



# महाराष्ट्र शासन राजपत्र

प्राधिकृत प्रकाशन

गुरुवार, नोव्हेंबर २३, १९७८/अग्रहायण २, शके १९००

स्वतंत्र संकलन म्हणून काढील करण्यासाठी या भागाला वेगळे पृष्ठ क्रमांक दिले आहेत.

## भाग पाच

महाराष्ट्र विधानसभेत व महाराष्ट्र विधानपरिषदेत सादर केलेली विधेयके

बुद्धील विधेयके, इत्यादी, असाधारण राजपत्र म्हणून त्यांच्यापुढे दर्शविलेल्या विनांकांना प्रसिद्ध झाली आहेत :—

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बुधवार, नोव्हेंबर १५, १९७८/कार्तिक २४, शके १९००

The following Bill is published under the second proviso to rule 115(1) of the Maharashtra Legislative Assembly Rules :—

L. A. BILL No. XLVII OF 1978.

A BILL

*to consolidate and amend the law relating to the levy and collection of tax on the sale or purchase of certain goods in the State of Maharashtra.*

WHEREAS it is expedient to consolidate and amend the law relating to the levy and collection of tax on the sale or purchase of certain goods in the State of Maharashtra; It is hereby enacted in the Twenty-ninth Year of the Republic of India as follows :—

### CHAPTER I

#### PRELIMINARY

1. (1) This Act may be called the Maharashtra Sales Tax Act, 1978.
- (2) It extends to the whole of the State of Maharashtra.
- (3) This section shall come into force at once, and the remaining provisions of this Act shall come into force on such day as the State Government may, by notification in the *Official Gazette*, appoint.

Short title, extent and commencement.

(4) Any notification, order or rule, and any appointment to an office, may be made, and any certificate of Registration, Authorization, Recognition or Permit may be granted or issued, under this Act, at any time after the passing of this Act; but such notification, order, rule, appointment or certificate made, granted or issued shall not take effect till the day appointed for the remaining provisions to come into force under sub-section (3).

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

(1) “agriculture”, with all its grammatical variations and cognate expressions, includes horticulture, raising of crops, grass or garden produce, and also grazing; but does not include dairy farming, poultry farming, stock breeding or mere cutting of wood or grass or gathering of fruit ;

(2) “agriculturist” means a person who cultivates land personally;

(3) “appointed day” means the day on which remaining provisions of this Act come into force under sub-section (3) of section 1;

(4) “Authorised dealer” means a Registered dealer who holds an Authorization;

(5) “Authorization” means an Authorization granted under section 35;

(6) “business” includes—

(i) any trade, commerce or manufacture, or any adventure or concern in the nature of trade, commerce or manufacture, whether or not such trade, commerce, manufacture, adventure or concern is carried on with a motive to make gain or profit and whether or not any gain or profit accrues from such trade, commerce, manufacture, adventure or concern and whether or not there is any volume, frequency, continuity or regularity of such trade, commerce, manufacture, adventure or concern;

(ii) any transaction in connection with, or incidental or ancillary to such trade, commerce, manufacture, adventure or concern, whether or not such transaction is in respect of capital assets or otherwise, whether or not it is effected with a motive to make gain or profit and whether or not any gain or profit accrues from such transaction, and whether or not there is volume, frequency, continuity or regularity in such transaction;

(iii) any occasional transaction of a business nature involving purchase or sale of goods in the State, whether or not there is volume, frequency, continuity or regularity of such transactions and whether or not such transaction is effected with a motive to make gain or profit and whether or not any gain or profit accrues from such transaction;

(7) “Commission agent” means a Registered dealer, who *bona-fide* buys or sells, for an agreed commission, any goods on behalf of the principal mentioned in his accounts in respect of each transaction;

(8) “Commissioner” means the person appointed to be the Commissioner of Sales Tax for the purposes of this Act;

(9) “to cultivate”, with its grammatical variations and cognate expressions, means to carry on any agricultural operation;

(10) “to cultivate personally” means to cultivate on one’s own account—

(i) by one’s own labour, or

(ii) by the labour of one’s own family, or

(iii) by servants on wages payable in cash or kind (but not in crop share), or by hired labour under one’s personal supervision or the personal supervision of any member of one’s family;

*Explanation 1.*—A widow or a minor, or a person who is subject to any physical or mental disability or is a serving member of the armed forces of the Union, shall be deemed to cultivate land personally, if it is cultivated by her or his servants or by hired labour;

*Explanation 2.*—In the case of a Hindu undivided family, land shall be deemed to be cultivated personally, if it is cultivated by any member of such family;

(11) “dealer” means any person who effects purchases or sales of any goods in the State for the purpose of his business or in connection with or incidental to his business, and includes—

(i) a commission agent, or any other agent by whatever name called, who effects purchases or sales of any goods in the State on behalf of any principal, whether disclosed or not,

(ii) an auctioneer who carries on the business of selling or auctioning goods belonging to any principal, whether disclosed or not and whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of the principal,

(iii) a manager or agent residing in the State, of a non-resident dealer carrying on the business in the State;

*Explanation 1.*—The Central Government or any State Government which, whether or not in the course of business, buys, sells, supplies or distributes goods, directly or otherwise, for cash, or for deferred payment, or for commission, remuneration or other valuable consideration, shall be deemed to be a dealer for the purposes of this Act.

*Explanation 2.*—A society, club or other association of persons (whether incorporated or not) which, whether or not in the course of business, buys, sells, supplies or distributes goods from or to its members for cash, or for deferred payment, or for commission, remuneration or other valuable consideration, shall be deemed to be a dealer for the purposes of this Act.

*Exception.*—An agriculturist, who sells exclusively agricultural produce grown on land cultivated by him personally, shall not be deemed to be a dealer within the meaning of this clause;

(12) “Declared goods” means declared goods as defined in the Central Sales Tax Act, 1956;

(13) “earlier law” means any of the following laws, that is to say :—

(i) the Bombay Sales Tax Act, 1946,

(ii) the Bombay Sales Tax (No. 2) Ordinance, 1952,

(iii) the Bombay Sales Tax Act, 1953,

(iv) the Bombay Sales of Intoxicants Taxation Act, 1953,

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- (v) the Central Provinces and Berar Sales of Lubricants Taxation Act, 1938, C. P. and Berar XIV of 1938.
- (vi) the Central Provinces and Berar Sales Tax Act, 1947, C. P. and Berar XXI of 1947.
- (vii) the Hyderabad General Sales Tax Act, 1950, Hyd. XIV of 1950.
- (viii) the Bombay Sales Tax Act, 1959,

each of them as amended, from time to time, and includes enactments which have Bom. validated anything done or omitted to be done under any of the above LI of mentioned laws; 1959.

(14) "fair market value" in relation to any goods means—

(i) the price at which such or like goods are ordinarily sold, or offered for sale at the time and place of sale, where the buyer is not a related person and the price is the sole consideration for the same; and

(ii) where the price referred to in sub-clause (i) is not ascertainable, such price as may be determined in accordance with rules.

*Explanation.*— For the purposes of this clause, "related person" means a person who is so associated with the seller that they have interest, directly or indirectly, in the business of each other and includes a holding company, a subsidiary company and a relative.

(15) "goods" means every kind of movable property (not being newspapers, or actionable claims or money, or stocks, shares or securities), and includes growing crops, grass and trees and plants (including the produce thereof) and all other things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale;

(16) "importer" means a dealer who brings any goods into the State, or to whom any goods are despatched from any place outside the State;

(17) "manufacture", with all its grammatical variations and cognate expressions, means producing, making, extracting, altering, ornamenting, repairing, blending, retreading, finishing or otherwise processing, treating or adapting any goods, whether or not the activity results in a different commercial commodity, but does not include such manufactures or manufacturing processes as may be prescribed;

(18) "non-resident dealer" means a dealer who effects purchases or sales of any goods in the State, but who has no fixed place of business or residence in the State;

(19) "Permit" means a Permit granted to a Commission agent under section 37;

(20) "person" includes any company or society or club or association or body of individuals, whether incorporated or not, or a Hindu undivided family, a firm, and the Central Government, a State Government and a local authority;

(21) "place of business" means a place where the business is carried on, and includes a warehouse, godown or any other place where a dealer stores his goods and also includes any place where he keeps his books of accounts;

- (22) "prescribed" means prescribed by rules;
- (23) "purchase price" means the amount of valuable consideration paid or payable by a person for any purchase made including any sum paid or payable, for anything done by the seller in respect of the goods at the time of or before delivery thereof, other than the actual cost of inward freight or delivery or the cost of installation when such cost is separately charged;
- (24) "Recognised dealer" means a registered dealer who holds a Recognition;
- (25) "Recognition" means a Recognition granted under section 36;
- (26) "Registered dealer" means a dealer registered under section 34;
- (27) "re-sale" for the purposes of sections 7, 8, 13, 15, 16 and 18 means a sale of purchased goods—
- (i) without doing anything to them which amounts to or results in manufacture, or
- (ii) being goods specified in any entry in Schedule B, which goods continue to be the same commercial commodity even after having undergone any of the manufacturing processes, and the word "re-sell" shall be construed accordingly;
- (28) "rules" means rules made under this Act;
- (29) "sale" means a sale of goods made within the State, for cash or deferred payment or other valuable consideration, and includes any supply by a society or club or association to its members on payment of a price or of fees or subscription, and also includes service for valuable consideration of any food or drink (including alcoholic and non-alcoholic drink, ice-cream and *kulfi*), whether with or without any other service, for consumption inside or outside any eating house, rest aurant, hotel, refreshment room, boarding establishment, permit room, club or bar or such other place, which service shall be deemed to be sale of such food or drink, as the case may be, but does not include a mortgage, hypothecation, charge or pledge; and the words "sell", "buy", "purchase", with all their grammatical variations and cognate expressions, shall be construed accordingly;

*Explanation.*—For the purposes of this clause, a sale within the State includes a sale determined to be inside the State in accordance with the principles formulated in sub-section (2) of section 4 of the Central Sales Tax Act, 1956;

- (30) "sale price" means the amount of valuable consideration paid or payable to a dealer for any sale made including any sum paid or payable for anything done by the dealer in respect of the goods at the time of or before delivery thereof, other than the actual cost of outward freight or delivery or the cost of installation when such cost is separately charged;

*Explanation.*—In the case of sales of goods warehoused in bonded warehouses, appointed or licensed, under the Customs Act, 1962 or the Central Excises and Salt Act, 1944 or, as the case may be, the Bombay Prohibition Act, 1949, the sale price shall include the duties paid or payable under the aforesaid Acts in respect of such goods at the time of clearance of the goods from the bonded warehouse, whether such duties are paid or payable by or on behalf of the seller or by any person who clears the goods;

- (31) "Schedule" means a Schedule appended to this Act;
- (32) "Settlement Commission" means the Sales Tax Settlement Commission constituted under section 33;

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(33) "the State" means the State of Maharashtra;

(34) "tax" means a sales tax, purchase tax, special purchase tax or additional tax, as the case may be, payable under this Act;

(35) "taxable goods" means goods other than those on the sale or purchase of which no tax is payable under section 5;

(36) "Tribunal" means the Tribunal constituted under section 32;

(37) "turnover of purchases" means the aggregate of the amounts of purchase price paid and payable by a dealer in respect of any purchase of goods made by him during a given period, after deducting the amount of purchase price, if any, refunded to the dealer by the seller in respect of any goods purchased from the seller and returned to him within the prescribed period;

(38) "turnover of sales" means the aggregate of the amounts of sale price received and receivable by a dealer in respect of any sale of goods made by him during a given period, after deducting the amount of sale price, if any, refunded by the dealer to a purchaser, in respect of any goods sold and returned by the purchaser to him within the prescribed period;

(39) "year"—

(a) means the financial year, or

(b) in relation to any particular Registered dealer for the purposes of this Act (except section 3 and Chapter IV thereof) means—

(i) British calendar year,

(ii) Samvat year,

(iii) Shalivahan Shak year, or

(iv) Co-operative year,

as the case may be, by reference to which the accounts of that dealer are ordinarily maintained in his books; but such dealer may by written declaration made by him in this behalf opt for the financial year:

Provided that, where an option has once been exercised by a Registered dealer, he shall not, except with the consent of the Commissioner and upon such conditions as the Commissioner may impose, make any variation in respect thereof.

## CHAPTER II

### INCIDENCE, LEVY AND COLLECTION OF TAX

**Incidence of tax.** 3. (1) Every dealer whose turnover either of all sales or of all purchases, made during—

(i) the year ending on the 31st day of March 1979, or

(ii) the year commencing on the 1st day of April 1979,

has exceeded or exceeds the relevant limit specified in sub-section (4), shall, until such liability ceases under sub-section (3), be liable to pay tax under this Act on his turnover of sales, and on his turnover of purchases, made, on or after the appointed day:

Provided that, a dealer, to whom sub-clause (i) does not apply but sub-clause (ii) applies and whose turnover either of all sales or of all purchases first exceeds the relevant limit specified in sub-section (4) after the appointed day, shall not be liable

to pay tax in respect of sales and purchases which take place upto the time when his turnover of sales, or his turnover of purchases, as computed from the 1st day of April 1979, first exceeds the relevant limit applicable to him under sub-section (4).

(2) Every dealer, whose turnover, either of all sales or of all purchases made, during any year commencing on the 1st day of April, being a year subsequent to the years mentioned in sub-section (1) first exceeds the relevant limit specified in sub-section (4), shall, until such liability ceases under sub-section (3), be liable to pay tax under this Act with effect from the said date:

Provided that, a dealer shall not be liable to pay tax in respect of such sales and purchases as take place during the period commencing on the 1st day of April of the said year, upto the time when his turnover of sales or turnover of purchases as computed from the 1st day of April of the said year, first exceeds the relevant limit applicable to him under sub-section (4).

