, or sub-section(1) of section 11, or sub-section (2) of section 14, and is registered under the West Bengal Sales Tax Act, 1994, (West Ben. Act, XLIX of 1994) on the day immediately preceding the appointed day, he shall be deemed to have been registered under the Act:

Provided that no dealer shall be deemed to have been registered under the Act, if he has applied for cancellation of his certificate of registration under any of the provisions of the West Bengal Sales Tax Act, 1994, and such application is pending before the appropriate authority on the appointed day:

Provided further that where a registration number has been allotted under the Act to a dealer referred to in the first proviso anytime before the appointed day, such registration number shall be deemed to have been cancelled on the appointed day as if no such number had ever been allotted to such dealer.

(4) If a dealer who is required by sub-section (1) to get himself registered , fails, without any reasonable cause , to make an application for registration within the time allowed under sub-section (2), the Commissioner may, by an order in writing , after giving the dealer an opportunity of being heard, impose upon such dealer by way of penalty a sum not less than five hundred rupees and not exceeding one thousand rupees for each month of default, in the manner as may be prescribed.

24. Registration of a dealer.- (1) Every dealer-

(a) who is required by section 23 to be registered, shall, or

(b) who is not required by section 23 to be registered but intends to be registered at any time, may, make an application for registration in the prescribed manner to the prescribed authority and such application shall be accompanied by a declaration in the prescribed form duly filled up and

signed by the dealer making the application:

¹[Omitted]

²[Omitted]

(1A) A dealer who is deemed to have been registered under subsection (3) of section 23 shall, within one hundred twenty days from the appointed day or such further time as may be allowed by the Commissioner, submit such information to such authority and in such manner, as may be prescribed.

(2) If such prescribed authority is satisfied that the application for registration referred to in sub-section (1) is in order, he shall register applicant and grant him a certificate of registration in such form, within such period, in such manner, and subject to such conditions and restrictions, as may be prescribed.

Provided that where the application is not disposed of by the prescribed authority within the prescribed period, the dealer shall be deemed to have been registered on the expiry of such period.

(2A) If the prescribed authority is satisfied that the information provided by the dealer as referred to in sub-section (1A) is in order, he shall, in such manner as has been prescribed and within ninety days from the date of furnishing of such information, issue a certificate of registration under the Act to such dealer in the prescribed form which shall be effective from the appointed day;

Provided that where a dealer does not submit the information as required under sub-section (1A), the Commissioner may, after giving the dealer an opportunity of being heard, cancel the registration number, if any, allotted to him under the Act and his certificate of registration granted under clause (f) of section 119.

(2B) ³[Omitted]

(3) Any dealer who has been registered under sub-section (2) shall, on an application made under clause (b) of sub-section (1), be liable to pay tax on all sales of goods or on execution of works contract effected by him from the date from which the certificate of registration is granted.

1. Omitted w. e. f. 01.07.2014 by S.4(4)(a)(i) of W. B. Act I of 2014 the following:

“Provided a dealer who is not required by section 23 to be registered but intends to be registered under this clause shall have a turnover of sales or contractual transfer price, as the case may be, during a year exceeding rupees fifty thousand.”

2. Omitted w. e. f. 01.07.2014 by S.4(4)(a)(ii) of W. B. Act I of 2014 the following:

“Provided further that the provisions of the first proviso may be waived by the Commissioner on prayer of a dealer, by an order in writing.”

3. Omitted w. e. f. 01.07.2014 by S.4(4)(b) of W. B. Act I of 2014 the following:

“Where a dealer has become liable to pay tax under section 10 or section 11 or under section 12 applies for registration under section 24 and it is found from the documents produced or otherwise that such dealer claims to carry on business from table space in a room not owned by him or not directly let out to him by the landlord or from accommodation not owned or directly let out to him by the landlord, the registering authority shall grant him registration only when such dealer furnishes a security of amount not exceeding rupees one lakh each in such manner as may be prescribed.”

24A. Special provision for registration.- (1) Notwithstanding anything contained in sub-section (1), and sub-section (2) of section 24, a dealer who is liable to pay tax under section 10 or section 14, or both but has failed to apply for registration under the Act, may, at his option, make an application in the prescribed form to the prescribed authority under section 24 by 31st day of December 2012 along with a declaration by such dealer giving particulars of turnover of sales, or contractual transfer price, or both, for the year or part thereof, and a proof of payment of tax, in lieu of tax payable under sub-section (2) of section 16, or sub-section (1) of section 18 at the rate and for the year or years or part thereof as specified in sub-section (1A):

Provided that the provisions of this sub-section shall not apply to any dealer,--

- (a) if any notice for determination of his liability under any of the provisions of the Act has been issued to him under section 66; or
- (b) if any accounts, registers or documents, including those in the form of electronic records have been seized from him under section 67 on or after the appointed day.

(1A) The rate of tax, depending on the fact whether tax payable by the dealer under sub-section (2) of section 16 or sub-section (1) of section 18 or both, as the case may be, and the year or years or part thereof for which tax is to be paid under this section in lieu of the tax otherwise payable by such dealer, shall be as follows:--

- (a) In lieu of tax payable under sub-section (2) of section 16, at the rate not exceeding 2 two per centum as the state government may by notification specify, on the turnover of sales on which tax is payable under sub-section (2) of section 16. for the year or years or part thereof commencing from the date of acquiring liability to pay tax till the date preceding the date of filing of the application under this section;
- (b) In lieu of tax payable under sub-section (1) of section 18, at the rate not exceeding four per centum as the state Government by notification specify, on the contractual transfer price, for the year or years or part thereof from the date of acquiring liability to pay tax till the date preceding the date of filing of the application under this section;

(2) If the application referred to in sub-section (1) filed by the dealer is found to be in order and the tax according to the declaration have been paid, the prescribed authority shall grant registration to such dealer within thirty days from the date of receipt of such application.

(3) The registration certificate issued under sub-section (2) shall be effective from the date of order granting such registration:

Provided that where a dealer makes an application together with a declaration and receipted challans showing payment of tax and such application is not disposed of by the registering authority within thirty days from the date of receipt of such application, the dealer shall be deemed to have been registered on expiry of such period.

(4) Notwithstanding anything contained in section 64, a dealer who has made an application under sub-section (1) shall not be entitled to issue tax invoice referred to in clause (48) of section 2 of the Act, during any period prior to the date of order granting such registration.

25. Enrolment of transporters, carriers or transporting agents.- (1) For carrying out the purposes of section 73, section 80, section 81, every transporter, carrier or transporting agent including those who are already in possession of a certificate of enrolment operating his transporting business in West Bengal for transporting consignment of goods into, or outside, or within, West Bengal shall apply and obtain from the Commissioner a certificate of enrolment or a fresh certificate of enrolment, as the case may be, in such manner, and within such time, as may be prescribed, and a transporter, carrier or a transporting agent to whom a certificate of enrolment or a fresh certificate of enrolment has been issued shall--

(a) display the certificate of enrolment or copies thereof at a conspicuous place of his head office and branch office(s) and warehouse (s);

(b) mention the enrolment number as appearing in the certificate of enrolment issued to him on every consignment note and goods receipt issued by him and on every other document as may be prescribed.

(2) If a transporter, carrier or transporting agent, who is required by sub-section (1) to get himself enrolled, fails, without any reasonable cause, to make an application for issue or amendment of the certificate of enrolment, or a fresh certificate of enrolment, as the case may be, within the prescribed time, or fails to comply with clause (ii) of sub-section 1, within the prescribed time, the Commissioner, may, by an order in writing and after giving such transporter, carrier or transporting agent an opportunity of being heard, impose upon such transporter, carrier or transporting agent a penalty, of a sum not exceeding one thousand rupees for each month of default in making application for issue or amendment of certificate of enrolment, or for failure to comply with the provisions of clause (ii) of sub-section (1) for each such failure, in the manner as may be prescribed.

26. Security to be furnished by dealer, casual dealer or any other person including transporter, carrier or transporting agent.-- The Commissioner may, by an order in writing, for good and sufficient reason to be recorded therein, demand from any dealer, casual dealer or any other person

including transporter, carrier or transporting agent, a security in such circumstances and in such manner as may be prescribed.

27. Amendment of certificate of registration.-- The prescribed authority may from time to time amend any certificate of registration in accordance with the information furnished under sections 27A, 27B, 27C or otherwise received, after due notice to the dealer, and such amendment may be made with retrospective effect in such circumstances, and subject to such restrictions on conditions, as may be prescribed.

27A. Information to be furnished by a registered dealer regarding change of business-- If any registered dealer—

- (a) sells or otherwise disposes of his business or any part of his business or effects or comes to know of any change in the ownership of his business, or discontinues his business or changes his place of business or opens a new place of his business; or
- (b) discontinues or changes his factory or warehouse or opens a new factory or warehouse; or
- (c) changes the name or nature of his business or effects any change in the class or classes of goods in which he carries on his business and which is or are specified in his certificate of registration; or
- (d) in the case of a company, effects any change in the constitution of its board of directors; or
- (e) accepts digital signature certificate issued under the Information Technology Act, 2000, or
- (f) opens a new bank account or closes an existing bank account relating to the business,

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

27B. Transfer of business by a registered dealer -- Where the ownership of the business of registered dealer is transferred absolutely by sale, gift, bequest, inheritance or otherwise, or transferred by way of lease, and the transferee or the lessee carries on such business, either in its old name or in some other name, the transferee or the lessee shall, for all the purposes of the Act (except for the liabilities under this Act already discharged by such dealer), be deemed to be and to have always been registered (in the case of a lease for so long as the lease subsists) as if the certificate of registration of such dealer had initially been granted to the transferee or lessee, and the transferee or the lessee shall, on application to the Commissioner, be entitled to have the certificate of registration amended accordingly.

27C. Partial transfer of business by a registered dealer.-- (1) Where the ownership of a part, division or unit of the business of the registered dealer is transferred by sale, gift, bequest, inheritance or otherwise, or transferred by way of lease or licence, and if the transferee, lessee or licensee, as the case may be, carries on such business as a part of his existing business or a new business in some other name, he shall, for the purposes of this Act, (except for the liabilities under

this Act already discharged by the transferor, lessor or licensor, as the case may be) be deemed to be a dealer in default in the matter of payment of any tax, penalty or interest payable by or due from the transferor or lessor or licensor, as the case may be, in respect of all the period immediately preceding the date of such transfer in relation to such part, division or unit.

(2) If the transferee, lessee or licensee is a registered dealer and carries on the business referred to in sub-section(1), he shall, by an application under section 27, get his certificate of registration duly amended.

(3) If the transferee, lessee or licensee is not a dealer registered dealer under this Act and if he carries on business from such part, division or unit, he shall, notwithstanding anything contained in section 10, section 11, or section 14, shall be liable to pay tax under this Act, and be liable for registration under section 24, from the date of such transfer.

(4) Where the transferee, lessee or licensee is deemed to be a dealer in default under section (1) for any amount of tax, penalty or interest payable by, or due from, the transferor, lessor or licensor, as the case may be, such amount of tax, penalty or interest shall be recoverable from transferor, lessor or licensee under section 55.

27D. Declaration in respect of the manager or other officers of a registered dealer.-- Every registered dealer shall send a declaration to such authority, within such period and in the such manner, as may be prescribed, stating the names of the manager and all officers of other designations who are responsible for ensuring compliance with any requirement made of such dealer under this Act, and in the event of any change of such manager or other officers, the dealer shall send a revised declaration in the like manner to the said authority within such time as may be prescribed.

27E. Penalty for contravention of the provisions of sections 27A, 27B, 27C, or 27D. -- Where a dealer fails to furnish the information as referred to in section 27A, section 27B, section 27C, or section 27D within such time as may be prescribed, the Commissioner may, after giving the dealer an opportunity of being heard, by an order in writing, impose upon such dealer by way of penalty a sum not exceeding five thousand rupees in such manner as may be prescribed.

28. Amendment of certificate of enrolment. --The Commissioner may amend any certificate of enrolment granted under sub-section (2) of section 25, in accordance with the information furnished by a transporter, carrier or transporting agent, as the case may be, or otherwise received, after due notice to such transporter, carrier or transporting agent, as the case may be and such amendment may be made with retrospective effect in such circumstances and in such manner, and subject to such restrictions on conditions, as may be prescribed.

28A. Cancellation of Certificate of enrolment. -- (1) A certificate of enrolment granted to a transporter, carrier or transporting agent under sub-section (1) of section 25, shall be cancelled by the Commissioner where he, after giving a reasonable opportunity of being heard, is satisfied that the business of transporting goods of such transporter, carrier or transporting agent, as the case may be, has discontinued or has ceased to exist, or has obtained such certificate on the basis of

document or representations which has subsequently been found to be false, or has failed to comply with any requirement under section 66A, on demand for examination and such cancellation shall take effect from the date of such order.

(2) The cancellation of the certificate of enrolment may be made on an application of the transporter, carrier or transporting agent or *suo motu* on the satisfaction of the appropriate authority.

29. Cancellation of certificate of registration.-- (1) A certificate of registration granted to a dealer under sub-section (2) or sub-section (2A) of section 24, shall be cancelled by the appropriate authority where such authority, after giving a reasonable opportunity to such dealer of being heard, is satisfied that—

- (a) the dealer has ceased to carry on business or has ceased to exist or has obtained such certificate on the basis of document or representations which has subsequently been found to be false, or has failed to comply with any requirement under section 66A at his place of business; or
- (b) the dealer has ceased to be liable to pay tax under sub-section (8) of section 10, section 11, sub-section (8) of section 14; or
- (c) the dealer has obtained the certificate of registration on the basis of documents or representations, which have subsequently been found false or incorrect by such appropriate authority; or
- (d) the dealer has issued tax invoice to another dealer without entering into a transaction of sale, whether in full or in part, or has issued tax invoice showing tax for an amount in excess of the amount involved in a transaction of sale but has not deposited the tax in full, or has issued tax invoice in contravention of the provisions of section 64; or
- (d) the dealer has defaulted in furnishing any return under section 32 together with receipted challan showing payment of net tax and interest payable, if any, according to such return within the prescribed date or the time as extended by the Commissioner; or
- (e) the dealer has failed to pay the net tax or interest payable or tax due or interest due under this Act.
- (f) the dealer has received a tax invoice from another dealer without entering into a transaction of purchase.

(2) The cancellation of the registration may be made on an application of the dealer or *suo motu* on the satisfaction of the appropriate authority.

(3) The cancellation of registration effected under clause (c) of sub-section , subject to such conditions and restrictions, as may be prescribed, shall be deemed to take effect from the date of validity of the certificate of registration as granted under sub-section (2) of section 24.

(3A) The authority has the power to cancel the certificate of registration of a dealer from its date of validity who obtained registration on the basis of false and incorrect documents and in all other cases from the date specified in order, provided necessary approval is obtained from the Commissioner.

(4) Where a dealer, within thirty days or within such further time as may be allowed by the appropriate authority from the date of cancellation of his certificate of registration under clause (e) or clause (f) of sub-section (1), submits the return and pays the net tax along with interest payable under section 33 or section 34A, or tax due or interest due, as the case may be, and makes an application to the appropriate authority for restoration of his certificate of registration, the appropriate authority shall, by an order in writing, restore the certificate of registration of such dealer with effect from the date of cancellation of such certificate as if the certificate were in force during the period in which it remained cancelled:

Provided that where the appropriate authority has granted the dealer any instalments in respect of payment of net tax, interest and late fee as referred to in sub-section (2) of section 32 the certificate of registration, on application made by the dealer, may be restored subject to such conditions and restrictions and in such manner as may be prescribed.

Provided further that where an application for restoration of certificate is moved by the dealer after six months from the date of its cancellation and the appropriate authority considering his prayer intends to restore his registration from the date of cancellation of such certificate, he shall, before passing any order to this effect, obtain the approval of the Commissioner.

(5) The appropriate authority as referred to in sub-section (1) of section (2), sub-section 3(A) and sub-section (4), shall be the appropriate assessing authority of the dealer notwithstanding the fact that the certificate of registration to such dealer may have been granted by an authority higher in rank to such appropriate assessing authority.

30. Option for cancellation of registration under specified circumstances. -- (1) Notwithstanding anything contained in section 29 a registered dealer who does for manufacture goods in West Bengal for sale, may apply in the prescribed manner, to the prescribed authority, for cancellation of his registration under this Act, if, during the year in which such application is made and during the year immediately preceding such year, he has dealt exclusively in tax-free goods specified in Schedule A.

(2) If the prescribed authority is satisfied that the application made under sub-section (1) is in order, he shall cancel the registration.

(3) A registered dealer whose registration has been cancelled under sub-section (2), shall continue to be liable to pay tax in accordance with the provisions of sub-section (9) of section 10 in the event of making any sale of goods taxable under this Act subsequent to such cancellation of registration, but during the period of such liability to pay tax, he shall, within thirty days from the date of incurring such liability, apply for registration under section 24 and such application shall be disposed of in accordance with the provisions of that section.

PART II

Other information to be furnished by a casual dealer, a dealer, etc.

30A. Statement to be furnished by persons, dealing in transporting, carrying, shipping or clearing, forwarding or warehousing etc.-- If, in the opinion of the State Government, there is appreciable evasion of tax in respect of any goods, the State Government may, by notification, specify such goods, and their upon every person dealing in transporting, carrying, shipping or clearing, forwarding or warehousing such goods, whether as owner or lessee or awkward were of a warehouse, shall furnish a statement of declaration in such form, within such time, in such manner, and for such period and to such authority, as may be specified in the notification. If it appears to the Government that there is appreciable evasion of tax in respect of any goods, the Stat Government may, by notification, specify such goods and the transporter, carrier, shipper, clearing, forwarding, and owner or lessee or occupier of a warehouse godown, shall furnish such declaration or statement in such form, within such time, in such manner and for such period and to such authority as may be specified in the notification. No such notification is issued so far.

30B. Other information to be furnished by a casual dealer, a dealer, etc. -- If, in the opinion of the State Government, it is necessary to obtain information relating to transfer of goods otherwise than by way of sale in West Bengal, it may, by notification, call upon dealers or such class or classes of dealers as may be specified in the notification to furnish such information relating to such goods in such manner, at such intervals, for such period and to such authority, as may be specified in the notification.

30C. Penalty for non furnishing of information or furnishing of incorrect information under section 30B.-- (1) Where—

- (a) a dealer has failed to furnish information as required under section 30B, or
- (b) upon verification of the information in the statement furnished under section 30B by a dealer relating to transfer of goods otherwise than by way of sale in West Bengal, it comes to the knowledge of the Commissioner that—
 - (i) any of the particulars furnished in such statement is not correct or compete; or
 - (ii) the goods transferred by such dealer otherwise than by way of sale in West Bengal have not been accounted for by the dealer's head office, or branch office, or agent, as the case may be; or
 - (iii) the agent of such dealer is not traceable or is not in existence at the address furnished in such statement; or
 - (iv) the agent of the dealer to whom the transfer of goods has been made otherwise than by way of sale denies to have any knowledge of the goods claimed to have been transferred to him by the dealer; or
 - (v) the goods have not been transported by the transporter named in such statement under any consignment note or railway receipt referred to in the said statement,

the Commissioner may, in such manner as may be prescribed, impose on such dealer, by way of penalty, a sum, not less than fifteen *per centum* but not exceeding twenty-five *per centum* of the value of the goods so claimed to have been transferred by him.

(2) If any penalty is imposed under sub-section (1) for concealment of any sale with an intent to evade payment of tax thereon in respect of any period, such sale shall be excluded in determining the turnover of sales in respect of such period for the purpose of imposition of penalty, if any, under sub-section (1) of section 96.

30D. Compounding of penalty that may be imposed on the section 30C. -- (1) Subject to such conditions as may be prescribed, any dealer to whom the notice has been issued proposing imposition of penalty under sub-section (1) of section 30C, may, before the date fixed in such notice for hearing, at his option, compound the penalty proposed to be imposed, as mentioned in such notice, and the Commissioner may, at his discretion, accept from such dealer, by way of composition of penalty proposed to be imposed under sub-section (1) of that section, an amount equal to ten *per centum* of the value of goods claimed by the dealer to have transferred by him otherwise than by way of sale in West Bengal in the statement furnished by him under section 30B.

(2) On payment in full of the amount referred to in sub-section (1), the proceedings commenced against the dealer under sub-section (1) of section 30C shall not be proceeded further.

30E. Statements, accounts or declarations to be furnished by registered dealer and penalty for non-furnishing the same.-- (1) Every registered dealer shall, in the manner as may be prescribed, submit before the prescribed authority such statements, accounts or declarations within such time as may be prescribed and shall verify that such statements, accounts or declarations are true to the best of his knowledge and belief.

(1A) Every registered dealer, other than Public Limited Company, or Private Limited Company registered under the Companies Act, 1956, whose turnover of sales or contractual transfer price or both, or turnover of purchases exceeds rupees five crore in a year or part of a year, shall, within 31st day of December from the end of the year, submit before the appropriate assessing authority a copy of the audited Profit and loss Account and Balance Sheet for such year, along with the audit report of any Chartered Accountant or any Cost Accountant in form 88.

(1B) Every registered dealer, being a Public Limited Company or Private Limited Company registered under the Companies Act, 1956, shall, within such date as may be prescribed, submit before the prescribed authority a copy of the audited Profit and loss Account and Balance Sheet for such year, along with the audit report of any Chartered Accountant, or any cost Accountant, in form 88.

(1C) Every registered dealer, other than those mentioned in sub-section (1A) or sub-section (1B), whose turnover of sales or contractual transfer price or both or turnover of purchase exceeds rupees one crore and fifty lakh in a year or part of a year, shall, within 31st day of December after end of the year, submit before the appropriate assessing authority a copy of the Profit and Loss Account and Balance Sheet for such year, along with a self audit statement in form 88A;

(2) If a registered dealer fails to submit statements, accounts or declarations referred to in sub-section (1B) or sub-section (1C), he shall be liable to pay a penalty not exceeding five thousand rupees for each default, in the manner as may be prescribed.

30F. Statements to be furnished by casual dealers.-- A casual dealer liable to pay tax under section 15, shall in the prescribed manner, submit a statement in writing giving his permanent residential address and particulars of such sale or purchase along with receipted copy of challan as proof of a means of tax for such sale or purchase to the Commissioner.

CHAPTER V

Payment of net tax or any other tax, interest, penalty, furnishing of returns, and deduction of amount at source towards payment of tax, etc.

31. Payment of net tax or any other tax, interest, penalty.— (1) Any amount—

(a) of net tax or any other tax payable or due, for a tax period or payable according to a return referred to in sub-section (1) of section 32, or

(aa) of late fee payable or due under this Act, or

(b) of the interest payable under section 33 or section 34 or section 34A, or

(c) of tax payable after assessment under section 45, or section 46, or section 48, or

(d) of penalty imposed under any provisions of this Act, or

(e) other than those referred to in clause (a), clause (b), clause (c), or clause (d), payable or due under this Act, shall be paid into an appropriate Government Treasury, in such manner, at such interval, and within such time, as may be prescribed.

(2) where the payment under sub-section (1) is required to be made electronically and the dealer makes such payment by any other means, the Commissioner may direct the dealer to pay by way of penalty an amount not exceeding rupees one thousand for each such payment:

Provided that the Commissioner may waive such penalty if it is proved to him that the circumstances under which the payment was made by the dealer other than by electronic means was beyond his control.

31A. Adjustment of reverse credit.-- Any amount of reverse credit as referred to in clause (36C) of section 2 arising in a tax period shall be adjusted within the said tax period in such manner and subject to such conditions and restrictions, as may be prescribed.

32. Furnishing of return by dealer.-- (1) Every dealer liable to pay tax under the Act or every other dealer, if so required by the Commissioner by a notice served in the prescribed manner, shall furnish such returns by such dates and to such authority as may be prescribed.

(2) Every dealer required by sub-section (1) to furnish a return shall be liable to pay such late fee not exceeding rupees two thousand for each month or part thereof of delay in furnishing return, as may be prescribed, and pay, before furnishing such return, the full amount of the net tax, interest and late fee, if any payable according to such return in the manner as provided in section 31 and furnish along with such return, a receipt from the appropriate the Government Treasury referred to in that section showing the payment of such amount;

Provided that where a dealer is required by sub-section (1) to furnish return for any return period is unable to make payment of the full amount of the net tax or interest, or late fee referred to in this sub-section, payable according to such return, such dealer shall furnish return without making of the full amount of such tax or interest or late fee payable according to such return along with an application adducing reasons to the Commissioner for extension of time for making payment of net tax, interest and late fee up to the extended date of payment:

Provided further that the Commissioner may, if he is satisfied on the reasons adduced by the dealer in the application referred to in the first proviso, extend, by an order in writing, the time for making payment of such unpaid amount of the net tax, interest and late fee, if any, payable thereon on such terms and conditions as he may deem fit and proper :

Provided also that where a dealer, required to furnish return under sub-section(1), has furnished a return beyond the prescribed date without making full payment of the net tax, interest and late fee payable according to such return, such dealer shall, except for the return period or periods as the State Government, may, by notification specify, be deemed to have delayed in furnishing that return and shall pay late fee up to the date of full payment of such net tax and interest, or up to the date of assessment under section 46 or section 48 in respect of such return period whichever is earlier:

Provided also that no late fee shall be payable under the third proviso, if the total amount of net tax, interest and late fee paid in short does not exceed rupees one thousand:

Provided also that where a dealer having his principal place of business in sub-divisions of Darjeeling, Kalimpong or Kurseong in Darjeeling district, required to furnish returns under sub-section (1), has furnished returns for the period commencing from the 1st day of April, 2008, and ending on the 30th day of June, 2011, such dealer shall furnish returns for such period ¹[on or before the 31st day of July, 2014], and shall pay full amount of net tax without payment of interest and late fee for such period :

Provided also that no refund of interest and late fee shall be made, if any dealer mentioned in the foregoing proviso has already paid the amount of interest or late fee pertaining to the period mentioned in such proviso.

(3) If any dealer who has furnished a return under sub-section (1), discovers any omission or error[which is apparent and honest in nature in a return furnished by him, he may, at any time before the date prescribed for furnishing of the next return by him, furnish a revised return, and if the revised return shows a greater amount of net tax or interest to be payable than what was shown in the original return, it shall be accompanied by a receipted challan showing payment of the extra amount or the amount of net tax and interest if any, payable thereon in the manner as provided in section 31:

Provided that a revised return under this sub-section shall be furnished once only.

(4) Where a deduction of an amount is made under sub-section (1) of section 40 from the payment of any sum to a dealer for execution of the works contract, and such amount is deposited under sub-section (2) of that section, the deduction of such amount shall be deemed to be a payment of tax by such dealer on the date of such deduction, and he shall furnish along with his return required under sub-section (1) of this section, in respect of such amount a copy of the certificate of deduction referred to in sub-section (3) of section 40, duly certified by such dealer, as a proof of such payment of tax:

Provided that the dealer shall be eligible to claim the amount deducted under sub-section (1) of section 40 as payment of tax in the tax period during which the certificate of deduction under sub-section (3) of section 40 has been received.

²[(4A) The provisions of sub-section (4) shall, *mutatis mutandis*, apply for collection of tax at source made in terms of section 40A.]

(5) A dealer liable to pay tax under sub-section (1) or sub-section (2), as the case may be, of section 10 but not yet registered, shall furnish return in respect of the return period starting on or from such appointed day and pay tax in accordance with the provisions of this Act.

1. Subs. by S. 4(5)(a) of W. B. Act I of 2014 w. e. f. 01.04.2014 for “on or before the 30th day of June, 2013”.

2. Inserted by S. 4(5)(b) of W. B. Act I of 2014 w. e. f. 01.07.2014.

33. Interest for non payment or delayed payment of net tax payable or for non-reversal of input tax credit of input tax rebate.-- (1) Where a dealer required to furnish return under sub-section (1) of section 32, furnishes return in respect of any return period by the prescribed date or thereafter but fails to make full payment of net tax payable, under sub-section (2) of section 32, in respect of any tax period within such return period by the prescribed date, he shall pay a simple interest at the rate of twelve *per centum per annum* for the period commencing on the date immediately following the prescribed date for payment of net tax and upto the date prior to the date of payment of such net tax or, upto the date preceding the date of commencement of proceeding under section 55 or, upto the date prior to the date of provisional assessment under section 45 or assessment under section 46 or section 47 or section 48, as the case may be, whichever is earlier, in respect of such return period upon so much of the amount of net tax payable by him according to such return as remains unpaid:

Provided that where such dealer admits in writing that the amount of net tax payable in respect of any such tax period within the return period is an amount which is either more or less than what has been originally shown as payable in the return and where the Commissioner is satisfied on the point of such admission, the interest shall be payable upon so much of the amount of net tax payable for such tax period according to such admission as remains unpaid:

Provided further that no interest shall be payable by a dealer having his principal place of business in sub-divisions of Darjeeling, Kalimpong or Kurseong in Darjeeling district, for the period

commencing from the 1st day of April, 2008, and ending on the 30th day of June 2011, where such a dealer furnishes the returns for such period under sub-section(1), of section 32 ¹[on or before the 31st day of July, 2014].

(2) Where a dealer required to furnish return under sub-section (1) of section 32, fails to furnish such return by the prescribed date or thereafter in respect of any return period before the provisional assessment under section 45 or the assessment under section 46 or section 48, as the case may be, and on such provisional or other assessments full amount of net tax payable for such period is found not to have been paid by him by the prescribed date, he shall pay a simple interest at the rate of twelve *per centum per annum* for the period commencing on the date immediately following the prescribed date of payment of such net tax in respect of each tax period and upto the date prior to the date of provisional assessment under section 45 or assessment under section 46 or section 48, as the case may be, in respect of such return period upon so much of the amount of net tax payable by him according to such assessment as remains unpaid:

Provided that where the provisional assessment under section 45 or an assessment under section 46 or section 48 is made for more than one return period and such assessment does not show separately the net tax payable for the tax period in which such return period is in respect of which interest is payable under this sub-section, the Commissioner, shall apportion the net tax payable for the tax periods within such return periods on the basis of such assessment.

(3) Where a dealer required to adjust any amount of reverse credit by way of deducting input tax credit or input tax rebate as referred to in section 31A in respect of a particular tax period, fails to do so, he shall pay a simple interest upon such amount at the rate of twelve *per centum per annum* for the period commencing on the date immediately following the prescribed date for payment of net tax for such tax period and up to the date prior to the date of payment of such net tax or, up to the date of commencement of proceeding under section 55 or, up to the date prior to the date of provisional assessment under section 45 or assessment under section 46 or section 47, as the case may be, whichever is earlier.

1. Subs. by S. 4(6) of W. B. Act I of 2014 w. e. f. 01.07.2014 for “on or before the 30th day of June, 2013”.

34. Interest for non payment or delayed payment of assessed tax. --- (1) Where a dealer fails to make payment of any tax due after provisional or other assessments by the date specified in the notice issued under section 45 or section 46 or section 48 for payment thereof, he shall, subject to the provisions of sub-section (2), pay a simple interest at the rate of twelve *per centum per annum* for the period of default, calculated from the date next following the date specified in such notice upto the date of full payment of such tax or upto the date preceding the date of commencement of proceedings under section 55, whichever is earlier upon so much of the amount of tax due from him according to such notice as remains unpaid.

(2) Where as a result of an order under section 84, section 85, section 86, section 87 or section 88 the amount of tax due is modified, the interest payable under sub-section (1) shall be determined or re-determined on the basis of such modified amount and the excess interest paid, if any, shall be refunded.

(3) Where as a result of an order under section 84, section 85, section 86, section 87 or section 80

the amount of tax due is modified as stated in sub-section (2), the interest shall be payable at the rate of twelve *per centum* per annum for the period of default, calculated from the date next following the date specified in the notice originally issued under section 45 or section 46 or section 48 for payment thereof up to the date of full payment of such tax due or upto the date preceding the date of commencement of proceedings under section 55, whichever is earlier, upon so much of the amount of modified tax due as remains unpaid.

34A. interest for failure to make payment of tax as referred to in clause (a) of section 118. ---

Where a registered dealer fails to make payment of tax as referred to in clause (a) of sub-section (1) of section 118 in the prescribed manner and by the prescribed date he shall pay a simple interest at the rate of twelve *per centum per annum* for the period commencing on the date immediately following the prescribed date for payment of tax and ending on the date prior to the date of payment of such tax or up to the date of commencement of proceedings under section 55 , whichever is earlier, upon so much of the amount of tax payable by him according to such return as remains unpaid.