(3) Every dealer, who has become liable to pay tax under this Act, shall continue to be so liable until his registration is duly cancelled; and upon such cancellation his liability to pay tax, other than tax already levied or leviable, shall, until his turnover of sales or turnover of purchases again first exceeds the relevant limit specified in sub-section (4), cease:

Provided that, where the dealer becomes liable to pay tax again in the same year in which he ceased to be liable as aforesaid, then in respect of such sales and purchases as take place during the period commencing on the date of the cessation of liability to tax and ending on the date on which his turnover of sales or purchases first exceeds the relevant limit applicable to him under sub-section (4), no tax shall be payable.

(4) For the purposes of this section, the limits of turnover shall be as follows:—

(a) in the case of a dealer, who is an importer, and the value of taxable goods sold or purchased by him during the year is not less than Rs. 3,000 and the value of taxable goods brought by him into the State or despatched to him from outside the State during the year is not less than Rs. 3,000;

or

(b)(i) in the case of a dealer who is a manufacturer of goods for sale by himself, and the value of taxable goods sold or purchased by him during the year is not less than Rs. 3,000 and the value of any goods, whether taxable or not, manufactured by him during the year is not less than Rs. 3,000,

(ii) in the case of a dealer, who is a manufacturer other than the one covered by sub-clause (i) above and the value of the goods sold or purchased by him during the year is not less than Rs. 3,000 and the value of any goods, whether taxable or not, which have undergone manufacturing process during the year is not less than Rs. 3,000 ;

(c) in the case of a dealer to whom neither (a) nor (b) above applies, and the value of taxable goods sold or purchased during the year is not less than Rs. 3,000.

(i) Limit of turnover  
Rs. 20,000.

(ii) Limit of turnover  
Rs. 50,000.

- (5) For the purpose of calculating the limit of turnover for liability to tax,—
- (a) except as otherwise expressly provided, the turnover of all sales or, as the case may be, the turnover of all purchases, shall be taken, whether such sales or purchases are taxable or not, and whether or not such sales or purchases are covered by sub-clause (ii) of clause (a) or by clause (b) of section 102;
- (b) the turnover shall include all sales and purchases made by a dealer on his own account, and also on behalf of principals mentioned in his accounts;
- (c) in the case of an auctioneer, in addition to the turnover (if any) referred to in clauses (a) and (b) of this sub-section, the turnover shall also include the price of the goods auctioned by him for his principal, whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of the principal;
- (d) in the case of a manager or agent of a non-resident dealer, in addition to the turnover (if any) referred to in clauses (a), (b) and (c) of this sub-section, the turnover shall also include the sales or purchases of the non-resident dealer effected in the State.
- (6) Notwithstanding anything contained in any other law for the time being in force, but subject to the provisions of this section, a Commission agent or any other agent by whatever name called and an auctioneer shall be liable to pay tax under this Act, whether or not the principal is a dealer and whether or not such principal is liable to pay tax under this section.

Liability of dealer registered under Central Sales Tax Act to pay tax. 4. (1) Notwithstanding anything contained in section 3, a dealer who is registered under the Central Sales Tax Act, 1956, but who is not liable to pay tax under the said section 3, shall nevertheless be liable to pay tax—

(a) on sales of goods in respect of the purchases of which he has furnished a declaration under sub-section (4) of section 8 of the Central Sales Tax Act, 1956; and

(b) on sales of goods in the manufacture of which the goods so purchased have been used; and accordingly, the provisions of sections 7, 8, 12 and 13 shall apply to such sales, as they apply to the sales made by a dealer liable to pay tax under section 3.

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(2) Every dealer who is liable to pay tax under sub-section (1) shall, for the purposes of sections 43, 44, 45, 46, 47, 48, 49, 50, 53, 68, 69 and 70 be deemed to be a Registered dealer.

(3) Where a dealer liable to pay tax under sub-section (1) becomes liable to pay tax under section 3, then notwithstanding anything contained in the proviso to sub-section (1) or sub-section (2) of section 3, such dealer shall be liable to pay tax on the sales covered by clauses (a) and (b) of sub-section (1).

Sales and purchases of certain goods specified in Schedule A free from all tax. 5. (1) Subject to the conditions or exceptions (if any), set out against each of the goods specified in column 3 of Schedule A, no tax shall be payable on the sales or purchases of any goods specified in that Schedule.

(2) The State Government may, by notification in the *Official Gazette*, add to, or enlarge, any entry in Schedule A, or relax or omit any condition or exception specified therein; and thereupon, the said Schedule shall be deemed to be amended accordingly; and the amendment so made shall take effect from the date of the publication of the notification in the *Official Gazette* or from such other prospective or retrospective date as may be mentioned therein.

Taxes payable by a dealer. 6. (1) Subject to the provisions of this Act and to any rules made thereunder, there shall be paid by every dealer, who is liable to pay tax under this Act, the tax or taxes leviable on the turnover of sales or purchases in accordance with the provisions of this Chapter.

*Explanation.*—For the purposes of this Chapter, the turnover of sales and purchases shall include all sales and purchases made by the dealer on his own account and also on behalf of principals mentioned in his accounts and shall likewise include the price of the goods auctioned by him whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of the principal and shall also include the turnover in this State of the non-resident dealer, as the case may be.

(2) Notwithstanding anything contained in the Schedules, where any sale or purchase of any goods is covered by more than one entry of the same Schedule or any other Schedule (other than Schedule B), then such sale or purchase shall be liable to tax at the rate under that entry of any of the Schedules, which provides the highest rate of tax.

7. (1) There shall be levied a sales tax, on the turnover of sales of Declared goods specified in Schedule B, at the rate set out against each of them in column 3 thereof, but after deducting from such turnover—

(i) resales of goods on the purchases of which the dealer is liable to pay purchase tax under section 20 or special purchase tax under sub-section (2) of section 22;

(ii) resales of goods purchased by him on or after the appointed day from a Registered dealer, otherwise than on a declaration furnished under section 12 or 13, if a certificate as provided in section 15 is obtained;

(iii) resales of goods purchased by him on or after the appointed day from a dealer liable to pay tax under section 4, if a certificate as provided in section 16 is furnished;

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(iv) resales of goods (other than those specified in Schedule A of the Bombay Sales Tax Act, 1959), purchased from a dealer registered under that Act, otherwise than on a certificate or declaration furnished under that Act or under the rules made or the notifications issued thereunder and held in stock on the appointed day, if a certificate as prescribed in section 12A of that Act is furnished; and

(v) sales of goods or resales of goods to which clause (ii), (iii) or (iv) does not apply, to an Authorised dealer or to a Commission agent holding a permit who purchases on behalf of a principal outside the State (not being a non-resident dealer) upon such dealer or Commission agent, as the case may be, furnishing a declaration as provided in section 13.

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(2) In order to comply with the restrictions contained in section 15 of the Central Sales Tax Act, 1956, to the effect that the tax shall not be levied on the sales or purchases of each of the goods mentioned in any of the entries in Schedule B at more than one stage, it is hereby provided that if under this Act or any earlier law any sale or purchase of such goods has borne tax, then no further tax shall be levied under this Act on any subsequent sale or purchase thereof; and accordingly, for the purpose of arriving at the taxable turnover of sales or purchases of a dealer, there shall be deducted from his total turnover of sales, or as the case may be, of purchases, the sales or purchases of such goods as have borne tax at any earlier stage.

8. There shall be levied a sales tax on the turnover of sales of goods specified in Schedule C at the rate set out against each of them in column 3 thereof, but after deducting from such turnover,—

(i) resales of goods on the purchase of which the dealer is liable to pay purchase tax under section 20 and special purchase tax under sub-section (2) of section 22;

(ii) resales of goods purchased by him on or after the appointed day from a registered dealer otherwise than on a declaration furnished under section 12 or 13, if a certificate as provided in section 15 is obtained;

(iii) resales of goods purchased by him on or after the appointed day from a dealer liable to pay tax under section 4, if a certificate as provided in section 16 is furnished;

(iv) resales of goods (other than those specified in Schedule A of the Bombay Sales Tax Act, 1959) purchased from a dealer registered under that Act, otherwise than on certificate or declaration furnished under that Act or under the rules made or the notifications issued thereunder and held in stock on the appointed day, if a certificate as prescribed in section 12A of that Act is furnished; and

(v) sales of goods or resales of goods to which clause (ii), (iii) or (iv) does not apply, to an Authorised dealer, a Recognised dealer or a Commission agent holding a permit, who purchases on behalf of a principal outside the State (not being a non-resident dealer) upon such dealer or Commission agent, as the case may be, furnishing a declaration as provided in section 13.

Exclusion of certain purchases for purposes of deductions under sections 7 and 8.

9. For the purpose of deducting the resales of goods purchased from a Registered dealer under section 7 or 8 from the turnover of sales, the expression "goods purchased from a Registered dealer" shall be construed so as not to include the following classes of purchases :—

(i) a purchase of goods which is not liable to tax by virtue of the provisions of section 102 of this Act or section 75 of the Bombay Sales Tax Act, 1959; and

(ii) a purchase of packing material received or acquired alongwith the purchases of goods covered by section 5 of this Act or of the Bombay Sales Tax Act, 1959.

Power to specify points of sale at which goods may be taxed.

10. Save as otherwise provided by or under this Act, the State Government may, by notification in the *Official Gazette*, and subject to such conditions, if any, as may be stated therein, specify the point of sale at which any goods or class of goods may be taxed, and, on the issue of any such notification, the points of sale in relation to any such goods or class of goods, other than the point of sale so notified, shall be exempt from payment of tax under this Act :

Provided that, no such exemption shall be allowed, unless—

(a) where the point of sale in relation to any such goods or class of goods is prior to the point so notified, the Registered dealer to whom the goods are sold certifies in the prescribed declaration to be made to a prescribed authority that the goods purchased by him are intended for sale by him;

(b) where the point of sale in relation to any such goods or class of goods is subsequent to the point so notified, the selling dealer produces a bill or cash memorandum containing a certificate issued under section 15.

Determination of sale price and turnover of sales in certain cases.

11. Where, in the opinion of the Commissioner, the sale price of any goods shown by the dealer is less than the fair market price of similar goods by fifteen per cent. or more, then the Commissioner may, after giving a reasonable opportunity of being heard to such dealer, determine the sale price of the said goods equal to the fair market price and the turnover of sales of such dealer shall be determined accordingly.

Tax payable at reduced rate on certain sales.

12. Where any dealer liable to pay tax under this Act, sells any taxable goods,—

(1) to an Authorised dealer, who certifies in the prescribed declaration form,—

(a) that the goods will be despatched in the same forms in which they were purchased and without doing anything to them which might amount to or result in manufacture thereof, within three months from the date of purchase, to his own place of business outside the State for sale or for use in the manufacture of goods for sale outside the State; and

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(b) that in respect of the said place of business he or his manager or agent at that place is a Registered dealer under the Central Sales Tax Act, 1956;

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(2) to a Commission agent holding a Permit, who certifies in the prescribed declaration form—

(a) that he is registered under the Central Sales Tax Act, 1956; and

(b) that the goods are purchased by him as Commission agent for his principal who is,—

(i) the Central Government, and that the goods will be despatched on behalf of such Government outside the State, or

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(ii) a dealer (not being a non-resident dealer) whose place of business is outside the State and who is registered for that place under the Central Sales Tax Act, 1956 and that the goods will be sold or will be used in the manufacture of goods for sale outside the State by the principal, or

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(iii) a Registered dealer having a place of business also outside the State and that such principal or his manager or agent is a Registered dealer under the Central Sales Tax Act, 1956 and that the goods will be sold or will be used in the manufacture of goods for sale outside the State by such principal, and

(c) that the goods will be despatched outside the State within three months from the date of their purchase by the Commission agent; and

(d) that he would obtain a declaration in the prescribed form from his principal to the aforesaid effect,

then, notwithstanding anything contained in section 8, on such sale of goods, the dealer shall be liable to pay a sales tax at the rate of four paise in the rupee.

13. There shall not be deducted from the turnover of sales, sales of goods to an Authorised dealer, or a Recognised dealer or to a Commission agent holding a permit purchasing on behalf of his principal, as provided in sections 7 and 8 unless—

No deduction from turnover except on declarations.

(a) the authorised dealer certifies in the prescribed declaration that the goods are purchased for resale in the course of inter-State trade or commerce or in the course of export out of the territory of India or for packing of the goods meant for resale in the course of inter-State trade or commerce or in the course of export out of the territory of India and that such goods will be so resold by himself within nine months or will be so used within nine months from the date of such purchase by himself in the packing of such goods;

(b) the Recognised dealer certifies in the prescribed declaration form—

(i) that the goods purchased by him are covered by Part II of Schedule C; and

(ii) that the goods are of the class specified in his Recognition; and

(iii) that the said goods are purchased by him for use by him within the State in the manufacture of taxable goods, for sale, which will in fact be so used and sold by him (and will not be given away as samples or otherwise) or in the packing of goods so manufactured; or

(c) the Commission agent certifies in the prescribed declaration form that the goods are purchased on behalf of his principal who is an Authorised dealer and

the goods will be sold by the principal in the course of inter-State trade or commerce, or in the course of export out of the territory of India, or will be used by him for packing of the goods meant for resale in the course of inter-State trade or commerce or in the course of export out of the territory of India and that the goods will be so resold or so used in the packing of such goods within nine months from the date of their purchase by the Commission agent, and that the Commission agent would obtain a declaration in the prescribed form from his principal to the aforesaid effect;

(d) the Commission agent certifies in the prescribed declaration form—

(i) that the goods are purchased on behalf of his principal who is a Recognised dealer;

(ii) that the goods are covered by Part II of Schedule C;

(iii) that the goods are of the class specified in the recognition held by the principal;

(iv) that the principal will use the goods within the State in the manufacture of taxable goods for sale, which will in fact be so used and sold by him (and will not be given away as samples or otherwise) or in the packing of the goods so manufactured; and

(v) that the Commission agent would obtain a declaration in the prescribed form from his principal to the aforesaid effect;

(e) the Commission agent certifies in the prescribed declaration form—

(i) that he is registered under the Central Sales Tax Act, 1956;

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(ii) that his principal (not being a non-resident dealer) is registered under the Central Sales Tax Act, 1956, for his place of business outside the State ;

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(iii) that the goods are purchased by him for his principal outside the State (not being a non-resident dealer) for the purpose of complying with the pre-existing agreement or order entered into by such principal for or in relation to an export out of the territory of India by such principal himself or for packing of the goods for such export and that such goods will be so exported by such principal or will be so used in the packing of such goods; and

(iv) that he would obtain a declaration in the prescribed form from such principal to the aforesaid effect.

**14.** The declarations provided under sections 12 and 13 shall not be valid unless signed in the prescribed manner by the Authorised dealer, Recognised dealer or Commission agent holding a permit or by any person duly authorised by him in the manner prescribed in this behalf.

**15.** There shall not be deducted from the turnover of sales, the resales of goods purchased by a dealer from a Registered dealer, as provided in sections 7 and 8, unless the dealer claiming deduction produces a bill or cash memorandum containing a certificate that the registration certificate of the selling dealer was in force on the date of sale of the goods to him and that the said sale is in the regular course of business of the selling dealer. Such certificate shall not be valid, unless signed in the prescribed manner either by the selling dealer himself or by a person duly authorised by him in the prescribed manner in this behalf.

No deduction from turnover of resales of goods purchased from registered dealers except on certificates.

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16. There shall not be deducted from the turnover of sales, the resales of goods purchased by a dealer from a dealer registered under the Central Sales Tax Act, 1956 and who is liable to pay tax under section 4, as provided in sections 7 and 8, unless the dealer claiming deduction produces a bill or cash memorandum containing a certificate that the selling dealer is liable to pay tax under section 4 on the sale of goods to him and that the said sale is in the regular course of business of the selling dealer. Such certificate shall not be valid unless signed in the prescribed manner either by the selling dealer himself or by a person duly authorised by him in the manner prescribed in this behalf.

No deduction from turnover of resales of goods purchased from other dealers except on certificates.

17. The State Government may, by notification in the *Official Gazette*, direct that on and after such dates as may be specified therein, the form of declarations under section 12 or section 13 shall be obtained from the prescribed authority in the prescribed manner, subject to the conditions prescribed in that behalf.

On and after specified dates certain prescribed declaration forms to be obtained from prescribed authority.

18. Where a dealer, who is liable to pay tax under section 3, purchases any goods specified in Schedule B or C from a person, who is not a Registered dealer, then, unless the goods so purchased are resold by the dealer, there shall be levied, subject to the provisions of sub-section (2) of section 7, a purchase tax on the turnover of such purchase at the rate set out against each of such goods in the Schedules aforesaid.

Purchase tax payable on certain purchases of goods from unregistered dealer.

19. Where a Recognised dealer purchases goods on a declaration under clause (b) of section 13, or, as the case may be, a Commission agent holding a Permit purchases goods on behalf of a principal who is a Recognised dealer, on a declaration under clause (d) of section 13, there shall be levied a purchase tax on the turnover of such purchases at the rate of four paise in the rupee.

Purchase tax payable on purchases of goods in Schedule C in certain cases.

20. (1) Where any Authorised or Recognised dealer has purchased any taxable goods under a declaration given by him under section 12 or 13 and the conditions, recitals and undertakings of such declarations are not complied with, for any reason whatsoever, then such dealer shall be liable to pay purchase tax on the purchase price of such goods in respect of which declarations are furnished to the selling dealer and the purchase tax shall be levied at the rate set out against each of such goods in column 4 of Schedules B and C, and accordingly he shall include the purchase price thereof in his turnover of purchases in his return under section 43 which he is to furnish next thereafter:

Liability to purchase tax for contravention of the terms of declaration.

Provided that, where a Recognised dealer, who has purchased goods mentioned in Part II of Schedule C under a declaration given by him under clause (b) of section 13 and uses them in the manufacture of taxable goods and contrary to the recitals of such declaration despatches the goods so manufactured to his own place of business or to his agent's place of business situated outside the State within India, where he or, as the case may be, his agent is registered under the Central Sales Tax Act, 1956, then the rate of purchase tax shall be five paise in the rupee as against the rate mentioned in column 4 of Schedule C:

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Provided further that, where purchase tax is payable by a dealer under sub-section (1) of this section by reason of the fact that he has failed to comply with the conditions, recitals, or undertakings of a declaration issued under section 12 or 13, then an amount equivalent to the tax levied under section 12, or, as the case may be, the purchase tax paid under section 19, shall be set off against purchase tax so payable:

(2) If, in respect of any transaction by a Commission agent made under a declaration given by him under section 12 or 13, the Commission agent—

(a) purchases the goods at one rate, and passes them on to his principal at an increased rate (such increase not being by reason only of his commission or packing, carriage, freight or insurance of the goods and other reasonable charges incidental to their despatch or charged according to trade practice); or

(b) acts for non-existent principal; or

(c) fails to obtain from his principal a declaration as required under sub-clause (d) of clause (2) of section 12 or sub-clause (iv) of clause (b) of section 13;

the Commission agent shall be liable to pay purchase tax on the purchase price of the goods so purchased and the purchase tax shall be levied at the rates set out against each of such goods in column 4 of Schedules B and C, and accordingly he shall include the purchase price in his turnover of purchases in his return under section 43, which he is to furnish next thereafter :

Provided that, where such purchases are made by furnishing declaration issued under section 12, an amount equal to the tax paid under section 12 shall be set off against the purchase tax so payable.

(3) If any question arises as to whether the purchase price of goods purchased under a declaration given under section 12 or 13 is or is not liable to be included in the turnover of purchases of a dealer or Commission agent under this section, the burden of proving that it shall not be liable to be so included shall be upon such dealer or, as the case may be, the Commission agent.

**Declaration of stock of goods held on the appointed day.** 21. Such class of dealers as may be prescribed and who were liable to pay tax under the Bombay Sales Tax Act, 1959, on the day immediately preceding the appointed day, shall declare the stock of such goods as may be prescribed, held by them on the appointed day, in such manner and with such particulars and to such authority, as may be prescribed in this behalf. Bom. LI of 1959.

**Liability to pay special purchase tax on certain goods in stock.** 22. (1) Where, any dealer who is not liable to pay tax under section 3 of this Act on the appointed day, but was registered under the Bombay Sales Tax Act, 1959, on the day immediately preceding the appointed day, holds in stock on the appointed day any goods purchased by him by furnishing any certificate or declaration under that Act, such dealer shall, notwithstanding anything contained in section 3, be liable to pay special purchase tax on the purchase price of such goods and such special purchase tax shall be levied at the rate specified in section 14 of that Act and all the provisions of this Act shall apply as if such dealer has become liable to pay tax under this Act. Bom. LI of 1959.

(2) Where any dealer liable to pay tax under this Act holds in stock on the appointed day any goods purchased by him by furnishing a certificate or declaration under the Bombay Sales Tax Act, 1959, and contravenes the recitals of such certificate or declaration after the appointed day, such dealer shall be liable to pay special purchase tax on the purchase price of such goods and such special purchase tax shall be levied at the rate specified in section 14 of that Act and all the provisions of this Act shall apply accordingly. Bom. LI of 1959.

**liability to purchase tax on certain stocks of goods.** 23. (1) Where a dealer, liable to pay tax under this Act,—  
(a) dies, or  
(b) transfers or otherwise disposes of his business, or effects any change in the ownership thereof, or

(c) is a firm, company, society or other association of persons, or a trust, which is dissolved, liquidated, wound up, or terminated, or

(d) is a Hindu undivided family, and the family is partitioned, or

(e) discontinues his business, and the stock of goods held by such dealer immediately before any of the aforesaid events occurs includes—

(i) taxable goods purchased by such dealer from a person, who is not a Registered dealer, and

(ii) taxable goods purchased by such dealer on a declaration given by him under section 12 or 13,

then such dealer shall be liable to pay purchase tax, as if such dealer had become liable to pay purchase tax under section 18 in respect of goods mentioned in clause (i) or under section 20 in respect of goods mentioned in clause (ii), as the case may be, and the provisions of section 18 or section 20 shall apply accordingly :

Provided that, where the business carried on by such dealer is continued after any of the aforesaid events, the person continuing such business shall be liable to pay purchase tax under section 18 or 20, as the case may be, and all the provisions of sections 18 and 20 shall apply to such person as if he were a dealer liable to pay tax:

Provided further that, if the person carrying on such business shows to the satisfaction of the Commissioner that,

(a) the goods referred to in clause (i) above have been resold by such person, or

(b) in respect of goods referred to in clause (ii), the recitals, conditions or undertakings of the declaration given by such dealer under section 12 or 13 are complied with by such person, then in respect of such goods, no purchase tax shall be levied under this section.

(2) Where the certificate of registration issued to a dealer is cancelled on the ground that in the previous year his turnover of purchases or his turnover of sales did not exceed the relevant limits applicable to him under sub-section (4) of section 3, and the stock of goods held by him immediately before such cancellation includes any taxable goods purchased by him from a person, who is not a Registered dealer or includes taxable goods purchased by him on a declaration given under section 12 or 13, then such dealer shall be liable to pay purchase tax on the purchase price of such goods in stock, as if such dealer had become liable to pay purchase tax under section 18 or 20, as the case may be, and the provisions of section 18 or 20 shall apply accordingly.

24. (1) For the purpose of raising the resources for implementing the Employment Guarantee Scheme in the State, where the turnover either of all sales or of all purchases by any dealer liable to pay tax under section 3 has exceeded ten lakhs of rupees in any year, the tax payable by him shall be increased by the levy of an additional tax at the rate of 6 per cent. of the tax payable by him for that year under the other provisions of this Act. Such additional tax shall be paid by the dealer in addition to the tax levied and payable by him under the other provisions of this Act:

Levy of additional tax in the case of dealers whose turnover exceeds Rs. 10,00,000 a year, and manner of payment thereof

Provided that, in calculating the additional tax payable by the dealer, the tax payable under the other provisions of this Act in respect of sales or purchases of Declared goods, betelnuts, safety matches (excluding matches ordinarily used as fire-works), agricultural machinery and implements and components, etc. to which

entry 18 in Part I of Schedule C applies, kerosene, footwear to which entry 42(a) in Part II of Schedule C applies, hydrogenated vegetable oils including *vanaspati* and vegetable non-essential oils to which entry 35 in Part I of Schedule C applies, shall not be taken into consideration.

(2) The additional tax shall be paid by the dealer before furnishing the return for the period in which the turnover either of all sales or of all purchases as computed from the commencement of the year first exceeds ten lakhs of rupees. The tax so payable shall be for the period from the commencement of the year to the end of the period concerned by such return and the dealer shall continue to be liable to pay the additional tax for that year for all the subsequent periods till the end of that year.

(3) Notwithstanding anything contained in this Act, no dealer shall be entitled to collect any sum by way of additional tax payable by him under this Act.

**Rate of tax on packing materials.** 25. Where any goods are sold or purchased and such goods are packed in any materials, the tax shall be leviable on the sales or purchases of such packing materials (whether such materials are separately charged for or not) at the same rate of tax (if any) as is applicable to the sales or purchases, as the case may be, of the goods themselves.

**Liability of principal, Commission agent, Auctioneer, etc.** 26. (1) Where a Commission agent, or any other agent, by whatever name called, or an auctioneer sells or purchases any goods or is instrumental in selling or purchasing any goods, then the principal and such Commission agent, agent or auctioneer, as the case may be, shall be jointly and severally liable to pay tax on the turnover of such sales or purchases under the provisions of this Act :

Provided that, the principal on whose behalf such Commission agent or auctioneer has sold goods, shows to the satisfaction of the Commissioner that the tax has been paid by his Commission agent, agent or auctioneer on such goods, the principal shall not be liable to pay tax again in respect of the same transaction.

(2) Where a manager or agent of a non-resident dealer, sells or purchases any goods on behalf of a non-resident dealer in the State, then the non-resident dealer and the manager or agent residing in the State shall be jointly and severally liable to pay tax on the turnover of such sales or purchases under the provisions of this Act :

Provided that, if the non-resident dealer shows to the satisfaction of the Commissioner that the tax payable in respect of such sale or purchase has been paid by the manager or agent residing in the State, then the non-resident dealer shall not be liable to pay the tax again in respect of the same transaction.

**Power to reduce rate of tax and to amend Schedules.** 27. The State Government may, by notification in the *Official Gazette*, reduce any rate of tax specified in Schedule B or C in respect of any entry (or part thereof) in the said Schedules; and may, by like notification,—

(a) omit or amend any entry (or part thereof), but not so as to enhance the rate of tax in any case;

(b) transpose any entry by deleting it from one of the Schedules and inserting it in or adding it to another;

and thereupon, the Schedule shall be deemed to have been amended accordingly.

Any notification issued under this section shall take effect from the date of the publication thereof in the *Official Gazette* or from such other prospective or retrospective date as may be mentioned therein.

28. Where any entry (or part thereof) is transposed by its deletion from one of the Schedules and its insertion in or addition to another Schedule, then the deductions provided in clause (ii) of sub-section (1) of section 7 or clause (ii) of section 8, as the case may be, shall not apply to the resales of such goods.

No deduction under sections 7 and 8 in certain cases.

29. Notwithstanding any contract to the contrary, where any firm is liable to pay tax under this Act, the firm and each of the partners of the firm shall be jointly and severally liable for such payment :

Liability of firms.

Provided that, where any such partner retires from the firm, he shall intimate the date of his retirement within 30 days thereof to the Commissioner by a notice in that behalf in writing and he shall be liable to pay tax (including any interest and penalty) remaining unpaid at the time of his retirement and any tax (including any interest and penalty) due up to the date of his retirement. He shall be also liable to pay interest up to the date of payment of such tax and penalty :

Provided further that, if no such intimation is given within 30 days from the date of retirement, the retiring partner shall continue to be jointly and severally liable to pay tax (including any interest and penalty) in respect of all the sales and purchases effected after the date of retirement till the day such intimation is received by the Commissioner, as if the retiring partner had not retired.