35. Exemption from payment of interest. -- Notwithstanding anything contained in section 33 or section 34, or section 34A, no interest shall be payable in such cases or under such circumstances and subject to such conditions, if any, as may prescribed.

36. Interest payable by Commissioner. --The Commissioner shall, in the prescribed manner, pay a simple interest at the rate of twelve per centum per annum for the period of delay in making refund to certain class of persons referred to in section 61, or to a dealer of the amount of tax paid in excess which arises out of an order passed under section 84, section 85, section 86, section 87 or section 88, from the first day of the month next following three months from the date of such order or to the date on which the refund is made in the manner referred to in section 62, upon the amount of tax refundable to him according to such order.

37. Rounding off of net tax or any other tax payable for calculation of interest. -- In calculating the interest payable under section 33, section 34, section 34A or section 36, the amount of net tax or any other tax payable or due in respect of which such interest is to be calculated shall be rounded off to the nearest multiple of one hundred rupees, if such part is fifty rupees or more, it shall be increased to one hundred rupees and if such part is less than fifty rupees, it shall be ignored.

38. Rounding off of amount of net tax or any other tax, or penalty. --The amount of net tax or any other tax, or penalty payable or refundable for any period under the provisions of this Act shall be rounded off to the nearest rupee and for this purpose, where such amount contains a part of a rupee, then if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise, it shall be ignored.

39. Collection of tax only by dealers liable to pay tax. -- (1) No dealer who is not liable to pay tax under this Act shall collect, in respect of any sale of goods by him, any amount of tax under this Act and no dealer who is liable to pay tax under this Act, shall make any such collection except in accordance with the provisions of this Act.

(2) If any dealer contravenes the provisions of sub-section (1), he shall, notwithstanding anything contained elsewhere in this Act, deposit the amount collected in such contravention into an

appropriate Government Treasury within thirty days from the date of such collection and intimate the Commissioner of such deposit along with a receipt from such Treasury or Bank showing payment of such amount.

(3) The Commissioner shall on an application made by the buyer in respect of sales of goods to him referred to in sub-section (1) and on such terms and conditions as he may deem fit and proper refund to such buyer the tax or the excess tax, as the case may be, collected from such buyers and deposited by the dealer in the manner referred to in sub-section (2):

Provided that no application from any buyer shall be entertained unless the same is made within twelve months from the date on which the tax or excess tax, as the case may be, is paid or such further period as may be allowed by the Commissioner and the application is supported by relevant tax invoice, invoice, cash memo or bill issued by the dealer.

(4) If a dealer is in default in depositing in accordance with the provisions of sub-section (2), the amount collected in contravention of the provisions of sub-section (1), the Commissioner may, after giving such dealer a reasonable opportunity of being heard, by an order in writing, direct the dealer that he shall pay by way of penalty a sum not less than the amount of tax so collected but not exceeding twice the amount of tax so collected by him in contravention of the provisions of sub-section (1).

40. Deduction at source from payment to a dealer against execution of works contract.--

(1) Notwithstanding anything contained in section 32 or any rules made there under or any terms of a contract to the contrary, any person responsible for paying **any sum** to any dealer for execution of a works contract within West Bengal referred to in section 14, wholly or partly in pursuance of a contract between such dealer and--

- (a) Government,
- (b) a local authority,
- (c) a corporation or a body established by or under any law for the time being in force,
- (d) a company incorporated under the Companies Act, 1956, (1 of 1956, including a Government undertaking,
- (e) a co-operative society registered or deemed to be registered under the West Bengal Co-operative Societies Act, 2006 (West Bengal Act XL of 2006)
- (f) an educational institution,
- (g) a promoter,
- (h) any bank,
- (i) any hospital or nursing home or diagnostic centre,
- (j) a partnership firm,
- (k) a joint-venture company,
- (l) a limited liability partnership,

shall, at the time of payment of such sum in cash or by issue of a cheque or draft or any other mode of payment, deduct , towards tax leviable on intra-state contractual transfer price, arising from transfer of property in taxable goods in the execution of such works contract by him, if any, an amount equal to such percentage not exceeding fifteen *per centum* of such portion of payment as may be prescribed, depending upon the amount of charges towards labour, service and other

charges as referred to in clause (b) of sub-section(2) of section 18, and the scope of claim of input tax credit, and different portions and different percentages may be prescribed for the purpose of such deduction:

Provided that no deduction under this sub-section shall be made—

- (i) where the payment is made as advance prior to the commencement of the execution of such works contract; or
- (ii) where no transfer of property in goods (whether as goods or in some other form) is involved in the execution of such works contract, and the payment is made by, or on behalf of , or to a dealer who has not claimed deductions under clause (c) of sub-section (2) of section 18 in respect of such works contract; or
- (iii) Where the amount mentioned in the tax invoice, invoice or bill in a single transaction or multiple transactions with a dealer during a year relating to transfer of property in goods (whether as goods or in some other form) in the execution of works contract does not exceed rupees ten thousand.

Explanation I.-- For the purposes of the this sub-section, ‘promoter’ means a person who constructs, reconstructs, converts, renovates or extends or causes to be constructed, reconstructed, converted, renovated or extended, a building including a flat or apartment or a block of flats or apartment or a resort for purposes of transfer of such building, either in full or in part, by sale or otherwise to any person or to any company, firm, co-operative society, association of persons or any artificial juridical person, and includes-

- (i) his assignee, if any, a person who develops or reclaims the land, the person who constructs, reconstructs, converts, renovates or extends, and the person who transfers, such buildings , if such persons are different,
- (ii) a society registered under the West Bengal Co-operative Societies Act, 1961 (West Ben. Act, XXVI of 1961),
- (iii) any firm, board or other association of persons established by or under any law for the time being in force.

Explanation II.-- For the purpose of this section, the expression ‘any person responsible for paying any sum’ in respect of contract between such dealer and company, or educational institution, or promoter, or non-public sector bank, or non-government hospital, or nursing home, or diagnostic

centre, or partnership firm, or joint venture, company, or limited liability partnership as referred to above, shall include the proprietor, partner, director, manager, principal, or person in charge at the time of such payment, as the case may be.

(2) Where deduction of any amount is made under sub-section (1),---

(a) The person making such deduction shall deposit the amount so deducted into an appropriate Government Treasury within such time, in such manner and in such form or challan, as may be prescribed; or

(b) in the case of a person who adopts 'public works system of accounting' and makes such deduction, he shall transfer the amount so deducted to the appropriate head of accounts through account statement in the manner prescribed, which is required to be sent periodically to the Accountant General, West Bengal, and such transfer shall be deemed to be a deposit not the amount so deducted by a person making such deduction on the basis of such statement.

(3) after the deposit of the amount under sub-section (2), the person who makes the deduction and deposit, shall, within fifteen days from the date of such deposit, issue to the dealer a certificate in the prescribed form for each deduction separately and send a copy of receipted challan or a copy of the account statement referred to in sub-section(2), as the case may be, to the Commissioner along with the relevant certificate of deduction and such documents as may be prescribed.

(3A) Where the person who has sent a copy of the account statement as referred to in sub-section (3) discovers any omission or error in it which is apparent and honest in nature, he may, within six English Calendar months beginning from the month immediately following the month in which such statement is to be sent, send a revised statement, and if the revised statement shows a greater amount of tax deducted, than what was shown in the original statement, it shall be accompanied by a receipt showing payment of extra amount of deducted tax in the manner as provided in section 31.

(4) On receipt of a certificate deduction referred to in sub-section (3), the deposit of an amount of a dealer referred to in sub-section (2), shall be adjusted by the Commissioner towards tax liability of the dealer under section 18, and shall constitute a good and sufficient discharge of the liability of the person deducting such amount to the dealer to the extent of the amount deducted and deposited.

(5) Where any person, while paying any sum to a dealer, contravenes the provision of sub-section (1), sub-section(2), or sub-section(3), he shall be personally liable for such contravention, and the Commissioner may, after giving him an opportunity of being heard, by an order in writing and in such manner as may be prescribed, impose on such person a penalty, not exceeding twice the amount required to be deducted and deposited by him into the appropriate Government Treasury.

(6) Where any dealer from whose account any amount has been deducted under sub-section (1),

and deposited under sub-section(2), proves to the satisfaction of the commissioner that he is not liable to pay tax under section 14, and such amount such amount was not wholly or partly payable under this Act, the Commissioner shall refund or adjust the amount refundable to the dealer in such manner, as may be prescribed.

¹**40A. Collection of tax at source.**— (1) Notwithstanding anything contained in section 32 or any rules made thereunder or any terms of a contract to the contrary, the person responsible for paying any sum for intra-state purchase of taxable goods from any dealer, wholly or partly in pursuance of a contract between such dealer and the Government or a local authority shall, at the time of payment of any sum to such dealer by any mode of payment, deduct towards tax payable under section 16 an amount equal to such percentage or percentages, not exceeding the rate specified in clause (b) of sub-section (2) of section 16, of such sum, and in such circumstances, as may be prescribed.

(2) The provisions of sub-section (2) to sub-section (6) of section 40 shall, *mutatis mutandis*, apply for collection of tax at source to be made in terms of this section.

1. Inserted by S. 4(7) of W.B. Act I of 2014 w. e. f. 01.07.2014.

CHAPTER VI

Scrutiny and verification of returns and statements and documents furnished by a dealer, casual dealer, and audit of accounts and other documents maintained by a dealer.

PART I

Scrutiny and verification of returns furnished by, and audit of accounts and other documents maintained by, a dealer.

41. Scrutiny of returns -- (1) Every return, furnished under sub-section (1) of section 32, shall be scrutinised either electronically or otherwise, by the Commissioner in the manner , as may be prescribed, to ascertain that

- a) the return so furnished is complete and self consistent and is accompanied by all the documents as are required to be furnished along with such return in accordance with provision of the Act and rules made there under; and
- b) the correctness of the calculation of input tax credit or input tax rebate net tax and late fee as referred to in sub-section (2) of section 32, including application of proper rate of tax, payable according to such return, and the payment of interest payable under sub-section (1) of section 33, or both, if any, and payment of such net tax . late fee as referred to in sub-section (2) of section 32 and interest.

(2) If any mistake is detected upon the scrutiny made under sub-section (1), the Commissioner shall, in the prescribed manner, shall issue, upon the dealer who has filed such return, a notice requiring him to rectify the mistake or to pay the amount of net tax payable in deficit along with the

interest payable under subsection (1) of section 33, if any, within the date specified in such notice.

(3) The notice referred to in sub-section (2) shall not be issued after the expiry of four months from the last date of the month in which a return has been furnished under sub-section (1), or sub-section (3) of section 32.

(4) If upon scrutiny made under sub-section (1), a dealer is found to have paid the net tax, or interest, in excess of the amount payable as per such return, the Commissioner shall inform the same to the dealer within one month from the date of completion of such scrutiny.

42. Verification of returns.-- (1) Where the Commissioner, for reasons to be recorded in writing, has reason to believe that the dealer has furnished incorrect statement of his turnover of purchases or turnover of sales or contractual transfer price or incorrect particulars of his purchases of sales or contractual transfer price or has claimed excess amount of input tax credit or input tax rebate in a return furnished under sub-section (1) of section 32, he may verify the statement and particulars furnished in such return with reference to the accounts, registers or documents, including those in the form of electronic records, maintained or kept by such dealer.

(2) If upon verification of return made under sub-section (1), the Commissioner is not satisfied that the return furnished by the dealer is correct and complete, he shall proceed to make assessment of the dealer as referred to in section 46 or section 48, as the case may be.

(3) No verification shall be made under sub-section (1) after the assessment of the dealer is initiated under section 46 or section 48.

43. Audit of accounts and assessment in certain cases.-- (1) Notwithstanding anything contained in section 45, section 47 and section 49 and subject to such conditions, restrictions and in such manner, as may be prescribed, the Commissioner shall, from among registered dealers, select on a random basis, or upon information or otherwise, such percentage, or such class or classes of dealers, as may be prescribed, for audit of the accounts, registers or documents, including those in the form of electronic records, maintained or kept by such dealer for any year or part thereof, not being a period which has ended five years previous to the date of selection.

Provided that where selection of a registered dealer under this sub-section has been made in respect of any or part thereof and where in respect of such year or part thereof, an assessment has already been made under sub-section (1) of section 46 or assessment under sub-section (2) of section 45 has not been revoked under sub-section (3) or sub-section (4) of section 45, such registered dealer for such year or part thereof shall be deemed to have not been selected under this sub-section.

(2) After a selection made under sub-section (1), the Commissioner shall, with due notice to the dealer so selected, proceed to audit of the accounts, registers and documents, including those in the form of electronic records, maintained or kept by the dealer to verify the correctness of returns furnished and the admissibility of various claims including the input tax credit or input tax rebate or refund, for the year or part thereof referred to in sub-section (1).

(3) The Commissioner shall, after considering all the evidence produced in course of the

proceedings or collected by him, or to the best of his judgment where the dealer has failed to comply with the notice issued under sub-section (1) prepare a report stating his observation therein regarding the correctness of returns, admissibility of various claims of the dealer for the period for which such audit is made and also prepare a computation sheet, in the form and manner as may be prescribed, to be attached with the report showing quantification of tax, interest, or late fee payable by him.

¹[Provided that where a dealer pays in full the amount specified in the computation sheet, the return(s) submitted by the dealer for the relevant period shall be eligible to be considered for deemed assessment under section 47 or summary assessment under section 47AA, as the case may be.]

(4) Any audit under the section shall be completed within six months from the date on which the selection is made by the Commissioner:

Provided that where the Commissioner is satisfied that audit in respect of such dealer cannot be completed within six months from the date of selection, he may, upon giving the dealer an opportunity of being heard and for the reasons to be recorded in writing, extend the period for another six months

Provided further that the order of such extension shall be made within six months from the date of selection for audit and such order shall be immediately communicated to the dealer.

(5) Where, from the finding contained in the report under sub-section (3), it appears to the Commissioner that in the return furnished by such registered dealer under section 32 in respect of a year or part of such year,-

- (a) certain sale price or part thereof, contractual transfer price or part thereof, has not been disclosed in such return, or escaped levy of tax thereon at the appropriate rate erroneously or otherwise, or
- (b) certain purchase price or part thereof has not been disclosed in such return, or has escaped levy of tax thereon at the appropriate rate, erroneously or otherwise, or
- (c) the deductions from the turnover of sales were claimed under sub-section (1) of section 16 in such return, erroneously or otherwise, in excess of what is admissible under sub-section (1) of that section, or the deductions so claimed in such return are not supported by evidence referred to in sub-section (1) of that section, or
- (d) excess amount of input tax credit or input tax rebate has been enjoyed by the dealer for that period, and no reverse credit for such excess amount has been made by such dealer, or
- (e) the information furnished are not correct and complete, or
- (f) there are certain other discrepancies,

which has resulted in reduction of the amount of net tax payable by such registered dealer or the state Government has suffered loss of revenue on any of the grounds referred to in clause (a), or clause (b), or clause (c) or clause (d), or clause (e), or clause (f), of this sub-section on account of such registered dealer in respect of such year or part of such year, the Commissioner shall, in accordance with the provision of sub-section (1) of section 46, assess to the best of his judgment the amount of net tax payable by such dealer in respect of such year or part thereof, as he ²[may deem fit and proper]:

Provided that where the assessment, as referred to in this sub-section, has to be made under sub-section (1) of section 46 in respect of such year or part of such year for which assessment is deemed to have already been made under sub-section (1) of section 47, the Commissioner shall make such assessment in respect of such year or part of such year in accordance with the provisions of the proviso to sub-section (3A) of section 47:

Provided further that no assessment under ³[sub-section (1) of section 46] shall be made, where the dealer has admitted, in writing, the observations made in the report referred to in sub-section (3) and has paid in full the amount of net tax paid in short, due to excess claim of input tax credit, or for any other reason as mentioned in such report, with interest as payable under section 33:

Provided also that the provisions of the second proviso shall not be applicable in respect of assessment required to be made ⁴[under sub-section (1) of section 46 for reasons to be recorded in writing].

(5A) Notwithstanding anything contained in sub-section (5), where the dealer fails to pay the tax, interest, or late fee as stated in the computation sheet attached to the ⁵[report, in respect of any selection made under sub-section (1) on or after the 1st day of April, 2012, drawn under sub-section (3)] within one month of receipt of such report and the computation sheet, such report shall, on expiry of one month, be ⁶[deemed to be an order of assessment under sub-section (1) of section 46 and the computation sheet attached to the report shall be deemed to be a notice of demand upon such assessment] and such amount shall be payable within fifteen days thereafter:

⁷[Provided that where an amount of net tax or interest or late fee is found to have been paid in excess as mentioned in such report and computation sheet, on expiry of one month as stated above, the said computation sheet shall be deemed to be a notice of demand.]

(6) ⁸[Omitted].

1. Inserted by S. 4(8)(a) of W.B. Act I of 2014 w. e. f. 01.04.2012.

2. Subs. by S. 4(8)(b)(i) of W.B. Act I of 2014 w. e. f. 01.04.2013 for “may deem fit and proper, not only for the reason as described in this sub-section read with clause (ca) of sub-section (1) of section 46 but also for any other reason as contained in other clauses of the sub-section (1) of section 46 where it is required to do so and also act according to the provision of sub-section (2) and sub-section (3) of section 46”.

3. Subs. by S. 4(8)(b)(ii) of W.B. Act I of 2014 w. e. f. 01.04.2013 for “clause (ca) of sub-section (1) of section 46”.

4. Subs. by S. 4(8)(b)(iii) of W.B. Act I of 2014 w. e. f. 01.04.2013 for “under any of the clauses of sub-section (1) of section 46, other than clause (ca) of sub-section (1) of section 46”.

5. Subs. by S. 4(8)(c)(i) of W.B. Act I of 2014 w. e. f. 01.04.2012 for “report drawn under sub-section (3)”.

6. Subs. by S. 4(8)(c)(ii) of W.B. Act I of 2014 w. e. f. 01.04.2012 for “deemed to be an order of assessment and the computation sheet attached to the report shall be deemed to be a notice of demand”.

7. Subs. by S. 4(8)(c)(iii) of W.B. Act I of 2014 w. e. f. 01.04.2012 for “Provided that the provision of this section shall not be applicable in respect of assessment required to be made under any of the clauses of sub-section (1) of section 46 other than clause (ca) of sub-section (1) of section 46.”

8. Omitted w. e. f. 01.04.2013 by S.4(8)(d) of W. B. Act I of 2014 the following:

“Where the report as referred to in sub-section (3) does not contain any such finding as described in clause(a), or clause (b), or clause (c), or clause (d), or clause (e), or clause (f), of sub-section 5, the Commissioner shall, in accordance with the provision of sub section (1) of section 46, assess to the best of his judgment the amount of net tax payable by such dealer in respect of such year or part thereof, as he may deem fit and proper, for the reason as contained in clauses other than clause (ca) of sub-section (1) of section 46 where it is required to do so and also to act according to the provisions of sub-section (2) and sub-section (3), of section 46.”

43A. Special audit of dealers. -- (1) The Commissioner may, on the basis of information received or otherwise, select subject to such conditions and restrictions, as may be prescribed, certain dealers for the purpose of special audit of accounts, records and documents including physical verification of goods held in stock.

(2) The special audit may be made notwithstanding the provisions of section 47 or section 47A or section 47AA, for any period or part thereof within six years from the end of the year to which such period relates.

(3) The provisions of sub-section (3) and sub-section (5A) of section 43 shall apply *mutatis mutandis* in respect of audit under this section.

¹**43AB. Audit by a special team.**—(1) If at any stage of a proceeding initiated under the Act against a dealer, the Commissioner, having regard to the nature and complexity of the accounts, records and documents, has reasons to believe that the dealer is engaged in an activity detrimental to the State revenue, he may call for audit of such accounts, records and documents of the dealer by a special team of selected tax professionals to be nominated by him in such manner, and subject to such restrictions and conditions, as may be prescribed.

(2) The special team shall furnish a report of the audit in the prescribed form duly signed and verified by it and setting forth such other particulars as the Commissioner may require.

1. Inserted by S. 4(9) of W.B. Act I of 2014 w. e. f. 01.07.2014.

44. Credit and debit notes. -- (1) Where a tax invoice has been issued and the amount shown as tax charged in the tax invoice exceeds the tax chargeable under this Act in respect of that sale, the registered dealer, or a dealer who has made an application under sub-section (1) of section 24 within thirty days from the date of incurring liability to pay tax under the Act, making the sale shall provide the purchaser with a credit note and the purchaser shall provide such dealer making the sale, with a debit note containing such requisite particulars as may be prescribed.

(2) Where the tax invoice has been issued and the tax chargeable under this Act in respect of the sale exceeds the amount of tax charged in that tax invoice, the registered dealer, or a dealer who has made an application under sub-section (1) of section 24 within thirty days from the date of incurring liability to pay tax under the Act, making the sale shall provide the purchaser with a debit note and the purchaser shall provide such dealer making the sale, with a credit note containing such requisite particulars as may be prescribed.

(3) In case of goods returned or rejected by the purchaser, a credit note shall be issued by the dealer making the sale to the purchaser, and a debit note will be issued by the purchaser to the dealer making the sale, containing such requisite particulars as may be prescribed:

Provided that where the goods sold or purchased in a year is returned or rejected in a subsequent year, within a period of six months from the date of sale or purchase, the credit note issued by the seller or the debit note issued by the purchaser, shall be adjusted with the turnover of sales or turnover of purchases, as the case may be, in the year in which such goods are returned or rejected.

PART II

Scrutiny and verification of statements and documents furnished by a casual dealer.

44A. Scrutiny and verification of statements and documents furnished by a casual dealer.-- (1) Every statement and document, furnished under section 30F shall be scrutinised by the Commissioner to ascertain the correctness of calculation of tax payable, including application of proper rate of tax, according to such statement submitted in writing.

(2) If any mistake is detected upon the scrutiny made under sub-section (1), the Commissioner shall, in the prescribed manner, serve upon the casual dealer who has filed such statement, a notice in such form as may be prescribed, requiring him to pay the amount of tax in deficit, if any, within the date specified in such notice.

(3) If upon scrutiny made under sub-section (1), a casual dealer is found to have paid tax in excess of the amount payable as per such statement, the Commissioner shall inform the same to the casual dealer within one month from the date of completion of such scrutiny.

(4) Where the Commissioner, for reasons to be recorded in writing, has reason to believe that a casual dealer has furnished incorrect statement of his sale or purchase in the statement furnished

under section 30F, he may verify such statement.

(5) If upon verification of the statement referred to in sub-section (4), the Commissioner is not satisfied that the statement furnished by such casual dealer is correct and complete, he shall proceed to make assessment of the casual dealer as referred to in sub-section (2) of section 48.

CHAPTER VII

Provisional assessment and assessment upon hearing and determination of interest and late fee as referred to in sub-section (2) of section 32 .

45. Provisional assessment.-- (1) Where the dealer required to furnish return for the period under sub-section (1) of section 32,—

(a) fails to furnish such return; or

(b) furnishes such return but fails to make an application to the Commissioner for extension of date of payment, of the unpaid amount of net tax, interest and late fee, if any, as referred to in the first proviso to sub-section (2) of section 32; or

(c) furnishes such return but fails to make payment of net tax, interest and late fee thereon in accordance with the terms and conditions and within such time as may be specified by the Commissioner as referred to in the first proviso to sub-section (2) of section 32; or

(d) furnishes such return but fails to make payment of the unpaid amount of net tax , interest and late fee where the Commissioner has rejected his application for extension of date of payment as referred to in the first proviso to sub-section (2) of section 32,

the Commissioner or any other person appointed under sub-section (1) of section 6 to assist him, may, notwithstanding anything contained in section 46, proceed to assess the dealer provisionally for that period:

Provided that no provisional assessment under the section in respect of a return period shall be made following the expiry of six months from the prescribed date for furnishing such return or the extended date for making payment of net tax, interest and late fee, as the case may be:

Provided further that in completing the time limit as specified in the first proviso for making any provisional assessment under the section, the period during which the Commissioner is restrained from commencing or continuing any proceedings from such provisional assessment by an order of a tribunal or any court, shall be excluded.

(2) In making a provisional assessment under this section, the Commissioner or other authority as referred to in sub-section (1), shall—

(a) where the dealer has failed to furnish return, assess the net tax of the dealer for the relevant return period on the basis of past returns or past records, and where no such returns or records are available, on the basis of information received by the Commissioner or such other authority, and determine the interest payable by the dealer for the relevant return period; or

- (b) where the dealer furnishes return but fails to make an application to the Commissioner, or fails to make payment of the net tax, interest and late fee as referred to in sub-section (2) of section 32, or fails to make payment of the unpaid amount of net tax, interest and late fee as referred to in sub-section (2) of section 32 as mentioned in clause (b), clause (c) and clause (d), respectively, of sub-section (1), assess on the basis of return furnished and determine the interest payable or unpaid amount of interest, for the relevant period,

and impose a penalty not exceeding twice the assessed amount of net tax or the unpaid amount of net tax, as the case may be, and fix a date for production of documentary evidence for removing the cause for making the provisional assessment under sub-section (3), and shall direct the dealer by a notice to pay the assessed amount of net tax or the unpaid amount of net tax, as the case may be, with interest payable or remaining unpaid and penalty imposed, in such manner, and within such date, as may be prescribed.

(3) If the dealer produces documentary evidence on or before the date fixed under sub-section (2) for removing the cause for which the provisional assessment has been made under sub-section (2), the authority mentioned in sub-section (1) shall close the proceedings initiated under this section and the provisional assessment made under sub-section (2) shall stand revoked.

(4) Where the dealer fails to take action in accordance with the provisions of sub-section (3) after receipt of demand notice issued under sub-section (2), but —

- (a) furnishes the return along with receipted copy of challan showing full payment of net tax according to such return and the interest payable thereon, for the period in respect of which provisional assessment has been made under sub-section (2), and also submits receipted copy of challan showing payment of a sum equal to twenty *per centum* of the amount of net tax paid, or five thousand rupees, whichever is higher, by way of penalty, on or before the date fixed for payment of the amount demanded in the demand notice, the Commissioner or such other authority mentioned in sub-section (1) shall close the proceedings initiated under this section and the provisional assessment made under sub-section (2) shall stand revoked; or

- (b) furnishes receipted challan showing full payment of the net tax and interest payable according to the demand notice and fifty *per centum* of penalty demanded in such notice, on or before the date fixed for payment of the amount specified in such demand notice without furnishing the return, the provisional assessment made under sub-section (2) shall stand revoked to the extent of demand of net tax, interest and balance fifty *per centum* of penalty.

(5) Nothing contained in this section shall prevent the Commissioner from making assessment under section 46 and any net tax or interest paid, and penalty paid in excess of the fifty *per centum* of the amount of penalty imposed against provisional assessment or assessments, as the case may be, shall be adjusted against net tax and interest payable on assessment made under that section.

46. Assessment after giving notice to registered dealer. — (1) The Commissioner may, after giving a notice to a registered dealer in such manner as may be prescribed, assess to the best of his judgment the amount of net tax or any other tax payable or net tax credit of such dealer in respect of a year or part thereof, where --

- (a) No return has been furnished by the registered dealer for all or any of the return periods of such year or part thereof ; or
- (b) The Commissioner deems it fit and proper to assess the registered dealers, as he is prima facie, satisfied that there has been short payment of net tax or excess claim of net tax credit by such dealer, or the State Government has suffered loss of revenue on account of such dealer or for any other reason to be recorded in writing , including for the purpose of refund of tax:

Provided that—

- (a) no assessment shall be made under this section for which an assessment has been made under sub-section (2) of section 45 but has not been revoked under sub-section (3) or sub-section (4) of that section, and appeal is pending under section 84 or application for revision is pending under section 87 or section 87A, in respect of such assessment;
- (b) no assessment shall be made under this section in respect of a return period , where a notice under sub-section (2) of section 43 has been issued for the purpose of auditing the accounts, registers and documents of the dealer for a period containing that return period;
- (c) no fresh assessment proceedings under this sub-section shall be made, where the report together with the computation sheet arising from an audit under section 43, are deemed to be an order of assessment and a notice of demand, respectively, under sub-section (5A) of that section;
- (d) no assessment may be made under this Act in respect of any return period starting from 1st day of April, 2010, if assessment under the central Sales Tax Act, 1956(74 of 1956), is required to be made only for non-submission of declaration and certificates prescribed under the said Act, and the commissioner deems fit and proper not to make such assessment;
- (e) no assessment may be made for any period starting on or after 1st day of April, 2010, in respect of a registered dealer who has closed his business where the Commissioner deems it fit and proper:

Provided further that if on appeal or revision, a provisional assessment order of section 45 in respect of a year or a return period is set aside with a direction to make fresh assessment, no further action shall be taken under section 45 and assessment for the year or part thereof containing that return period shall be made afresh under this section and such assessment shall be completed within two years from the date of order made in appeal or revision;

(1A) Nothing in sub-section (1) shall be construed to restrict the power of the Commissioner, or any person appointed under sub-section (1) of section 6 to assist him, to make an assessment under this section in respect of any return period ending on or before the 31st day of March , 2012 where the proceeding for such assessment, or for audit under section 43 for such period, is or has been initiated on or before the 30th June 2013.

(2) *Omitted.*

(3) The Commissioner shall—

- (a) in making the assessment under sub-section (1) give the dealer a reasonable opportunity of being heard; and
- (b) after making such assessment, issue to a dealer a notice directing him to pay the net tax payable, late fee and interest determined, the difference between the amount of input tax credit which the dealer has carried forward in the return for the next return period and the amount of excess of net tax credit over output tax payable, as is found admissible upon assessment, which may be carried forward to the next return period or where no such amount which can be carried forward to the next return period is found admissible upon assessment, the amount of input tax credit which the dealer has carried forward in the return for the next return period.

47. Assessment as per return.-- (1) Where the Commissioner does not proceed to assess any registered dealer under sub-section (1) of section 46 for any year or any return period of such year and where the provisional assessment made of such dealer in respect of such year or return period has been revoked under sub-section (3) or sub-section (4) of section 45, the Commissioner shall accept the return furnished by the dealer for such year or any return period of such year as correct and complete and assessment in respect of such year or such period shall be deemed to have been made by him on the date mentioned in sub-section (1) of section 49 after which no assessment can be made.

(2) Upon making an assessment under sub-section (1), the Commissioner shall inform the dealer who is assessed under that sub-section in such manner and within such time as may be prescribed.

(3) Where an assessment is deemed to have been made under sub-section (1) in respect of a registered dealer relating to any year or part of a year and where it appears to the Commissioner on information or otherwise that in a return furnished by such registered dealer under section 32 in respect of any period of such year or part of a year,—

- (a) certain sale price for part thereof, contractual transfer price or part thereof, has not been disclosed in such return, or has escaped levy of tax thereon at the appropriate rate, erroneously or otherwise, or
- (aa) certain purchase price or part thereof has not been disclosed in such return, or has escaped levy of tax thereon at the appropriate rate, erroneously or otherwise, or
- (b) the deductions from the turnover of sales were claimed under sub-section (1) of section 16 in such return, erroneously or otherwise, in excess of what is admissible under sub-section (1) of that section, or the deductions so claimed in such return are not supported by evidence referred to in sub-section (1) of that section, or
- (c) excess amount of input tax credit or input tax rebate has been enjoyed by the dealer for that

period, and no reverse credit for such excess amount has been made by such dealer, or

(d) information furnished are not correct and complete, or

(e) there are certain other discrepancies,

which has resulted in a reduction of the amount of net tax payable by such registered dealer or the State Government has suffered loss of revenue on any of the grounds referred to in clause (a), or clause (aa), clause (b), or clause (c), or clause (d), or clause (e), of this sub-section on account of such registered dealer in respect of such year or part of such year, the Commissioner shall, within a period of four years from the date of assessment deemed to have been made in accordance with the provisions of sub-section (1), after giving such registered dealer a reasonable opportunity of being heard, reopen such assessment by an order in writing in the prescribed manner for making a fresh assessment of tax under sub-section (1) of section 46:

Provided that the fresh assessment under sub-section (1) of section 46 for such year shall be made, notwithstanding the provisions of section 49, on any date within two years from the date of passing the order in writing for reopening the assessment in respect of such year or such part of a year, which is deemed to have been made in accordance with the provisions of sub-section (1) of this section.