30. (1) Where a dealer, liable to pay tax under this Act, dies then,—

(a) if the business carried on by the dealer is continued after his death by his legal representative or any other person, such legal representative or other person shall be liable to pay the tax (including any interest and penalty) due from such dealer under this Act or under any earlier law, in the like manner and to the same extent as the deceased dealer, whether such tax (including any interest and penalty) has been assessed before his death but has remained unpaid or is assessed after his death;

Special provision regarding liability to pay tax in certain cases.

(b) if the business carried on by the dealer is discontinued whether before or after his death, his legal representative shall be liable to pay, out of the estate of the deceased, in the like manner and to the same extent as the deceased dealer would have been liable to pay if he had not died, the tax (including any interest and penalty) due from such dealer under this Act or under any earlier law, whether such tax (including any interest and penalty) has been assessed before his death but has remained unpaid, or is assessed after his death.

Such legal representative shall, however, be personally liable for any tax (including any interest and penalty) payable by him in his capacity as a legal representative if, while his liability for tax (including any interest and penalty) remains undischarged, he creates a charge on or disposes of or parts with any assets of the estate of the deceased, which are in, or may come into his possession, but such personal liability shall be limited to the value of the assets, so charged, disposed of or parted with.

*Explanation 1.*—In this sub-section, the expression “legal representative” has a meaning assigned to it in clause (11) of section 22 of the Code of Civil Procedure, 1908.

*Explanation 2.*—For the purpose of the proceedings under this Act,—

(i) any proceedings taken against the deceased before his death shall be deemed to have been taken against the legal representative and may be continued against

the legal representative from the stage at which they stood on the date of death of the deceased;

(ii) any proceedings which could have been taken against the deceased if he had not died, may be taken against the legal representative;

(iii) all the provisions of this Act shall apply accordingly as if the legal representative were the dealer himself;

(iv) any notice issued under this Act or under any earlier law or under the rules made under this Act or such earlier law to a legal representative shall be deemed to be a notice to all the legal representatives.

(2) Where a dealer, liable to pay tax under this Act, is a Hindu undivided family, and the joint family property is partitioned amongst the various members or group of members, then each member or group of members shall be jointly and severally liable to pay the tax (including any interest and penalty) due from the dealer under this Act or under any earlier law up to the time of the partition, whether such tax (including any interest and penalty) has been assessed before partition but has remained unpaid, or is assessed after partition :

Provided that, on the partition of the Hindu undivided family, the Karta or any member of such family, shall intimate the date of partition of the family within 30 days thereof to the Commissioner by a notice in writing in that behalf :

Provided further that, if no such intimation is given within 30 days from the date of partition, the liability of every member of such family shall continue in respect of any business done by any member or group of members after the date of partition until the date on which such intimation is received by the Commissioner :

Provided also that, where such Hindu undivided family is partitioned, the tax payable under this Act, by such Hindu undivided family upto the date of partition, shall be assessed, as if no such partition had taken place and any notice issued to any member of such Hindu undivided family shall be a notice to the Hindu undivided family and the provisions of this Act shall, so far as may be, apply accordingly as if the Hindu undivided family was not partitioned or disrupted.

(3) Where a dealer, liable to pay tax under this Act, is a firm or an association of persons and such firm or association is dissolved, then —

(a) the tax payable under this Act by such firm or association up to the date of dissolution shall be assessed as if no such dissolution has taken place;

(b) every person, who was at the time of such dissolution, partner of such firm or member of such association, shall, notwithstanding such dissolution, be liable jointly and severally for the tax (including any interest and penalty) due from the firm or the association, whether such tax (including any interest and penalty) has been assessed prior to or after such dissolution and subject as aforesaid, the provisions of this Act shall, so far as may be, apply as if every such partner or member were himself a dealer :

Provided that, on dissolution of the firm or association any partner of the firm or as the case may be any member of the association shall intimate the date of dissolution within 30 days thereof to the Commissioner by a notice in writing in that behalf :

Provided further that, if no such intimation is given within 30 days from the date of dissolution, the liability of every partner of the firm or as the case may be of every member of the association shall continue in respect of any business done by any

partner or group of partners of the firm or any member or group of members of the association, after the date of dissolution until the date on which such intimation is received by the Commissioner :

Provided further that, where the partner of a firm or member of association liable to pay such tax (including any interest and penalty) dies, then the provisions of sub-section (1) shall, so far as may be, apply :

Provided also that, where any firm or association of persons is dissolved, any notice to any partner of the dissolved firm or to any member of the dissolved association, shall be deemed to be a notice to all the partners of the firm or to all the members of the association and the provisions of this Act shall, so far as may be, apply as if the firm or the association has not dissolved.

(4) Where a dealer, liable to pay tax under this Act, transfers or otherwise disposes of his business in whole or in part, by a sale, gift, lease, leave and licence, hire or in any other manner whatsoever, the dealer and the person to whom the business is so transferred shall, jointly and severally, be liable to pay the tax (including any interest and penalty) due from the dealer under this Act or under any earlier law upto the time of such transfer, whether such tax (including interest and penalty) has been assessed before transfer but has remained unpaid, or is assessed thereafter :

Provided that, where the dealer transfers his business, such dealer and the person to whom the business is so transferred shall, within 30 days from the date of transfer, give intimation to that effect to the Commissioner by a notice in writing :

Provided further that, if no such intimation is given within the aforesaid period by the transferor or the transferee, the transferor and the transferee shall be liable to pay tax on all the sales and purchases effected after the date of transfer till the date on which such intimation is received by the Commissioner, as if the business was conducted after the transfer by the transferor and the transferee jointly :

Provided also that, when such intimation is not given within the aforesaid period of 30 days, any notice under this Act or the rules made thereunder issued to the transferor shall be deemed to be a notice issued to the transferee also and all the provisions of this Act shall, so far as may be, apply as if the transferor and the transferee were given due notice of the proceedings under this Act and no order passed shall be invalid merely on the ground that the transferee was not made a party to the said proceedings.

*Explanation.*—For the purpose of this sub-section, where the business is transferred in whole or in part by lease, leave or licence or hire, and on termination or expiry of the period of such agreements, the business reverts to the lessor, licensor or hirer, then such lessor, licensor or hirer, as the case may be, shall be deemed to be the transferee of the business.

(5) Where the dealer, liable to pay tax under this Act —

(a) is the guardian of a ward on whose behalf the business is carried on by the guardian, or

(b) are trustees who carry on the business under a trust for a beneficiary, then, if the guardianship or trust is terminated, the ward or, as the case may be, the beneficiary shall be liable to pay the tax (including any interest and penalty) due from the dealer upto the time of the termination of the guardianship or trust, whether such tax (including any interest and penalty) has been assessed before the termination of the guardianship or trust but has remained unpaid, or is assessed thereafter.

(6) Where a dealer liable to pay tax under this Act, is succeeded in the business by any person in the manner described in clause (a) of sub-section (1) or becomes

a transferee under the provisions of sub-section (4), then such person or transferee shall, notwithstanding anything contained in section 3, be liable to pay tax on the sales or purchases of goods made by him on or after the date of such succession or transfer and shall (unless he already holds a certificate of registration) within thirty days thereof apply for registration, and if he is already a Registered dealer, he shall apply within prescribed time for necessary amendment of his registration certificate:

Provided that, where such person resells any goods purchased by the dealer while carrying on business before such succession or transfer, he shall be entitled to such deductions in respect thereof as are permissible under section 7 or 8, as the case may be, had the resale been effected by the dealer himself.

### CHAPTER III

#### SALES TAX AUTHORITIES, TRIBUNAL AND SETTLEMENT COMMISSION

*Sales Tax  
Authorities.*

31. (1) For carrying out the purposes of this Act, the State Government shall appoint an officer to be called the Commissioner of Sales Tax.

(2) Likewise, the State Government may appoint one or more Additional Commissioners of Sales Tax and such number of—

(a) Deputy Commissioners of Sales Tax,

(b) Assistant Commissioners of Sales Tax,

(c) Sales Tax Officers, and

(d) other officers and persons, and give them such designations (if any), as that Government thinks necessary.

(3) The Commissioner shall have jurisdiction over the whole of the State of Maharashtra. The Additional Commissioners of Sales Tax shall have jurisdiction over the whole of the State, or where the State Government so directs, over any local area thereof. The Deputy Commissioners shall have jurisdiction over any local areas as the State Government may specify, or where the State Government so directs, over the whole of the State. All other officers shall have jurisdiction over such local areas as the State Government may specify.

(4) The Commissioner shall have and exercise all the powers and perform all the duties, conferred or imposed on the Commissioner by or under this Act, and an Additional Commissioner shall, save as otherwise directed by the State Government, have and exercise within his jurisdiction all the powers and perform all the duties conferred or imposed on the Commissioner by or under this Act.

(5) A Deputy Commissioner shall 'save as otherwise directed by the State Government' have and exercise in the area within his jurisdiction all the powers and shall perform all the duties, conferred or imposed on the Commissioner, by or under this Act.

(6) The Assistant Commissioners, Sales Tax Officers and other officers shall, within their jurisdiction, exercise such of the powers and perform such of the duties of the Commissioner under this Act, as the Commissioner may, subject to such conditions and restrictions as the State Government may by general or special order impose, by order in writing delegate to them either generally, or as respects any particular matter or class of matters.

(7) The State Government may, subject to such restrictions and conditions (if any) as it may impose, by notification in the *Official Gazette*, delegate to the Commissioner the powers (not being powers relating to the appointment of Additional Commissioners) conferred on that Government by or under this section.

(8) No person shall be entitled to call in question the territorial jurisdiction of any officer or person appointed under sub-section (2) after the expiry of thirty days from the date of receipt by such person of any notice under this Act or under any earlier law, issued by such officer or person. If within the period aforesaid, an objection is raised as to the jurisdiction of any such officer or person by submitting a memorandum to him, the officer or person shall refer the question to the Commissioner, who shall after giving the person raising the objection a reasonable opportunity of being heard, make an order determining the question. The order made by the Commissioner shall be final.

(9) All officers and persons appointed under sub-section (2) shall be subordinate to the Commissioner, and the subordination of officers (other than the Commissioner), and of persons, amongst themselves shall be such may be prescribed.

(10) (a) The Commissioner may, from time to time, issue such orders, instructions and directions to the Sales Tax authorities appointed under this section as he may deem fit for carrying out the purposes of this Act, and such authorities and all other persons appointed under the Act shall observe and follow such orders, instructions and directions of the Commissioner :

Provided that, no such orders, instructions or directions shall be issued—

(i) so as to require any sales tax authority to make a particular assessment or to dispose of a particular case in a particular manner; or

(ii) so as to interfere with the discretion of the sales tax authorities in the exercise of their appellate functions.

(b) Without prejudice to the generality of the foregoing powers, the Commissioner may, if he considers it necessary or expedient so to do, for the purpose of proper and efficient management of the work of assessment and collection of revenue, issue from time to time, general or special orders in respect of any class of sales or purchases or class of dealers, setting forth directions or instructions not being prejudicial to the dealers as to the guidelines, principles or procedures to be followed by other sales tax authorities in the work relating to assessment or collection of revenue or the imposition of penalties or calculation of interest and any such order may, if the Commissioner is of the opinion that it is necessary in the public interest so to do, be published and circulated in the prescribed manner for general information.

32. (1) *There shall be a Tribunal to be called "the Maharashtra Sales Tax Tribunal". Subject to the provisions of this section, the Tribunal shall consist of such number of members appointed by the State Government as that Government may from time to time consider necessary for the proper discharge of the functions conferred on the Tribunal by or under this Act.*

(2) *The State Government shall appoint one of the members of the Tribunal to be the President thereof.*

(3) The qualification of the members constituting the Tribunal shall be such as may be prescribed, and a member shall hold office for such period as the State Government may fix in his case.

(4) Any vacancy in the membership of the Tribunal shall be filled up by the State Government as soon as practicable.

(5) The functions of the Tribunal may be discharged by any Bench consisting of the members sitting either singly, or 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 of the other members of the Tribunal, and such point or points shall be decided according to the majority of the members of the Tribunal who heard the case upon such reference including those who first heard it.

(7) If the Bench is of the opinion that the earlier decision of any Bench on any point requires reconsideration, or where such Bench is inclined to take a decision contrary to the decision already taken by any Bench of the Tribunal, then such Bench shall refer the point or the case to the President for formation of a larger Bench. The President may thereupon form a larger Bench of such number of members of the Tribunal, as he may determine. Such larger Bench shall as far as practicable be presided over by the President. The point or the case shall be decided according to the decision of the majority of the members consisting such larger Bench. Where the President is sitting singly he may in similar circumstances form a larger Bench for the disposal of such point or the case.

(8) Subject to such conditions and limitations as may be prescribed, the Tribunal shall have power to award costs, and the amount of such costs shall be recoverable from the person ordered to pay the same as an arrear of land revenue.

(9) Subject to the previous sanction of the State Government, the Tribunal shall, for the purpose of regulating its procedure (including the place or places at which the Tribunal, the Benches or the members thereof shall sit) and for disposal of its business, make regulations consistent with the provisions of this Act and the rules.

(10) The regulations made under sub-section (9) shall be published in the *Official Gazette*.

*Settlement Commission.* **33.** (1) *The State Government may constitute a Commission to be called "the Maharashtra Sales Tax Settlement Commission" for the settlement of tax liability (including interest and penalty) under the provisions of this Act, or any earlier law.*

(2) *Such Commission shall consist of such number of members as may be appointed by the State Government, as it may from time to time consider necessary for the proper discharge of the functions conferred on the Commission under this Act.*

(3) *The State Government shall appoint one of the members of the Commission to be the Chairman thereof.*

(4) The functions of the Commission may be discharged by the members sitting in Benches of two or more members of the Commission.

(5) The qualification of the members of the Commission shall be such as may be prescribed, and a member shall hold office for such period as the State Government may fix in his case.

(6) Subject to the previous sanction of the State Government, the Commission shall for the purpose of regulating its procedure and disposal of its business, make regulation consistent with the provisions of this Act and the rules.

(7) The regulations made under sub-section (6) shall be published in the *Official Gazette*.

## CHAPTER IV

## REGISTRATION, AUTHORIZATION, RECOGNITION AND PERMIT

34. (1) No dealer shall, while being liable to pay tax under section 3 or under Registration. sub-section (6) of section 30, carry on business as a dealer, unless he possesses a valid certificate of registration as provided by this Act :

Provided that, the provisions of this sub-section shall not be deemed to have been contravened, during the period from the date of application for registration as in this section provided, within the prescribed time or, as the case may be, within the period specified in sub-section (6) of section 30 till the date of the grant of registration certificate.

(2) Every dealer, required by sub-section (1) to possess a certificate of registration, shall apply in the prescribed manner, to the prescribed authority.

(3) On receipt of application, the prescribed authority may conduct such enquiry as it deems fit and may also call for such evidence and information as may be necessary and if the said authority is satisfied after considering the evidence and information that an application for registration is in order, it shall register the applicant and issue to him a certificate of registration in the prescribed form and such registration certificate shall be exhibited in the manner prescribed in this behalf.

(4) When the prescribed authority is satisfied that the particulars contained in the application are not correct and complete, or that the information called for is not furnished, he shall reject the application for registration for reasons to be recorded in writing :

Provided that, no application shall be rejected under this sub-section unless the applicant is given a reasonable opportunity of being heard.

(5) The prescribed authority may, after considering any information furnished under any provisions of this Act or otherwise received, amend from time to time, any certificate of registration.

(6) If any person upon an application made by him has been registered as a dealer under this section, and thereafter it is found that he ought not to have been so registered under the provisions of this section, he shall be liable to pay tax on his sales or purchases made from the date on which his registration certificate took effect until it is cancelled notwithstanding whether he is a dealer or not or is a dealer not liable to pay tax under section 3.

(7) Where—

(a) any business, in respect of which a certificate of registration has been issued under this section, has been discontinued, or has been transferred or otherwise disposed of, or

(b) neither the turnover of sales nor the turnover of purchases of a Registered dealer has during any year exceeded the relevant limit specified in sub-section (4) of section 3,

and the dealer applies in the prescribed manner for cancellation of his registration, the prescribed authority shall cancel the registration with effect from such date as it may fix in accordance with the rules :

Provided that, where the Commissioner is satisfied that any business in respect of which a certificate has been issued under this section has been discontinued or transferred or disposed of and the dealer has failed to apply as aforesaid for cancellation of registration, the Commissioner may, after giving the dealer a reasonable opportunity of being heard, cancel the registration with effect from such date as he may fix to be the date from which the business has been discontinued or transferred or disposed of, as the case may be :

Provided further that, for the purposes of this Act, such dealer shall not be deemed to be a Registered dealer under this Act with effect from the date of cancellation so fixed :

Provided also that, the cancellation of a certificate of registration on an application of the dealer or otherwise, shall not affect the liability of the dealer to pay the tax (including any interest and penalty) due for any period prior to the date of cancellation, whether such tax (including any interest and penalty) is assessed before the date of cancellation but remains unpaid, or is assessed thereafter.

Authori-  
zation.

35. Where, during the previous or current year, the turnover of sales of a registered dealer of goods —

- (a) which are exported by him from the State outside the territory of India,
- (b) which are sold by him in the course of inter-State trade or commerce, and
- (c) which are despatched by him from the State to any place in India outside the State,

exceeds fifty thousand rupees, he may apply for an Authorization to the Commissioner. Subject to the provisions of section 38 the Commissioner shall, if the Registered dealer satisfies such further requirements (including the furnishing of adequate security) as may be prescribed, issue to him an Authorization in such form and subject to such conditions, as may be prescribed.

*Explanation.*—Where a Registered dealer has, during the year commencing on the first day of April 1978, been a dealer registered under an earlier law, and the turnover of sales made by him during that year of goods which are sold in the course of inter-State trade or commerce from the State or which are exported by him from the State to a place outside the territory of India had exceeded Rs. 50,000, he may also apply under this section for an Authorization to the Commissioner, and the Commissioner shall issue to him an Authorization in the manner aforesaid.

Recognition.

36. Where during the previous or current year, the value of taxable goods manufactured by a Registered dealer for sale by him exceeds Rs. 3,000 he may apply for Recognition to the Commissioner, Subject to the provisions of section 38, the Commissioner, shall, in respect of any goods specified in Part II of Schedule C required by the dealer for use within the State in the manufacture of taxable goods for sale by him or in the packing of goods so manufactured, if the dealer satisfies such further requirements (including the furnishing of adequate security) as may be prescribed, issue to him a Recognition in such form and on such conditions, as may be prescribed :

Provided that, the Commissioner may, at any time—

(a) on an application by the dealer in this behalf, and after, such inquiry as he deems fit, add to, or delete from, the Recognition issued to the dealer, any goods or class of goods specified in Part II of Schedule C ;

(b) notwithstanding anything contained in section 79, of his own motion, after giving the dealer a reasonable opportunity of being heard and for reasons to be recorded in writing, delete any goods or class of goods specified in such Recognition.

*Explanation.*—Where a Registered dealer has during the year commencing on the first day of April 1978 been a dealer registered under an earlier law, and the value of all taxable goods manufactured by him during that year exceeded Rs. 3,000, he may also apply under this section for Recognition to the Commissioner, and the Commissioner shall issue to him a Recognition in the manner aforesaid.

Permit.

37. A Registered dealer, who *bona fide* buys or sells for an agreed commission any goods on behalf of a principal mentioned in his account in respect of each transaction and whose turnover of such purchases during the previous year or current

year exceeds fifty thousand rupees may apply in the prescribed manner for a Permit to the Commissioner. Subject to the provisions of section 38, the Commissioner shall, if the dealer satisfies such further requirements (including the furnishing of adequate security) as may be prescribed, issue to him a Permit in such form, and subject to such conditions, as may be prescribed.

*Explanation.*—Where a Registered dealer has during the year commencing on the first day of April 1978 been a dealer registered under an earlier law, and the turnover of purchases made by him during that year on behalf of a principal outside the State (not being a nonresident dealer) had exceeded fifty thousand rupees, he may also apply under this section for a Permit to the Commissioner, and the Commissioner shall issue to him a Permit in the manner aforesaid.

38. The Commissioner may, after giving reasonable opportunity of being heard, refuse to grant Authorization, Recognition or, as the case may be, Permit to a dealer under any of the following circumstances, that is to say,—

Commissioner may refuse Authorization etc.

(a) if any Authorization, Recognition or, as the case may be, a Permit previously granted under this Act to such dealer has been cancelled in the circumstances other than those referred to in sub-section (1) of section 39;

(b) during any period of suspension of the dealer's Authorization, Recognition or, as the case may be, Permit;

(c) if the dealer—

(i) has failed to pay any tax (including any interest and penalty) due from him by or under any provision of this Act, or any earlier law; or

(ii) has failed, without sufficient cause, to furnish any returns required to be furnished by or under the provisions of this Act (other than the provisions of section 73), or any earlier law; or

(iii) is an undischarged insolvent, or

(iv) has been convicted of an offence under this Act or any earlier law;

(d) if a dealer is a firm, and any partner thereof is a person—

(i) whose Authorization, Recognition or Permit, as the case may be, has been cancelled in the circumstances referred to in clause (a), or

(ii) to whom an Authorization, Recognition or Permit, as the case may be, was previously refused in the circumstances referred to in clause (c);

(e) if, in the opinion of the Commissioner, the grant of such Authorization, Recognition or Permit, as the case may be, to a dealer under this Act is likely to be prejudicial to the interest of the revenue.

39. (1) If—

(a) the registration of an Authorised dealer, Recognised dealer or Commission agent holding a Permit, is cancelled; or

Cancellation or suspension of Authorization etc.

(b) in any year,—

(i) the turnover of sales of an Authorised dealer or, as the case may be, the turnover of purchases of a Commission agent holding a permit fails to exceed the amount requisite for the grant of Authorization or Permit, or

(ii) the value of taxable goods manufactured for sale by a Recognised dealer fails to exceed the amount requisite for the grant of a Recognition; or

(c) the Authorised dealer, Recognised dealer or Commission agent holding a Permit, does not wish to continue to have an Authorization, Recognition or Permit, then in the circumstances stated—

(i) in clause (a), the dealer shall forthwith,

(ii) in clause (b), the dealer shall within fifteen days from the end of such year,

(iii) in clause (c), the dealer may at any time,

present his Authorization, Recognition or Permit to the Commissioner for cancellation, and the Commissioner shall cancel the Authorization, Recognition, or as the case may be, the Permit, and accordingly in the circumstances stated in clause (a) the Authorization, Recognition or Permit shall stand cancelled from the date of cancellation of the registration, and in any other case it shall cease to have effect from the date of presentation for cancellation.

(2) If any Authorised dealer, Recognised dealer or Commission agent holding a Permit—

(a) fails to pay any tax (including any interest and penalty) due from him under any provisions of this Act, or of any earlier law,

(b) contravenes or has contravened any provisions of this Act or any condition of his Authorization, Recognition or Permit, or

(c) becomes an insolvent, or

(d) has been convicted of an offence under this Act or any earlier law, or

(e) if, in the opinion of the Commissioner, the continuance of the Authorization, Recognition or Permit, as the case may be, granted to a dealer under this Act is likely to be prejudicial to the interest of the revenue,

the Commissioner may, after giving the Authorised dealer, Recognised dealer or, as the case may be, the Commission agent, a reasonable opportunity of being heard, suspend the Authorisation, Recognition or, as the case may be, the Permit, for such period as he thinks fit, or cancel it.

Non-transferability of Registration, Authorization etc.

40. Save as otherwise provided in section 42, a certificate of Registration, Authorization, Recognition or Permit granted to a dealer, shall be personal to the dealer to whom it is granted, and shall not be transferable.

Information to be furnished regarding changes in business etc.

41. (1) If any dealer liable to pay tax under this Act—

(a) sells or otherwise disposes of his business or any part thereof, or effects or knows of any other change in the ownership of the business, or

(b) discontinues his business, or changes place thereof or opens a new place of business including a godown or a warehouse or any place where he stores his goods, or

(c) changes the name or nature of his business, or the classes of goods in which he has dealings, or

(d) being a manufacturer, effects any change in the classes of goods manufactured by him, or

(e) enters into a partnership or other association in regard to his business he shall, within the prescribed time, inform the prescribed authority accordingly,

(2) Where any dealer liable to pay tax under this Act—

- (a) dies, his executor, administrator or legal representative, or
- (b) where he is a firm, a Hindu undivided family or an association of persons and there is a change in the constitution of such firm, Hindu undivided family or association, either by way of dissolution or disruption, or otherwise, then, every person who was a partner, Karta, or a member of such firm, a Hindu undivided family or association, or
- (c) transfers or disposes his business in the circumstances mentioned in sub-section (4) of section 30 then, every person to whom the business is so transferred, shall in the like manner inform the said authority of such death, change in the constitution, dissolution, disruption or transfer.

42. Where a Registered dealer—

- (a) effects change in the name of his business, or
- (b) is a firm, and there is change in the constitution of the firm without dissolution thereof, or
- (c) is a trustee of a trust, and there is change in the trustees thereof, or
- (d) is a guardian of a ward, and there is a change in the guardian, when, merely by reason of any of the circumstances aforesaid, it shall not be necessary for the dealer, or the firm with the changed constitution, or the new trustees, or the new guardian to apply for a fresh certificate of registration and on information being furnished in the manner required by section 41, the certificate of registration shall be amended; and any Authorization, Recognition or Permit granted to the Registered dealer prior to any such change as is mentioned aforesaid shall, subject to the provisions of section 39, also continue to be valid, as also any declaration given under section 12 or 13 under such Authorization, Recognition or Permit.

Certificate of registration, etc. to continue in certain circumstances.

## CHAPTER V

### RETURNS, ASSESSMENT, PAYMENT, INTEREST, PENALTY, RECOVERY AND REFUND OF TAX

43. (1) Every Registered dealer shall furnish such returns, in such forms, for Returns. such periods, by such dates, and to such authority, through such agency, if any, as may be prescribed :

Provided that, the Commissioner may, subject to such terms and conditions as may be prescribed, exempt any such dealer from furnishing such returns or permit any such dealer—

- (a) to furnish them for such different period, or
- (b) to furnish a consolidated return relating to all or any of the places of business of the dealer in the State for the said period, or for such different period, to such authority, through such agency, if any, as he may direct.
- (2) If the Commissioner has reason to believe—
- (a) that the turnover of sales or the turnover of purchases of any dealer is likely to exceed the relevant limit specified in sub-section (4) of section 3 for liability to pay tax, or
- (b) that either the turnover of sales or the turnover of purchases of any dealer has during any year exceeded—
- (i) Rs. 15,000 in the case of a dealer who is an importer or manufacturer, or

(ii) Rs. 40,000 in the case of any other dealer,

he may, by notice served in the prescribed manner, require such dealer to furnish returns as if he were a Registered dealer; but no tax will be payable by such dealer, unless his turnover exceeds the relevant limit specified in sub-section (4) of section 3, nor otherwise than in accordance with the other provisions of this Act.

(3) If any dealer having furnished returns under sub-section (1) or (2), discovers any omission or incorrect statement therein, he may furnish a revised return before the expiry of three months next following the last date prescribed for furnishing the original return.

Assessment  
of taxes.