(3A) Where an assessment is deemed to have been made under sub-section (1) in respect of a registered dealer relating to any year or part of a year and where the report, prepared under sub-section (3) of section 43 in respect of such year or such part of a year, contains the findings as referred to in sub-section (5) of section 43, the Commissioner shall, within a period of six months from the date preparing such report, after giving such registered dealer a reasonable opportunity of being heard, reopen such assessment by an order in writing in the prescribed manner for making fresh assessment of tax under sub-section (1) of section 46:

Provided that the fresh assessment under sub-section (1) of section 46 for such year or such part of a year shall be made, notwithstanding the provisions of section 49, on any date within six months from the date of passing the order in writing for reopening the assessment in respect of such year or such part of a year, which is deemed to have been made in accordance with the provisions of sub-section (1) of this section.

(4) Where a registered dealer brings to the notice of the Commissioner by making an application to him within six months from the date of assessment deemed to have been made in accordance with the provisions of sub-section (1) in respect of any year or part of a year --

(a) that an amount of net tax or interest or late fee as referred to in sub-section (2) of section 32 has been paid by him in excess of what was payable in respect of any return period falling within such year or part of a year, due to his error in fact or in law ; or

(b) that the excess amount of input tax credit or input tax rebate, which has accumulated during a year, at his option, has not been carried forward to a return period in the following year,

the Commissioner may, if he is *prima facie* satisfied about such excess payment owing to error in fact

or in law or about such excess amount of input tax credit or input tax rebate that has not been carried forward , within one year from the date of receipt of such application, reopen such assessment, by an order in writing, for making a fresh assessment of tax for such year or such part of a year under sub-section (1) of section 46:

Provided that the fresh assessment under sub-section (1) of section 46 for such year or such part of a year shall be made, notwithstanding the provisions of section 49, on any date within two years from the date of passing of the order, in writing, for reopening the assessment in respect of such year or such part of a year, which is deemed to have made in accordance with the provisions of sub-section (1) of this section.

47A. Special provision for deemed assessment. -- (1) The returns furnished by a registered dealer, other than those covered in clause (a) or clause (b) or clause (c) of sub-section (1) of section 116, shall, notwithstanding the provisions of sub-section (1) of section 46 and subject to the provisions of sub-section (2) and sub-section (4), be accepted as correct and complete, for the year(s) [hereinafter referred to as the eligible period(s)] as mentioned in column (2), and having total turnover of sales as mentioned in column (3) , of the Table below and the assessment in respect of such eligible period (s) shall be deemed to have been made under sub-section (1) of section 47 on the date as mentioned in column (4) of the Table:--

TABLE

Sl No.	Eligible period(s)	Total turnover of sales	Date on which deemed to be assessed
(1)	(2)	(3)	(4)
1.	Year commencing from first day of April,2009, and ending on the 31 st day of March, 2010	Below three crore	15 th day of February, 2012
2.	Year commencing from first day of April,2010, and ending on the 31 st day of March, 2011	Below five crore	30 th day of June, 2012

(2) The provisions of this section shall not apply in respect of a year, where the registered dealer—

- (a) is required to be assessed under clause (aa), or clause (b), or clause (c), or clause (d), or clause (h), of sub-section (1) of section 46, for any return period for such year falling within the eligible period(s); or
- (b) is engaged in the execution of works contract within West Bengal during any period within the eligible period(s); or
- (c) has claimed refund of unadjusted excess input tax credit or excess payment of net tax or interest or late fee during any period within the eligible period (s); or
- (d) has been selected for audit under section 43 for any period within such eligible period (s);

or

- (e) has been found to have evaded any tax under the Act for any year or part of a year within the preceding three years before the eligible period(s); or
- (f) has not furnished return under the Act or under the Central Sales Tax Act, 1956, (74 of 1956), on or before 31st day of October 2011, in accordance with the provisions of the respective Acts, for any return period for the year falling within the eligible period(s); or
- (g) has claimed exemption from tax on sale or for lower rate tax on sales under the Act in respect of any return period for such year falling within the eligible periods but not in possession of the relevant declarations or certificates or documents required in support of such claim and has not paid the relevant taxes in terms of sub-section (3); or
- (h) has claimed exemption from tax on sales or for lower rate of tax on sales under the Central Sales Tax Act, 1956, in respect of any return period for such year falling within the eligible period but has not produced, or is not in possession of, the relevant declarations, certificates or documents in support of such claim or has not paid the relevant taxes in terms of sub-section (3); or
- (i) has claimed exemption from tax under section 6A of the Central Sales Tax Act, 1956, in respect of any return period for such year falling within the eligible period but has not produced, or in possession of, the relevant declarations, certificates or documents in support of such claim or has not paid the relevant taxes in terms of sub-section (3); or

(3) Where a registered dealer is eligible and is willing to be assessed in accordance with the provisions of sub-section (1) for the eligible period(s) such registered dealer shall verify the related returns for the periods with his books of accounts and documents, including declarations or certificates required to be possessed or furnished or produced in support of the claims for deduction from the turnover of sales or for exemption from payment of tax or for payment of tax at a lower rate, as claimed in such returns, and shall furnish a declaration on or before the 31st day of December, 2011, in the form along with such documents, and in such manner, as may be prescribed.

(4) The registered dealer, if upon verification, finds that there is any short payment or non-payment of net tax or interest or late fee or the amount of unadjusted excess input tax credit carried forward in the return for the next period is in excess of the amount admissible to be lawfully carried forward, he shall make payment of such balance amount of net tax along with interest or late fee previously remained unpaid and shall also furnish along with such declaration receipted challan showing such payment.

(5) No refund of tax, input tax credit or input tax rebate, interest or late fee shall be made in respect of any return period falling within the eligible period (s), unless an assessment is made under sub-section (1) of section 46.

(6) The provisions of sub-section (3), sub-section (3A) and sub-section(4), of section 47 shall, *mutatis mutandis*, apply in respect of an assessment deemed to have been made under this section.

47AA. Summary assessment of returns.-- (1) A return, including a revised return , furnished by a registered dealer, other than those mentioned in clause(a) or clause (b) or clause (c) of sub-section (1) section 116, under section 32, shall be deemed to have been summarily assessed on the date of submission of such return if-

- (a) the dealer has also furnished the return under the Central Sales Tax Act,1956, for the return period, if he is required to furnish such a return under that act; and
- (b) the returns furnished under the Act and Central Sales Tax Act, 1956, are complete and self consistent; and
- (c) the amount of net tax , interest and late fee, has been paid in full according to such return or returns; and
- (d) no proceeding arising from seizure of accounts or goods under the Act has been initiated in respect of the year to which said return period relates, or for any period in respect of the preceding two years, by the Bureau of Investigation or any other authority having jurisdiction over such dealer.

(2) No assessment shall be made under sub-section (1) of section 46 in respect of any return summarily assessed under sub-section (1), unless such summary assessment is revoked under sub-section (3), or is reopened ¹[under sub-section (4), or unless an approval of the Commissioner is obtained for making assessment under clause (b) of sub-section (1) of section 46, in respect of any period starting on or after the 1st day of April, 2011].

(3) The summary assessment under sub-section (1) in respect of any return furnished by a registered dealer shall stand automatically revoked, if for any return period in the year containing such return which has been summarily assessed under sub-section (1)-

- (a) the dealer has failed to produce books of accounts or documents for the period in response to a notice issued for the purposes of Act; or
- (b) the dealer has failed to submit the statement, accounts and declarations in terms of section 30E; or
- (c) the accounts, registers or documents or goods of the dealer has been seized in respect of the dealer for any period during previous year or the year to which the return period relates; or
- (d) the dealer has failed to comply with the provisions of the Central Sales Tax Act, 1956 (74 of 1956),

Provided that in respect of return furnished for the quarter ending on the 30th day of June, 2011, the summary assessment, if any, under sub-section (1) of this section, shall stand revoked where any proceeding under this Act has been started before coming into force this section, by the assessing authority against the dealer in respect of the return period.

(4) A summary assessment under sub-section (1) may be reopened by the commissioner by an order in writing after granting the registered dealer an opportunity of hearing, within six years from the end of the financial year in respect of which such summary assessment has been made, if he is satisfied that an assessment is required to be made under sub-section (1) of section 46 in the interest of State revenue or for any other reason.

1. Subs. by S. 4(10) of W.B. Act I of 2014 w. e. f. 01.07.2013 for “under sub-section (4)”.

48. Assessment of tax payable by dealers other than registered dealers.-- (1) If upon information which has come into his position, the Commissioner is satisfied that any dealer, who has been liable to pay tax under this Act in respect of any period but has failed to get himself registered or has not been registered, the Commissioner shall proceed in such manner, as may be prescribed, to assess to the best of assessment, the amount of net tax payable by the dealer in respect of such period and, in making such assessment, shall give the dealer a reasonable opportunity of being heard and after making such assessment, the Commissioner shall issue to the dealer a notice in the prescribed form directing him to pay the amount of net tax found to be payable upon such assessment in such manner as may be prescribed.

(2) Where—

(a) the Commissioner upon verification as referred to in sub-section (5) of section 44A is not satisfied that the statement and documents submitted under section 30F by a casual dealer provide correct and complete information, or

(b) the casual dealer has failed to submit the statement and documents referred to in section 30F within the time specified therein,

the Commissioner shall proceed in such manner as may be prescribed to assess to the best of his judgment, the amount of tax due from such casual dealer in respect of purchases of sales made by him and in making such assessment, shall give the casual dealer a reasonable opportunity of being heard and after making such assessment, the Commissioner shall issue to the casual dealer a notice in the prescribed form directing him to pay the amount of tax found to be due upon such assessment in such manner as may be prescribed.

49. Limitation for assessment.-- (1) No assessment under section 46 or section 47 shall be made after the 30th day of June next following the expiry of two years from the end of the year in respect of which or part of which the assessment is made:

Provided that any assessment under section 46 in respect of the year that ended on the 31st day of March, 2006, or part of such year shall, notwithstanding the provision of the sub-section be made, on or before the 30th day of November, 2008:

Provided further that where an assessment ¹[under sub-section (5) of section 43] is required to be made by the Commissioner in respect of a year or part of a year, such assessment shall, notwithstanding the provisions of this sub-section, be made within the date, as referred to in this sub-section, after which no assessment may be made or at any time within six months from the date of preparing a report under sub-section (3) of section 43, whichever is later:

²[Omitted].

³[Omitted].

Provided also that where an assessment ⁴[under sub-section (1) of section 46 is required to be made by the Commissioner for any refund pertaining to that period] by the Commissioner, such assessment shall, notwithstanding the provisions of this sub-section, be made within the date after which no assessment shall be made as referred to in this sub-section or at any time within two years from the date of refund, whichever is later:

Provided also that where an assessment under section 46 is required to be made after restoration of certificate of registration under sub-section (4) of section 29, such assessment may be made, notwithstanding the provision of this sub-section, within a year from the date of order passed for the restoration of the certificate of registration:

Provided also that a dealer has furnished return under the fifth proviso to sub-section (2) of section 32, assessment under section 46 may, notwithstanding anything contained in this section, be made ⁵[on or before the 31st day of December 2014]:

(2) (a) No assessment under sub-section (1) of section 48 shall be made after the 30th day of June next following the expiry of six years from the end of the year in respect of which are part of which they assessment is made.

(b) No assessment under sub-section (2) of section 48 shall be made after the 30th day of June next following the expiry of six years from the end of the year during which sales or purchases as referred to in clause (a) and clause (b) of section 15 were made for which the assessment is required to be made.

(3) Notwithstanding anything contained in sub-section (1), or sub-section (2), when a fresh assessment is required to be made in pursuance of an order under section 86 , section 87 or section 87A, or in pursuance of any order of the Tribunal or any court, such fresh assessment may be made at any time within two years from the end of the month in which such order is received.

(4) In computing the time, limited by sub-section (1), sub-section (2), or subsection (3), for making any assessment under section 46, or section 47, or section 48, the period during which the Commissioner is restrained from commencing or continuing any proceedings from such assessment by an order of an authority under the Act, or a Tribunal or any court shall be excluded.

1. Subs. by S. 4(11)(a) of W.B. Act I of 2014 w. e. f. 01.04.2013 for “under clause (ca) of sub-section (1) of section 46”.

2. Omitted w. e. f. 01.04.2013 by S.4(11)(b) of W. B. Act I of 2014 the following:

“Provided also that the provisions of the second proviso shall not apply where an assessment under sub-section (1) of section 46 is required to be made in accordance with the provisions of sub-section (5) of section 43 not only for the reason as contained in clause (ca) of sub-section (1) of section 46 but also for any other reason as contained in other clauses of that sub-section of the section 46:”

3. Omitted w. e. f. 01.04.2013 by S.4(11)(c) of W. B. Act I of 2014 the following:

“Provided also that the provisions of second proviso shall apply where an assessment under sub-section (1) of section 46 is required to be made in accordance with the provision of sub-section (6) of section 43.”

4. Subs. by S. 4(11)(d) of W.B. Act I of 2014 w. e. f. 01.04.2013 for “under clause (e), or clause (ea), of sub-section (1) of section 46 is required to be made”.

5. Subs. by S. 4(11)(e) of W.B. Act I of 2014 w. e. f. 01.04.2014 for “on or before the 31st day of December 2013”.

50. Determination of interest.-- (1) Where the Commissioner is satisfied that the dealer is liable to pay interest under section 33, section 34 or section 34A, he shall, in such manner as may be prescribed, determine the amount of interest payable by such dealer.

(2) If on such determination, any additional amount of interest is found to be payable by the dealer or any excess amount of interest is found to be refundable to the dealer, the Commissioner shall issue a notice, in the prescribed manner, to such dealer directing him to pay such additional amount or informing him of the excess amount paid, as the case may be.

(3) No determination of interest under sub-section (1) in respect of interest payable under section 33 shall be made after the date of assessment under section 46 of section 48, as the case may be, in respect of the period for which interest is determined.

51. Rectification of mistake in determination of interest.-- (1) Where there is an apparent mistake in the determination of interest under sub-section (1) of section 50, the Commissioner may, on his own motion or upon application made by a dealer, within twenty-four months from the date of such determination of interest, rectify the amount of interest payable by such dealer or refundable to such dealer and issue a fresh notice for payment of interest in the manner prescribed under that section.

(2) Where on rectification of the amount of interest under sub-section (1), any excess amount is found refundable to a dealer, the Commissioner shall, in the manner referred to in section 62, refund such excess amount of interest to such dealer.

52. Assessment without prejudice to prosecution for any offence -- Any assessment of tax or determination of interest made under this Act shall be without prejudice to any prosecution instituted for an offence under this Act.

53. Assessment after partition or disruption or dissolution of Hindu Undivided Family, firm, or other association of persons and net tax, penalty or interest payable by a sole proprietor.-- (1) where a dealer is a Hindu Undivided Family, firm or other association of persons, and such family, firm or association is partitioned, disrupted or dissolved, as the case may be,—

(a) the net tax, penalty or interest payable under this Act by such family, firm or association of persons for the period upto the date of such partition, disruption or dissolution shall be assessed, imposed or determined as if no such partition, disruption or dissolution 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, disruption or dissolution, a member of the Hindu Undivided Family, partner of a firm or member of an association of persons, and the legal representative of any such person, who is deceased, shall, notwithstanding such partition, disruption or dissolution, be jointly and severally liable for the payment, of the net tax, penalty or interest payable under this Act by such family, firm or association of persons for the period up to the date of such partition, disruption or dissolution, whether assessment of such tax, imposition of such penalty or determination of such interest is made prior to, or after, such partition, disruption or dissolution.

(2) Where a dealer carrying on a business as the sole proprietor dies and the business is partitioned, disrupted or discontinued upon his death, the executor or administrator of, or the legal heir to, the estate of such deceased dealer shall pay net tax or any other tax, penalty or interest payable by or due from, such deceased dealer out of such estate, and such executor, administrator or legal heir shall, notwithstanding the provisions of clause (11) of section 2, be deemed to be a dealer under this Act for the purposes of assessment of tax, determination of interest, and imposition of penalty and payment, recovery and the refund of tax, penalty or interest, and all the provisions of this Act relating to appeal, revision or review in respect of the tax assessed, or penalty imposed or interest determined, shall apply accordingly.

53A.Determination of late fee referred to in sub-section (2) of section 32.-- (1) Where the Commissioner is satisfied that a dealer is liable to pay late fee referred to in sub-section (2) of section 32, he shall, in such manner as may be prescribed, determine the amount of late fee payable by such dealer.

(2) Where during the determination of late fee under sub-section (1), it is found that any additional amount of late fee is payable by the dealer or any excess of late fee is refundable to the dealer, the Commissioner shall issue a notice in such form, and in such manner, as may be prescribed, to such dealer directing him to pay such additional amount or informing him of excess amount paid, as the case may be.

(3) No determination of late fee under sub-section (1), in respect of late fee shall be made after the date of assessment under section 45 or section 46 or section 48, as the case may be, in respect of the period for which late fee is determined.

CHAPTER VIII

Recovery of tax, penalty and interest and refund.

54. Certain transfers of immovable property by a dealer to be void.-- (1) Where during the period commencing on the date of service of a notice of demand under sub-section (2) of section 45, or clause (b) of sub-section (3) of section 46, or section 48, or sub-section (2) of section 50, or sub-section (1) of section 51 or any other provisions of the Act and ending on the date of service of notice by the authority competent, to issue such notice, under clause (a) or clause (b) of sub-section (1) of section 55, as the case may be, any dealer without having made full payment of net tax or any other tax, interest, or penalty payable or due, as the case may be, under this Act, specified in such notice of demand as aforesaid, create a charge on, or transfers or delivers possession by way of sale,

mortgage, gift, exchange or any other mode of transfer of right, title or interest of, any of his immovable properties in favour of other person, such charge, transfer or delivery or possession, shall be void as against any claim in respect of the amount of net tax or the other tax, interest, or penalty payable or due from such dealer:

Provided that the provisions of this section shall not apply to a dealer unless—

- (a) the amount or the aggregate of the amounts specified in the notice as aforesaid, payable or due from him, for payment of net tax or any other tax, interest, or penalty exceeds one lakh rupees; or
- (b) the value of the immovable property on which a charge is created, or which is transferred, or the possession of which is delivered, by him exceeds five lakh rupees.

(2) Notwithstanding anything contained in sub-section (1), no charge of transfer or delivery or possession of immovable property, shall be void if it is made *bona fide* and for adequate consideration.

55. Recovery of tax, penalty and interest, appointment of Tax Recovery Officer, etc.-- (1) Any amount of net tax or any other tax, interest or penalty due, under this Act from a dealer, casual dealer, transporter, carrier or transporting agent, owner or lessee or occupier of warehouse, owner of any goods, or any other person, which remains unpaid after the date specified in the notice of demand issued in this behalf under this Act or the rules made there under, directing payment of such amount of net tax or other tax, interest, or penalty, shall be recoverable—

- (a) as an arrear of land revenue as if it were payable to the Collector, or
- (b) by the Tax Recovery Officer in accordance with the provisions of sub-section (2) of the section, section 56, section 57, section 58, or section 59 and the rules regulating the procedure for recovery of net tax or any other tax, interest, or penalty as may be prescribed, where the State Government directs by general or special order so to do in respect of such class or classes of dealers having their places of business in such area or areas as may be specified in such order.

(2) Where any amount of net tax or any other tax, interest, or penalty is recoverable in accordance with the provisions of clause (b) of sub-section (1), the Commissioner may send to the Tax Recovery Officer a certificate under his signature specifying the amount of such net tax or other tax, interest, or penalty due from the dealer, casual dealer, transporter, carrier or transporting agent, owner or lessee or occupier of warehouse, owner of any goods, or any other person (hereinafter referred to as the certificate-debtor), and the Tax Recovery Officer shall, on receipt of such certificate, proceed to recover from the certificate-debtor the amount specified in the certificate by one or more of the following modes in accordance with the rules as may be prescribed:—

- (a) attachment and sale of the movable property of the certificate-debtor;
- (b) attachment and sale of the immovable property of the certificate-debtor;

(c) arrest of the certificate-debtor and his detention in prison;

(d) appointing a receiver for the management of the movable and immovable properties of the certificate-debtor.

(3) The Commissioner may send a certificate under sub-section (2), notwithstanding that proceeding for recovery of such net tax or other tax, interest, or penalty have been initiated or are continuing by any other mode.

(4) For the purposes of this section, section 56, section 57, section 58 or section 59 and the rules as may be prescribed for the purpose, the State Government may, by notification, appoint such number of Tax Recovery Officers as it may deem fit, and specified in the notification the area or area over which they shall exercise jurisdiction.

(5) Where a certificate has been sent to a Tax Recovery Officer, he shall cause to be served upon the certificate-debtor, in such manner and form as may be prescribed, a notice and a copy of the said certificate.

(6) On the service of notice of any certificate under sub-section (5) upon a certificate-debtor,--

(a) any private transfer or delivery of any of his immovable property situated in the area in which the certificate is sent, or of any interest in any such property, shall be void against any claim enforceable in execution of the certificate; and

(b) the amount due from time to time in respect of the certificate shall be a charge upon the immovable property of the certificate-debtor, wherever situated, to which every other charge created subsequently to the service of the said notice shall be postponed.

(7) The certificate-debtor may, within thirty days from the service of the notice required under sub-section (5), or where the notice has not been duly served, then, within thirty days from the execution of any process for enforcing the certificate, present to the Tax Recovery Officer to whom the certificate is sent, or present to the Tax Recovery Officer who is executing the certificate, a petition, in such form as may be prescribed, signed and verified in such manner as specified in those rules, denying his liability in whole or in part.

(8) The Tax Recovery Officer to whom the original certificate is sent shall, subject to the sub-section (1) of section 58, hear the petition, take evidence if necessary, and determine whether the certificate-debtor is liable for the whole or any part of the amount for which the certificate is signed.

(9) Where any proceeding for the recovery of any tax or other tax, interest or penalty remaining unpaid, have been commenced under this section and the net or other tax, late fee, interest or penalty subsequently modified, enhanced or reduced in consequence of any assessment made or order passed in appeal, revision or review, under this Act. The Commissioner shall in such manner and within such period, as may be prescribed, inform in this behalf the certificate debtor and the Collector or Tax Recovery Officer, as the case may be, by whom or by whose order the recovery is made or to be made, and thereupon such proceedings may be continued as if the net tax, other tax,

interest or penalty as so modified, enhanced or reduced has been substituted for the net tax or other tax, interest or penalty which was to be recovered under sub-section (1).

(10) Where a Tax Recovery Officer causes to be served upon a certificate-debtor a notice referred to in sub-section (5) and such certificate debtor fails to pay the amount specified in such notice within fifteen days from the date of service of such notice, the certificate debtor shall pay a simple interest at the rate of one per centum for each British calendar month of default from the date immediately following the end of the period of time specified in such notice up to the date preceding the date of full payment of the amount specified in such notice upon so much of the amount as remains unpaid.

(11) The interest payable under sub-section (10) shall be recoverable in accordance with the rules in Schedule F.

56. Tax Recovery Officer to whom certificates to be forwarded. -- (1) The Commissioner may forward the certificate referred to in subsection (2) of section 55 in respect of a certificate-debtor to—

- (a) the Tax Recovery Officer within whose jurisdiction such certificate-debtor carries, or added, on his business or within whose jurisdiction the principal place of business is situated or within whose jurisdiction the goods are seized under section 76; or
- (b) the Tax Recovery Officer within whose jurisdiction such certificate-debtor resides or any movable or immovable property of such certificate-debtor is available or situated.

(2) Where such certificate-debtor has property within the jurisdiction of more than one Tax Recovery Officer, and the Tax Recovery Officer to whom a certificate is sent by the Commissioner—

- (a) is not able to recover the entire amount by the sale of the property, movable or immovable, within his jurisdiction, or
- (b) is of the opinion that for the purpose of expediting or securing the recovery of the whole or any part of the amount under this section, it is necessary so to do,

he may send the certificate, or, where only a part of the amount is to be recovered, a copy of the certificate certified in accordance with the rules in schedule F and specifying the amount to be recovered, to a Tax Recovery Officer within whose jurisdiction such certificate-debtor resides or has property, and thereupon that Tax Recovery Officer shall also proceed to recover such amount as if the certificate of the copy thereof had been the certificate sent to him by the Commissioner.

57. Amendment of certificates for tax recovery.-- (1) Notwithstanding that a certificate has been forwarded to a Tax Recovery Officer, the Commissioner shall have the power to withdraw or cancel such certificate or to correct any clerical or arithmetical mistake in such certificate.

(2) The Commissioner shall intimate to the Tax Recovery Officer any order withdrawing or cancelling a certificate or any correction made by him under sub-section (1) of this section.

58. Validity of certificates for tax recovery.-- (1) When the Commissioner forwards a certificate to a Tax Recovery Officer under sub-section (2) of section 55, it shall not be open to the certificate-debtor to dispute before the Tax Recovery Officer the propriety or correctness of the assessment of net tax or any other tax, determination of interest or imposition of penalty, under this Act and no objection to such certificate on any such ground shall be entertained by the Tax Recovery Officer.

(2) It is hereby declared that where any amount of net tax or other tax, penalty or interest is recoverable in accordance with the provisions of clause (a) of sub-section (1) of section 55, the provisions of section 9 and section 10 of the Bengal Public Demands Recovery Act, 1913 (Ben. Act III of 1913), shall not apply to any proceedings for the recovery of such amount of net tax or other tax, penalty or interest.

59. Transmission of certificates for tax recovery to Collector in certain cases.-- Notwithstanding anything contained in section 55, where any amount of net tax or other tax, penalty or interest due from a certificate-debtor cannot be recovered by the Tax Recovery Officer by any one of the modes referred to in that section and where the Tax Recovery Officer has information that such certificate-debtor owns any property outside West Bengal, the amount of such net tax or other tax, penalty or interest remaining unpaid shall be deemed to be an arrear of land revenue as if it were payable to the Collector, and the Tax Recovery Officer shall apply to the Collector of the district in West Bengal in which such certificate-debtor carries on his business, as his principal place of business or his goods have been seized, as the case may be, for recovery of the same amount in accordance with the provisions of the Revenue Recovery Act, 1890 (1 of 1890).

60. Special mode of recovery of tax, penalty and interest by Commissioner.-- (1) Notwithstanding the forwarding of a certificate under section 55 for recovery of any amount of net tax or any other tax, interest, or penalty, the Commissioner may, at any time or from time to time, by notice in the prescribed form, require any person from whom money is due or may become due to a dealer or any person who holds or may subsequently hold money for, or on account of, such dealer, to deposit into an appropriate Government Treasury under the appropriate head of account, either forthwith 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 is held), so much of the money as is sufficient to pay the amount due from such dealer in respect of the arrears of such net tax or other tax, interest, or penalty or the whole of the money when such money is equal to or less than that amount.

(2) A notice under the section may be issued to any person who holds or may subsequently hold any money for, or on account of, the dealer jointly with any other person, and for the purposes of the section, the shares of the joint-holders in such account shall be presumed, until the contrary is proved, to be equal.

(3) A copy of the notice shall be forwarded to the dealer at his last address known to the Commissioner and, in the case of a joint account, to all the joint holders at their last addresses known to the Commissioner.

(4) Save as otherwise provided in the section, every person to whom a notice is issued under the section shall be bound to comply with such notice, and in particular, where any such notice is issued to the post office, banking company or insurer, it shall not be necessary for any passbook, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement of

the like being made before the payment is made, notwithstanding any rule, practice or requirement to the contrary.

(5) Any claim respecting any money, which is due or to become due or is being held or may subsequently be held and in relation to which a notice under the section has been issued, arising after the date of such notice, shall be void as against any demand contained in such notice.

(6) Where the person to whom a notice under this section is sent proves to the satisfaction of the Commissioner that the sum demanded or any part thereof is not due to the dealer or that he has not held any money for, or on account of, the dealer or that the money demanded or any part thereof is not likely to be due to the dealer or be held for, or on account of, the dealer, then, nothing contained in this section shall be deemed to require such person to deposit any such sum or part thereof, as the case may be.

(7) The Commissioner may, at any time or from time to time, amend or revoke any notice issued under this section or extend the time for making any payment in pursuance of such notice.

(8) The appropriate Government Treasury shall grant a receipt for any amount paid in compliance with a notice issued under this section, and the person so paying the amount shall be fully discharged from his liability to the dealer to the extent of the amount so paid.

(9) Any person discharging any liability to the dealer after receipt of the notice under this section shall be personally liable to the Commissioner to the extent of his own liability to the dealer so discharged or to the extent of the liability of such dealer for any amount due under this Act, whichever is less.

(10) If the person to whom a notice under this section is sent fails to make payment in pursuance thereof, he shall be deemed to be a dealer in default in respect of the amount specified in the notice, and further proceedings may be taken against him for the recovery of the amount as if it were an arrear due from him, and the notice shall have the same effect as attachment of a debt.

(11) The Commissioner may apply to the court in whose custody there is money belonging to the dealer for payment to him of the entire amount of such money or, if it is more than net tax or any other tax, interest, or penalty due, an amount sufficient to discharge the liability of net tax or any other tax, interest, or penalty:

Provided that any dues exempt from attachment in execution of the decree of the civil court under section 60 of the Code of Civil Procedure, 1908, shall be exempt from any payment required to be made under this section.

Explanation.— For the purposes of this section, "dealer" shall include a casual dealer, transporter, carrier or transporting agent, owner or lessee or occupier of warehouse, owner of any goods, or any other person, for whom or on whose account money is demanded for payment of net tax or any other tax, late fee interest, or penalty under this section.

60A. Recovery of admitted amount of net tax or any other tax, interest or penalty from a dealer --
When a dealer furnishes a return under section 32 indicating therein , or otherwise admits in writing,

his liability to pay any net tax or any other tax, interest, or penalty in respect of a certain period, notwithstanding anything contained elsewhere in this Act, such amount of net tax or other tax, interest or penalty shall be deemed to have been quantified on the date of filing of such return or making such admission, as the case may be, and all the provisions of section 55, section 56, section 57, section 58, section 59, section 60, shall be applicable *mutatis mutandis* on such quantified net tax or other tax, interest or penalty.

61. Refund to certain class of persons.— (1) Subject to such restrictions and conditions as may be prescribed, the Commissioner shall, in the prescribed manner, refund—

(a) to a registered dealer, who owns an industrial unit in the Software Technology Park, or who owns an Export Oriented Unit within the meaning of the Export and Import Policy as formulated under section 5 of the Foreign Trade (Development and Regulation) Act, 1992(22 of 1992), situated anywhere in West Bengal outside a Special Economic Zone or Software Technology Park the amount of tax realised or realisable from him by another registered dealer in respect of the purchases in West Bengal—

(i) of goods for use directly in the manufacture of goods by him in such unit for sale by him in the course of export within the meaning of section 5 of the Central Sales Tax Act, 1956(74 of 1956),

(ii) *omitted.*

(iii) of goods, being the containers or other packing material for packing of the goods manufactured in such unit;

(aa) to a registered dealer, who is not liable to pay tax under section 14, and whose nature of business is such that for any return period the input tax credit exceeds the output tax payable for such return period under this Act, the excess amount of net tax credit over output tax for such return period, where—

(i) the rates of tax on principal inputs are higher than the rates of tax of the goods on which output tax is payable by such registered dealer in respect of all his sales, or

¹(ii) the sales to registered dealers within the meaning of section 3 of the Central Sales Tax Act, 1956(74 of 1956) exceeds fifty *per centum* of total sales;

(ab) to a registered dealer, whose all sales of goods in the course of export out of the territory of India within the meaning of section 5 of the Central Sales Tax Act, 1956 (74 of 1956) to the total sales equal to or exceeds fifty per centum in a return period, such per centum of input tax credit available during such return period as referred to as 'A' in sub-section (17) of section 22 after adjustment of reverse credit, if any, as corresponds to all sale of goods referred to in this sub-clause in the course of export out of India within the meaning of section 5 of the Central Sales Tax Act, 1956, to total sales in the return period;

(b) to the Consulates, the amount of tax realised or realisable from them by a registered dealer in respect of taxable goods purchased by them in West Bengal for their personal or official use;

or

- (c) to the specialised agencies of the United Nations Organisation, the amount of tax realised or realisable from them by a registered dealer in respect of purchases of taxable goods by them in West Bengal for their official use.

(2) the Commissioner may, for reasons to be recorded in writing, withhold the refund till such time as he deems fit and inform the dealer for withholding the refund.