44. (1) The amount of tax due from a dealer liable to pay tax shall be assessed separately for each year during which he is so liable:

Provided that, the Commissioner may, for reasons to be recorded in writing, assess the tax due from any dealer during a part of a year:

Provided further that, when a Registered dealer fails to furnish any return relating to any period of any year, by the prescribed date, the Commissioner may, if he thinks fit, assess the tax due from such dealer separately for different parts of such year.

(2) If the Commissioner is satisfied that the returns furnished by a Registered dealer in respect of any period are correct and complete, he shall assess the amount of tax due from the dealer on the basis of such returns.

(3) If the Commissioner is not satisfied that the returns furnished by a Registered dealer by the prescribed date in respect of any period are correct and complete, and he thinks it necessary to require the presence of the dealer or the production of further evidence, he shall serve on such dealer in the prescribed manner a notice requiring him on a date and at a place specified therein, either to attend and produce or cause to be produced all evidence on which such dealer relies in support of his returns, or to produce such evidence as may be called for by the Commissioner.

On the dates specified in the notice, or as soon as may be thereafter, the Commissioner shall, after considering all the evidence which may be produced, assess the amount of tax due from the dealer.

(4) If a Registered dealer fails to comply with the terms of any notice issued under sub-section (3), the Commissioner shall assess, to the best of his judgement, the amount of tax due from him.

(5) If a Registered dealer does not furnish returns in respect of any period by the prescribed date, the Commissioner shall, at any time within eight years from the end of the year in which such period occurs, after giving the dealer a reasonable opportunity of being heard, proceed to assess, to the best of his judgement, the amount of tax (if any) due from him.

(6) If the Commissioner has reason to believe that a dealer is liable to pay tax in respect of any period, but has failed to apply for registration or failed to apply for registration within the prescribed time or failed to obtain registration as required by section 34, the Commissioner shall, at any time within eight years from the end of the year in which such period occurs, proceed to assess, to the best of his judgement, the amount of tax (if any) due from the dealer in respect of that period, and any period or periods subsequent thereto. No order under this sub-section shall be passed without giving the dealer a reasonable opportunity of being heard.

(7) (a) If, in the opinion of the Commissioner, the accounts maintained by a dealer are correct and complete but the method employed by the dealer is such that, the taxable turnover of sales and purchases cannot properly be determined, then the Commissioner may, after giving the dealer a reasonable opportunity of being heard, determine such turnover to the best of his judgement for the purpose of assessment under the aforesaid provisions.

(b) Where the Commissioner is not satisfied about the correctness or the completeness of the accounts of a dealer, or where no method of accounting has been regularly employed by a dealer, the Commissioner may, after giving the dealer a reasonable opportunity of being heard, assess under the aforesaid provisions, to the best of his judgement, the amount of tax (if any) due from him.

(8) Any assessment made under this section shall be without prejudice to any interest, penalty, or prosecution for an offence under this Act.

(9) (a) Where all the returns are filed by a Registered dealer for any year covered by earlier laws by the dates prescribed thereunder, no order of assessment in respect of that year shall be made under the provisions of the earlier laws corresponding to sub-sections (3) and (4) of this section after the 31st March 1982.

(b) Where all the returns are filed by a registered dealer for any year under this Act by the dates prescribed thereunder, no order of assessment under sub-section (3) and (4) in respect of that year shall be made after the expiry of three years from the end of the said year :

Provided that, where an order of assessment made under sub-sections (3) and (4) or the corresponding provisions of the earlier law is cancelled or set aside after the appointed day by any authority or by the Tribunal or by any Court, then the assessment for the year mentioned in sub-clauses (a) and (b) may be made within three years from the end of the year in which such order is set aside :

Provided further that, if the assessment proceedings under the aforesaid sub-sections initiated within the period mentioned in sub-clauses (a) and (b), have been stayed for any period by any authority or by the Tribunal or by any Court then the limitation provided in sub-clauses (a) and (b) shall stand extended by the period for which the proceedings were so stayed :

Provided also that, the Commissioner may, in the interest of the revenue, issue directions not to proceed with the assessment of any particular dealer or class of dealers for any particular period. The period covered by such direction to stay the assessment proceedings shall be excluded for the purpose of computing the period mentioned in sub-clauses (a) and (b) of this sub-section.

(10) Notwithstanding anything contained in this section, where any order of settlement passed by the Settlement Commission under section 80 has become void under sub-section (6) of that section, then the assessment may be completed within three years from the date on which such settlement has been declared to be void.

45. Where in respect of any tax (including any interest and penalty) due from a dealer under this Act or under any earlier law, any other person is liable for the payment thereof under section 30, all the relevant provisions of this Act or, as the case may be, of the earlier law, shall in respect of such liability apply to such person also, as if he were the dealer himself.

Applicability of all the provisions of this Act or earlier law to person liable to pay tax under section 30.

46. (1) If, after a dealer has been assessed under section 44, or under section 4, or under section 59, for any year or part thereof, the Commissioner has reason to believe that any turnover of sales or turnover of purchases of any goods has in respect of that year or part thereof escaped assessment, or has been under-assessed or assessed at a lower rate, or that any deduction has been wrongly made or any drawback, set-off or refund has been wrongly granted, then the Commissioner may,—

Reassessment of turnover escaping assessment, under assessed etc.

(a) where he has reason to believe that the dealer has failed to disclose any transactions of sales or purchases in the turnover of sales or purchases declared in the return or has claimed inaccurate deductions or set-off, drawback or refund

in the returns furnished or failed to disclose fully and truly all material facts necessary for his proper and correct assessment for the said year or part thereof, at any time within eight years, and

(b) in any case, at any time within five years,

of the end of that year, after giving the dealer a reasonable opportunity of being heard, may proceed to assess or reassess, to the best of his judgement, the amount of tax due from such dealer :

Provided that, the amount of tax shall be assessed at the rates at which it would have been assessed had there been no under-assessment or escapment, but after making deductions, (if any), permitted from time to time by or under this Act :

Provided further that, where in respect of such sales or purchases the rate of tax at which such transactions have been assessed or the deductions of such transactions from the total turnover for computing the taxable turnover or the draw-back, set-off or refund in respect of such transactions, as the case may be, was in dispute before the appellate or revising authority and an order has already been passed in respect thereof in appeal or revision under this Act, then the Commissioner shall make a report to the appropriate appellate or revising authority under this Act, which shall thereupon after giving the dealer concerned a reasonable opportunity of being heard, pass such order as it deems fit.

(2) Nothing in sub-section (1) shall apply to any proceedings (including any notice issued) under section 79 or 85.

(3) Nothing in section 79 or 85 shall affect a proceeding under this section.

Part  
assessment  
of taxes.

47. (1) Where the assessment or reassessment of a dealer or person under section 44 or 46 or sub-section (3) of section 59 involves a decision on a point which is concluded against the State by a judgement of the Tribunal or the High Court and the State has initiated appropriate proceedings against such judgement before a higher forum, the Commissioner may after giving the dealer or person a reasonable opportunity of being heard and for reasons to be recorded in writing, keep the decision on such point in abeyance and proceed to complete the assessment or reassessment under those sections in all other respects.

(2) The assessment or reassessment in respect of the point kept in abeyance under sub-section (1) shall be completed under section 44 or section 46 or as the case may be sub-section (3) of section 59 within one year from the date of the judgement of the higher forum or within the time specified in those sections, whichever is later.

Re-opening  
of  
assessment  
or re-  
assessment  
at the  
instance of  
dealer.

48. Where a dealer or person assessed under sub-sections (4), (5) or (6) of section 44 or under section 46 or section 4 or section 59 makes an application in the prescribed form to the Commissioner within 30 days from the date of service of the assessment, or reassessment order, for cancellation of the said order on the ground —

(i) that he did not receive the intimation of the date of hearing from the Commissioner for assessment under any of the sub-sections (3), (5) and (6) of section 44 or under section 46 or under section 4 or section 59, or

(ii) that he had no reasonable opportunity to comply or that he was prevented by sufficient cause from complying with the terms of the notice,

then the Commissioner shall, if satisfied about the existence of such grounds, cancel the assessment or re-assessment and proceed to make a fresh assessment or re-assessment in accordance with the provisions of this Act :

Provided that, no application made under this section shall be entertained by the Commissioner unless,—

(i) the Registered dealer or the person furnishes the returns for the period under assessment (if not already furnished) and pays tax according to the returns already furnished or so furnished alongwith the interest as provided under section 49,

(ii) a dealer not registered under this Act, pays the amount of tax and interest which according to him is payable :

Provided further that, no such application made under this section shall be entertained by the Commissioner, unless the applicant declares that no appeal under section 77 has been preferred against such order on the aforesaid grounds and also undertakes not to prefer any appeal under section 77 against such order on the said grounds.

49. (1) Notwithstanding anything contained in any law for the time being in force,—

Levy and  
calculation  
of interest.

(a) where any Registered dealer or any person has furnished returns but has not paid the tax due as per the said returns either fully or partially, then he shall be liable to pay interest on the amount of tax due as per the returns at the rate of two per cent. per month from the date by which he was required to pay the tax by or under the provisions of this Act, upto the date of payment;

(b) where any Registered dealer or any person has furnished a revised return as provided under sub-section (3) of section 43, which revised return shows that larger amount of tax than already paid is payable, then such dealer or person shall be liable to pay interest on such extra amount of tax at such rates and for such periods as provided in clause (a) of this sub-section as if the extra amount of tax payable as per revised returns was the amount of tax payable according to the original returns;

(c) where any Registered dealer is required to pay tax without furnishing returns for any period by or under the provisions of this Act and such tax is not paid by the due date, then such dealer shall be liable to pay interest on such amount of tax at such rates and for such periods as provided in clause (a) of this sub-section;

(d) where any Registered dealer or any person required to furnish returns pays tax for any period without furnishing the returns, the tax so paid shall be divided proportionately amongst the periods for which he was required by or under the provisions of this Act to pay but has failed to pay the same and the amount so determined shall be deemed to be the amount of tax payable for such period and the dealer shall be liable to pay interest at two per cent. per month on the aforesaid amount from the date from which the tax was due for such period by or under the provisions of this Act to the date of payment :

Provided that, where any such dealer shows to the satisfaction of the Commissioner that the whole or any part of the amount of tax paid is attributable to any particular period, then he shall be liable to pay interest on such amount at two per cent. per month from the date from which the tax for the said period was due and payable by or under the provisions of this Act to the date of payment;

(e) where the liability to pay tax is quantified in respect of a Registered dealer or any person,—

(i) who has furnished returns for the period for which the tax is quantified ;

(ii) who has failed to furnish returns for the whole of the period for which the tax is quantified ;

(iii) who has failed to furnish returns for any part of the period for which the tax is quantified ;

then, in respect of category (i) and (iii), the difference between the tax quantified and the tax shown payable in the returns and in respect of category (ii), the difference between the tax quantified and the tax paid, if, any, shall in respect of category (i) and (ii) be divided proportionately amongst the periods for which he was required to pay tax by or under the provisions of this Act and in respect of category (iii) be divided proportionately amongst the periods for which he was required to pay the tax by or under the provisions of this Act but has failed to pay such tax, and the amount so determined shall be deemed to be the amount of the tax payable for such period and the dealer shall be liable to pay interest at the rate of two per cent. per month on the aforesaid amount from the date from which the tax was due for such period by or under the provisions of this Act to the date of quantification.

*Explanation.*—The expression “liability to pay tax is quantified” in this clause means determination of the tax liability under section 44, 46, 59, 77, 79 or 80 of this Act :

Provided that, where any such dealer shows to the satisfaction of the Commissioner that the whole or any part of the balance of tax found due or liability to pay tax quantified is attributable to any particular period, then he shall be liable to pay interest on such amount at the rate of two per cent. per month from the date from which the tax for the said period was due and payable by or under the provisions of this Act to the date of quantification;

(f) the rate of interest payable under sub-clauses (a), (b) and (e) shall be at the reduced rate of one per cent. where the Registered dealer or any person has admitted the tax liability and where he is allowed to pay the admitted tax liability in instalments under the provisions of sub-section (5) of section 53 :

Provided that, if such dealer or the person fails to make payment of any of the instalments or fails to abide by any of the conditions, if any, subject to which permission to pay the tax in instalments was granted, the rate of interest shall be two per cent. per month;

(g) the interest payable under clauses (a), (b) and (c) of this sub-section shall not be charged for a period exceeding 36 months from the end of the year in respect of which the dealer or the person has failed to pay the tax.

(2) Where any amount of tax, interest and penalty is demanded from a dealer or a person as a result of an order passed in any proceedings under this Act (including the assessment, reassessment, appeal, revision, rectification or otherwise) and such tax, interest and penalty is not paid by such dealer or person within the time as required by or under the provisions of this Act to pay, then he shall be liable to pay interest at the rate of two per cent. per month on the amount of tax including interest and penalty from the date of such order till the date of payment of such amount.

(3) The Commissioner may, subject to such conditions as may be prescribed, remit the whole or any part of the interest payable in respect of any period.

Imposition  
of penalty  
in certain  
cases.

**50.** (1) Where any dealer or Commission agent purchases any taxable goods under a declaration given by him under section 12 or 13 and fails to comply with the conditions, recitals or undertakings of such declaration, then the Commissioner may, after giving such dealer or Commission agent a reasonable opportunity of being heard, by order in writing impose on him, in addition to any tax payable, a sum by way of penalty not exceeding twice the amount of tax :

Provided that, no penalty under this sub-section shall be levied, if the dealer or the Commission agent has included the purchase price of such goods in the turnover of purchases as required by sub-section (1) or (2) of section 20 and has paid the tax thereon.