1. Subs. by S. 4(12) of W.B. Act I of 2014 w. e. f. 01.04.2014 for “(ii) the payment for all sales of such registered dealer for the return period are received through bank and such sales are made—

(A) to various departments of the Central or the State Government, or

(B) to registered dealers in the course of inter-State trade or commerce within the meaning of section 3 of the Central Sales Tax Act, 1956, or

(C) in the course of export out of India within the meaning of section 5 of the Central Sales Tax Act, 1956;”

62. Refund of tax etc. paid in excess.-- (1) Subject to other provision of this Act, the Commissioner shall, in the manner and within the time, as may be prescribed, refund to a dealer any amount of tax, penalty or interest paid by such dealer in excess of the amount due from him under this Act and also excess of net tax credit over output tax payable under this Act.

(2) The Commissioner shall have the power to adjust any amount due to be refunded to a registered dealer under sub-section (1) against tax, interest, late fee or penalty due from him, in such manner, and subject to such conditions and restriction as may be prescribed.

(3) Where an order giving rise to a refund is the subject matter of an appeal or revision or any other proceeding, or where any other proceeding is pending, the Commissioner has reasons to believe that the grant to the registered dealer is likely to adversely affect the interest of revenue, the Commissioner may withhold the refund for a period not exceeding three months from the date of such order.

CHAPTER IX

Maintenance of accounts etc. by a dealer.

63. Maintenance of accounts, records Etc.-- (1) Every dealer required to furnish return, under sub-section (1) of section 32, shall maintain and keep a true and up-to-date account of the quantity and value of the goods purchased or manufactured or sold by him or used in execution of works contract or held by him in stock and shall maintain and keep such registers or accounts, in such form as may prescribed, in addition to the books of accounts that a dealer maintains or keeps for the purposes of his business:

Provided that—

- (a) a registered dealer, or a dealer who has applied for registration within thirty days from the date of his incurring liability to pay tax under sub-section (2) of section 23, other than those required to pay tax at compounded rate under sub-section (3) of section 16 or sub-section (4) of section 18 or any other dealer as may be prescribed, shall maintain a true and up-to-date account of his input tax, input tax credit and output tax;
- (b) in case of any other dealer, such dealer shall maintain a true and up-to-date account of his output tax only.

(2) Every dealer referred to in sub-section (1) shall keep at his principal place of business all accounts, registers, documents including those in electronic form and digital signature certificate granted under sub-section (4) of section 35 of the Information Technology Act, 2000(21 of 2000), which may be required by the Commissioner for the purpose of inspection under sub-section (2) of section 66, and shall not keep or remove elsewhere such accounts, registers, documents and certificate except in accordance with the requirement of law or except for any purpose for which just cause is shown to the satisfaction of the Commissioner.

64. Compulsory issue of tax invoice, cash memo. or bill.-- (1) Subject to the provisions relating to dealers paying tax at compounded rate under any of the sub-sections of section 16 or under sub-section (4) of section 18, if a registered dealer, or a dealer who has made an application under sub-section (1) of section 24 within thirty days from the date of incurring liability to pay tax under the Act, sells any goods, he shall issue in the prescribed manner, to the purchaser a serially numbered tax invoice as referred to in clause (48) of section 2, signed and dated:

Provided that where registration certificate of a registered dealer has been cancelled by the appropriate authority from the particular date, or where the application for registration of a dealer as referred to above is rejected from a particular date, any tax invoice issued by such dealer shall be treated as an invoice instead of tax invoice from that date:

Provided further that a registered dealer or a dealer who has made an application under sub-section (1) of section 24 within thirty days from the date of incurring liability to pay tax under the Act, may, at his option, issue in the prescribed manner a serially numbered invoice or bill or cash memorandum, signed and dated by him or his regular employee, showing such particulars as may be prescribed, in respect of sales of goods by him to any dealer, not being a dealer registered under the Act, or to a casual dealer or to the Government or to any person, and such registered dealer shall keep the counterfoil or duplicate of such invoice or bill or cash memorandum, duly signed and dated by him or his regular employee.

(2) If a dealer to whom sub-section (1) does not apply and who has become liable to pay tax under any provision of this Act, sells any goods to any person, he shall issue in the prescribed manner to the purchaser a serially numbered invoice or cash memorandum or bill, signed and dated by him or his regular employee, showing such particulars as may be prescribed, and he shall also keep a counterfoil or duplicate of such invoice, cash memorandum or bill, duly signed and dated.

(3) If a dealer to whom sub-section (1) or sub-section (2) does not apply, sells any goods exceeding one hundred rupees in value in any one transaction to any person, he shall issue to the purchaser a serially numbered invoice or cash memorandum or bill, signed and dated by him or his regular

employee, showing such particulars as may be prescribed, and he shall also keep a counterfoil or duplicate of such invoice, cash memorandum or bill, duly signed and dated:

Provided that if the State Government is of the opinion that the requirement under this section, shall cause hardship to a certain class or classes of dealers included in sub-section (3), and that such requirement should, subject to fulfilment by any class or classes of dealers of certain conditions and restrictions to be imposed to ensure that there is no addition of tax, be dispensed with, it may prescribe by rules such class or classes of dealers, and such conditions and restrictions subject to which the requirement of the section in respect of such class or classes of dealers shall be dispensed with.

(4)(a) Notwithstanding anything contained elsewhere in the Act, if the Commissioner, on an application made in the prescribed manner, by a registered dealer and after making such enquiries as he may consider necessary, is satisfied that a dealer is not in a position to furnish the tax invoice referred to in sub-section (1) of section 64 on account of loss of such tax invoice for reasons beyond his control, the Commissioner may, by an order in writing exempt such dealer from furnishing such tax invoice, subject to such conditions as may be prescribed and to such further conditions, if any, as may be specified by the Commissioner in the order.

(b) Any order passed by the Commissioner under clause (a) shall be final.

65. Imposition of penalty for non issue or improper issue of tax invoice, invoice, cash memo or bill.— (1) If a registered dealer or any other dealer contravenes the provisions of section 64, the Commissioner may, after giving such dealer a reasonable opportunity of being heard, by an order in writing, direct that he shall pay, in the manner as may be prescribed, by way of penalty, a sum equal to double the amount of tax or ten thousand rupees, whichever is greater, which could have been levied under this Act in respect of the sales referred to in that section where—

- (a) no tax invoice or invoice or cash memorandum or bill, as the case may be, as referred to in section 64, has at all been issued, or
- (b) tax invoice or invoice or cash memorandum or bill, as the case may be, has been issued not in accordance with the provisions of section 64:

Provided that if such registered dealer or dealer proves to the satisfaction of the Commissioner that he deals exclusively in goods specified in Schedule A, sales of which are declared tax-free under section 21, the Commissioner may exempt such registered dealer or dealer from payment of penalty or impose such lesser amount of penalty as he deems fit and proper.

CHAPTER X

Furnishing of information, production, inspection, search and seizure of accounts, registers and documents of a dealer, casual dealer or any other person and sealing of any place, room and *almirah*, etc.

66. Furnishing of information, production, inspection, search and seizure of accounts, registers and documents. -- (1) The Commissioner, a Special Commissioner, an Additional Commissioner or any person appointed under sub-section (1) of section 6 to assist the Commissioner may, subject to such

conditions as may be described, require any dealer, casual dealer or any other person—

- (a) to produce before him any accounts, registers or documents, whether in the form of electronic record or not, or
- (b) to produce before him digital signature certificate granted under sub-section (4) of section 35 of the Information Technology Act, 2000(21 of 2000), or
- (c) to furnish any information relating to—
 - (i) stock of goods held by such dealer, casual dealer or person, or
 - (ii) purchases or sales of goods made by such dealer, casual dealer or person, or
 - (iii) purchases and uses of goods in execution of works contract by such dealer, casual dealer or person, or
 - (iv) receipts or deliveries of goods made by such dealer, casual dealer or person, or
 - (v) any receipts or payments, including loans, made by such dealer, casual dealer or person, or
 - (vi) any other matter,
- (d) to explain to him any account, register or document, including those in the form of electronic record, produced by such dealer, casual dealer or person,
- (e)

as may be deemed necessary for the purposes of this Act.

(2) All accounts, registers, documents, whether in the form of electronic record or not, referred to in sub-section (1), and all goods kept in any place of business of any dealer, casual dealer or any other person, shall, at all reasonable time, open to inspection by the Commissioner, Special Commissioner, Additional Commissioner or any person appointed under sub-section (1) of section 6 to assist the Commissioner.

(3) Any dealer, casual dealer or any other person, who is found to be in position or control of such account, register of documents, whether maintained in the form of electronic record or not, shall provide, the Commissioner, a Special Commissioner, an Additional Commissioner or any person appointed under sub-section (1) of section 6 to assist the Commissioner, with the necessary facility to inspect such accounts, registers or other documents.

(4) The Commissioner, the Special Commissioner, the Additional Commissioner or any other person appointed under sub-section (1) of section 6 may require any authority under the State Government or the Central Government or any of local authority or a statutory body or a trust or any other body corporate to furnish information and to produce documents for the purpose of levy of any tax or collection of any tax imposed by the State or for carrying out any other purposes of the Act.

66A. Furnishing of information or statement by the bank, post office, railway, website

holder, transporter etc.-- (1) The Commissioner, a Special Commissioner, an Additional Commissioner or any person appointed under sub-section (1) of section 6 to assist the Commissioner, may require, by notice, any bank, post office, railway, Controller and certifying authority as defined in the Information Technology Act, 2000, website holder, owner or occupier or lessee of a warehouse, shipper, transporter, carrier, or transporting agent to furnish to him any information or statement useful for, or relevant to, any proceedings under this Act or to produce before him any accounts, registers, documents, including those in the form of electronic records, or other records in the possession of such bank, post office, railway, Controller or certifying authority, website holder, owner or occupier or lessee of a warehouse, shipper, transporters, carrier, or transporting agent for examination for the purposes of this Act.

66AA. Penalty for non-maintenance or non-production of accounts, documents, etc.- Where the Commissioner is satisfied that a dealer –

- (a) has not maintained accounts or documents for ascertaining the net tax liability for a period ; or
- (b) has refused or has failed without reasonable cause, to produce such accounts or documents as are required to be produced under section 66 or in a verification of return under section 42 or for audit under section 43 or special audit under section 43A or for assessment under section 46 or section 48 or in appeal, revision or review or in a proceeding for imposition of penalty, under this Act; or
- (c) has not provided the required facilities to access to his accounts and documents maintained in electronic form for examination for the purposes of this Act,

he may, in addition to any other action under this act, impose for each such occasion a penalty of rupees ten thousand on the dealer in such manner as may be prescribed.

67. Seizure of accounts of a dealer or casual dealer or any other person. -- (1) If the Commissioner, a Special Commissioner, an Additional Commissioner or any person appointed under the sub-section (1) of section 6 to assist the Commissioner, has reason to suspect, upon information or otherwise, that any dealer, casual dealer, or any other person, is evading any tax, or is attempting to evade payment of any tax, or has failed to deposit any tax, as the case may be, he may, for reasons to be recorded in writing, seize such accounts, registers or documents, including those in the form of electronic record, or any computer or electronic media of such dealer or casual dealer or person, as may be necessary, and shall grant such dealer or casual dealer or person, a receipt for such accounts, registers or documents, including those in the form of electronic record, or any computer or electronic media seized by him and shall retain all or any of them only for such period as may be necessary for examination thereof or for prosecution or for any other purpose of this Act:

Provided that—

- (a) the Commissioner or the Special Commissioner or the Additional Commissioner shall not retain any of the accounts, registers or documents, including those in the form of electronic records, or any computer or electronic media, seized under this section for the period exceeding one year from the date of the seizure unless he records in writing the reasons there for, and
- (b) any person appointed under sub-section (1) of section 6 to assist the Commissioner shall not retain any of the 3[accounts, registers or documents, including those in the form of electronic records, or any computer or electronic media, seized under this section] for a period exceeding one year from the date of the seizure unless he states the reason in writing there for and obtains sanction of the Commissioner in writing in respect thereof.

68. Entry and search of place of business or any other place.-- (1) For the purposes of section 66 or section 67, the Commissioner, a Special Commissioner, an Additional Commissioner, or any person appointed under sub-section (1) of section 6 to assist the Commissioner, may enter and search—

- (a) any place of business of any dealer, casual dealer, transporter, carrier or transporting agent, owner or occupier or lessee of a warehouse or any other person, or
- (b) any other place,

where the Commissioner, the Special Commissioner, the Additional Commissioner or the person appointed under sub-section (1) of section 6 to assist the Commissioner, has, upon information received or otherwise, reason to believe that, such dealer, casual dealer, transporter, carrier or transporting agent, owner or occupier or lessee of a warehouse, or person keeps or is, for the time being, keeping any accounts, registers or documents, whether in the form of electronic record or not, or any stock of goods, for the purpose of business.

(2) The Commissioner, the Special Commissioner, the Additional Commissioner or the person appointed under sub-section (1) of section 6 to assist the Commissioner, may, before, or after, or while, entering or searching any place, referred to in clause (a) or clause (b) of sub-section (1),—

- (a) break open any door or window of a house, room or warehouse where , or
- (b) break open any *almirah*, cabinet, safe, locker, drawer, box or receptacle in which, or
- (c) open any electronic media in which,

the Commissioner, the Special Commissioner, the Additional Commissioner or the person appointed under sub-section (1) of section 6 to assist the Commissioner, has reason to believe, such or any other dealer, casual dealer, transporter, carrier or transporting agent, owner or occupier or lessee of a warehouse, or person, keeps or is, for the time being, keeping any account, register or document, whether in the form of electronic record or not, or any stock of goods, for the purpose of his business.

69. Sealing of any place or *almirah*, cabinet, safe, locker, drawer etc.-- The Commissioner, the

Special Commissioner, the Additional Commissioner or the person appointed under sub-section (1) of section 6 to assist the Commissioner, may, subject to such conditions and restrictions as may be prescribed, seal any house, room, warehouse, *almirah*, cabinet, safe, locker, drawer, box, or receptacle in which, he has reason to believe, a dealer, casual dealer, transporter, carrier or transporting agent, owner or occupier or lessee of a warehouse, or any other person, keeps or is, for the time being, keeping any account, register or documents, whether in the form of electronic record not, or any stock of goods, for the purpose of business.

CHAPTER XI

Maintenance of accounts by transporter, carrier or transporting agent and inspection, search and seizure of such accounts.

70. Maintenance of accounts by transporter, carrier or transporting agent, and inspection.-- (1) Notwithstanding anything contained in any other law for the time being in force, every transporter, carrier or transporting agent, to whom the provisions of section 25 apply, shall maintain, in the prescribed form, proper account of taxable goods transported by him into, or outside, or within, West Bengal on account of any person, being a consignee or consignor, as the case may be, and shall, on demand by the Commissioner, furnish such information to the Commissioner as may be required by the Commissioner in relation to transport of such goods by such transporter, carrier or transporting agent.

(2) The accounts referred to in sub-section (1), and goods referred to in the sub-section and stored in a godown or warehouse in West Bengal, shall be open to inspection by the Commissioner at all reasonable time.

71. Entry into the place of, and search and seizure of accounts of a transporter, carrier or transporting agent.—(1) Where any transporter, carrier or transporting agent fails to maintain proper account in the prescribed form, or fails to furnish information to the Commissioner, as required by sub-section (1) of section 70, or the Commissioner has reason to believe that the account referred to in sub-section (1) of section 70 is relevant for the purpose of carrying out any investigation or holding any inquiry into any case of alleged or suspected evasion of tax as well as malpractices connected therewith, the Commissioner may—

- (a) enter and search any place of transporting business or any other place where such transporter, carrier or transporting agent, for the time being, keeps any accounts, registers or documents, including those in the form of electronic records, in relation to transport of goods; and
- (b) for reasons to be recorded in writing, seize such accounts, registers or documents.

72. Power of the Commissioner to stop delivery of goods and seizure of such goods.-- (1) Where any transporter, carrier or transporting agent has—

- (a) received any consignment of taxable goods from a dealer, casual dealer, or any other person in West Bengal for transport of such consignment to any place outside, or within West Bengal, or

(b) transported into West Bengal any consignment of taxable goods on account of a dealer, casual dealer, or any other person, and

the Commissioner has information that such dealer, casual dealer, or person is not in existence at the address given in the way bill, tax invoice, invoice, cash memo, bill, or consignment note or any document of like nature in respect of any consignment of goods referred to in clause (a), or clause (b), the Commissioner may direct such transporter, carrier or transporting agent, by an order in writing, that—

(j) the consignment of goods referred to in clause (a) shall not be transported outside, or within, West Bengal, or

(ii) the consignment of taxable goods referred to in clause (b) shall not be delivered,

till the matter is investigated into by the Commissioner or till a period of fifteen days (excluding Sunday or a public holiday declared under the Negotiable Instruments Act, 1881) (20 of 1881) expires from the date of communication of such direction to the transporter, carrier or transporting agent, whichever is earlier.

(2) where the Commissioner, after causing an enquiry about the existence of such dealer, casual dealer, person, is satisfied that such dealer, casual dealer, person—

(a) is in existence at the address given in the way bill, tax invoice, invoice, cash memo, bill, consignment note or any document of like nature, he shall, forthwith withdraw, by an order in writing, his direction issued under sub-section (1) to such transporter, carrier or transferring agent; or

(b) is not in existence at the address given in the way bill, tax invoice, invoice, cash memo, bill, consignment note or any document of like nature, the transport of the consignment of taxable goods by such transporter, carrier or transporting agent, to any place into or within, or outside, West Bengal, shall be deemed to be in contravention of the provisions of section 73, or section 81, as the case may be, and the Commissioner shall, after giving such transporter, carrier or transporting agent, a reasonable opportunity of being heard, seize such consignment of goods under section 76.

CHAPTER XII

Measures to regulate transport of goods; check posts; seizure of goods; imposition of penalty; disposal of seized goods, etc.

73. Restriction on movement of goods.-- (1) To ensure that there is no evasion of tax, no person shall transport from any railway station, steamer station, airport, port, post office or any check-post setup under section 83 or from any other place any consignment of goods except in accordance with such restrictions and conditions as may be prescribed.

(2) Subject to the restrictions and conditions prescribed under sub-section (1), any consignment of goods may be transported by any person after he furnishes in the prescribed manner such particulars in such form obtainable from such authority or in such other form as may be prescribed.

Provided that the Commissioner may, from amongst the registered dealer, select certain such dealers who may be allowed to import goods from outside the State on the basis of such documents and subject to such conditions and restrictions as may be prescribed.

(3) Subject to such restrictions and conditions as may be prescribed, nothing in sub-section (1) shall apply to—

- (a) duly accredited diplomatic personnel attached to foreign consulates for other diplomatic offices,
- (b) organisations and specified agencies of the United Nations,
- (c) *Khadi* and Village Industries Commission,
- (d) Embarkation Headquarters, Shipping Section, Customs Group, Ministry of Defence, Government of India, Kolkata, or
- (e) such other persons, organisations or institutions as may be prescribed.

74. Interception, detention and search of goods vehicles, load carried by a person and search of warehouse etc.— For the purpose of verifying whether any consignment of goods are being or have been transported in contravention of the provisions of section 73 of section 81, the Commissioner, the Special Commissioner, the Additional Commissioner or any of such persons appointed under sub-section (1) of section 6 to assist the Commissioner, as may be prescribed, to exercise the power under the section, may, subject to such restrictions as may be prescribed,—

- (a) intercept, detain and search at any place referred to in sub-section (1) of section 73, any goods vehicle or any load carried by the person, or
- (b) search at any warehouse or at any other place in which, according to his information, such goods so transported in contravention of the provisions of section 73 have been stored, or
- (c) intercept, detain and search at any check-post or at any other place referred to in sub-section (2) of section 81, any goods vehicle or any load carried by a person.

75. Stock of goods stored in undisclosed warehouse in contravention of section 73. -- (1) If any registered dealer has not disclosed any warehouse in his application for registration made under sub-section (1) of section 24, or has not furnished information under clause (b) of section 27A regarding change of his warehouse or opening of a new warehouse for amendment of his certificate of registration under section 27 and if any stock of goods is found in such warehouse after search made under section 74 by the Commissioner, the Special Commissioner, the Additional Commissioner, as the case may be, any of such persons appointed under sub-section (1) of section 6 to assist the Commissioner, as may be prescribed, to exercise the power under this section, it shall be presumed that such dealer has transported such goods in contravention of section 73 and stored in those goods in such warehouse, unless such dealer—

- (a) explains to the satisfaction of such authority the reasons for not disclosing the warehouse or furnishing the information under clause (b) of section 27A,

- (b) produces on demand by such authority and explains to the satisfaction that the stock register or any account of stock showing entry of such goods therein and purchase bill, tax invoice, invoice or cash memo, challan or any document of like nature within twenty-four hours or within such time as may be granted to him upon an application made in writing by such dealer.

(2) Where the dealer prays for time under clause (b) of sub-section (1), the authority referred to in sub-section (1) shall allow the time to produce before him the documents referred to in that clause, and shall meanwhile seal such warehouse up to the time allowed by him.

76. Seizure of goods.-- (1) Where, upon interception or search referred to in clause (a), or clause (c), of section 74, the Commissioner, the Special Commissioner, the Additional Commissioner, or as the case may be, any of such persons appointed under sub-section (1) of section 6 to assist the Commissioner as may be prescribed to exercise the power under this section, has reason to believe that any goods are being transported in contravention of section 73 or section 81, he shall--

- (a) if no document in respect of the consignment of goods is produced at the time of such interception or search, seize such goods forthwith;
- (b) if he is not satisfied about the correctness of the particulars furnished in a form, as may be prescribed under section 73 or section 81, as the case may be, in respect of the description or quantity or weight or value of such goods, seize such goods forthwith;
- (c) if the documents except such as may be prescribed under section 73 or section 81, as the case may be, in respect of the consignment of goods are produced at the time of such interception or search, first detain the consignment of such goods, whether carried in a vehicle or not, for a period not exceeding twenty four hours, and the person bringing, importing, receiving, or carrying such goods fails to furnish within such period of detention such particulars in such form as may be prescribed under section 73, or section 81 which is required to be in possession of such person before entry of such goods into West Bengal, seize such goods together with any other container or other materials for the packing of such goods.

together with any container or other materials for the packing of such goods:

Provided that in completing the period of detention not exceeding twenty- four hours, Sunday or a public holiday declared under the Negotiable Instruments Act, 1881(26 of 1881), shall be excluded:

Provided further that the authority referred to in this sub-section may, at the option of the transporter, carrier or transporting agent from whom the goods are seized, in writing, gives custody of such seized goods to him in the manner prescribed, and allow him to transport such seized goods up to the warehouse, of such transporter, carrier or transporting agent, in West Bengal as declared by him, on the express conditions that such transporter, carrier or transporting agent, shall keep such seized goods in the said warehouse and he shall not deliver such seized goods to any person including the consignee or owner of such seized goods so transported by him before the proceedings, if any, initiated against the consignee or owner of such seized goods under section 77 is concluded:

Provided also that such authority may take physical possession of such seized goods from the custody of such transporter, carrier or transporting agent, even before the conclusion of the proceedings under section 77 where such transporter, carrier or transporting agent, communicates, in writing, to such authority his difficulty in keeping such seized goods in his custody after the expiry of sixty days from the date of storing of such seized goods in his warehouse.

(2) Where, upon search of any warehouse or any other place referred to in clause (b) of section 74, the Commissioner, the Special Commissioner, the Additional Commissioner, as the case may be, or any of such persons appointed under sub-section (1) of section 6 to assist the Commissioner as may be prescribed to exercise the power under this section, has reason to believe that any goods transported in contravention of the provision of section 73, have been stored in such warehouse or other place, he shall seize such goods together with container or any other materials for the packing of such goods or in case such goods are not seized, he may seal such warehouse:

Provided that the authority referred to in this sub-section may, at the option, in writing, of the person from whom the seizure of goods is made under this sub-section, gives custody of such seized goods to such person on the express conditions that he shall keep such seized goods in the warehouse, or at any other place, referred to in clause (b) of section 74, where the seizure has been made, and that he shall not dispose of such seized goods in any manner before the proceeding, if any, initiated in respect of such seized goods under section 77 is concluded:

Provided further that such authority may take physical possession of such seized goods from the custody of such person even before the conclusion of the proceedings under section 77 where such person communicates, in writing, to such authority his difficulty in keeping such seized goods in his custody after the expiry of sixty days from the date of giving of custody of such goods to him.

(3) If the dealer fails to produce before the authority referred to in sub-section (1) of section 75, the documents referred to in clause (b) of sub-section (1) of section 75 and fails to satisfy him that the goods found in such warehouse have not been transported in contravention of section 73, such authority shall, for reasons to be recorded in writing, seize the goods and grant a receipt specifying the items of goods so seized.

77. Penalty for transporting goods in contravention of section 73 or section 81. -- (1) If any goods are seized under section 76, the Commissioner may, by an order in writing, impose upon the transporter, carrier or transporting agent or any other person from whom such goods are seized or the owner of such goods, where particulars of the owner of such goods are available, or where there is no claimant of such goods at the time of such seizure, any person who subsequently establishes his claim of ownership for possession of such goods, after giving such transporter, carrier or transporting agent or person or owner, as the case may be, a reasonable opportunity of being heard, a penalty of an amount calculated on the basis of the percentage as specified in column (3) of the Table below, on the fair market value of such goods in respect of the nature of the seized goods as specified in column (2), against the corresponding serial number in column (1), of the said table:-

TABLE

Sl.No.	Nature of seized goods	Amount of penalty
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(1)	(2)	(3)
1.	Goods in respect of which the rate of tax leviable under sub-section (2) of section 16 on sale of such goods does not exceed <i>four per centum</i>	Fifteen <i>per centum</i> of the fair market value of seized goods
2.	Goods in respect of which the rate of tax leviable under sub-section (2) of section 16 on sale of such goods exceeds four <i>per centum</i> but does not exceed fifteen <i>per centum</i>	Twenty five <i>per centum</i> of the fair market value of the seized goods
3.	Goods in respect which the rate of tax leviable under sub-section (2) of section 16 on sale of such goods exceeds fifteen <i>per centum</i>	Forty <i>per centum</i> of the fair market value of the seized goods
4.	Goods seized are raw jute	Twenty per centum of the fair market of seized goods:

Provided that where the Commissioner is satisfied that the seizure of goods has been made for any contravention due to clerical error in forms, as may be prescribed, under section 73 or section 81, as the case may be, furnished at the time of interception or search under section 74, except any material discrepancy in the description of goods or the quantity or weight or value disclosed in such form, he may authorise imposition of penalty for an amount equivalent to five per centum of the fair market value of the seized goods or rupees twenty-five thousand, whichever is lower:

Provided further that where no form as may be prescribed under section 73, or section 81, as the case may be, is furnished even at the time of imposition of penalty under this section, the Commissioner may demand for payment of a security for an amount equivalent to the amount of tax calculated on the basis of the rate of tax as specified under section (2) of section 16, in respect of sale of such goods on the fair market value of the taxable seized goods as may be determined in accordance with the rules made under this Act, notwithstanding the fact that no sale of such goods may be made or no tax may be payable subsequently on the sale of such goods:

Provided also that for the purpose of imposition of penalty for contravention of section 81, the provisions of this sub-section shall, *mutatis mutandis*, apply:

Provided also that the provisions of this section shall be applicable in respect of any penalty imposed on or after the 1st day April, 2012, irrespective of date of seizure under section 76.

(2) A penalty imposed under sub-section (1) shall be paid by the transporter, carrier or transporting agent or the person or the owner of goods, as the case may be, into an appropriate Government Treasury, by such date as may be specified by the Commissioner in a notice to be issued for this purpose, and the date so specified shall not be earlier than fifteen days from the date of the notice:

Provided that the Commissioner may, upon application made by the transporter, carrier or

transporting agent or the person or the owner of goods, as the case may be, for reasons to be recorded in writing, extend the date of payment of the penalty for such period as he thinks fit.

(3) The goods seized under section 76 shall be released in the prescribed Manner on payment of penalty along with the submission of proof of payment of security on payment of the penalty imposed under sub-section (1).

(4) If the penalty is not paid by the date specified in the notice issued under sub-section (2), the Commissioner may, in such manner and subject to such restrictions and conditions as may be prescribed, sell the goods so seized under section 76 in open auction and remit the sale proceeds thereof to a Government Treasury.

(5) Notwithstanding anything contained in sub-section (3),—

(a) the person to whom the Commissioner has, under sub-section (4) of section 3, delegated his power for revision under section 86, pending disposal of an application for revision against an order for imposition of penalty referred to in sub-section (1), or

(b) the Commissioner, where there is no application for revision under section 86,

may, for reasons to be recorded in writing, direct release of the goods seized under section 76 on such terms and conditions as he may deem fit.

(6) Notwithstanding anything contained in sub-section (4), the Commissioner may, subject to such rules as may be made under this Act, where the goods seized under section 76 are—

(a) of perishable nature, or

(b) required to be used by a specified date,

sell such goods in open auction after the expiry of such period as he may consider fit and proper, if he is of the opinion that such goods may become unusable or unsaleable on detention, or destroy such goods if the said goods become unusable before the sale in open auction actually takes place.

(7) The proceeds of sale of the goods referred to in sub-section (4) or sub-section (6) shall be applied in the prescribed manner for payment in the following order of priority:—

(a) first, for incidental charges, if any, relating to auction sale of such goods;

(b) secondly, for expenses, if any, for storage of such goods;

(c) thirdly, for penalty imposed under sub-section (1);

and the balance of the proceeds of sale, if any, shall be paid to the owner of the goods or, if his particulars are not available, to the persons from whom such goods were seized under section 76, upon application within one year from the date of sale or within such further period as may be allowed by the Commissioner for cause shown to his satisfaction.

78. Penalty for contravention of the provisions of second proviso to sub-section (1), or first proviso to sub-section (2), of section 76.-- Where—

- (a) a transporter, carrier or transporting agent, referred to in the second proviso to sub-section (1) of section 76, at his auction, takes custody of any goods seized under sub-section (1) of that section and thereafter contravenes the provisions of the second proviso to sub-section (1) of section 76 by delivering such seized goods to any person including the consignee or owner of such seized goods, or
- (b) a person, referred to in the first proviso to sub-section (2) of section 76, at his auction, takes custody of any goods seized under sub-section (2) of that section and thereafter contravenes the provisions of the first proviso to sub-section (2) of section 76 by disposing of such seized goods,

without prior permission, in writing, of the Commissioner, the Commissioner shall, after giving such transporter, carrier or transporting agent of the person, as the case may be, a reasonable opportunity of being heard, impose upon him a penalty, in the prescribed manner, not exceeding twenty-five *per centum* of the market value of such seized goods in West Bengal.

79. Penalty for contravention of the provisions of section 73 when goods transported are not available.-- Where the goods are, or have been, transported by a dealer, casual dealer, transporter, carrier or transporting agent or any other person in contravention of restrictions or conditions prescribed under section 73 and such goods are not available for seizure under sub-section (1) of section 76, the Commissioner shall, after giving such transporter, carrier or transferring agent or the person a reasonable opportunity of being heard, impose a penalty of a sum not exceeding twenty-five *per centum* of the market value of such goods in such manner as may be prescribed.

80. Regulatory measures for transport of goods through West Bengal.-- (1) When a goods vehicle, transporting any goods, other than goods specified in Schedule A, enters into West Bengal, and such vehicle transporting such goods is bound for any place outside West Bengal, the transporter, carrier or transporting agent or any other person transporting such goods, before entering such vehicle into West Bengal, make a declaration in such form, available in the website, as may be prescribed,--

- (a) *firstly*, by way of transmitting certain information required to be furnished in connection with the said declaration electronically through such website, either under digital signature or without any digital signature, including a statement made by him that the goods being so transported shall not be unloaded, delivered or sold in West Bengal,
- (b) *secondly*, by way of generating electronically the paper form of the declaration created on the basis of information which has been successfully transmitted by him electronically under clause (a):

Provided that if there is any possibility of transshipment in West Bengal of the goods so carried by such transporters, carrier or any other person he shall declare the same in the said declaration while making it:

Provided further that where the transporter, carrier or transporting agent or any other person,

makes a declaration of the possible transshipment in West Bengal as mentioned in the first proviso or where after leaving the goods vehicle enters into West Bengal, any transshipment is made under any compelling circumstances, such transporter, carrier or transporting agent or any other person who makes such transshipment, shall transmit the particulars of the new vehicle electronically through such website: :

Provided further that the provisions of this sub-section shall not apply where the transporter, carrier or transporting agent or any other person transporting such goods proves to the satisfaction of the Commissioner or such other authority, as may be prescribed, that the transport of such goods-vehicle is in the course of export within the meaning of sub-section (1) of section 5 of the Central Sales Tax Act, 1956, to such country as the State Government may, by notification, specify.

(1A) The paper form of the declaration generated in the manner mentioned in sub-section (1), shall remain valid for a period not exceeding seven days computed from the expected date of entry of the goods vehicle in West Bengal as declared by the transporter, carrier or transporting agent or any other person in such declaration and where the goods are bound for export to a foreign country or the goods have been imported from a foreign country, such paper form of the declaration shall remain valid for a period not exceeding thirty days computed from the expected date of entry of the goods vehicle in West Bengal as declared by the transporter, carrier or transporting agent or any other person in such declaration.

(1B) If the transporter, carrier or transporting agent or any other person transporting the goods in a vehicle cannot enter into West Bengal with a valid declaration in paper form before the expected date of exit of the goods vehicle from as declared by such transporter, carrier or transporting agent or any other person in the said declaration referred to in sub-section (1), such transporter, carrier, transporting agent or any other person may generate a fresh declaration in paper form in the manner mentioned in sub-section (1), after cancelling the earlier one.

(1C) The transporter, carrier or transporting agent or any person shall not transport any goods in any goods vehicle bound for any place outside West Bengal, unless he has in his possession of a valid declaration in paper form referred to in sub-section (1).

(1D) Where it appears to the transporter, carrier, or transporting agent or any other person transporting the goods in a goods vehicle, after entering into West Bengal with the declaration referred to in sub-section (1) that for certain reason, it will not be possible for him to move outside the state of West Bengal with the said declaration along with the goods transported in a goods vehicle, within the period specified in the declaration, he shall before the expiry of the validity of the said declaration, make application for revalidation to the Commissioner in the following manner:--

- a) *firstly*, by making such application electronically for revalidation of the declaration for such time as may be deemed necessary by him; and
- b) *secondly*, by generating electronically the paper form of the declaration revalidated by the Commissioner,

and shall commence the transportation of the goods by the goods vehicle bound for the place outside West Bengal with the declaration so validated.

(2) The transporter, carrier, or the transporting agent or any other person shall enter from any place into West Bengal with a valid declaration, in paper form, generated by him in accordance with the provisions of sub-section (1) together with such other documents as may be prescribed and shall produce the said declaration including those documents before the Commissioner, where such vehicle is intercepted by him during its transit from the place of entry into West Bengal and ultimate exit of the goods vehicle outside West Bengal with such goods.

(3) *omitted.*

(4) *omitted.*

(5) The Commissioner may, subject to such conditions and restrictions as may be prescribed, intercept at any place, within West Bengal any goods vehicle and requires the transporter, carrier or transporting agent or any other person to produce before him the declaration and other documents referred to in sub-section (2) and shall upon being satisfied after verification of the goods with such declaration and other documents, after countersigning the same in such manner as may be prescribed and may search such vehicle for verification of the goods with the declaration and other documents produced, if any, by the transporter, carrier or transporting agent or any other person.

(5A) The transporter, carrier or transporting agent or any other person transporting the goods in a goods vehicle bound for any place outside West Bengal with the declaration, referred to in sub-section (1) shall, within a period of two days after the exit of the vehicle outside West Bengal, inform the Commissioner electronically through the website of the date, time and place of exit of the goods vehicle outside West Bengal and obtain, after transmission of the said information, by way of generating electronically, a receipt in return acknowledging receipt of the said information.

(6) Where the Commissioner is satisfied, for reasons to be recorded in writing that the transporter, carrier or transporting agent or any other person has contravened the provisions of this section, he may, after giving the transporter, carrier or transporting agent or any other person a reasonable opportunity of being heard, impose, by an order to be passed in the prescribed manner, such penalty, not exceeding twenty-five *per centum* of the market value of the goods so transported, as may be determined by him in accordance with the rules made under this Act.

(7) Any penalty imposed under sub-section (6) shall be paid by the transporter, carrier or transporting agent or person into a Government Treasury or the Reserve Bank of India by such date as may be specified by the Commissioner in a notice to be issued for this purpose, and the date so specified shall not be earlier than fifteen days from the date of service of the notice:

Provided that the Commissioner may, for reasons to be recorded in writing, extend the date of such payment.

(8) Until the penalty imposed under sub-section (6) is paid and a receipt showing payment of such penalty is furnished and the declaration referred to in sub-section (2) is produced, the goods so transported shall be detained by the Commissioner or the other authority referred to in sub-section (5) who imposed such penalty.

(9) If the penalty is paid by the date specified in the notice referred to in sub-section (7) and the

transporter, carrier or transporting agent or person furnishes the consignment note or the document of like nature containing the declaration in accordance with the provisions of the section, the Commissioner who imposes the penalty shall countersign the consignment note or the document of like nature containing the declaration and the documents in accordance with the provisions of this section and allow the vehicle to resume its journey.

(10) If the penalty is not paid by the date specified in the notice referred to in sub-section (7), the goods shall be seized by the Commissioner or the other authority referred to in sub-section (5) under whose order such goods are detained:

Provided that where the goods are not available for detention and the penalty imposed under sub-section (6) is not paid, realisation of such penalty shall be made under section 55.

(11) Notwithstanding anything contained in sub-section (8) and sub-section (10), the Commissioner or the authority referred to in sub-section (5), pending final disposal of an application for revision under section 86 against an order of imposition of penalty under the section, may direct transport of the goods through West Bengal on such terms and conditions as he may consider fit and proper.

(12) Subject to such restrictions and conditions as may be prescribed, the Commissioner may sell the goods seized under sub-section (10) in open auction or otherwise, and remit the proceeds of sale thereof to a Government Treasury.

(13) The proceeds of sale of the goods referred to in sub-section (12) shall be applied in the prescribed manner for payment in the following order of priority:—

- (a) firstly, the incidental charges, if any, relating to sale in auction or otherwise;
- (b) secondly, the expenses, if any, for storage of such goods seized under sub-section (10);
- (c) thirdly, the penalty imposed under sub-section (6);

and the balance of such proceeds of sale, if any, shall be paid in the prescribed manner to the owner of such goods seized under sub-section (10).

(14) Subject to the provisions of sub-section (10) and sub-section (12), if the goods vehicle, transporting the goods, does not move outside West Bengal within the period of validity of the declaration or if no receipt as referred to in sub-section (5A) is obtained from the Commissioner, it shall be presumed that the goods so transported have been sold in West Bengal by such transporter, carrier or transporting agent or any other person, and he shall be deemed to be a dealer under this Act.

(15) The provisions of this Act shall, for the purposes of levy, collection and assessment of tax, determination of interest, payment and recovery of tax and interest, appeal, review or revision, apply to the transporter, carrier or transporting agent or person to be deemed to be a dealer under sub-section (14).

(16) If the State Government is, at any time, of the opinion that it would be in the public interest so to do, it may, by notification, exempt from such date, for such period, and subject to such terms and conditions, as may be specified therein, any class or classes of goods from the operation of the provisions of this section.

81. Measures to prevent evasion of tax on sales within West Bengal.-- (1) Where a transporter, carrier or transporting agent or any other person carries from any place in West Bengal in a goods vehicle, any consignment of goods, or any load is carried by a person and such vehicle is bound for any place outside West Bengal, he shall, in addition to the document of title to the goods, carry with him, in respect of such goods,—

- (a) where carriage is caused by sale of such goods, two copies of tax invoice or invoice or bill or cash memorandum issued by the seller of such goods and a way bill in the prescribed form in case of such goods or class of goods, as the State Government may, by notification, specify, and such other documents as may be prescribed, or
- (b) where carriage is caused otherwise than by way of sale of such goods, two copies of forwarding note, delivery challan or document of like nature and a way bill in the prescribed form in case of such goods or class of goods, as the State Government may, by notification, specify, and such other documents as may be prescribed:

Provided that the provisions of this sub-section shall not apply where the transporter, carrier or transporting agent or any other person carrying such goods proves to the satisfaction of the Commissioner that consequent upon a sale of such goods in the course of export within the meaning of sub-section (1) of section 5 of the Central Sales Tax Act, 1956(74 of 1956), his goods vehicle carrying such goods is bound for such country as the State Government may, by notification specify.

(2) The transporter, carrier or transporting agent or any other person while carrying the goods referred to in sub-section (1), shall stop the vehicle at the check-post or at any place when so required by the Commissioner, and produce the documents referred to in sub-section (1) along with the document of title to such goods before the Commissioner, and the Commissioner shall, wherever necessary after verification, countersign the documents referred to in clause (a) or clause (b), as the case may be, of sub-section (1).

(2a) Where it appears to the Commissioner that—

- (a) due to failure of any dealer, casual dealer or any other person, no way bill in the prescribed form or such document as mentioned in clause (a) of sub-section (1), could be produced by such transporter, carrier or transporting agent or person before him, or
- (b) the way bill in the prescribed form or such document, as mentioned in clause (a) of sub-section (1), produced is fake, false or incorrect in respect of description, quantity, weight and value of the goods transported, or

(c) the consignor of the goods, does not exist at the address declared in the way bill in the prescribed form or such document as mentioned in clause (a) of sub-section (1), or

(d) the consignor of the goods does not exist at the address declared in the documents as mentioned in clause (b) of sub-section (1),

he shall, for reasons to be recorded in writing, seize such goods under section 76 at any check-post, or at any place, referred to in sub-section (2).

(3) If the State Government is, at any time, of the opinion that it would be in the public interest so to do, it may, by notification, exempt from such date, for such period, and subject to such conditions, as may be specified therein, any class or classes of transporter, carrier or transporting agent or person carrying any class or classes of goods referred to in sub-section (1) from carrying the documents referred to in that sub-section.

82. Exemption from operation of provisions of section 80 and section 81. -- Nothing in section 80 or section 81 shall apply to transport of any goods where such goods are transported by or on behalf of—

(a) the King of Nepal or Bhutan, the Royal Family of Nepal or Bhutan, or the Government of Nepal or Bhutan;

(b) Government or a local authority;

(c) a diplomatic or consular office, any organisation or specialised agency of the United Nations;

(d) Indian Red Cross Society or a Charitable Institution for charitable purposes recognised by Government;

(e) an official on transfer as personal effects;

(f) such other person or organisation, and in such circumstances, as may be prescribed.

83. Setting up of check posts.--- If the State Government is of the opinion that it is necessary so to do with a view to preventing evasion of tax in respect of sale or purchase of goods or execution of works contract in West Bengal, it may, by notification, set up check-posts or barriers for carrying out the purposes of section 73, section 80 or section 81 at such places within West Bengal as may be specified in such notification.

CHAPTER XIII

Appeal, revision, review, power of taking evidence on oath and reference

84. Appeal against provisional or other assessment.--- (1) Any casual dealer or dealer may, in the prescribed manner, appeal to the Commissioner, the Special Commissioner, the Additional Commissioner or any person appointed under sub-section (1) of section 6 to assist the Commissioner, as may be prescribed, to exercise the power under the section against a provisional assessment or any other assessment, within forty-five days or such further period as may be allowed by the said

authority for cause shown to the satisfaction from the receipt of the notice of demand in respect thereof:

Provided that where the total amount of tax, interest, late fee or penalty in dispute in an appeal is in excess of rupees twenty lakh, such appeal may lie before an appellate forum as may be constituted by the Commissioner, consisting of one or more Special Commissioner or Additional Commissioner or any person appointed under sub-section (1) of section 6 to assist the commissioner, and the appellate forum shall act as the appellate authority in disposing of such appeal under this section:

Provided that no appeal shall be entertained by the said authority unless he is satisfied that the amount of tax, penalty, late fee or interest, as the case may be, as the appellant may admit to be due from him has been paid:

Provided further that where the payment of tax due from the dealer stands deferred under section 116, and appeal shall, notwithstanding that the tax admitted to be due from him has not been paid, be entertained.

(2) Subject to such rules of procedure as may be prescribed, the appellate authority, in disposing of any appeal under sub-section (1), may, for reasons to be recorded in writing,—

- (a) confirm, reduce, enhance or annul the provisional assessment or any other assessment, or
- (b) consider and decide any matter arising out of the proceedings in which the order appealed against was passed, irrespective of the fact that such matter has not been raised before it by the appellant or that no order has been made in the said proceedings regarding such matter for any reason whatsoever:

Provided that any appeal, which is entertained under sub-section (1), shall, if not disposed of within the date as referred to in column (2) of the Table below, shall be deemed to have been disposed of in accordance with law and all the claims of the applicant shall be deemed to have been allowed in full.

Table

Sl. No.	Date of filing of the appeal	Date within which the appeal as entertained has to be disposed of
1.	Between 1 st day of April and 30 th day of September of a year.	30 th day of September of the year immediately following the year in which appeal was filed.
2.	Between 1 st day of October and 31 st day of March of a year.	31 st day of March of the year immediately following the year in which appeal was filed.

Explanation.--For the purpose of this sub-section 'year' shall have the same meaning as defined in clause (58) of section 2.

Provided further that the appropriate appellate authority may, before expiry of the period

mentioned in the first proviso, obtain from the Commissioner an extension of time mentioned in that proviso and where the Commissioner, for reasons to be recorded in writing, extends the time, such appeal may be disposed of during the period of one year immediately following the period mentioned in the first proviso:

Provided also that in computing the period mentioned in the first proviso for disposal of any appeal, the period during which the appropriate appellate authority is restrained from disposing of or continuing any proceedings for such appeal by an order of an authority under the Act or a tribunal or any court, shall be excluded.

(3) *omitted.*

(4) Pending disposal of an appeal referred to in sub-section (2), the appellate authority may, on application, at his discretion and subject to such conditions and restrictions as may be prescribed, stay realisation of the amount of tax, interest or penalty in dispute wholly or in part.

Explanation.— For the purposes of this section, section 85, section 86, section 87 or section 88,—

(a) the expression "provisional assessment" means—

(i) provisional assessment for tax and imposition of penalty under section 45,

(ia) determination of late fee under sub-section (1) of section 53A, or

(ii) determination of interest under section 50, or

(iii) rectification of mistake in determination of interest under section 51;

(b) the expression "any other assessment" means—

(i) assessment of tax and imposition of penalty under section 46 or section 48 or assessment deemed to have been made under sub-section (1) of section 47,

ia) determination of late fee under sub-section (1) of section 53A ,or

ib) assessment deemed to have been made under section 47A, or

ic) summary assessment under section 47AA, or

(ii) determination of interest under section 50, or

(iii) rectification of mistake in determination of interest under section 51;

(c) "notice of demand" means any notice served in accordance with the provisions of this Act for realisation of the tax, interest or penalty referred to in clause (a) and clause (b).

85. *Suo motu* revision by Commissioner.— (1) Subject to such rules as may be made and for reasons

to be recorded in writing, the Commissioner may, on his own motion, revise a provisional assessment under section 45, or any other assessment under section 46 or section 48, or deemed to have been made under sub-section (1) of section 47 or order passed by a person appointed under sub-section (1) of section 6 to assist him.

(2) Notwithstanding anything contained elsewhere in the Act, where an assessment in respect of the dealer for any period is taking up under clause (c) or clause (ca) or clause (d) of sub-section (1) of section 46, the Commissioner may, on his own motion, revise the orders of assessments under section 45, or section 46, or section 47 or section 48 for the previous five years also.

86. Revision by Commissioner upon application.--- (1) Subject to such rules as may be prescribed and for reasons to be recorded in writing, the Commissioner or the prescribed authority may, upon application, revise any order other than an order referred to in section 87 and an order of provisional assessment or any other assessment against which an appeal lies under section 84, passed by a person appointed under sub-section (1) of section 6 to assist him.

(2) Notwithstanding anything contained in sub-section (1), the Commissioner may, upon application filed during the period commencing from the 1st day of July, 2006 and ending on the 30th day of June, 2008, revise a final appellate or revisional order from an order of provisional assessment or any other assessment.

Explanation.— For the purposes of this section, the expression "any order" also includes the following,—

- (a) an order of seizure of accounts of the dealer or casual dealer or any other person, made under section 67;
- (b) an order of sealing any house, room, warehouse, almirah, cabinet, safe, locker, drawer, box, or any receptacle, made under section 69;
- (c) an order of seizure of accounts of the transporter, carrier or transporting agent made under section 71;
- (d) an order of seizure of goods of any person, made under section 76.

87. Revision by Appellate and Revisional Board.--- (1) Subject to such rules as may be prescribed and for reasons to be recorded in writing, the Appellate and Revisional Board may, upon application, revise a final appellate or revisional order from an order of provisional assessment or any other assessment:

¹[Omitted]

²[Omitted]

³[Provided that] where such application relates to an order passed by the appellate forum constituted by the Commissioner under the first proviso to sub-section (1) of section 84, such order shall not be revised unless the appellant produces the document relating to---

- (a) proof of payment of ten *per centum* of the amount of the disputed tax or rupees five lakh, whichever is less, and
- (b) proof of payment of the full amount of tax, interest and late fee, as the appellant may admit to be due of him.

⁴[Provided further that where an application for revision has been filed on or after the 1st day of April, 2014, relating to the provisional assessment or any other assessment passed by appropriate authority by taking into consideration an adverse finding arising out of seizure of books of accounts or other records or goods or upon audit as referred to in section 43 or upon special audit as referred to in section 43A, and where in the first appeal or revision, such adverse finding is upheld by the first appellate or revisional authority, such appellate or revisional order shall not be revised by the Appellate and Revisional Board where any revision case relating to earlier period is already pending for disposal before it, unless the applicant produces the document relating to—

- (a) proof of payment of five *per centum* of the disputed amount or rupees one lakh, whichever is less, and
- (b) proof of payment of full amount of tax, interest and late fee, as the applicant may admit to be due from him:

Provided also that any payment made against disputed amount shall be adjusted as payment for relevant assessment period.]

⁵[(1A) The Appellate and Revisional Board, in disposing of an application for revision, shall, for reasons to be recorded in writing, confirm, reduce, enhance or annul the final appellate and revisional order from an order of provisional assessment or any other assessment.

(1B) The applicant shall not be entitled to produce additional evidence, whether oral or documentary, in the Appellate and Revisional Board unless the Appellate and Revisional Board allows production of such evidence or document in the following circumstances:--

- (a) if the appellate or revisional authority, whose order is under revision before the Appellate and Revisional Board, had refused to admit such evidence; or
- (b) if the applicant seeking to produce additional evidence, establishes that even after exercising due diligence, such evidence was not within his knowledge or could not be produced earlier; or
- (c) if the Appellate and Revisional Board requires production of any document for pronouncing its judgement or for any other substantial cause:

Provided that whenever additional evidence is allowed to be produced, the Appellate and Revisional Board shall record the reason for its admission.]

(2) Where during the pendency of an application for revision preferred by a casual dealer or dealer under sub-section (1) before the Appellate and Revisional Board, the Commissioner, having discovered--

- (a) any error or omission, whether in fact or law, in the final appellate or revisional order referred to in sub-section (1), or
- (b) any concealment, by a casual dealer of his sales or purchases, or, by a dealer of his turnover of sales or purchases or contractual transfer price by such dealer or claim for his deduction of any of turnover of sales or purchases or contractual transfer price or claim for lower rate of tax payable under this Act,
- (c) any claim by a dealer of excess amount of input tax credit or input tax rebate, or
- (d) any non-reversal by a dealer of input tax credit or input tax rebate to the extent of disentitlement,

is of the opinion that the amount of tax assessed is liable to be enhanced from what has been in the order of a revisional assessment or any other assessment or in the final appellate or revisional order in the matter of the amount of tax so assessed, as the case may be, he may, subject to such rules as may be made, file, at any time before the application for revision is finally heard by the Appellate and Revisional Board, a memorandum bringing to its notice the error or omission referred to in clause (a) or the concealment by, the casual dealer of his sales or purchases or, the dealer of his turnover of sales or purchases or contractual transfer price or incorrect statement by him of the particulars referred to in clause (b) or claim by a dealer of any excess amount of input tax rebate referred to in clause (d).

(3) The Appellate and Revisional Board shall, while proceeding to revise under the sub-section (1) any final appellate or revisional order from order of provisional assessment or any other assessment, entertain the memorandum filed under sub-section (2) as an application by the Commissioner for revision and pass such revisional order as it deems fit.

(4) Where the Commissioner, after revision made by the Appellate and Revisional Board under sub-section (1), discovers any concealment by, a casual dealer of his sales or purchases or dealer of his turnover of sales or purchases or contractual transfer price or incorrect statement by a dealer of particulars of sales or purchases or contractual transfer price or claim for deduction of any part of turnover of sales or purchases or contractual transfer price or claim for lower rate of tax or any claim by a dealer of excess amount of input tax credit claim or input tax rebate or any non-reversal of input tax credit or input tax rebate to the extent of his disentitlement, he may, subject to such rules as may be made, make, within four years from the date of order of the Appellate and Revisional Board, an application to the Appellate Revisional Board, and the Appellate and Revisional Board, may thereupon, after giving the Commissioner and the casual dealer or the dealer a reasonable opportunity of being heard, review its order passed under sub-section (1) and pass such order as it may deems fit.

(5) Notwithstanding anything contained in sub-section (1), no application shall be filed before the Appellate and Revisional Board, during the period commencing from the 1st day of July, 2006 and ending on the 30th day of June, 2008, against any final appellate or revisional order from an order of provisional assessment or any other assessment.

1. Omitted w. e. f. 01.07.2014 by S.4(13)(a)(i) of W. B. Act I of 2014 the following:

“Provided that where an applicant fails to appear in person or through an authorised agent on the date and at the time and place fixed for hearing on the application for revision preferred by him, the Appellate and Revisional Board may, in its discretion, dismiss such application for such default of the applicant:”

2. Omitted w. e. f. 01.07.2014 by S.4(13)(a)(ii) of W. B. Act I of 2014 the following:

“Provided further that the Appellate and Revisional Board may, upon application filed by an applicant within forty-five days from the date of the order of dismissal of an application for revision for default passed by it under the first proviso or within such further time as it may allow for cause shown to the satisfaction, restore the application for revision so dismissed:”

3. Subs. by S.4(13)(a)(iii) of W. B. Act I of 2014 w. e. f. 01.07.2014 for “Provided also that”.

4. Inserted by S. 4(13)(a)(iv) of W. B. Act I of 2014 w. e. f. 01.07.2014.

5. Inserted by S. 4(13)(b) of W. B. Act I of 2014 w. e. f. 01.07.2014.

87A. Fast track method of revision of certain appellate or revisional order from an order of assessment.-- Notwithstanding anything contrary contained in any other provision of this Act, the application for revision, disputing the amount of net tax, late fee, or interest for a sum less than twenty lacs rupees and relating to the year ending the 31st day of March 2007, and 31st day of March 2008, which had been preferred under section 87, before the appellate or revisional Board for revision of a final appellate or revisional order from an order of assessment and which is pending on the 30th day of September 2011, before the said board shall, on and from the 1st day of October 2011, stand transferred to such authority to be constituted by the Commissioner, and the application for revision so transferred shall be disposed of preferably within a period of one year and in such manner as may be prescribed:

Provided that where the Commissioner is satisfied that any revision application cannot be disposed of within the period stated above, he may, for reasons to be recorded in writing extend the period till such time as he may deem fit, but not exceeding twelve months from the end of such period.

¹[Provided further that where an application for revision and the records relating thereto have not been transferred to such authority within the 30th September, 2012, such application for revision shall be deemed not to have been transferred to such authority and such application shall be disposed of by the Appellate and Revisional Board in accordance with the provisions of section 87 within the 31st day of December, 2014.]

1. Inserted by S. 4(14) of W. B. Act I of 2014 w. e. f. 01.09.2011.

88. Review of an order.--- Subject to such rules as may be made, any provisional assessment or any other assessment made or order passed under this Act or the rules made there under by any person appointed under sub-section (1) of section 3, section 4, or section 5 or sub-section (1) of section 6 may be reviewed by the person passing it upon application or on his own motion, and, subject to the rules as aforesaid, the Appellate and Revisional Board may, in the like manner and for reasons to be

recorded in writing, review any order passed by it, either on its own motion or upon an application:

Provided that if the Commissioner considers it is necessary to modify any order passed either by any of his predecessors-in-office, or by any person in the rank of Special Commissioner or Additional Commissioner when such person ceases to hold the rank of the Special Commissioner or the Additional Commissioner, the Commissioner may review any such order:

Provided further that any order passed under section 87A or by the appellate forum or any similar other authority constituted by the Commissioner under the first proviso to sub-section (1) of section 84, may be reviewed, either on its own motion or upon an application by the authority which has passed such order or by a similar authority to which the matter has been assigned to by the Commissioner.

88A. Application by assessing authority for revision under section 87.---Where any assessing authority is aggrieved by any order being—

- (a) a final appellate order passed under section 84; or
- (b) a final order passed under section 85 or under section 88 reviewing a final appellate order passed under section 84 in respect of a provisional assessment or any other assessment,

such assessing authority may, make an application, without any fees, for revision under section 87 of such order to the Appellate and Revisional Board.

88B. Power of Commissioner to revise orders prejudicial to revenue.-- (1) If the Commissioner considers that any order passed by a Special Commissioner or an Additional Commissioner or any person appointed under sub-section (1) of section 6 is erroneous in so far as it is prejudicial to the interest of the revenue, he may, after giving the dealer or casual dealer or person likely to be affected an opportunity of being heard and after making or causing to be made such inquiry, if any, as he deems necessary, pass such order as the circumstances of the case justify, including an order enhancing or modifying any assessment, or cancelling or setting aside any assessment and directing a fresh assessment or revising or cancelling or setting aside any other order made under this Act by any such authority and directing a fresh order to be passed under this Act.

(2) No order shall be made under sub-section (1) after the expiry of four years from the date of the order sought to be revised:

Provided that in computing the period mentioned under this sub-section, the period during which any proceedings under this section is stayed by an order of an authority under this Act or a tribunal or any court, shall be excluded.

89. Appeal, review or revision in certain cases.-- An appeal, review or revision in respect of any order passed in the matter of tax recoverable under clause (b) of sub-section (1) of section 55, section 56, section 57 or section 59 shall lie in the manner, and to the authority, as may be prescribed.

90. Reasonable opportunity to be given to the person likely to be adversely affected.--- Before any

order under section 84, section 85, section 86, section 87 or section 88, which is likely to affect any person adversely, is passed, such person shall be given a reasonable opportunity of being heard.

91. Power of taking evidence on oath.-- The Appellate and Revisional Board, the Commissioner, the Special Commissioner, the Additional Commissioner, or any person appointed under sub-section (1) of section 6 to assist the Commissioner, shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 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
- (c) issuing commissions for the examination of witnesses,

and any proceedings under this Act before the Appellate and Revisional Board, the Commissioner, the Special Commissioner, the Additional Commissioner, or any person appointed under sub-section (1) of section 6 to assist the Commissioner, shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228, and for the purpose of section 196, of the Indian Penal Code(45 of 1860).

92. Reference to the Tribunal.--- (1) Within sixty days from the date of passing by the Appellate and Revisional Board of any order under section 87 affecting any liability of any casual dealer or any dealer to pay tax, penalty of interest under this Act, such casual dealer or dealer, by application in writing accompanied by a fee of one hundred rupees, or the Commissioner, by application in writing, may require the Appellate and Revisional Board to refer to the Tribunal any question of law arising out of such order.

(2) If, for reasons to be recorded in writing, the Appellate and Revisional Board refuses to make such difference, the applicant may, within ninety days of such refusal, either—

- (a) withdraw his application and if he does so, the fee, if any paid, shall be refunded; or
- (b) apply to the Tribunal against such refusal.

(3) If upon the receipt of an application under clause (b) of sub-section (2) the Tribunal is not satisfied with the correctness of the decision of the Appellate and Revisional Board, it may require the Appellate and Revisional Board to state the case and refer it, and, on the receipt of such requisition, the Appellate and Revisional Board shall state and refer the case to the Tribunal accordingly.

(4) If the Tribunal is not satisfied that the statements in a case referred to it under this section are sufficient to enable it to determine the question of law raised thereby, it may refer the case back to the Appellate and Revisional Board to make such addition thereto or alterations therein as it may direct in this behalf.

(5) The Tribunal 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 Appellate and Revisional Board a copy of such judgment under the seal, and the signature of the Registrar of the Tribunal, and the Appellate and Revisional Board shall dispose of the case accordingly.

(6) Where a reference is made to the Tribunal under the section, the costs (including fees) shall be in the discretion of the Tribunal.

(7) The payment of the amount, if any, of tax, penalty or interest due in accordance with the order of the Appellate and Revisional Board 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 amount of tax, penalty or interest paid in excess shall be refunded in accordance with the provisions of section 62.

CHAPTER XIV

Offences and penalties, special provision for liability to prosecution and compounding of offences.

93. Offences and penalties.-- (1) Whoever—

- (a) fails to reverse input tax credit or input tax rebate as required by section 22; or
- (b) carries on business as a dealer without furnishing the security demanded under section 26; or
- (c) neglects or refuses to furnish information as required by section 27A, or furnishes such information which is found to be incorrect; or
- (d) neglects or refuses to furnish information as required by section 30B, or furnishes such information which is found to be incorrect; or
- (e) fails to pay full amount of net tax or any other tax payable for any tax period or in accordance with the provisions of sub-section (2) of section 32; or
- (f) fails to make payment of interest payable under section 33 or section 34 or section 34A; or
- (g) fails to comply with the provisions of section 63; or
- (h) neglects or refuses to furnish information as required by section 66A, or furnishes such information which is found to be incorrect; or
- (i) contravenes the provisions of section 73; or
- (j) fails to make fully payment of penalty imposed under section 79; or
- (k) fails to comply with any requirement under section 81;

shall be punishable with simple imprisonment which may extend to six months or with fine not

exceeding one thousand rupees or with both and, a court having jurisdiction may, in addition to any fine as aforesaid, order confiscation of any goods seized under section 76 for the offence of contravention of section 73.

(2) Whoever carries on business as a dealer in contravention of sub-section (1) of section 24 shall be punishable with simple imprisonment which may extend to one year or with fine not exceeding one thousand rupees or with both, and when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the period of the continuance of the offence.

(3) Whoever, being a transporter, carrier or transferring agent, operates in contravention of section 25, his transport business in West Bengal of transporting any consignment of taxable goods into, or outside, or within, West Bengal without obtaining a certificate of enrolment or contravenes the provisions of the second proviso to sub-section (1) of section 76, shall be punishable with simple imprisonment which may extend to six months or with fine not exceeding one thousand rupees or with both, and when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the period of continuance of the offence.

(3A) Whoever, being a transporter, carrier or transporting agent, fails or neglects to comply with—

(a) the provisions of section 70, or

(b) the direction of the Commissioner under sub-section (1) of section 72,

shall be punishable with simple imprisonment which may extend to six months or with fine not exceeding one thousand rupees or with both, and when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the period of continuance of the offence.

(3B) Whoever contravenes the express conditions referred to in the provisions of the first proviso to sub-section (2) of section 76, shall be punishable with simple imprisonment which may extend to six months or with fine not exceeding one thousand rupees or with both, and when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the period of continuance of the offence.

(4) Whoever—

(a) issues or produces a fake or fabricated tax invoice referred to in clause (48) of section 2;

(b) fails to submit before the prescribed authority statements, accounts or the provisions under section 30E, within prescribed time;

(c) furnishes a false return referred to in section 32; or

(d) fails without reasonable cause to furnish a return under section 32;

(e) refuses to comply with any requirement under section 66;

(f) tampers with or breaks open any sealing done under section 69;

shall be punishable with imprisonment of either description which shall not be less than three months but which may extend to two years and with fine not exceeding ten thousand rupees or with both, and when the offence is a continuing one, with a daily fine, not exceeding fifty rupees, during the period of the continuance of the offence.

(5) Whoever has in his possession any prescribed form referred to in subsection (2) of section 73 or sub-section (1) of section 81, not obtained by him or by his principal or agent in accordance with the provisions of this Act or any rules made there under, shall be deemed to have committed the offence of criminal breach of trust under section 405 of the Indian Penal Code(45 of 1860), and every such person who commit such criminal breach of trust, shall, on conviction, be punishable with imprisonment of either description which shall not be less than three months but which may extend to two years or with fine not exceeding ten thousand rupees or with both.