(2) If any dealer—

(a) has failed to apply for registration as required by section 34; or

(b) has without reasonable cause failed to comply with any notice or communication in respect of the notice in the proceedings under sections 44, 46, 59 or 71, or

(c) has deliberately failed to disclose any transaction of sale or purchase in the turnover of sales or purchases declared in the return or has falsely claimed inaccurate deduction or set-off, draw-back or refund in the return furnished or failed to disclose fully and truly all material facts necessary for the purpose of proper and correct quantification of the tax liability;

then the Commissioner may, after giving the dealer a reasonable opportunity of being heard, by order in writing, impose upon the dealer by way of penalty (in addition to any tax found due) a sum not exceeding—

(i) in the case covered by clause (a), one and half times the amount of tax assessed;

(ii) in the case covered by clause (b), rupees two thousand, and

(iii) in the case covered by clause (c), one and one-half times the amount of tax sought to be evaded or one and half times of such set-off referred to in that clause.

(3) If any dealer contravenes the provisions of section 69, the Commissioner may, after giving such dealer an opportunity of being heard, direct him to pay by way of penalty a sum not exceeding double the amount of such sale in respect of which such contravention has occurred.

(4) If a dealer liable to pay tax under this Act, contravenes the provisions of sub-section (1) or (3) of section 70 or fails to comply with the directions issued under sub-section (2) of section 70, then he shall be liable to pay, in addition to any tax payable, a penalty of an amount not exceeding two thousand rupees :

Provided that, the Commissioner shall not impose such penalty, unless the person concerned has been given a reasonable opportunity of being heard.

(5) Where any dealer or person issues or produces a false bill, cash memorandum, voucher, declaration, certificate or other document by reason of which any transaction of sale or purchase effected by him or by any other dealer is not liable to be taxed or is liable to be taxed at a reduced rate, then the Commissioner may, after giving such dealer or person a reasonable opportunity of being heard, by order in writing impose on him, in addition to any tax (if any) payable, by way of penalty a sum not exceeding double the amount of tax which, in the opinion of the Commissioner, would have been leviable on such sale or purchase had such documents referred to earlier not been issued or produced, as the case may be.

(6) (a) If any dealer or other person collects any amount by way of tax or in lieu of tax in contravention of the provisions contained in section 24 or 68, the amount so collected shall, in addition to any tax for which he may be liable, be forfeited to the State Government by the Commissioner after giving such dealer or person a reasonable opportunity of being heard. When any order of forfeiture is made, the Commissioner shall publish or cause to be published a notice thereof for the information of the persons concerned giving such details and in such manner as may be prescribed.

(b) If any dealer or other person, without reasonable excuse, collects any amount by way of tax or in lieu of tax in contravention of the provisions contained in section 24 or 68, the Commissioner may, after giving such dealer or person a reasonable opportunity of being heard, by an order in writing, impose a penalty not exceeding one and one-half times the amount so collected.

(7) Whoever,—

(a) fails to present his Authorization, Recognition or, as the case may be, the Permit, for cancellation as required by section 39, or

(b) fails to furnish any return as required by section 43 or 59 by the date and in the manner prescribed, or

(c) not being a Registered dealer represents that he is or was a Registered dealer at the time when he sells or buys any goods, or

(d) not holding an Authorization, Recognition or Permit, represents at the time when he purchases or sells any goods that he holds, as the case may be, Authorization, Recognition or Permit, or

(e) gives declarations under section 12, 13, 15 or 59 which are false, or

(f) fails, without sufficient cause, to furnish any information required by section 41, or

(g) knowingly produces incorrect accounts, registers or documents or furnishes incorrect information, or

(h) obstructs any officer making an inspection or search or seizure under section 71, or

(i) fails to declare as required by section 21, the stock of goods held on the appointed day:

he shall be liable to pay in addition to tax (if any) for which he may be liable, a penalty not exceeding two thousand rupees, as the Commissioner may determine. No such penalty shall be imposed, unless such person is given a reasonable opportunity of being heard.

(8) No prosecution for an offence under this Act shall be instituted in respect of the same facts on which a penalty has been imposed and paid under this section.

Reference to  
Commissioner in  
certain  
cases.

**51.** Where in any proceedings under sections 44, 46, 49 or 50 before any authority, as may be prescribed, the difference between the amount of tax, penalty and interest proposed to be assessed, imposed or charged and the tax, penalty and interest already paid or admitted as payable, exceeds the limit as may be prescribed, a copy of the draft assessment order shall be served on the dealer. If the dealer raises an objection within the prescribed time in the prescribed manner to the authority issuing such draft assessment order, the said authority shall refer the proceedings with the objections to such authority as may be prescribed and the said proceedings notwithstanding the provisions of section 96 shall be deemed to be transferred to the authority to whom the proceedings are referred, who shall thereafter assess or reassess the amount of tax, interest and penalty due from the dealer after giving the dealer a reasonable opportunity of being heard.

Power of  
Commissioner to  
issue  
directions  
in certain  
cases.

**52.** (1) The Commissioner may, of his own motion or on a reference being made to him by any officer or person subordinate to him, call for and examine the record of any pending proceedings and if the Commissioner considers that, having regard to the nature of the case or the amount of tax, penalty or interest, as the case may be, involved or for any other reason, it is necessary or expedient so to do, the Commissioner may issue such directions as he thinks fit for the guidance of the said officer or person so as to enable him to complete the proceedings and such directions shall be binding on the said officer or person.

(2) The provisions of this section shall be in addition to and not in derogation of the provisions contained in sub-section (10) of section 31.

53. (1) Tax and interest shall be paid in the manner herein provided and at such intervals and by such dates as may be prescribed: Payment of tax, etc.

(2) (a) A Registered dealer furnishing returns as required by sub-section (1) of section 43 shall pay into such Government Treasury and in such manner as may be prescribed, the whole of the amount of tax due from him according to such return alongwith the amount of any interest payable by him under section 49.

(b) (i) Where any Registered dealer has not furnished a return as required by sub-section (1) of section 43, then the tax shown as payable by him in the return last furnished by him or in the return for the corresponding period of the previous year, whichever is more, shall provisionally be deemed to be the tax payable by the dealer for the period on periods for which the return has not been furnished;

(ii) where, however, no returns have been furnished by the dealer, then the amount of tax payable by the dealer for such period shall be provisionally determined by the Commissioner to the best of his judgement ;

and such provisional liability shall remain in force till such provisional tax is paid or the return for such period is furnished or the dealer is assessed for the said period, whichever is earlier.

(3) A Registered dealer furnishing a revised return in accordance with sub-section (3) of section 43, which shows that a larger amount of tax than already paid is payable, shall, before submitting such return, pay into a Government Treasury the additional amount of tax due as per such return.

(4) (a) The amount of tax—

(i) assessed or re-assessed for any period under section 44 or 46 less any sum already paid by the dealer in respect of such period,

(ii) assessed under sub-section (3) of section 59,

(iii) demanded under section 77 read with section 57(1)(a), or

(iv) demanded as per order passed under section 79,

(b) the amount of penalty including interest (if any) levied under section 49 or 50,

(c) the amount of fine (if any) imposed under sub-section (3) of section 75,

(d) the amount payable as per the order passed under section 80 by the Settlement Commission, and

(e) the amount due as per order passed under section 85;

shall be paid by the dealer or the person liable therefor into a Government Treasury within 30 days from the date of service of the notice issued by the Commissioner for this purpose.

(5) The Commissioner may, on an application from any dealer or person, allow him to pay the amount of tax and interest, if any, due as per return and remaining unpaid or the amount for which a notice under sub-section (4) has been issued, by instalments, on such terms and conditions, as may be specified by him. The grant of such instalments shall be without prejudice to the liability of such dealer or person to pay interest under section 49.

(6) (i) The amount of tax due where returns have been furnished without full payment therefor;

(ii) The amount of tax deemed to be payable under clause (b) of sub-section (2);

(iii) The amount of tax, penalty, interest, fine under section 75 and any other sum remaining unpaid after 30 days from the date of service of the notice for payment as provided in sub-section (4), and

(iv) any instalment not duly paid,

Shall be recoverable as an arrear of land revenue :

Provided that, where recovery proceedings have been already started to recover as an arrear of land revenue any amount mentioned in clause (i) of this sub-section, then such proceedings shall, notwithstanding anything contained in sub-section (4), continue till such amount is fully paid.

*Explanation.*—For the purposes of this section, “ tax ” includes lump sum by way of composition determined under the provisions of section 58.

**Special powers of Sales Tax authorities for recovery of tax as arrears of and revenue.** 54. (1) For the purposes of effecting recovery of the amount of tax, interest, penalty, and fine under section 75 due and recoverable from any dealer or other person by or under the provisions of this Act or under any earlier law, as arrears of land revenue,—

(i) the Commissioner of Sales Tax shall have and exercise all the powers and perform all the duties of the Commissioner under the Maharashtra Land Revenue Code, 1966; Mah. XLI of 1966.

(ii) the Additional Commissioners of Sales Tax shall have and exercise all the powers and perform all the duties of the Additional Commissioner under the said Code;

(iii) the Deputy Commissioners of Sales Tax shall have and exercise all the powers and perform all the duties of the Collector under the said Code ;

(iv) the Assistant Commissioners of Sales Tax shall have and exercise all the powers (except the powers of arrest and confinement of a defaulter in a civil jail) and perform all the duties of the Assistant or Deputy Collector under the said Code;

(v) the Sales Tax Officers shall have and exercise all the powers (except the power of confirmation of sale and arrest and confinement of a defaulter in a civil jail) and perform all the duties of the Tahsildar under the said Code.

(2) Every order passed in exercise of the powers conferred by sub-section (1) shall, for the purposes of sections 76, 77, 78, 79, 84 and 85 be deemed to be an order passed under this Act.

**Rounding off etc.** 55. The amount of tax, interest, penalty, composition money, fine under section 75 or any other sum payable and the amount of draw-back, set-off or refund due 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 consisting of *paise*, 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 :

Provided that, nothing in this section shall apply for the purpose of collection by a dealer of any amount by way of tax under this Act.

**Special mode of recovery.** 56. (1) Notwithstanding anything contained in any law or contract to the contrary, the Commissioner may, at any time or from time to time, by notice in writing, a copy of which shall be forwarded to the dealer at his last address known to the Commissioner, require—

(a) any person from whom any amount of money is due, or may become due, to a dealer who has furnished a return without full payment therefor or a dealer, who has become liable to pay tax under clause (b) of sub-section (2) of section 53 or a dealer on whom notice has been served under sub-section (4) of section 53, or

(b) any person who holds or may subsequently hold money for or on account of such dealer,

to pay to the Commissioner, either forthwith upon the money becoming due or being held or at or within the time specified in the notice (but not before the money becomes due or is held as aforesaid), so much of the money as is sufficient to pay the amount due by the dealer in respect of the arrears of tax, penalty and interest due under this Act, or the whole of the money when it is equal to or less than that amount.

*Explanation.*—For the purposes of this section, the amount of money due to a dealer from, or money held for or on account of a dealer by, any person, shall be calculated after deducting therefrom such claims (if any) lawfully subsisting, as may have fallen due for payment by such dealer to such person.

(2) A notice under this 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 purpose of this section, the shares of the joint holders in such account shall be presumed, until the contrary is proved, to be equal.

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

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

(5) Any person discharging any liability to the dealer after receipt of the notice referred to in this section, shall be personally liable to the Commissioner to the extent of the liability discharged, or the extent of the liability of the dealer for tax, penalty, interest, or any other sum payable, whichever is less.

(6) Where a 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 does not hold any money for or on account of the dealer, then, nothing contained in this section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, to the Commissioner.

(7) For the purposes of this section, the expression "dealer" shall include any person from whom any amount of tax, penalty or interest is due under this Act.

(8) Any amount of money which a person is required to pay to the Commissioner, or for which he is personally liable to the Commissioner under this section shall, if it remains unpaid, be recoverable as an arrear of land revenue.

(9) 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 the tax, penalty and interest (if any) due, an amount sufficient to discharge such tax, penalty or interest.

57. (1) Where any notice of demand in respect of any tax or interest or penalty (hereinafter in this section referred to as "Government dues") is served upon a dealer or the person liable therefor under sub-section (4) of section 53 and any appeal, revision application or other proceeding is filed or taken in respect of such Government dues, then

Continuation  
of certain  
recovery  
proceedings.

(a) where such Government dues are enhanced in such appeal, revision or proceeding, the Commissioner shall serve upon the dealer or person, as the case may be, another notice only in respect of the amount by which such Government dues are enhanced and any recovery proceedings in relation to such Government dues as are covered by the notice or notices of demand served upon him before the disposal of such appeal, revision application or proceeding may, without the service of any fresh notice, be continued from the stage at which such proceeding stood immediately before such disposal;

(b) where such Government dues are reduced in such appeal, revision or proceeding,—

(i) it shall not be necessary for the Commissioner to serve upon the dealer or person a fresh notice;

(ii) the Commissioner shall give intimation of the fact of such reduction to him;

(iii) any recovery proceedings initiated on the basis of the notice or notices of demand served upon him before the disposal of such appeal, revision application or proceeding may be continued in relation to the amount so reduced from the stage at which such proceedings stood immediately before such disposal :

Provided that, where any Government dues are reduced in such appeal, revision or proceedings and the dealer or person is entitled to any refund thereof, such refund shall be made in accordance with the provisions of section 61.

(2) For the removal of doubts, it is hereby declared that no fresh notice of demand shall be necessary in any case where the amount of Government dues is not varied as a result of any order passed in appeal, revision or other proceeding under this Act.

Lump sum  
payment of  
tax.

58. The Commissioner may, in such circumstances, and subject to such conditions, as may be prescribed, permit any dealer to pay in lieu of the amount of tax payable by him under the provisions of this Act in respect of any period, a lump sum, determined in the prescribed manner, by way of composition.

Exemptions.

59. (1) Subject to such conditions as it may impose, the State Government may, if it is necessary so to do in the public interest, by notification in the *Official Gazette*, exempt any specified class of sales or purchases from payment of the whole or any part of any tax payable under the provisions of this Act, and such exemption shall take effect from the date of the publication of the notification in the *Official Gazette*, or such other prospective or retrospective date as may be mentioned therein.