(6) Whoever wilfully attempts in any manner to evade or defeat any tax imposed under this Act, shall, in addition to any other penalty provided by any law for the time being in force, be liable also for the offence of dishonest misappropriation of property under section 403 of the Indian Penal Code,, and shall be punishable with imprisonment of either description which shall not be less than three months but which may extend to two years or with fine not exceeding ten thousand rupees or with both.

(7) Whoever knowingly produces incorrect accounts, registers, documents or electronic record or knowingly furnishes incorrect information or suppresses material information shall be punishable with imprisonment of either description which shall not be less than three months but which may extend to two years or with fine not exceeding ten thousand rupees or with both.

(8) Whoever obstructs any officer making inspection or search or seizure or taking other action under section 66, section 67, section 68, section 69, section 70, section 71, section 72, section 74, section 76, section 80 or section 81, shall be punishable with imprisonment of either description which shall not be less than three months but which may extend to two years or with fine not exceeding ten thousand rupees or with both.

(9) *omitted.*

(10) Whoever abets any of the offences mentioned in sub-section (2), sub-section (3), sub-section (3A), sub-section (5), sub-section (6), sub-section (7), shall, is the act of offence is committed in consequence of the abatement, be punishable with the same punishment as provided for the offence.

(11) Any offence punishable under sub-section (1), sub-section (2), sub-section (3), sub-section (4), or sub-section (10), shall be cognizable and bailable while that punishable under sub-section (3A), sub-section (5), sub-section (6), sub-section (7), sub-section (8), or sub-section (9), shall be, cognizable and non-bailable.

(12) In any prosecution for an offence under this Act requires a culpable mental state on the part of accused, the court shall presume the existence of such culpable mental state until the contrary is proved.

Explanation I.— In this sub-section, "culpable mental state" includes intention, motive, knowledge of a fact, or belief in, or reason to believe, a fact.

Explanation II.— If any of the offences under sub-section (2), or clause (d) of sub-section (4) continues, such offence shall be deemed to be a continuing offence.

(13) No court shall take cognizance of any offence under this Act or the rules made there under except with the previous sanction of the Commissioner, and no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate shall try such offence.

(14) Notwithstanding anything contained elsewhere, in the Act, no prosecution for any offence enumerated hereinbefore shall be instituted in respect of the same fact for which a penalty has been imposed under any other provisions of the Act and subsequently paid by the dealer and no such penalty shall be imposed *vice versa*.

94. Special provision for liability to prosecution.— (1) Where an offence referred to in section 93 has been committed by a dealer, every person who, at the time the offence was committed, was in charge of, and was responsible to the dealer for the conduct of, the business of the dealer, as well as the dealer shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided under section 93, if he proves that such offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under section 93 has been committed by a dealer and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer, as the case may be, of the dealer, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

95. Compounding of offences.— (1) Subject to such conditions as may be prescribed, any person alleged to have committed an offence under clause (b), clause (c), clause (d), clause (e), clause (f) or clause (h) or clause (j) of sub-section (1), sub-section (2), sub-section (3), sub-section (3A), clause (c) or clause (d) of sub-section (4), sub-section (5), sub-section (6), sub-section (7), sub section (9), or sub-section (10), of section 93, or under any rules made under this Act, may, either before or after the commencement of any proceedings against him in respect of such offence, at his option, compound such offence, and the Commissioner may, at his discretion, accept from such person, by way of composition of such offence, such sum not exceeding five lakh rupees as may be determined by the Commissioner.

(2) On payment in full of the sum determined by the Commissioner under sub-section (1),—

(a) no proceedings shall be commenced against such person as aforesaid; and

- (b) if any proceedings have already been commenced against such person as aforesaid, such proceedings shall not be further proceeded with.

96. Penalty for concealment of sales, purchases, contractual transfer price or for furnishing of incorrect particulars of sales or purchases or contractual transfer price or claiming excess input tax credit or input tax rebate. --- (1) Where—

- (a) a dealer or casual dealer has concealed any sales or purchases or contractual transfer price, as the case may be, or any particulars thereof, or
- (b) a dealer, required to furnish return under sub-section (1) of section 32 has furnished incorrect statement of his turnover of sales or purchases or of contractual transfer price or incorrect particulars of such sales or purchases or contractual transfer price in the return furnished by him under sub-section (2) of that section or otherwise, or
- (c) any registered dealer has claimed excess amount of input tax credit or import tax rebate but has not reversed the same to the extent of his disentitlement,

with intent to reduce the amount of the net tax or any other tax payable by him, the Commissioner may, by way of a separate proceeding independent of any assessment, appeal, revision or review and after giving in the prescribed manner, such dealer a reasonable opportunity of being heard, by an order in writing direct that he shall, in addition to any tax levied or penalty imposed under this Act, pay, by way of penalty, a sum not exceeding twice the amount of tax which would have been avoided by him if such concealed sales or purchases or contractual transfer price or particulars thereof or incorrect statement of turnover of sales or purchases or contractual transfer price or incorrect particulars of such sales or purchases or contractual transfer price or claim of excess input tax credit or input tax rebate were not detected and taken into account or if turnover of sales or purchases or contractual transfer price or particulars of sales or purchases or contractual transfer price or input tax credit or input tax rebate furnished in returns or shown in his books of account were accepted as correct, as the case may be, in making an assessment or passing any order upon appeal, revision or review under the Act.

Explanation.— In this sub-section, the expression "tax levied" shall include the amount of tax determined afresh by an order passed upon appeal, revision or review, or by any order of assessment consequent upon such appeal, revision or review, under this Act.

(2) Any penalty imposed under sub-section (1) shall be paid by the dealer by such date as may be specified by the Commissioner in a notice issued for the purpose, and the date to be so specified shall not be less than fifteen days from the date of issue of such notice:

Provided that the Commissioner may, for reasons to be recorded in writing, extend the date of such payment or allow the dealer to pay the penalty imposed in such number of instalments as the Commissioner may determine.

CHAPTER XV

Miscellaneous

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

98. Returns etc. to be confidential.---(1) All particulars contained in any statement made, return furnished or accounts, registers or documents including those in the form of electronic records produced in accordance with this Act, or in any record of evidence given in the course of any proceedings under this Act, other than the 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 Government servant to produce before it any such statement, return, accounts, registers or documents including those in the form of electronic records, or record or any part thereof, or to give evidence before it in respect thereof.

(2) If, save as otherwise provided in sub-section (3), any Government servant discloses any of the particulars referred to in sub-section (1), he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine.

(3) Nothing in this section shall apply to any disclosure of any of the particulars referred to in sub-section (1)—

- (a) for the purposes of any prosecution under the Indian Penal Code(45 of 1860), the prevention of Corruption Act, 1988(49 of 1988), or this Act or any preliminary inquiry for ascertaining whether such prosecution lies,
- (b) in connection with any suit or proceeding in a civil court to which the State Government or any person appointed under this Act is a party and which relates to any matter arising out of any proceedings under this Act,
- (c) where it is necessary to make such disclosure for the purposes of this Act,
- (d) to an officer of Government for the purpose of enabling such Government to levy or realise any tax or duty imposed by it,
- (e) to an officer of Government for the audit of receipts and refunds of tax, penalty or interest under this Act,
- (f) in connection with an inquiry concerning allegations of corruption or official misconduct against any Government servant or for the purpose of taking disciplinary action against such Government servant,
- (g) in any inquiry into a charge of misconduct in connection with any proceeding under this Act against any legal practitioner, chartered accountant or other person entitled to appear on behalf of a dealer, casual dealer or any other person before the taxing authorities under this Act, to the authority competent to take disciplinary action against such legal practitioner,

chartered accountant or other person,

- (h) to any officer of the State Government to enable such officer to perform his executive functions relating to the affairs of the State,
- (i) to any person for purposes other than those referred to in clause (a), clause (b), clause (c), clause (d), clause (e), clause (g) and clause (h), if the State Government considers such disclosure necessary in the public interest.

99. Omitted.

100. Permit for exhibition -cum -sale.--- To ensure that there is no evasion of tax, every person intending to organise an exhibition-cum-sale of goods, shall obtain from the prescribed authority a permit in such form, and in such manner, as may be prescribed.

101. Penalty for organising exhibition –cum-sale in contravention of section 100.--- (1) Where any person contravenes the provision of section 100 by organising any exhibition-cum-sale without obtaining permit, the Commissioner, the Special Commissioner or the Additional Commissioner may, after giving such person an opportunity of being heard, imposed upon him the penalty not exceeding fifty thousand rupees.

(2) A penalty imposed under sub-section (1), shall be paid by the person upon whom it is imposed by such date as may be specified by the authority referred to in sub-section (1), in a notice to be issued for this purpose, and the date so specified shall not be earlier than fifteen days from the date of issue of such notice:

Provided that the authority may, for reasons to be recorded in writing, extend the date of payment of the penalty for such period, as he may think fit.

102. Determination of certain disputed questions.--- (1) If any question arises, otherwise than in a proceeding before a court or, Tribunal or before a notice initiating assessment proceeding under section 46, is served upon the registered dealer, whether—

- (a) any tax is at all payable in respect of any particular sale or purchase of goods, or if tax, is payable, the rate thereof ; or
- (b) any goods shall be treated as capital goods within the meaning of sub-section (6) of section 2 or not,

the Commissioner may, upon application, in prescribed manner and with prescribed fees, determine such question by an order passed in writing after giving such dealer an opportunity of being heard.

(2) If any question, referred to in sub-section (1), arises from any order passed under any other provision of this Act, such question shall not be determined under this section.

103 to 108. – Omitted

109. Bar to proceedings in civil court.--- (1) Save as provided in section 92, no assessment made and no order passed under this Act or the rules made there under by the Commissioner, the Special Commissioner, an Additional Commissioner, or any person appointed under sub-section (1) of section 6 to assist the Commissioner, and no order passed by the Appellate and Revisional Board under this Act or the rules made there under shall be called into question in any civil court, and save as provided in section 84, section 85, section 86 or section 87, no appeal or application for revision or review shall lie against such assessment or order.

(2) Save as provided in section 89, no order passed by Tax Recovery Officer under this Act or the rules in Schedule F and no order passed upon an appeal or from review or revision of, any order of the Tax Recovery Officer in accordance with the provisions of this Act and the rules in Schedule F shall be called into question in any civil court, and, save as provided in section 89, no appeal, review or revision shall lie against such order.

110. Manner of payment of tax, penalty, interest, etc.--- Where the manner of payment of any tax, penalty, late fee or interest, payable by a person, or any sum determined by the Commissioner in compounding any offence, under this Act, is not provided specifically elsewhere in this Act, such tax, penalty, interest or sum shall be paid into an appropriate Government Treasury in the prescribed manner.

111. Power of Commissioner to collect statistics from dealers.--- If the Commissioner considers that for the purpose of better administration of this Act, it is necessary to collect statistics relating to any matter dealt with by or under this Act, he may, by notification, call upon dealers or such class or classes of dealers as may be specified in the notification, to furnish such information relating to any matter in respect of which it is necessary to collect statistics, in such form, containing such particulars, to such authorities, and at such intervals, as may be specified in the notification.

112. Power of State Government to prescribe rates of fees. --- (1) Fees payable upon a memorandum of appeal or application for review or revision, or upon any other miscellaneous application or petition, other than an application referred to in sub-section (1) of section 92, for relief shall be such, as may be prescribed:

Provided that any fee prescribed under this section shall not exceed one thousand rupees.

(2) The fee as aforesaid shall be paid in court-fee stamp to be affixed or a receipt showing payment in such manner as may be prescribed, to be annexed to the memorandum of appeal, application for review or revision or other miscellaneous application or petition, as the case may be, referred to in sub-section (1).

113. Power of State Government to engage any person, firm or company to collect certain information.--- The State Government may, for the purpose of collection of information regarding existence of warehouse of dealers, or transporter, carrier or transporting agent, where goods are stored by them and the nature, quantity or value of such goods stored in such warehouse, engage the services of any person, firm or company to perform such work on such terms and conditions, as may be prescribed.

114. Power of State Government to make rules.--- (1) The State Government may, by notification, make rules, with prospective or retrospective effect, for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters which under any provision of this Act are required to be prescribed, or to be provided for, by rules.

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

115. Saving in relation to sales outside West Bengal, inter-State sales, and sales in the course of import or export.--- Nothing in this Act shall be construed to impose, or authorise the imposition of, tax on the sale or purchase of goods or on the execution of works contract where such sale or purchase or execution of works contract takes place—

- (a) outside West Bengal;
- (b) in the course of import of the goods into, or export of the goods out of, the territory of India;
- (c) in the course of inter-State trade or commerce.

116. Payment of tax in respect of industrial units enjoying Deferment, Remission and Tax Holiday.--

(1) Notwithstanding anything contained in sub-section (2) of section 32, or sub-section (2) of section 45, or clause (b) of sub-section (3) of section 46 but subject to sub-section (2) of this section and section 118, the Commissioner may, in the prescribed manner and subject to such restrictions and conditions as may be prescribed, permit the output tax payable under this Act by a registered dealer or a class or classes of dealers, as may be prescribed, according to his returns referred to in sub-section (1) of section 32 or the tax payable by him according to the notice issued under sub-section (2) of section 45, or clause (b) of sub-section (4) of section 46,—

- (a) to be deferred in the prescribed manner and under such restrictions and conditions as may be prescribed where such registered dealer is entitled to continue to enjoy such deferment under clause (a) of sub-section (1) of section 118; or
- (b) to be exempt in the prescribed manner and under such restrictions and conditions as may be prescribed where such registered dealer is entitled to continue to enjoy such exemption under clause (b) of sub-section (1) of section 118; or
- (c) to be remitted in the prescribed manner and under such restrictions and conditions as may be prescribed where such registered dealer is entitled to continue to enjoy such remission under clause (a) of sub-section (1) of section 118.

(2) Where the State Government considers it necessary so to do in the public interest, it may, after due consideration of certain factors as may be prescribed, relax the ceiling to such extent as may be

prescribed.

117. Penalty for contravention or misuse of provisions of section 116.--- Where a dealer has contravened any of the provisions of section 116 or rules made there under or furnishes incorrect or fabricated statements or forged documents with the intention to deceive the Government, the Commissioner shall, after giving such dealer a reasonable opportunity of being heard, impose upon him a penalty, in the manner prescribed, a sum not exceeding one hundred *per centum* of such tax which would have been payable by such dealer had he not been granted such deferment or exemption or remission of tax.

118. Measures for registered dealer holding eligibility certificate under West Bengal Sales Tax Act, 1994.--- (1) Notwithstanding anything contained elsewhere in this Act,—

- (a) where a registered dealer has been enjoying, or has been entitled to enjoy, the benefit of deferment of tax under section 40, section 42 or section 43, as the case may be, of the West Bengal Sales Tax Act, 1994 (West Ben. Act XLIX of 1994), for a specified period or for a specified amount determined with respect to gross value of the fixed capital assets, and who would have continued to be so eligible on such appointed day under that Act had this Act not come into force, may be allowed deferment of payment of output tax payable by him under this Act by the Commissioner, for the balance un-expired period or the balance eligible amount, as the case may be, with respect to gross value of the fixed capital assets, whichever expires earlier;
- (b) where a registered dealer was enjoying benefit of tax holiday under section 39 of the West Bengal Sales Tax Act, 1994, for a specified period, immediately before the appointed day and who would have continued to be so eligible on such appointed day under that Act had this Act not come into force, may be allowed such tax holiday by way of exemption of output tax payable by him under this Act by the Commissioner for the balance unexpired period or until the aggregate of the benefit of exemption from payment of tax enjoyed by such dealer under section 39 of the West Bengal Sales Tax Act, 1994, computed from the first day of April, 2003, exceeds the limit of two hundred *per centum* of gross value of the fixed capital assets, whichever expires earlier, in such manner and subject to such terms and conditions as may be prescribed;
- (c) where a registered dealer has been enjoying, or has been entitled to enjoy, the benefit of remission of tax under section 41 of the West Bengal Sales Tax Act, 1994, for a specified period or for a specified amount determined with respect to gross value of the fixed capital assets, and who would have continued to be so eligible on such appointed day under that Act, had this Act not come into force, may be allowed remission of tax under this Act by the Commissioner, for the balance unexpired period or balance eligible amount with respect to gross value of fixed capital assets, whichever expires earlier, in such manner and subject to such terms and conditions as may be prescribed.

(2) For the purposes of clause (a), clause (b) or clause (c), a complete British Calendar month shall be considered, wherever a part of a month is involved.

(3) *omitted.*

118A. Amendment of eligibility certificate.--- (1) Where any registered dealer referred to in sub-clause (a), or sub-clause (b), or sub-clause (c), of sub-section (1) of section 118—

- (a) effects any change in the ownership of the business; or
- (b) sells or otherwise disposes of the industrial unit in respect of which he has been granted the certificate of eligibility; or
- (c) effects any change in the name of his business or class or classes of goods specified in his certificate of eligibility; or.
- (d) effects any change in the capacity of production of the industrial unit for which he has been granted the certificate of eligibility; or
- (e) effects any change in the gross value of fixed capital assets of the industrial unit for which he has been granted the certificate of eligibility; or
- (f) effects any change in the location of the industrial unit for which he has been granted the certificate of eligibility; or
- (g) installs pollution control equipment in the industrial unit,

he shall, within such period, in such manner and subject to such restrictions and conditions, as may be prescribed, inform the prescribed authority accordingly and the prescribed authority may amend the certificate of eligibility in accordance with the information furnished to him.

(2) A registered dealer shall not be eligible for the benefit referred to in sub-clause (a), or sub-clause (b), or sub-clause (c), of sub-section (1) of section 118, if such dealer contravenes any of the provisions of sub-section (1).

119. Amendment of eligibility certificate.--- Notwithstanding anything contained elsewhere in this Act,—

- (a) all forms of waybill under the West Bengal Sales Tax Act, 1994 or the rules made there under and continuing in force on the day immediately before the appointed day, shall, with effect from such appointed day, continue in force and shall be used *mutatis mutandis* for the purposes for which they were being used before such appointed day until the State Government directs, by notification, the discontinuance of the use of such forms till such time as the State Government may, by notification, specify in this behalf;
- (b) all rules, regulations, notifications or orders made or issued under the West Bengal Sales Tax Act, 1994 (West Ben. Act XLIX of 1994), and continuing in force on the day immediately before the appointed day shall continue to be in force on or after such appointed day in so far as they are not inconsistent with the provisions of this Act or the rules made there under until they are repealed or amended;
- (c) any waybill obtained or obtainable by a dealer from any prescribed authority or any

declaration furnished or to be furnished by or to a dealer under any of the Acts so repealed or the rules made there under in respect of any sale of goods before the appointed day shall be valid where such waybill is obtained or such declaration is furnished on or after such appointed day;

(d) any waybill endorsed or any order passed before the appointed day under the West Bengal Sales Tax Act, 1994(West Ben. Act XLIX of 1994), or the rules made there under for the transport of any consignment of goods specified in Schedule IV or notified goods into West Bengal or outside West Bengal and continuing to be valid on the day immediately before the appointed day shall continue to be valid on or after such appointed day for the purposes as aforesaid unless the periods of validity of such waybill or order otherwise expires;

(e) any application for waybill for transport of goods into West Bengal, pending on the day immediately before the appointed day, shall be deemed to have been made under this Act and shall be disposed of in accordance with the provisions of this Act.

(f) Notwithstanding anything contained elsewhere in this Act and the West Bengal Sales Tax Act, 1994(West Ben. Act XLIX of 1994), where a dealer registered under the West Bengal Sales Tax Act, 1994(West Ben. Act XLIX of 1994), is in possession of a certificate of registration there under on the day immediately before the appointed day and who is deemed to have been registered under sub-section (3) of section 23 of this Act, such certificate of registration shall be deemed to have been granted under this Act and shall continue to have effect till new registration certificate is issued under this Act, unless cancelled otherwise before such time as aforesaid, or within such time as the State Government prescribes by notification.

120. Option to make payment of deferred tax at discounted rate.--- Notwithstanding anything contained elsewhere in this Act, dealers eligible for deferment of tax in accordance with clause (a) of sub-section (1) of section 118, shall have an option to make payment within the financial year, of tax deferred during the preceding year, on the basis of a discount formula, in such manner as may be prescribed.

121. West Bengal Sales Tax Act, 1994 not to apply on commodities governed by the West Bengal Value Added Tax Act, 2003.--- (1) Nothing in the West Bengal Sales Tax Act, 1994, shall apply in relation to the goods which are governed by the West Bengal Value Added Tax Act, 2003, on and from the appointed day.

(2) Notwithstanding anything contained elsewhere in this Act, the provisions of this Act shall not –

(a) affect any right, privilege, obligation or liability acquired, accrued or incurred under the West Bengal Sales Tax Act, 1994; or

(b) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against, or in respect of any contravention of any provision of the West Bengal Sales Tax Act, 1994; or

(c) affect any investigation, legal proceeding or remedy, in respect of any such privilege, obligation or liability, penalty, forfeiture or punishment as aforesaid and any such

investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such forfeiture may be made and penalty or punishment may be imposed,

in respect of any transaction effected before the appointed day or in respect of any action relating to such transaction.

122. Power to remove difficulties.---If any difficulty arises in giving effect to any of the provisions of this Act, the State Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such orders shall be made after the expiry of a period of two years from the appointed day.

123. Amendment of West Ben. Act XLIX of 1994.--- The West Bengal Sales Tax Act, 1994, shall be amended in the manner specified in the Schedule E to this Act.

SCHEDULES

SCHEDULES UNDER THE WEST BENGAL VALUE ADDED TAX ACT, 2003.

(AS ON 01.07.2014)

SCHEDULE A

[See section 21]

Goods on sale of which no tax is payable

Serial No.	Description of goods.	Conditions and Exceptions
(1)	(2)	(3)
1.	Agricultural implements manually operated or animal driven.	
2.	Aids and implements ^{1A} [used by handicapped persons including cervical spinal collar, walking stick, wheel chair and hearing aid]	
^{12A}	Alluric Acid.	
²³	Aquatic feed, poultry feed and cattle feed including grass, hay, straw, husk of pulses, de-oiled cake, ³ [de-oiled rice bran, ^{3a} rice bran]wheat bran and supplements, concentrates and additives of such feed.	
^{43A} .	[Bangles made of any kind of materials, except those made of materials mentioned in column (2) against serial No.2 of Schedule B and those mentioned in the entry in column(2) against serial No.8A of Part I of Schedule C].	

53B.	Bed sheets, pillow covers, bed-spreads, bed-covers, towels, napkins, table-cloth, duster, handkerchief, <i>sataranchi</i> and blankets.	
5A3C.	Balloon.	
4.	Betel leaves.	
64A	Bio-fertilisers and micronutrients, plant growth promoters and regulators.	
75.	Books, periodicals and journals excluding those specified elsewhere in this Schedule or any other Schedule, but including Braille books, maps, charts and globes.	
5A.	Bread except pizza bread containing any type of fruit or vegetable.	
5B.	Bullock cart.	
5C.	<i>Chakla</i> and <i>belan</i> , <i>dal</i> -stirrer.	
7A5D	<i>Camphor</i>	
86.	<i>Charkha</i> , <i>Ambar Charkha</i> ; <i>Gandhi Topi</i> and handlooms and handloom fabrics, when they are manufactured or made in India.	
7.	Charcoal.	
8.	Coarse grains other than paddy, rice and wheat.	
8A.	Coconut fibre.	
98B	Conch shell and conch shell products.	
9.	Condoms and contraceptives.	
10.	Cotton and silk yarn in hank.	
1011.	Curd, <i>Lussi</i> , butter milk, separated milk and <i>chhana</i> .	
11A.	Duty Entitlement Pass Book (D.E.P.B).	
10a11B.	Dried flowers and other parts of dried plants, other than those specified elsewhere in this schedule or in any other schedule	
12.	Earthen pot but not including ceramic pot.	
1112A.	Elastic fabric tape.	
13.	Electrical energy.	

¹² 14.	Firewood excluding casurina and eucalyptus timber.	
^{12a} 14A	Fuel made from solid waste procured from any local self government or from any person on its behalf.	
¹³ 15.	Fishnet, fishnet fabrics, fishing hook and seeds of fish, prawn and shrimp.	
16.	Fresh milk and aseptized milk.	
17.	Fresh plants, saplings and fresh flowers.	
18.	Fresh vegetables & fruits.	
19.	Fresh garlic and ginger	
¹⁴ 19A	Glass chimney, hurricane lantern, and kerosene lamp and accessories and components thereof.	
¹⁵ 20.	<i>Gur</i> , jaggery and <i>rub gur</i> .	
¹⁶ 20A.	Goods, except kerosene oil, sold through Public Distribution System (PDS).	
¹⁷ 20B	<p>(i) Garments, goods and made-ups of <i>Khaddar</i> or <i>khadi</i> as defined in the West Bengal <i>Khadi</i> and Village Industries Board Act, 1959 (West Ben. Act XIV of 1959), manufactured in a <i>khadi</i> production unit approved or certified by the <i>Khadi</i> and Village Industries Commission established under the <i>Khadi</i> and Village Industries Commission Act, 1956 (61 of 1956).</p> <p>¹⁸(ii) Products like pit loom, frame loom, paddle driven semi-automatic loom, warping drum and bobbin, used in production of <i>khaddar</i> or <i>khadi</i> as defined in the West Bengal <i>Khadi</i> and Village Industries Board Act, 1959 (West Ben. Act XIV of 1959).</p> <p>¹⁹(iii) Readymade garments of value, whether printed or otherwise, not exceeding rupees fifty per piece, when sold from a Hat.</p>	
²⁰ 20C.	Handicrafts including jessore <i>cheruni</i> , household articles made of brass and bell metal, paintings, articles made of bamboo and cane.	
²¹ 20D.	Hosiery yarn.	
^{21A} 20E.	Human Hair.	
²² 21.	Human blood and all its components.	

21A.	Idols, toy and doll made of clay.	
²³ 21B	Incense sticks commonly known as <i>agarbati</i> , <i>dhupkathi</i> , <i>dhupbati</i> and <i>havan samagri</i> including <i>sombrani</i> and <i>lobhana</i> .	
²⁴ 22.	Handmade musical instruments, that is to say – (i) Tabla, khol, dhol, pakhwaj, mridanga, dhak, madal and dugdugi; (ii) Flute,; (iia) ^{24A} harmonium; (iii) Jaltaranga; and (iv) Ghungru.	
22A	Indigenous handmade nuggets, commonly known as <i>bori</i> .	
22B.	Indigenous handmade soap.	
22BA	Kerosene oil when sold through Public Distribution System(PDS)(w.e.f.01.09.2010)	
22C.	Kite *[and kite sticks].	
23.	<i>Kumkum</i> , <i>bindi</i> , <i>alta</i> and <i>sindur</i> .	
²⁵ 23A.	<i>Lac and shellac</i> .	
^{25A} 23AA	Liquified petroleum gas commonly known as LPG, for domestic use.	
23B.	<i>Mat</i> locally known as <i>madur</i> made wholly or principally of <i>Cyperus Corymbosus</i> known locally as <i>gola methi</i> , <i>madhur kathi</i> , <i>mutha</i> , or <i>Cyperus Malaccensis</i> known locally as ²⁶ <i>Chimati pati</i> , other than <i>mat made wholly of plastic</i> .]	
23C.	Matsticks and reed obtainable from <i>Cyperus Corymbosus</i> known locally as <i>gola methi</i> , <i>madhur kathi</i> , <i>mutha</i> , or <i>Cyperus Malaccensis</i> known locally as <i>Chimati pati</i> .	
24.	Meat, fish, prawn, and other aquatic products when not cured, or frozen, and dry fish commonly known as <i>sutki mach</i> ; eggs and livestock and animal hair.	
^{26a} 24A.	Strings for musical instruments.	
25.	National flag.	
25A.	Newspaper.	
²⁷ 25B.	Oil cake.	
26.	Organic manure.	

27.	Paddy, rice, wheat, pulses, flour, <i>atta</i> , <i>maida</i> , <i>suji</i> , <i>besan</i> ²⁸ [and <i>sattu</i>] .	
27A.	Puffed rice, commonly known as <i>Muri</i> , flattened or beaten rice, commonly known as <i>Chira</i> , parched rice, commonly known as <i>Khoi</i> , parched paddy or rice coated with sugar or <i>gur</i> , commonly known as <i>Murki</i> .	
²⁹ 27B.	<i>Papad</i> commonly known as <i>papar</i> .	
28.	Non-judicial stamp paper sold by Government Treasuries; postal items like envelope, postcard etc. sold by Government; rupee note, when sold to the Reserve Bank of India and cheques, loose or in book form but does not include first day cover, folder.	
29	<i>Rakhi</i> .	
30	Raw jute.	
31.	Raw wool.	
31A.	<i>Sabai</i> grass and articles made thereof.	
32.	<i>Sago</i> and Tapioca globules.	
32A.	Salt.	
32B.	Salted cooked food made wholly or principally of flour, <i>atta</i> , <i>suji</i> or <i>besan</i> , that is to say, <i>singara</i> , <i>Nimki</i> , <i>kachuri</i> , <i>khasta kachuri</i> , <i>luchi</i> , <i>radhaballavi</i> , and <i>dalpuri</i> .	
33.	Semen including frozen semen.	
34.	Silk worm laying, ^{29A} [cocoon and raw silk made or manufactured in India]	
35.	Slate and slate pencils.	
³⁰ 35A.	Sugar manufactured or made in India, <i>misri</i> and <i>batasa</i> .	
³¹ 35B.	Seeds of all varieties other than those specified elsewhere in this Schedule or in any other Schedule.	
³² 35C.	Sponge-wood commonly known as <i>sola</i> ^{32A} [or <i>solapith</i> , and articles made thereof]	
36.	Sweetmeat other than cake and pastry but including curd ³³ [and <i>khoa</i>]	
37.	Tender green coconut commonly known as <i>daab</i> .	

37A.	(i)Textile fabrics made wholly or partly of cotton, rayon, flax, ³⁴ [Silk, artificial silk] or wool manufactured or made in India, other than those specified elsewhere in any other Schedule. ^{34A} {(ii)Cotton textile fabrics, coated, covered, impregnated or laminated with plastics, mosquito net fabrics, and mosquito nets commonly known as mashari, when such fabrics are manufactured or made in India.}	
³⁵ 37B.	Biris, and unmanufactured tobacco including unmanufactured tobacco not stemmed, or partly or wholly stemmed or stripped,for manufacture of biris,specified under heading 2401 of the Central Excise Tariff Act,1985 Explanation: The expression ‘tobacco’ means any form of tobacco,whether cured or uncured and whether manufactured or not,and includes the leaf,stalks and stems of the tobacco plant, but does not include any part of a tobacco plant while still attached to the earth.	
38.	Toddy, <i>Neera</i> and <i>Arak</i> .	
39.	Unprocessed green leaves of tea.	
^{35A} [39A	Unstitched salwar suits.]	
40.	Tile frame and brick frame.	
41.	Water other than— (i) aerated, mineral, distilled, medicinal, ionic, battery, de-mineralised water, and (ii) water sold in sealed container. Zari and embroidery items, namely – imi, zari, kasab, salma, dabka, chumki, gota, sitara, naqsi, kora, glass bead, badla and gizai.	
³⁶ 42		

1. Ins w.e.f 1.8.06.

1A.Subs. for “used by handicapped persons” w.e.f.1.9.2011.

2. Subs for “Aquatic feed, poultry feed and cattle feed including grass, hay and straw but not including aquatic, poultry and cattle feed supplements, additives etc “w.e.f 1.5.05.

3. Ins w.e.f. 1.4.07.

3a Ins w.e.f. 1.3.10

4. Subs. for “Bangles made of any kind of materials except those made of gold, silver and

platinum.” w.e.f. 1.9.2011.

5. Ins w.e.f. 1.8.06.

5A. Ins w.e.f. 01.04.2012.

6. Ins w.e.f. 1.4.07.

7. Subs for “Books, periodicals and journals but not including exercise books, drawing books, graph books, account books, laboratory books, diaries, letter pads” w.e.f. 1.5.05.

7A. *Inserted* w.e.f. 1.4.2008

8. Subs for “*Charkha, Ambar Charkha*; handlooms and handloom fabrics and *Gandhi Topi*” w.e.f. 1.8.06.

9. Ins w.e.f. 1.5.05.

10. Subs for “Curd, *Lussi*, butter milk and separated milk “w.e.f. 1.2.06.

10a. Ins w.e.f. 1.4.10.

11. Ins w.e.f. 1.2.06.

12. Subs for “firewood” w.e.f. 1.5.05.

12a. Ins w.e.f. 1.4.10.

13. Subs for “Fishnet and fishnet fabrics” w.e.f. 1.5.05.

14. Ins w.e.f. 1.4.07.

15. Subs for” glass bangles “w.e.f. 1.5.05.

16. Ins w.e.f. 1.5.05.

17. Ins. w.e.f. 1.5.05.

18. Ins. w.e.f. 1.4.05.

19. Ins. w.e.f. 1.4.07.

20. Subs. for” Handicrafts including jessore *cheruni*, household articles made of brass and bell metal “w.e.f. 1.8.06.

21. Ins w.e.f. 1.5.05.

21A. Ins w.e.f. 01.04.05.

22. Subs for “blood plasma” w.e.f. 1.5.05.

23. Ins w.e.f. 1.8.06.

24. Subs for “Indigenous handmade musical instruments “w.e.f. 1.4.07.

24A. Ins. W.e.f. 1.4.2008

25. “Lac and shellac” was first omitted w.e.f. 1.8.06 and inserted thereafter w.e.f 1.8.06 retrospectively.

25A. Ins w.e.f. 25.06.11.

26. Subs. for “chimati pati “w.e.f 1.4.07.

26a. Ins w.e.f. 1.4.10.

27. Ins w.e.f. 1.8.06.

28. ins w.e.f. 1.5.05.

29. Ins w.e.f. 1.5.05.

29A. Subs. for “cocoon and raw silk” w.e.f. 1.9.11.

30. Subs for “Sugar manufactured or made in India and *khandasari* w.e.f. 1.5.05.

31.Subs for Seeds of all varieties other than those specified elsewhere in any other Schedule” w.e.f. 1.5.05.

32.Ins w.e.f.1.5.05.

32A.Subs. for “or soap” w.e.f. 1.9.11.

33.Ins w.e.f. 1.5.05.

34.Subs for “artificial silk” w.e.f. 1.11.06.

34A. Subs. for “(ii) Cotton textile fabrics, coated, covered, impregnated or laminated with plastics, mosquito net fabrics, and mosquito nets commonly known as mashari, when such fabrics are manufactured or made in India, mosquito net fabrics and mosquito net, commonly known as moshari)” w.e.f.1.9.11.

35.Subs for “Tobacco, as referred to in the First Schedule to the Central Excise and Salt Act, 1944, including cigarette, cigar, cheroot, smoking mixture for pipe and cigarette, *biri*, chewing tobacco, snuff and tobacco for hookah, that is to say, tobacco paste, ready for use in *hookah*, when all such items are manufactured or made in India.”w.e.f.1.4.07.

Substituted for “Biri, and raw and unprocessed tobacco leaves” w.e.f 1.4.10

36. Ins w.e.f. 1.4.07.

35A.Ins. w.e.f. 1.9.11.

* Ins. w.e.f. 1.4.13.

SCHEDULE UNDER THE WEST BENGAL VALUE ADDED TAX ACT, 2003.

(AS ON 01.07.2014)

SCHEDULE AA

[See sub-section (1) of section 21A]

List of goods which shall be zero-rated

Serial No.	Sale of goods
(1)	(2)
1.	Between dealers located in Special Economic Zone(SEZ)
2.	Between dealers whose units are referred to as Export Oriented Units (EOU).
3.	Between dealers referred to in serial No. 1 and serial No. 2 above.
4.	By a dealer, to a dealer located in a Special Economic Zone (SEZ)

SCHEDULE UNDER THE WEST BENGAL VALUE ADDED TAX ACT, 2003.

(AS ON 01.07.2014)

SCHEDULE B

[See clause (a) of sub-section (2) of section 16]

List of goods taxable at a rate of 1%

Serial No.	Description of goods	Conditions and Exceptions
(1)	(2)	(3)
1.	Bullion that is to say, gold, silver and platinum in mass and uncoined, pure or alloy.	
2.	Gold, silver and platinum ornaments, whether set with stone or other materials or not, including gold, silver and platinum filigree and other gold, silver and platinum articles.	
3.	Precious stones including semi-precious stones and pearls – real, artificial or cultured.	
4.	Rhodium.	

5.	Tea sold under the auspices of any tea auction centre in West Bengal duly authorized by the Indian Tea Board.		
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SCHEDULE UNDER THE WEST BENGAL VALUE ADDED TAX ACT, 2003.

(AS ON 01.07.2014)

SCHEDULE C

[See clause (b) of sub-section (2) of section 16]

List of goods taxable at 5%

Part-I

Serial No.	Description of goods	Conditions and Exceptions
(1)	(2)	(3)
1.	Agricultural implements not operated manually or not driven by animal and spare parts, accessories and components thereof.	
2.	Aluminium in all its forms, namely, aluminium ingots, slabs, bars, rods, wires, coils, sheets, plates, circles, sections, channels, angels, joists, extrusions, including aluminium scraps and aluminium foils.	
3.	All equipments for communications such as, Private Branch Exchange (P.B.X) and Electronic Private Automatic Branch Exchange (E.P.A.B.X) etc. and spare parts, components and accessories thereof.	
4.	All intangible goods like copyright, patent and replenishment (REP) licence, other than those specified elsewhere in this Schedule or any other Schedule.	
5.	All kinds of bricks including brickbats, <i>jhama</i> , fly ash bricks, refractory bricks and asphaltic roofing earthen tiles, ¹ [and refractory monolithic and fly ash.]	
² 5A.	All types of toys except those specified elsewhere in this Schedule or any other Schedule, and excluding	

		electronic toys.	
	³⁵ B.	All Kinds of rope	
	⁴⁶ .	All types of yarn including jute yarn and jute twine but excluding cotton and silk yarn in hank and sewing thread.	
	⁵⁷ .	All utensils including pressure cookers and pans excepting utensils made of precious metals.	
	7A.	Aluminium conductor steel reinforced (ACSR) ⁶ [,all aluminium conductor (AAC) and all aluminium alloy conductor (AAAC).]	
	8.	Arecanut powder and betel nut.	
	8A.	Articles made of rolled gold and imitation gold and ⁷ [all types of imitation jewellery including costume jewellery or fashion jewellery].	
	⁹ 8AA.	Asphalt felt, roofing felt, water-proof felt, polymeric felt and plastic felt.	
	⁸ 8B.	Ashes	
	9.	Bamboo including split bamboo, *() and cut bamboo, ¹⁰ [and cane.]	
	9A.	Bagasse.	
	¹¹ 9AA.	Bakery shortening ^{11A} and yeast.	
	9B.	Basic chromium sulphate, sodium bi-carbonate and Bleach liquid.	
	¹² 9C.	Barley.	
	¹² 9D.	Battery lead plate, lead ash and separator for storage battery.	
	10.	Bearing including plummer blocks, housing for bearing, locate rings and covers, adopter withdrawal sleeves, lock nut, lock washers, clamps, ^{12a} casing of bearing and rolling elements.	

¹³ 10A.	Omitted	
11.	Beedi leaves.	
12.	Beltings of all varieties and descriptions.	
13.	Bicycles, tricycles and cycle rickshaws, and spare parts, accessories and ¹⁴ [components including tyres and tubes thereof].	
13A.	Biomass briquettes.	
¹⁵ 13B.	Battery operated vehicle as defined in clause (u) of rule 2 of Central Motor Vehicles Rules, 1989	
^{15A} 13C	Biscuit other than biscuit manufactured in a factory as defined in the Factories Act, 1948(63 of 1948)	
14.	Bitumen.	
14A.	Boiler, furnace and parts thereof.	
¹⁶ 14B	Bleaching powder.	
.		
¹⁷ 14C	Spare parts including blades, guards, sharks, arms and shafts of an electric fan.	
^{17a} 14D	Board made from bagasse.	
15.	Bone meal	
¹⁸ 16.	Buckets made of iron and steel, aluminium, plastic or other materials, except those made of precious materials.	
17.	Bulk drugs.	
¹⁸ 17A.	Candles.	
¹⁶ 17B.	Buttons.	
¹⁹ 18.	Capital goods as ²⁰ notified under item (i) of clause (b) of sub-section (2) of section 16.	

19.	Cast iron Castings other than those specified elsewhere in this schedule or in any other schedule.	
19A.	Castor oil.	
19B.	Caustic soda, caustic potash and soda ash.	
20.	Motor, operated electrically or otherwise and centrifugal and monobloc and submersible pumps and spare parts, components and accessories thereof.	
²¹ 21.	Omitted.	
22.	Chemical fertilizers including basic slag, pesticides, weedicides, insecticides, germicides, fungicides and herbicides, other than bleaching powder.	
22A.	Clay including fireclay ²² [fine china clay and ball clay.]	
22B.	Coal tar.	
22C.	Coffee beans, cocoa pod, and chicory.	
23.	Coir and coir products excluding coir mattresses.	
23A.	²³ [Omitted.] ^{23A} [<i>Chanachur, bhujia, dalmoot</i> , fried potato chips and salted peanuts].	
²⁴ 23B.	^{24A} [Omitted]Brace and/or those, hand splint, fracture brace and colostomy including face plate and wafer, dialysis bag, urobag, water seal drainage bag.	
²⁴ 23C.	Cinchona alkaloids and their salts.	
24.	Cotton and cotton waste.	
²⁵ 24A.	Combs excluding jessore <i>cheruni</i> .	
²⁵ 24B.	^{25A} [Cups ,plates and glasses of paper and plastic].	
25.	Crucibles.	
²⁶ 25A.	Drugs and medicines, whether patent or proprietary, including vaccines, disposable hypodermic syringes, hypodermic needles, catguts,	

		sutures, surgical dressings, medicated ointments produced under the licence issued under the Drugs and Cosmetics Act, 1940(23 of 1940) ²⁷ [, and including <i>Isabgul</i> .]	
²⁸ 25AA		Medical Diagnostic Kits.	
²⁹ 25AB		Digestive preparations, commonly known as aam pachak, amla pachak, ajawan pachak, and jal jeera.	
³⁰ 25B.		Dry fruits .	
³¹ 26.		³² [Edible oils other than coconut oil.]	
27.		Electrodes, ³⁴ [electrical insulators.]	
³⁵ 27A.		Embroidery making machine, whether computerized or not.	
28.		Exercise book, drawing book, graph book, account book and laboratory note book.	
29.		Fibres of all types and fibre waste.	
^{35a} 29A		Flush doors of wood.	
³⁶ 30.		Feeding bottles and nipples.	
30A.		Fried grams and roasted grams.	
³⁷ 30B.		Furnace oil.	
^{37A} 30C.		Foot wears, other than those specified elsewhere in this schedule, the maximum retail price of per pair of which does not exceed rupees seven hundred and fifty.	
^{37B} 30D.		Gas stove including LPG stove the maximum retail price of which does not exceed rupees one thousand.	
³⁸ 31.		<i>Ghee</i> .	

³⁹ 31A.	Omitted.	
32.	Goods as specified in section 14 of the Central Sales Tax Act, 1956.(74 of 1956).	
⁴⁰ 33.	Goods, such as components, accessories and spare parts of firearms, weapons and ammunitions, sold to the Ordnance Factories, Government of India.	
33A.	Gypsum of all forms and descriptions ⁴¹ [but excluding gypsum board and plaster of Paris.]	
⁴² 33B.	Gums and adhesives.	
34.	^{42A} [Hand pump ,and its parts and fittings.]	
^{42B} 34A.	Hair bands and hair clips.	
35.	Herb, bark, dry plant, dry root, commonly known as <i>Jari booti</i> [and dry flower omitted w.e.f.1.4.2010].	
35A.	Hollow polyester fibre.	
⁴³ 35B.	Honey.	
36.	Hose pipes of all varieties and descriptions including their end fittings.	
37.	Hosiery goods of all varieties and descriptions.	
⁴⁴ 37A.	⁴⁵ [Petromax and accessories and components thereof and gas mantles.]	
⁴⁶ 38.	Husk of cereals, and bran of cereals other than wheat bran ^{46a} [and rice bran].	
39.	Ice.	
⁴⁷ 40.	Omitted	
41.	Industrial cables ⁴⁸ (High Voltage Cables for voltage exceeding 1000 volt, XLPE cables, PVC cables, jelly filled cables, optical fibres). Industrial L.P.G.	

4941A		
42.	IT products as specified in Part-II of this schedule.	
42A.	Jute batching oil.	
43.	Omitted w.e.f. 01.09.2010.	
43A.	Knitting wool.	
⁵⁰ 43B.	<i>Kattha.</i>	
^{50A} 43BB.	Kerosene stove	
⁵⁰ 43C.	<i>Khandsari.</i>	
⁵¹ 43D.	Omitted.	
44.	Leaf plates and cups.	
44A.	Lignite.	
⁵² 44B.	Lime, limestone and dolomite.	
⁵³ 44C.	Linear Alkyl Benzene (L. A. B.), Sulphonate acid, Alfa Olefin Sulphonate.	
⁵⁴ 45.	Lifesaving diving equipments.	
⁵⁵ 45A	Lozenges	
⁵⁶ 46.	Metal labels and metal stickers.	
46A.	Maize starch, glucose, maize gluten, maize germ and oil.	
46B.	Mixed PVC stabiliser.	
⁵⁵ 46C	Mat locally known as madur made wholly of plastic.	
47	Industrial inputs and packing materials as specified in Part – III of this Schedule.	
⁵⁰ 48.	Medical equipments, devices and implants.	
^{50B} 48A	[Mosquito net fabrics other than those manufactured or made in India, and mosquito net commonly known as mashari other than those	

	manufactured or made in India.]	
⁵⁷ 49.	<i>Napa</i> slabs and <i>Shahabad</i> stones.	
49A.	Naptha.	
50.	Newars.	
51.	Non-ferrous metals and alloys of ferrous and non-ferrous metals ⁵⁸ [,ferrous and non-ferrous metal castings.]	
⁵⁰ 51A.	^{50C} [Nuts, bolts, washer], screws and fasteners.	
52.	Ores and minerals other than those specified elsewhere in this Schedule.	
⁵⁹ 52A.	Oscilloscopes, spectrum analysers and other instruments and apparatus for measuring or checking electrical quantities, for measuring or detecting <i>alpha</i> , <i>beta</i> , <i>gamma</i> , X-ray, cosmic or other ionizing radiations .	
53.	Paper, coated paper, carbon paper, paperboard, paper used for computer printing and newsprint.	
53A.	Paraffin wax of all grade standards other than food grade standard including standard wax and slack wax.	
^{59a} 53AA	Particle board and similar board of wood or other ligneous materials, whether or not agglomerated with rasins or other binding substances.	
54.	Pipes of all varieties including G.I. pipes, C.I. pipes, ductile pipes and PVC pipes, ⁶⁰ [and fittings thereof.]	
54A	<i>Pizza</i> -bread, bun or bread containing any type of fruit or vegetable.	
54B	^{60B} [Machinery, excluding generator of all types and diesel engine pump set], that is to say,— (i) Machinery for tea industry; (ii) Machinery for food and food processing industries including flour mill; (iii) Machinery for sugar mill; (iv) Machinery for beverages, tobacco and	

		<p>tobacco products industries;</p> <p>(v) Machinery for jute, hemp, mesta textiles industries;</p> <p>(vi) Machinery for textile industries including hosiery other than jute;</p> <p>(vii) Machinery for engineering industries;</p> <p>(viii) Machinery for print industry;</p> <p>(ix) Machinery for furniture and wood products industries;</p> <p>(x) Machinery for paper and paper products and printing, publishing and Allied industries;</p> <p>(xi) Machinery for leather and fur product industries;</p> <p>(xii) Rubber, plastic, petroleum and coal product industry machinery;</p> <p>(xiii) Machinery for chemical and chemical products;</p> <p>(xiv) Machinery for basic metal and alloys industries;</p> <p>(xv) Machinery for non-metallic mineral product and industries;</p> <p>(xvi) Machinery ^{60a}including road roller for construction works;</p> <p>(xvii) Transport equipment and motor parts manufacturing machinery;</p> <p>(xviii) Mining machinery;</p> <p>(xix) Packaging machinery;</p> <p>(xx) Foundry machinery;</p> <p>(xxi) Agricultural machinery other than those mentioned elsewhere in any other Schedule;</p> <p>(xxii) Waste treatment plant and pollution control equipment manufacturing machinery;</p> <p>(xxiii) Machinery for printing industry;</p>		
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	<p>(xxiv) Machinery for iron and steel industry;</p> <p>(xxv) ^{60A}[Machinery for refrigeration, cooling towers and air-conditioners]</p> <p>(xxvi) Cooling towers;</p> <p>(xxvii) Earth moving machinery ;</p> <p>(xxviii) Omitted w.e.f. 01.04.2005 vide WB Finance Act, 2012.</p> <p>(xxix) ⁶¹[Omitted.]</p>		
54C	Spare parts, accessories and components of the plant and machinery mentioned in items(i) to (xxvii)in column(2) against serial No. 54B and spare parts, accessories and components of an air-conditioner.		
⁶³ 55.	Chappals and sandals made exclusively of plastic or Ethyle Vinyl Acetate commonly known as EVA; hawaii chappals; and sole and strap thereof.		
55A.	Plastic granules, plastic powder ⁶⁴ [and master batches.]		
55B.	Poppy seeds.		
55C.	Pre-used motor car.		
⁶⁵ 55D.	Pre-recorded cassette, audio compact disc (ACD), and video compact disc (VCD) and pre-recorded digital versatile disc (DVD).		
^{65a} 55E.	Perforated metal jail, that is to say, perforated metal net.		
56.	Printed material including diary, ⁶⁶ [calendar and letter pad.]		
57.	Printing ink excluding Toner and cartridges.		
⁶⁷ 58.	Porridge, cottage cheese (and paneer w.e.f. 01.04.2012).		
58A.	Processed meat, poultry and fish.		

58B.	Processed and preserved vegetables ⁶⁸ [and fruits, other than dry fruits, but] including fruit jams, ⁶⁹ [jelly, sauce,] pickle, fruit squash, fruit paste, fruit drink and fruit juice, whether in a sealed container or not, and ⁷⁰ [wet dates, but excluding those not containing any fruit or vegetable extract.] ⁷¹		
59.	Pulp of bamboo, wood and paper.		
60.	⁷² [Rail coaches engines wagons and freight containers and parts thereof,] [and rail-coach fans.] ⁷³		
^{73A} 60A.	Raw silk other than those made or manufactured in India.		
61.	Readymade garments other than hosiery goods but including necktie, bow and collar.		
62.	Refrigerant in any form.		
63.	Renewable energy devices and spare parts.		
64.	Residual liquefied hydrogen gas and other gases used as fuel other than liquefied petroleum gas (L.P.G.).		
65.	Omitted.		
66.	Omitted.		
⁷⁴ 67.	Gloves.		
67A.	Rusk that is hardened bread.		
68.	Safety matches.		
⁷⁵ 68A.	Scrap of old and condemned battery.		
⁷⁶ 68B.	Scaffolding pipes.		
⁷⁷ 69.	Spectacles including sunglasses and parts and components thereof, contact lens and lens cleaner.		

⁷⁸ 70.	Sewing machine and its parts and accessories.		
71.	Ship liable to be registered under the Merchants Shipping Act, 1958, (44 of 1958)all types of tugs, floating docks, floating cranes, dredgers, barges and other water vessels ⁷⁹ [including non-mechanised boats].		
⁸⁰ 72.	Omitted.		
⁸¹ 73.	Skimmed milk powder, dairy whitener and UHT milk.		
73A.	Sodium Silicate.		
74.	^{81A} [Solvent oils.]		
⁸² 74A.	<i>Soya</i> nuggets, commonly known as <i>soya bori</i> .		
⁸³ 74B	Spare-parts of motor vehicles.		
75.	Spices of all varieties and forms including cumin seed, aniseed, turmeric, dry chillies ⁷⁹ [and <i>hing</i> (<i>asafoetida</i>).]		
⁸⁴ 75A.	Sand, stone chips, ^{84a} boulders and grit.		
76.	Sports goods excluding apparels and footwear.		
76A.	Stainless steel sheets.		
77.	Starch ⁸⁵ [and starch based glues].		
⁸⁶ 77A.	Safety pin.		
^{86A} 77B.	<i>Omitted</i> .		
^{86B} 77C.	(i)Solar thermal device, solar photovoltaic device and combination of solar thermal device and solar photovoltaic device and spare parts of all such devices. (ii)Solar fans, solar lights, solar pumps and solar lanterns, which run on electricity generated by photovoltaic devices.		

^{86C} 77D.	Sanitary napkins the maximum retail price of which does not exceed rupees twenty-five.	
⁸⁷ 78.	Tailoring items, that is to say, eyes and hooks, collar band patties and butterfly collar stays.	
79.	Tallow.	
80.	Tamarind including tamarind seed powder.	
80A.	Tea.	
⁸⁸ 80B.	Tarpaulin and canvas.	
81.	Textile fabrics of all varieties, other than those manufactured or made in India.	
⁸⁹ 81A.	Timber, that is to say, -- (i) log; (ii) plank, veneer and splint; (iii) rafter; (iv) sleeper; (v) beam; (vi) pillar; and (vii) sawn or sized timber. (viii) ⁹⁰ [Plywood], ^{90a} and block board of wood.	
^{90b} 82.	Torch.	
83.	Tools, that is to say,— (a) Power Tools such as electric drills, tapping machines, hammers, sanders, planners, screw drivers, blowers, routers, winches, grinders, super abrasives, non-woven abrasives, bonded abrasives other than stone for polishing floor, stone for sharpening carpenters' instruments, tile polishing blocks and rubbing bricks; (b) Cutting Tools such as taps, milling cutters, reamers, segments, carbide tools, saws, high speed	

	<p>cut-off machines, shears, nibblers, compound miter saws, masonry cutters, diamond dresser cutter, gear hobbs and gear shaper cutters;</p> <p>(c) Measuring Tools such as micrometers, vernier calipers, feeler gauges, height gauges, slip gauges, snap gauges, pressure gauges, dial thermometers, water meter and measuring steel tapes;</p> <p>(d) Hydraulic Tools such as jacks, pipe-benders, torque wrenches, breakers, cylinders and control valves;</p> <p>(e) Pneumatic Tools such as impact wrenches, rammers, grinders, drills torque wrenches, filters, regulators and lubricant applicators;</p> <p>(f) Hand Tools such as spanners, pliers, screw drivers, hammers, torque tools, cold chisels, drill bits and burrs, tool bits, hack-saws, hack-saw blades and frames, band-saw rolls, dice, die-nuts, tools for carpentry, tools for masons and steel files.</p>		
84.	Tractors, threshers, harvesters and attachments ^{90c} [and parts thereof but excluding tyres and tubes].		
84A.	Transformers.		
85.	Transmission towers.		
86.	Umbrella and spare parts and components thereof but excluding garden umbrella; ⁹¹ [rain-wear (rain-coat)].		
⁹² 87.	<i>Vanaspati</i> (Hydrogenated Vegetable Oil), also known as vegetable <i>ghee</i> manufactured or made in India, and sold under various trade names and descriptions, such as <i>Dalda</i> , <i>Kusum</i> , etc.		
88.	Vegetable oil including gingili oil and bran oil ⁹³ [but excluding coconut oil].		
88A.	Waste paper.		
88B.	Weighing machines and weighing scales ⁹⁴ [and parts thereof, and weights of all kinds].		
⁹⁵ 88C.	Wire cloths and felt, endless or fitted with linking devices of a kind used in paper making machine or any other machine.		

88D.	Wirenet, wirenetting, ⁹⁶ [stranded wire], ^{96A} [wiremesh and expanded wiremesh]	
89.	Writing instruments such as lead pencils, ^{96B} [pen of all varieties and descriptions including its parts], refill, cartridges, nozzles, nib, ⁹⁷ [geometry boxes, colour boxes, crayons, erasers, pencil sharpeners] and writing ink other than those specified elsewhere in any other Schedule.	
90.	X-ray film and other diagnostic films.	
^{97A} 90A	Zinc dross	
91.	Zipper or ⁹⁸ [zip fasteners and parts thereof.]	

1.Ins. w.e.f 1.5.05.

2.Ins. w.e.f 1.5.05.

3.Ins. w.e.f.1.11.06.

4.Subs. for “All types of yarn other than cotton and silk yarn in hank and sewing thread.” w.e.f. 1.5.05.

5. Subs for “Aluminium utensils and enamelled utensils.”w.e.f. 1.5.05.

6. Ins. w.e.f. 1.6.05.

7.Subs. for “[all types of imitation jewellery]” w.e.f.1.9.11

8. Ins. w.e.f. 1.11.06.

9. Ins. w.e.f. 1.6.05.

10.Ins. w.e.f. 1.4.07.

11.Ins. w.e.f. 1.11.06.

11A. Ins. W.e.f. 1.4.2008.

12. Ins. w.e.f. 1.7.05.

12a. Ins. W.e.f.1.04.2010.

13. The item “10A Bed sheets, bed-spreads, bed-covers, towels, napkins, table-cloth, duster, handkerchief, *sataranchi* and blankets” was inserted w.e.f. 1.2.06 and omitted w.e.f. 1.8.06.

14. Subs.for “components thereof” w.e.f. 1.5.05.

15. Subs.for “Bio-fertilisers and micronutrients, plant growth promoters and regulators.” w.e.f. 1.4.07.
- 15A. Ins. W.e.f. 1.4.2008.
16. Ins.w.e.f. 1.11.06.
17. Modified .w.e.f. 1.4.2010.
- 17a.Ins. w.e.f 1.04.2010.
18. Ins.w.e.f. 1.5.05.
19. Subs.for “Capital goods as defined in section 2 (6) of the West Bengal Value Added Tax Act, 2003.”w.e.f. 1.5.05.
20. See Notification no 1216 F.T. dt 10.6.05.
21. The item “21 Cigar or cigarette, other than those manufactured or made in India.” was omitted w.e.f. 1.8.06.
22. Ins. w.e.f. 1.5.05.
23. The item “23A. Conch shell and conch shell products.” was omitted w.e.f. 1.5.05
- 23A. Ins.w.e.f. 1.7.05.
24. Ins.w.e.f. 1.7.05.
- 24A.The item “Cervical spinal collar” is omitted w.e.f.1.9.2011.
25. Ins. w.e.f. 1.5.05.
- 25A.Subs. for [Cups and glasses of paper and plastic] w.e.f. 1.9.11.
26. subs.for “Drugs and medicines” w.e.f. 1.5.05.
27. Ins. w.e.f. 1.8.06.
28. Ins.w.e.f. 1.6.05.
29. Ins. w.e.f. 1.4.07.
30. Ins. w.e.f. 1.11.06.
- 31.Subs.for “Edible oils other than coconut oil, oil cake and de-oiled cake.” w.e.f. 1.5.05.
32. Subs for “Edible oils other than coconut oil, and oil cake.” w.e.f. 1.8.06.
- 33.Item “26A. Elastic fabric tape.” was inserted w.e.f. 1.2.06 and omitted w.e.f. 1.2.06 retrospectively.
34. Ins. w.e.f.1.5.05.

35. Item “27A. Embroidery or *zari* articles, that is to say, —

- (i) *imi*,
- (ii) *zari*,
- (iii) *kasab*,
- (iv) *salma*,
- (v) *dabka*,
- (vi) *chumki*,
- (vii) *gota*,
- (viii) *sitara*,
- (ix) *naqsi*,
- (x) *kora*,
- (xi) glass bead,
- (xii) *badla* and
- (xiii) *gizai*.”

was omitted w.e.f. 1..4.07.

The new entry Embroidery making machine whether computerized or not is inserted w.e.f. 1.4.2010.

35a.Ins. w.e.f.1.4.2010.

36.Ins.w.e.f. 1.5.05.

37. Ins.w.e.f. 1.11.06.

37A. Ins. W.e.f. 1.4.2008.

37B. Ins w.e.f. 01.07.2014.

38. Furnace oil was omitted w.e.f. 1.5.05 and ghee was inserted w.e.f. 1.8.06.

39. Item “31A Glass chimney other than chimney for use in gas light and petroleum light” amended w.e.f. 1.5.05 was omitted w.e.f. 1.4.07.

40.Item “33. *Gur*, *jaggery* and edible variety of *rub gur* was omitted w.e.f. 1.5.05 and the present entry was inserted w.e.f. 1.7.05.

41. Ins.1.2.06.

42. Ins. 1.8.06.

42A.Subs.for “Hand pump parts and fittings” w.e.f.1.9.2011.

42B. Ins w.e.f. 01.07.2014.

43. Ins. w.e.f. 1.5.05.

44. The words “Hurrican lantern, kerosene lamp” were omitted w.e.f. 1.4.07. Prior to 1.4.07 “Hurricane lantern, kerosene lamp, petromax and accessories and components thereof and gas mantles.” were substituted w.e.f. 1.7.05 for Hurrican lantern, kerosene lamp, petromax and accessories and components thereof w.e.f. 1.5.05. Petromax was inserted in the original entry w.e.f. 1.5.05.

45.Ins. w.e.f. 1.4.07.

46.Subs. for “Husk and bran of cereals” w.e.f. 1.5.05.

46a.Ins. w.e.f.1.4.2010.

47. Item “40. Incense sticks commonly known as *agarbati*, *dhupkathi*, *dhupbati* and *havan samagri* including *sombrani* and *lobhana*.” was omitted w.e.f. 1.8.06

48. Subs. for “High voltage cables,XLPE cables” w.e.f. 1.7.05.

49. Ins. w.e.f. 1.4.07.

50. Ins. w.e.f. 1.5.05.

50A. Ins. W.e.f. 1.4.2008.

50B.Item “48A. Mosquito net fabrics other than those manufactured or made in India, and mosquito net commonly known as mashari other than those manufactured or made in India.” is inserted w.e.f.1.9.2011.

50C.Subs.for “nuts,bolts,” w.e.f. 1.9.2011.

51.Item “43D. Lac and shellse.” was inserted w.e.f. 1.8.06 and omitted thereafter w.e.f. 1.8.06 retrospectively.

52. Subs.for “Lime, limestone, clinker and dolomite” w.e.f. 1.8.06.

53. Subs. for “Linear Alkyl Benzene.” W.e.f. 1.5.05.

54. The entry as “Liquid product of cellulose, commonly known as L.P.C., and liquid product of earthenwaste, commonly known as L.P.E., generally for use as fuel” was omitted w.e.f 1.6.05. and the present entry was inserted,thereafter, w.e.f.1.7.05.

55. Ins.w.e.f. 1.4.07.

56. Ins.w.e.f. 1.7.05

57. Subs.for “Napa Slabs (Rough flooring stones) w.e.f. 1.5.05.

58. Inserted w.e.f. 1.5.05.

59. Ins. w.e.f. 1.11.06.

59a. Ins. w.e.f. 1.4.2010.

60. Ins. w.e.f. 1.5.05.

60a. Ins. W.e.f. 1.4.2008

60A. Subs. for "Machinery for refrigeration and cooling towers including air-conditioners" w.e.f. 1.4.07.

60B. Subs. for "Plant and Machinery" w.e.f. 1.9.2011.

61. The entry against item no xxix as "Spare parts, accessories and components of the plant and machinery specified in items (i) to (xxviii) but excluding gearbox used as parts of motor vehicles" was omitted w.e.f. 1.4.07.

62. Ins. w.e.f. 1.4.07.

63. Subs. for "*Chappals* and sandals made exclusively of plastic; *hawai chappals*; and parts and components thereof." w.e.f. 1.4.07. *Chappals* and sandals made exclusively of plastic; *hawai chappals*; and parts and components thereof." were substituted for Plastic footwear and *hawai chappals*, and parts and components thereof." w.e.f. 1.2.06. "Plastic footwear and *hawai chappals*, and parts and components thereof." were first substituted for original entry "Plastic footwear and *hawai chappals*." w.e.f. 1.5.05.

64. Ins. w.e.f. 1.5.05.

65. Ins. w.e.f. 9.8.05.

65a. Ins. w.e.f. 1.4.2010.

66. Subs. for "Calendar etc." w.e.f. 1.7.05.

67. Ins. w.e.f. 1.5.05.

68. Subs. for "any fruits" w.e.f. 1.7.05.

69. Subs. for "jelly" w.e.f. 1.2.06.

70. Subs. for "wet dates" w.e.f. 1.2.06.

71. The entry in column(2) was substituted w.e.f. 1.5.05 for "Processed or preserved vegetables and fruits."

72. Subs. for "Rail coaches engines and wagons ." w.e.f. 1.5.05.

73. Added w.e.f. 1.2.06.

73A. Item "60A. [Raw silk other than those made or manufactured in India.]" is inserted w.e.f. 1.9.2011.

74. Subs. for "Rubber gloves." w.e.f. 1.7.05.

75. Ins. w.e.f. 1.6.05.
76. Ins. w.e.f. 1.11.06.
77. Subs for "Spectacles and parts and components thereof, contact lens and lens cleaner." w.e.f. 1.2.06.
78. Subs. for "Sewing machines" w.e.f. 1.5.05.
79. Ins. w.e.f. 1.5.05.
80. Item "72. Silk fabrics excluding handloom silk." was omitted w.e.f. 1.11.06.
81. Subs. for "Skimmed milk powder and UHT milk." w.e.f. 1.8.06. The original entry "Skimmed milk powder." was valid till 30.4.05.
- 81A. Subs. for "Solvent oils other than organic solvent oils" w.e.f. 1.09.11.
82. Ins. w.e.f. 1.6.05.
83. Ins. w.e.f. 1.4.07.
84. Subs. for "Sand and grit." w.e.f. 1.4.07. The original entry was "Sponge wood or *shola* and all hand sifts made thereof." till 30.4.05.
- 84a. Ins. w.e.f. 1.4.2010.
85. Ins. w.e.f. 1.7.05.
86. Ins. w.e.f. 1.7.05.
- 86A. Omitted w.e.f. 01.04.2010. The entry was "Strings for musical instruments (w.e.f. 01.07.05).
- 86B. Ins. w.e.f. 1.7.05.
- 86C. Ins. w.e.f. 01.07.14.
87. The entry as "Sugar, other than those manufactured in India." was omitted w.e.f. 1.8.06. Thereafter the present entry is inserted w.e.f. 1.4.2008.
88. Ins. w.e.f. 1.2.06.
89. Ins. w.e.f. 1.8.06.
90. Ins. w.e.f. 1.4.07.
- 90a. Ins. w.e.f. 1.4.2010.
- 90b. Ins. w.e.f. 1.7.05.
- 90c. Subs. for "and parts thereof." w.e.f. 1.9.2011.

91. Ins. w.e.f. 1.7.05.

92.Subs. for “*Vanaspati* (Hydrogenated Vegetable Oil) also known as vegetable *ghee*, and sold under various trade names and descriptions, such as *Dalda*, *Kusum*, etc.” w.e.f. 1.5.05.

93. Ins. w.e.f. 1.2.06.

94. Ins.w.e.f 1.7.05.The original entry was valid from 1.5.05..

95.Ins. w.e.f. 1.5.05.

96.Ins. w.e.f. 1.4.07. The original entry was valid from 1.2.06 .

96A. Ins. W.e.f. 1.4.2008.

96B.Subs. for “pen of all varieties and descriptions” w.e.f.1.9.2011.

97.Ins. 1.5.05.

97A. Ins. W.e.f. 1.4.2008.

98. Ins. w.e.f. 1.7.05.

* [Kite sticks] omitted w.e.f. 1.4.13.

**SCHEDULE UNDER THE WEST BENGAL VAT ACT, 2003
(AS ON 01.07.2014)**

Part II

[See serial No. 42 of Part I]

Items under category of IT products @5%

Serial No.	Description of items	HSN Code
(1)	(2)	(3)
1.	<i>Word Processing Machines and Electronic Typewriters</i>	84.69
2.	Electronic Calculators	84.70
3.	Computer Systems and Peripherals, Electronic Diaries.	84.71
4.	Parts and Accessories of HSN 84.69, 84.70 and 84.71 for items listed above.	84.73
5.	DC Micromotors. Stepper motors of an output not exceeding 37.5 Watts.	85.01

6.	Parts of HSN 85.01 for items listed above.	85.03
7.	Uninterrupted Power Supplies (UPS) and their parts	85.04
8.	Permanent magnets and articles intended to become permanent magnets (Ferrites).	85.05
9.	Electrical Apparatus for line telephony or line telegraphy, including line telephone sets with cordless handsets and telecommunication apparatus for carrier-current line systems or for digital line systems; videophones.	85.17
10.	Microphones, multimedia Speakers, Headphones, Earphones and Combines Microphone/Speaker Sets and their parts.	85.18
11.	Telephone answering machines	85.20
12.	Prepared unrecorded media for sound recording or similar recording of other phenomena.	85.22
13.	Prepared unrecorded media for sound recording or similar recording of other phenomena ¹ [including compact disc (CD) and digital versatile disc (DVD).]	85.23
14.	IT software on any media.	85.24
15.	Transmission apparatus other than apparatus for radio broadcasting or TV broadcasting, transmission apparatus incorporating reception apparatus, ³ [cellular telephones other than cellular telephone the maximum retail price of per unit of which exceeds rupees three thousand].	85.25
16.	Radio communication receivers, Radio pagers	85.27
17.	(i) Aerials, antennas and their parts (ii) Parts of items at 85.25 and 85.27 listed above	85.29
18.	LCD panels, LED Panels and parts thereof.	85.31

19.	Electrical capacitors, fixed, variable or adjustable (Pre-set) and parts thereof.	85.32
20.	Electrical resistors (including rheostats and potentiometers), other than heating resistors.	85.33
21.	Printed Circuits	85.34
22.	Switches, Connectors and Relays for up to 5 amps at voltage not exceeding 250 Volts, Electronic fuses.	85.36
23.	Data/Graphic Display tubes, other than TV Picture tubes and parts thereof.	85.40
24.	Diodes, transistors and similar semi-conductor devices, Photosensitive semiconductor devices, including photovoltaic cells whether or not assembled I modules or made up into panels; Light emitting diodes; Mounted piezo-electric crystals.	85.41
25.	Electronic Integrated Circuits and Micro-assemblies	85.42
26.	Signal Generators and parts thereof	85.43
27.	Optical fibre cables ⁴ [and jointing kits and jointing materials thereof].	85.44
⁵ 28.	Optical fibre and optical fibre bundles, and jointing kits and jointing materials thereof.	90.01
29.	Liquid Crystal devices, Flat Panel display devices and parts thereof.	90.13
30.	Cathode ray oscilloscopes, Spectrum Analysers, Cross-talk meters, Gain measuring instruments, Distortion factor meters, Psophometers, Net work & Logic analyser and Signal analyser.	90.30

“Note 1. – The provisions of the Central Excise Tariff Act, 1985, (5 of 1986) read with the Explanatory Notes, as amended from time to time published by the Customs Co-operation Council, Brussels, shall apply for the interpretation of this Part.

Note 2. – Where any of the commodities is described under any heading or, as the case may be, sub-heading, of this Part and such description is different in any manner with the corresponding description in the Central Excise Tariff Act, 1985, (5 of 1986) such

commodity described as aforesaid shall be covered by the scope of this Part and any other commodities, covered by the corresponding description in the Central Excise Tariff Act, 1985, shall not be covered by the scope of this Part.

Note 3. – Where the description of any of the commodities is under the heading or, as the case may be, sub-heading, of this Part matches fully with the corresponding description in the Central Excise Tariff Act, 1985, all the commodities covered for the purposes of the said tariff under that heading or sub-heading shall be covered by the scope of this Part.

Note 4. – Where the description of any of the commodities is under any heading or sub-heading is shown as “other”, the interpretation as provided in *Note 1* shall apply.”;

1. Ins. w.e.f. 1.5.05.

2. Omitted w.e.f. 1.11.06.

3. Cellular telephone was inserted w.e.f. 1.5.05 and was effective upto 31.3.2010. From 1.4.2010 the modified entry comes into operation.

4. Ins. w.e.f. 1.6.05.

5. Subs. for “Optical fibre and optical fibre bundles and cables.” w.e.f. 1.6.05.

SCHEDULE UNDER THE WEST BENGAL VAT ACT, 2003
(AS ON 01.07.2014)

SCHEDULE C

PART III

[See serial No. 47 of Part I]

Industrial inputs and packing materials @5%

Serial No.	Heading No. of the Central Excise Tariff Act, 1985 (5 of 1986)	Sub-heading No. of the Central Excise Tariff Act, 1985 (5 of 1986)	Description
(1)	(2)	(3)	(4)
1.	15.01		Animal (including fish) fats and oils, crude, refined or purified.
2.	15.06		Glycerol, crude, glycerol waters and glycerol lyes.
3.	15.07		Vegetable waxes (other than triglycerides), bees wax, other insect waxes and spermaceti, whether or not refined or coloured; degreas; residues resulting from the treatment of fatty substances or animal or vegetable waxes.
4.	15.08		Animal or vegetable fats boiled, oxidised, dehydrated, sulphurised, blown, polymerised by heat in vacuum or in inert gas or otherwise chemical modified; inedible mixtures or preparations of fats and oils of this chapter.
5.	17.02		Liquid glucose (non medicinal).
6.		2204.10	Denatured ethyl alcohol of any strength.
7.		Omitted.	Omitted.
8.	26.02		Manganese ores and concentrates, including ferruginous manganese ores and concentrates with a manganese content of 20% or more, calculated on the dry

			weight.
9.	26.03		Copper ores and concentrates.
10.	26.04		Nickel ores and concentrates.
11.	26.05		Cobalt ores and concentrates.
12.	26.06		Aluminium ores and concentrates.
13.	26.07		Lead ores and concentrates.
14.	26.08		Zinc ores and concentrates.
15.	26.09		Tin ores and concentrates.
16.	26.10		Chromium ores and concentrates.
17.	26.11		Tungsten ores and concentrates.
18.	26.12		Uranium or thorium ores and concentrates.
19.	26.13		Molybdenum ores and concentrates.
20.	26.14		Titanium ores and concentrates.
21.	26.15		Niobium, Tantalum, Vanadium or Zirconium ores and concentrates.
22.	26.16		Precious metal ores and concentrates.
23.	26.17		Other ores and concentrates.
24.	26.18		Granulated slag (slag sand) from the manufacture of iron or steel.
25.		2707.10	Benzole.
26.		2707.20	Toluole.

27.		2707.30	Xylol.
28.		2707.40	Napthalene.
29.		2707.50	Phenols.
30.		2707.60	Creosole oils.
30A.			Normal Paraffin.
30B.			Butadine.
31.	28.01		Fluorine, Chlorine, Bromine and Iodine.
32.	28.02		Sulphur, sublimed or precipitated; colloidal sulphur.
33.	28.03		Carbon (carbon blacks and other forms of carbon not elsewhere specified or included).
34.	28.04		Hydrogen, rare gases excluding oxygen (medicinal grade).
35.	28.05		Alkali or alkaline-earth metals; rare-earth metals, scandium and yttrium, whether or not intermixed or interalloyed mercury.
36.	28.06		Hydrogen chloride (hydrochloric acid); chloro sulphuric acid.
37.	28.07		Sulphuric acid and anhydrides thereof; Oleum.
38.	28.08		Nitric acid, Sulphonitric acids.
39.	28.09		Diphosphorous pentoxide; phosphoric acid and polyphosphoric acids.
40.	28.10		Oxides of boron; boric acids.

41.	28.12		Halides and halide oxides of non-metals.
42.	28.13		Sulphides of non-metals; commercial phosphorus trisulphide.
43.	28.14		Ammonia, anhydrous or in aqueous solution.
44.	28.15		Sodium hydroxide (caustic soda); potassium hydroxide (caustic potash); peroxides of sodium or potassium.
45.	28.16		Hydroxide and peroxide of magnesium; oxides, hydroxides and peroxides of strontium or barium.
46.	Omitted.		Omitted.
47.		2818.10	Aluminium hydroxide.
48.	28.19		Chromium oxides and hydroxides.
49.	28.20		Manganese oxides.
50.		2821.10	Iron oxides and hydroxides.
51.	28.22		Cobalt oxides and hydroxides, commercial cobalt oxides.
52.	28.23		Titanium oxide.
53.	28.25		Hydrazine and hydroxylamine and their inorganic salts; other inorganic bases; other metal oxides, hydroxides and peroxides.
54.	28.26		Fluorides, fluorosilicates, fluoroaluminates and other complex fluorine salts.
55.	28.27		Chlorides, chloride oxides and

			chloride hydroxides; bromides and bromide oxides; iodides and iodide oxides.
56.	28.29		Chlorates and perchlorates; Bromates and perbromates; Iodates and periodates.
57.	28.30		Sulphides; Polysulphides.
58.	28.31		Dithionites and sulphonylates.
59.	28.32		Sulphites; thiosulphates.
60.		2833.10	Copper sulphate.
61.	28.34		Nitrites; nitrates.
62.	28.35		Phosphinates (hypophosphites), phosphonates (phosphites), phosphates and polyphosphates.
63.	28.36		Carbonates; peroxocarbonates (percarbonates); commercial ammonium carbonates containing ammonium carbamate.
64.	28.37		Cyanides, cyanide oxides and complex cyanides.
65.	28.38		Fulminates, cyanates and thiocyanates.
65A.	28.39		Sodium silicate.
66.	28.40		Borates; peroxoborates (perborates).
67.		2841.10	Sodium dichromate.
68.		2841.20	Potassium dichromate.
69.	28.44		Radioactive chemical elements and radioactive isotopes (including the fissile chemical elements and isotopes) and

			their compounds; mixtures and residues containing these products.	
70.	28.45		Isotopes other than those of heading No. 28.44; compounds, inorganic or organic of such isotopes, whether or not chemically defined.	
71.	28.46		Compounds, inorganic or organic, of rare earth metals, of yttrium or of scandium or of mixtures of these metals.	
72.	28.48		Phosphides, whether or not chemically defined, excluding ferrophosphorus.	
73.		2849.10	Calcium carbides.	
74.			Ethylene, Propylene.	
75.	29.02		Cyclic Hydrocarbons.	
76.	29.03		Halogenated derivatives of Hydrocarbons.	
77.	29.04		Sulphonated, nitrated or nitrosated derivatives of hydrocarbons, whether or not halogenated.	
78.		2905.10	Methanol.	
79.		2905.90	Diethylene Glycol, Monoethylene Glycol, Triethylene Glycol, Ethylene Glycol, Heavy Ethylene Glycol.	
80.	29.07		Phenols, phenol-alcohols.	
81.	29.08		Ethers, ether-alcohols peroxides, ether peroxides, ketone peroxides (whether or not chemically defined) and their halogenated, sulphonated, nitrated or nitrosated derivatives.	
82.	29.09		Ethers, ether-alcohols, ether-phenols, ether-alcoholphenols, alcohol peroxides, ether peroxides, ketone peroxides (whether or not chemically defined) and their halogenated, sulphonated, nitrated or nitrosated derivatives.	

83.	29.10		Epoxides, epoxyalcohols, epoxyphenols and epoxyethers, with a three-membered ring and their halogenated, sulphonated, nitrated or nitrosated derivatives.
83A.		2910.00	Ethylene oxide.
84.	29.11		Acetals and hemiacetals, whether or not with other oxygen function and their halogenated, sulphonated, nitrated or nitrosated derivatives.
85.	29.12		Aldehydes, whether or not with other oxygen function; cyclic polymers of aldehydes; paraformaldehyde.
86.	29.13		Halogenated, sulphonated, nitrated or nitrosated derivatives of products of heading No. 29.12.
87.		Omitted.	Omitted.
88.	29.15		Saturated acyclic monocarboxylic acids and their anhydrides, halides, peroxides and peroxyacids, their halogenated, sulphonated, nitrated or nitrosated derivatives.
89.	29.16		Unsaturated acyclic monocarboxylic acids, cyclic monocarboxylic acids, their anhydrides, halides, peroxides and peroxyacids; their halogenated, sulphonated, nitrated or nitrosated derivatives.
90.	29.17		Polycarboxylic acids, their anhydrides, halides, peroxides

			and peroxyacids, their halogenated, sulphonated, nitrated or nitrosated derivatives.
91.	29.18		Carboxylic acids with additional oxygen function and their anhydrides, halides, peroxides and peroxyacids; their halogenated, sulphonated, nitrated or nitrosated derivatives.
92.	29.19		Phosphoric esters and their salts, including lactophosphates; their halogenated, sulphonated, nitrated or nitrosated derivatives.
93.	29.20		Esters of other inorganic acids (excluding esters of hydrogen halides) and their salts; their halogenated, sulphonated, nitrated or nitrosated derivatives.
94.	29.21		Amine-function compounds.
95.	29.22		Oxygen-function amino-compounds.
96.	29.23		Quaternary ammonium salts and hydroxides; lecithins and other phosphoaminolipids.
97.	29.24		Carboxamide-function compounds; amide-function compounds of carbonic acid.
98.	29.25		Carboxamide-function compound (including saccharin and its salts) and imine-function compounds.
99.	29.26		Nitrile-function compounds.
100.	29.27		Diazo-, Azo- or azoxy-compounds.

101.	29.28		Organic derivatives of hydrazine or of hydroxylamine.
102.	29.30		Organo-sulphur compounds.
103.	29.31		Ethylene Diamine Tetra Acetic acid, Nitrillo Triacetic acid and their derivatives.
104.	29.32		Heterocyclic compounds with oxygen heteroatom(s) only.
105.	29.33		Heterocyclic compounds with nitrogen heteroatom(s) only.
106.	29.34		Nucleic acids and their salts, other heterocyclic compounds.
107.	29.35		Sulphonamides.
108.	29.38		Glycosides, natural or reproduced by synthesis and their salts, ethers, esters and other derivatives.
109.	29.39		Vegetable alkaloids, natural or reproduced by synthesis, and their salts, ethers, esters and other derivatives.
110.	29.42		Ethylene Diamine Tetra Acetic acid, Nitrillo Triacetic acid and their derivatives.
111.	32.01		Tanning extracts of vegetable origin; tannins and their salts, ethers, esters and other derivatives.
112.	32.02		Synthetic organic tanning substances; inorganic tanning substances; tanning preparations, whether or not containing natural tanning substances; enzymatic preparations for pretanning.
113.	32.03		Colouring matter of vegetable or animal origin (including dyeing extracts but excluding animal black), whether or not

			chemically defined; preparations based on colouring matter or vegetable or animal origin as specified in Note 3 as appended at the end of this Part.
114.	32.04		Synthetic organic colouring matter, whether or not chemically defined; preparations based on synthetic organic colouring matters specified in Note 3 as appended at the end of this Part; synthetic organic products of a kind used as fluorescent brightening agents or as luminophores, whether or not chemically defined.
115.	32.05		Colour lakes, preparations based on colour lakes as specified in Note 3 as appended at the end of this Part.
116.	¹ [32.06]		¹ [Pigments and other colouring matters].
117.		Omitted.	Omitted.
118.		3207.10	Glass frit and other glass, in the form of powder, granules or flakes.
119.		Omitted.	Omitted.
120.	32.11		Prepared driers.
121.		3215.90	Printing ink whether or not concentrated or solid.
122.	35.01		Casein, caseinates and other casein derivatives, casein glues.
123.	35.07		Enzymes; prepared enzymes not elsewhere specified or included.
124.		Omitted.	Omitted.
125.	38.01		Artificial graphite; colloidal or semi-colloidal graphite; preparations based on graphite or other carbon in the form of pastes, blocks, plates or other

			semi-manufactures.	
126.	38.02		Activated carbon; activated natural mineral products; animal black, including spent animal black.	
127.	38.04		Residual lyes from the manufacture of wood pulp, whether or not concentrated, desugared or chemically treated, including lignin sulphonates, but excluding tall-oil of heading No. 38.03 of Chapter 38 of the First Schedule of the Central Excise Tariff Act, 1985.	
128.	38.06		Rosin and resin acids, and derivatives thereof; rosin spirit and rosin oils; run gums.	
129.	38.07		Wood tar; wood tar oils; wood creosote; wood naphtha, vegetable pitch; brewers' pitch and similar preparations based on rosin, resin acids or on vegetable pitch.	
130.			Corks and stoppers.	
131.	38.09		Finishing agents, dye carriers to accelerate the dyeing or fixing of dye-stuffs and other products and preparations (for example, dressings and mordants), of a kind used in the textile, paper, leather or like industries, not elsewhere specified or included.	
132.	38.12		Prepared rubber accelerators; compound plasticizers for rubber or plastics not elsewhere specified or included; anti-oxidising preparations and other compound stabilisers for rubber or plastics.	
133.			Reducers and blanket wash/roller wash used in the printing industry.	

134.	38.15		Reaction initiators, reaction accelerators and catalytic preparations, not elsewhere specified or included.
135.	38.17		Mixed alkylbenzenes and mixed alkylnaphthalenes, other than those of heading No. 27.07 or 29.02.
136.	38.18		Chemical elements doped for use in electronics, in the form of discs, wafers or similar forms; chemical compounds doped for use in electronics.
137.	38.23		Industrial monocarboxylic fatty acids; acid oils from refining; industrial fatty alcohols.
138.		3824.90	Retarders used in the printing industry.
138A.		3901.10	LLDPE / LDPE.
138B.		3901.20	HDPE.
139.	39.01		Polymers of ethylene in primary forms.
140.	39.02		Polymers of propylene or of other olefins, in primary forms.
141.			⁴ [Polymers of styrene in primary forms, polystyrene resins and maleic resins].
142.			⁴ [Polymers of vinyl acetate or of other vinyl esters in primary form, and other vinyl polymers in primary form.]
143.		3904.10	PVC.
144.	39.06		Acrylic polymers in primary forms.
145.	39.07		Polyacetals, other polyethers and epoxide resins, in primary forms, polycarbonates, alkyd

			resins, polyallyl esters and other polyesters, in primary forms.
145A.		3907.60	Polyethylene Terephthalate chips.
146.	39.08		Polyamides in primary forms.
147.	39.09		Amino-resins, polyphenylene oxide, phenolic resins and polyurethanes in primary forms.
148.	39.10		Silicones in primary forms.
149.	39.11		Petroleum resins, coumarone-indene resins, polyterpenes, polysulphides, polysulphones and other products specified in Note 3 of Chapter 39 of the First Schedule of the Central Excise Tariff Act, 1985, not elsewhere specified or included in primary forms.
150.	39.12		Cellulose and its chemical derivatives, and cellulose ethers, not elsewhere specified or included in primary forms.
151.	39.13		Natural polymers (for example, alginic acid) and modified natural polymers (for example, hardened proteins, chemical derivatives of natural rubber), not elsewhere specified or included, in primary forms.
152.	39.14		Ion-exchangers based on polymers of heading Nos. 39.01 to 4.13 in primary forms.
153.	39.19		Self-adhesive plates, sheets, film foil, tape, strip of plastic whether or not in rolls.
154.	39.20		Other plates, sheets, film, foil, and strip of plastics, non-cellular, whether lacquered or

			metallised or laminated, supported or similarly combined with other materials or not.
154A.		3920.32.	Flexible plain films.
155.	39.23		Articles for the packing of plastics, namely, boxes, cases, crates, containers, carboys, bottles, jerry canes and their stoppers, lids, caps of plastics (but not including insulated wares).
156.	40.01		Natural rubber, balata, gutta percha, Guayule, chicle and similar natural gums, in primary forms or in plates, sheets or strips.
157.	40.02		Synthetic rubber and factice derived from oils in primary forms or in plates, sheets or strip; mixtures of any product of heading No. 40.01 with any product of this heading, in primary forms or in plates, sheets or strip.
158.	40.03		Reclaimed rubber in primary forms or in plates, sheets or strip.
159.	40.05		Compounded rubber, unvulcanised, in primary forms or in plates, sheets or strip, other than the forms and articles of unvulcanised rubber described in heading No. 40.06 of Chapter 40 of the First Schedule of the Central Excise Tariff Act, 1985.
160.	47.01		Mechanical wood pulp, chemical wood pulp, semi-chemical wood pulp and pulps of other fibrous cellulosic materials.
161.	48.19		Cartons (including flatened or folded cartoons), boxes (including flattened or folded

			boxes), cases, bags and other packing containers of paper, paperboard, whether in assembled or unassembled condition.
162.	48.21		Paper printed labels and paperboard printed labels.
163.	48.23		Paper self-adhesive tape and printed wrappers used for packing.
164.		6305.10	Sacks and bags, of a kind used for the packing of goods, of jute or of other textile bast fibres of heading No. 53.03 of Chapter 53 of the First Schedule of the Central Excise Tariff Act, 1985.
164A.			⁵ [Hessian and jute cloth, cloth and woven fabric of PP or HDPE and sacks and bags made from such cloth and woven fabric].
164B.			⁶ [Non-woven fabric, and sacks or bags made from such fabric.]
165.	70.10		Carboys, bottles, jars, phials of glass, of a kind used for the packing goods; stoppers, lids and other closures, of glass.
166.	70.14		Glass fibres (including glass wool and glass filaments) and articles thereof (for example: yarn, woven fabrics), whether or not impregnated, coated, covered or laminated with plastics or varnish.
167.		7607.60	Aseptic packaging aluminium foil of thickness less than 0.2 mm and backed by paper and LDPE.
168.	83.09		Stoppers, caps and lids (including crown corks, screw caps and pouring stoppers)

			capsules for bottles, threaded bungs, bung covers, seals and other packing accessories, of base metal.
169.			⁷ [Wooden crates], (boxes w.e.f. 01.04.2012 and) ⁸ [tea chests].
170.			⁴ [Sheets of polyurethane foam].
¹⁰ 171.			Railway switches, crossings, switch expansion joints, steel turnout sleepers, ² [prestressed concrete sleepers (PCS)], fish-plates, steel clips, track bolts and nuts, elastic rail clips ⁹ [and railway signal, signalling equipment and accessories and parts thereof].
172.			⁴ [Glass shells, lead glass tubes, filaments, moly wire, lead in wire, caps, dumet wires, solder wire, capping cement.]
173.			⁴ [Scrap of plastic, glass and metals], ⁸ [and broken glass].
174.			⁴ [Flavouring essences, synthetic essential oil.]
175.			⁴ [Zinc oxide].
176.			⁴ [Red lead, litharge and grey oxide].
177.			⁴ [Sodium sulphate].
178.			⁴ [Sodium petroleum sulphonate, calcium petroleum sulphonate].

179.			⁴ [Acid sludge].
180.			⁴ [Silicon steel stamping, hollow porcelain bushings, grinding wheel].
181.			⁴ [Insulating papers and boards, insulating fabric tapes and sheets].
182.			⁴ [Petroleum jelly I.P].
183.			⁴ [Lay-flat tubes].
184.			⁴ [Polythene bags, plastic bags, pouches and closures].
185.			⁴ [Micro cellular sheets and banwar sheets].
186.			⁴ [Copper clad sheets].
187.			⁴ [Resins, terpene chemicals like pine oil, depentine, DD, turpentine, turpeneol]
¹⁰ 188.			Electrical goods, namely,--- (i) winding wires and strips; (ii) switches, selector switches, fuse-switches unit, above 5 amps.; (iii) contactors, auxiliary contactors, contact block; (iv) control gears and starters ⁸ [including industrial motor starters]; (v) ammeter, KWH meter, voltmeter; (vi) insulating materials, insulator;

			<p>(vii) jointing materials;</p> <p>(viii) circuit breakers, HRC fuse, thermostat;</p> <p>(ix) programmable logic controller, timers;</p> <p>(x) switch boards, panel boards, distribution boards, control panels, motor control centre, power control centre, bus duct, burner control cubicle, control desk, push button station, local control station, kiosk, feeder pillar, SMPS;</p> <p>(xi) electrical relays and single phasing preventor and timers;</p> <p>(xii) overhead transmission line materials including components, accessories and spare parts thereof ⁸[including earth spike, stay set, galvanised iron pin, isolators, lightning arrestors, pre-cast concrete pole (PCC pole) and cut-outs (fuse-unit)].</p>	
189.			Purified terephthalic acid.	
190.			⁴ [Articles of metals, namely boxes, cases, crates, containers and their stoppers, caps, lids of metal used for the packing of goods (but not including insulated wares)].	
191.			⁸ [Acetone, butanone (methyl ethyl ketone), isophoron, cyclohexanone, anthraquinone].	
192.			⁸ [Ammonium dichromate, potassium permanganate, hydrogen peroxide]. ¹¹ [Light magnesium oxide, toluene di-isocyanate, calcium chloride and activated calcium carbonate.]	
193.			⁸ [Anti-knock preparation].	

194.			⁸ [Carbon black feed stock, coal tar pitch].
195.			⁸ [Hoists, chain pulley blocks and parts, spares, components and accessories thereof].
196.			⁸ [Metal finishing chemicals, pickling preparation for metal].
197.			⁸ [Prepared binders for foundry].
198.			⁸ [Propylene glycol, dipropylene glycol, sorbitol, normal butyl alcohol, benzyl alcohol, ketone-alcohol, ketone-phenol].
199.			⁸ [PVC tapes].
200.			⁸ [Sulphates, alums, persulphates].
201			¹¹ [Pentaerythritol.]
¹² 202			Pre-cured tread rubber, vulcanizing solution and cushion gum
¹² 203			Pre-sensitized lithographic plate of alluminium

Note 1.— Micronutrients and plant growth promoter or regulators are not covered by the scope of this Part.

Note 2.— The rules for the interpretation of the Central Excise Tariff Act, 1985, read with the Explanatory Notes as updated from time to time published by the Customs Co-operation Council, Brussels, shall apply for the interpretation of this Part.

Note 3.— Where any commodities are described against any heading or, as the case may be, sub-heading, and the aforesaid description is different in any manner than the corresponding description in the Central Excise Tariff Act, 1985, then only those commodities described as aforesaid will be covered by the scope of this Part and other commodities, though covered by the corresponding description in the Central Excise Tariff, will not be covered by the scope of this Part.

Note 4.— Subject to Note 3, for the purpose of any entry contained in this Part, where the description against any heading or, as the case may be, sub-heading, matches fully with the corresponding description in the Central Excise Tariff Act, 1985, then all the commodities covered for the purposes of the said tariff under that heading or sub-heading will be covered by the scope of this Part.

Note 5.— Where the description against any heading or sub-heading is shown as “other” then the interpretation as provided in *Note 2* shall apply.

1. Ins. w.e.f 1.6.05.

2. Ins.w.e.f. 1.2.06.

2A. The entry was omitted w.e.f. 1.2.06.

3. Central Excise Tariff Entry No. 38.14 was omitted w.e.f. 1.11.06.

4. Ins. w.e.f. 1.6.05.

5. Ins. w.e.f. 1.5.05.

6. Ins. w.e.f. 1.11.06.

7. Ins.w.e.f. 1.5.05.

8.Ins. w.e.f. 1.7.05.

9. Ins. w.e.f. 1.7.05.

10. The original entry was inserted w.e.f. 1.6.05.

11. Ins. w.e.f. 1.4.07.

12. Ins. W.e.f. 1.4.2008.

The words ‘ins’ and’ subs’ mentioned herein stand for inserted and substituted respectively.

Schedule under the West Bengal Value Added Tax Act, 2003

(As on 01.07.2014)

Schedule CA

[See clause (ba) of sub-section (2) of section 16]

[Goods taxable at general rate]

List of goods taxable at 14.5%.

Serial No.	Description of goods
(1)	(2)
1.	All other goods not specified in Schedule A, Schedule B, Schedule C or Schedule D.

SCHEDULE UNDER THE WEST BENGAL VALUE ADDED TAX ACT, 2003.

(AS ON 01.07.2014)

SCHEDULE D

[See section 19]

List of goods taxable at a rate not exceeding 35 % of turnover

(1)	(2)	(3)
1.	Chewing tobacco, and pan masala of any type, when sold in a packaged condition (w.e.f. 25.04.2013)	35%
2.	Cigar , cheroot , and cigarettes (w.e.f. 25.04.2013)	35%
3.	Air conditioner with capacity above one ton (w.e.f. 01.04.2012).	14.5%
4.	Motor car, price of which exceeds rupees ten lakh (w.e.f. 01.04.2012).	14.5%

5.	Television of any type, maximum retail price of which exceeds rupees twenty thousand (w.e.f. 01.04.2012).	14.5%
6.	Mobile phone of any type, maximum retail price of which exceeds rupees twenty thousand (w.e.f. 01.04.2012).	14.5%
7.	Watches, maximum retail price of which exceeds rupees fifteen thousand (w.e.f. 01.04.2012).	14.5%