(2) Where under any notification issued under sub-section (1), any specified class of sales are exempted from payment of the whole or any part of any tax subject to the production of a declaration required by the notification, such declaration shall not be issued by any dealer or other person, unless he possesses a certificate issued by the Commissioner in this behalf. Every such dealer or person shall apply in the prescribed manner to the Commissioner, who may after making such inquiry as he deems fit issue a certificate in this behalf. The Commissioner may, after giving the dealer or person a reasonable opportunity of being heard, refuse to grant the certificate. The Commissioner may further amend, modify, or cancel the certificate already issued after giving the dealer or person a reasonable opportunity of being heard. Every dealer or person, holding a certificate issued by the Commissioner, under this sub-section shall, for the purposes of sections 44, 45, 46, 47, 48, 49, 50, 53, 68, 69 or 70 be deemed to be a Registered dealer.

(3) Where any dealer or person holding a certificate issued by the Commissioner under sub-section (2) has purchased any goods under a declaration given by him under any of the notifications issued under this section and—

(a) the conditions subject to which, such exemption was granted, or

(b) the recitals or the conditions of the declaration, are not complied with for any reason whatsoever,

then, such dealer or person shall be liable to pay purchase tax on the purchase price of the goods so purchased, and the purchase tax shall be levied at the rates set out against each of such goods in column 4 of Schedules B and C, notwithstanding that such dealer or person was not liable to pay tax under section 3, and accordingly the dealer or the person who has become liable to pay purchase tax under this sub-section shall file a return in the prescribed form to the prescribed authority within the prescribed time and shall include the purchase price of such turnover in his return, and pay the tax in the prescribed manner. The tax due from any such dealer or person shall be assessed according to the provisions of section 44 :

Provided that, the amount of tax (if any) paid by the dealer or such person to a Registered dealer on such purchases, on which he has become liable to pay purchase tax under this sub-section, shall be set-off against the purchase tax so leviable.

Draw-back,  
set-off,  
refund etc.

60. The State Government may by rules provide, that—

(a) in such circumstances and subject to such conditions as may be specified in the rules, a draw-back, set-off or refund of the whole or any part of the tax—

(i) paid, levied or leviable at the rates specified in the Schedules under any earlier law in respect of any earlier sales or purchases of goods which are held in stock by a dealer on the appointed day, be granted to such dealer, or

(ii) paid, levied or leviable at the rates specified in the Schedules in respect of any earlier sales or purchases of goods under this Act or any earlier law, be granted to the purchasing dealer;

(b) for the purpose of the levy of tax under any of the provisions of this Act, the sale price or purchase price shall, in the case of any class of sales or purchases, be reduced to such extent, and in such manner, as may be prescribed.

61. (1) *The Commissioner shall refund to a person the amount of tax, penalty and interest (if any) paid by such person in excess of the amount due from him. The refund may be either by refund payment order in the prescribed form, or at the option of the person by deduction of such excess from the amount of tax and penalty due in respect of any other period :* Refund of excess payment.

*Provided that, the Commissioner shall first apply such excess towards the recovery of any amount due under this Act or any earlier law and shall then refund the balance (if any).*

*Explanation.—The expression “amount due” shall include—*

(i) any amount due as per return furnished under section 43, which has not been fully paid;

(ii) any amount payable by a dealer under the provisions of clause (b) of sub-section (2) of section 53;

(iii) any amount in respect of which an order under any provisions of this Act has been passed whether or not any notice under sub-section (4) of section 53 is issued;

(iv) the amount, the recovery of which has been stayed by an order of any appellate or revising authority.

(2) *Where any refund is due to any dealer according to the return furnished by him for any period, such refund may provisionally be adjusted by him against the tax due and payable as per the returns furnished under section 43 for any subsequent quarter of the same year.*

62. *Notwithstanding anything contained in this Act or in any other law for the time being in force, where any sum collected by a person by way of tax or in lieu of tax in contravention of section 24 or 68, is forfeited to the State Government under section 50 and is recovered from him, such payment or recovery shall discharge him of the liability to refund the sum to the person from whom it was collected. A refund of such sum or any part thereof can be claimed from Government by the person from whom it was realised by way of tax or in lieu of tax, provided that an application for such claim is made by him in writing in the prescribed form to the Commissioner, within one year from the date of the order of forfeiture. On receipt of any such application, the Commissioner shall hold such inquiry as he deems fit and if the Commissioner is satisfied that the claim is valid and admissible and that the amount so claimed as refund was actually paid in Government Treasury or recovered, and no draw back, set-off, refund or remission in respect of that amount was granted, he shall refund the sum or any part thereof, which is found due to the person concerned.* Refund of taxes forfeited.

LXXIV of 1956. 63. *Where any Declared goods are sold by a dealer in the course of inter-State trade or commerce and tax has been paid by him under the Central Sales Tax Act, 1956, in respect of the sale of such goods in the course of inter-State trade or commerce, and such dealer shows to the satisfaction of the Commissioner that a tax under this Act or any earlier law has been levied in respect of any earlier sale or purchase of such goods made in the State after the 1st day of October 1958, then an amount equal to the tax so levied shall be reimbursed to such dealer making such sale in the course of inter-State trade or commerce, in such manner and subject to such conditions, as may be prescribed.* Refund of tax on Declared goods in the course of inter-State trade or commerce.

**Interest on delayed refund.** 64. (1) Where an amount required to be refunded by the Commissioner to any person by virtue of an order issued under this Act is not so refunded to him within ninety days of the date of the receipt of the order by the Commissioner, the State Government shall, on an application pay such person simple interest at twenty-four per cent. per annum on the said amount from the date immediately following the expiry of the period of ninety days to the date of the issue of refund payment order.

Explanation.—If the delay in granting the refund within the period of ninety days aforesaid is attributable to the dealer, whether wholly or in part, the period of the delay attributable to him shall be excluded from the period for which interest is payable.

(2) Where any question arises as to the period to be excluded for the purpose of calculation of interest under the provisions of this section, such question shall be determined by the Commissioner, whose decision shall be final.

**Power to withhold refund in certain cases.** 65. (1) Where an order giving rise to a refund is the subject-matter of an appeal or further proceeding or where any other proceeding under this Act is pending, and the authority competent to grant such refund is of the opinion that the grant of refund is likely to adversely affect the revenue, such authority may, with the previous approval of the Commissioner, withhold the refund till such time as the Commissioner may determine.

(2) Where a refund is withheld under sub-section (1), the State Government shall pay interest in accordance with the provisions of the last preceding section on the amount of refund ultimately determined to be due to the person as a result of the appeal or further proceeding, for the period from the date immediately following the expiry of ninety days from the date of the order referred to in sub-section (1) to the date of issue of refund payment order.

**Remission of tax.** 66. The Commissioner may, in suitable cases, remit the whole or any part of the tax, in respect of any period, by any dealer, if the total amount to be remitted does not exceed two thousand rupees. In other cases, the remission shall not be made without the previous sanction of the State Government.

**Power not to recover tax not levied or short levied, as a result of general practice.** 67. Notwithstanding anything contained in this Act, or in any judgment, decree or order of any Court or Tribunal, if the State Government is satisfied—

(a) that a practice was, or is, generally prevalent regarding levy of tax on any class of sales or purchases at a lower rate than the rate at which the tax is leviable or not to levy any tax on any class of sales or purchases; and

(b) that such class of sales or purchases were, or are, liable—

(i) to tax, in cases where according to the said practice, the tax was not, or is not, being levied, or

(ii) to higher rate of tax than what was, or is being, levied according to the said practice,

then, the State Government may, by notification in the *Official Gazette*, direct that the whole of the tax payable on such class of sales or purchases or, as the case may be, the tax in excess of that payable on such class of sales or purchases, but for the said practice, shall not be required to be paid in respect of the class of sales or purchases on which the tax was not, or is not being, levied or was, or is being, short levied, in accordance with the said practice.

**Prohibition against collection of tax in certain cases.** 68. (1) No person shall collect any sum by way of tax or in lieu of tax on a transaction which is not a transaction of sale.

(2) No person shall collect any sum by way of tax or in lieu of tax in respect of sales of any goods on which by virtue of section 5 or by virtue of notification issued under section 59, no tax is payable.

(3) No person, who is not a Registered dealer, shall collect in respect of any sale of goods any amount by way of tax or in lieu of tax from any other person.

(4) No Registered dealer shall collect any amount by way of tax or in lieu of tax in respect of any transaction of sale on which he is not liable to pay tax under the provisions of this Act.

(5) No Registered dealer shall collect any amount by way of tax or in lieu of tax on any transaction of sale in excess of the amount of tax payable by him on such transaction under the provisions of this Act.

*Explanation.*—For the purpose of sub-section (5) where the total tax collected on the turnover of sales by a Registered dealer in any period of assessment exceeds the tax assessed on such turnover of sales (without adjustment of set—off granted under section 60, if any) and where such excess collection or any part thereof cannot be easily identified either by the dealer or by the Commissioner with any particular transaction of sale, then, such excess collection or part thereof shall be deemed to be the excess collection on any of the individual transaction of sale included in the turnover of sales.

(6) Notwithstanding anything contained in sub-sections (4) and (5), a dealer who has been permitted by the Commissioner to pay a lump-sum payment under section 58 shall not collect any sum (by way of tax or in lieu of tax) on the sales of goods if made during the period to which such lump sum payment applies.

(7) Provisions contained in sub-sections (3) and (4) shall not apply where a person is required to collect such amount of tax separately in order to comply with the conditions and restrictions imposed on him under the provisions of any law for the time being in force.

69. If any dealer—

(a) sells goods to a Registered dealer, or

(b) effects sales in the course of inter-State trade or commerce, or in the course of export, or

(c) sells any goods exceeding ten rupees in value in any one transaction to any other person,

He shall issue to the purchaser a bill or cash memorandum serially numbered, signed and dated by him or his servant, manager or agent, and showing therein his name and address and such other particulars as may be prescribed. He shall keep a duplicate copy of such bill or cash memorandum duly signed and dated and preserve it for a period of not less than six years from the end of the year, unless any proceedings in respect of that year are pending in which case they shall be preserved even beyond the period of six years till the final decision in those proceedings :

Provided that, if in respect of any goods or class of goods or any dealers or class of dealers, the Commissioner is of the opinion that it is not practicable to issue any bills or cash memoranda for sale of goods exceeding ten rupees in value in any one transaction to any other person, he may, by notification in the *Official Gazette*,—

(i) specify such amount exceeding ten rupees in value as the amount for the issue of such bills or cash memoranda ;

(ii) exempt such goods or class of goods, or dealer or class of dealers, from the operation of this section as may be specified in the notification.

## CHAPTER VI

## LIABILITY TO PRODUCE ACCOUNTS AND SUPPLY INFORMATION

Accounts.

70. (1) Every dealer liable to pay tax under this Act, and every other dealer, who is required so to do by the Commissioner by notice served on him in the prescribed manner, shall keep up-to-date true account of the sales and purchases of the goods made by him and of the cash received and paid by him in the course of his business. Such account shall also contain full details of the names of the selling dealer from whom the goods are purchased and the names of the purchasing dealers to whom the goods are sold and where the transactions are effected through any brokers, it shall also contain the names and addresses of the brokers.

(2) The Commissioner may, subject to such conditions or restrictions as may be prescribed in this behalf, by notice in writing direct any dealer, or by notification in the *Official Gazette* direct any class of dealers, to maintain accounts and records showing such particulars regarding their purchases, sales or deliveries of goods, cash received and paid, in such form, and in such manner, as may be specified by him.

(3) Every Registered dealer shall ordinarily keep all his accounts, registers and documents relating to his stocks of goods, or to purchases, sales and deliveries of goods made by him, at the place or places of business specified in his certificate of registration, or with the previous approval of the Commissioner, at such other place as may be agreed to by the Commissioner.

Production  
and  
inspection  
of accounts  
and  
documents  
and search  
of premises.

71. (1) The Commissioner, or any Officer appointed to audit receipts or refunds of the tax imposed by this Act, may, subject to such conditions as may be prescribed, require any dealer to produce before him any accounts or documents, or to furnish any information, relating to stocks of goods of, or to sales, purchases and deliveries of goods and receipts and payments by the dealer, or any other information relating to his business as may be necessary for the purposes of this Act.

(2) All accounts, registers and documents relating to stocks of goods of, or to purchases, sales and deliveries of goods by, any dealer and all goods and cash kept in any place of business of any dealer, shall at all reasonable times be open to inspection by the Commissioner, and the Commissioner may take or cause to be taken such copies or extracts of the said accounts, registers or documents and such inventory of the goods and cash found as appear to him necessary for the purposes of this Act.

(3) If the Commissioner has reason to believe that any dealer has evaded or is attempting to evade the payment of any tax due from him, he may, for reasons to be recorded in writing, seize such accounts, registers or documents of the dealer as may be necessary and shall grant a receipt for the same, and shall retain the same for so long as may be necessary in connection with any proceeding or for a prosecution under this Act.

(4) For the purposes of sub-section (2) or sub-section (3), the Commissioner may enter and search any place of business of any dealer, or any other place where the Commissioner has reason to believe that the dealer keeps or is for the time being keeping any accounts, registers or documents of his business or stocks of goods relating to his business, and he may for exercising the powers under this sub-section, seal, or break open the lock of any door, box, locker, safe, almirah, or any other receptacle, where the keys thereof are not available.

(5) The Commissioner may also search any person who has got out of, or is about to get into, or is in the place referred to above, if the Commissioner has reason to suspect that such person has secreted about his person any such books of accounts or other documents or any cash relating to any business of a dealer liable to pay tax.

72. Every dealer, who is liable to pay tax, and who is a Hindu undivided family, or an association or club or society or firm or company, or who carries on business as the guardian or trustee or otherwise on behalf of another person, shall, within the period prescribed, send to the authority prescribed, a declaration in the manner prescribed stating the name of the person or persons who shall be deemed to be the manager or managers of such dealer's business for the purposes of this Act. Such declaration may be revised from time to time. Dealer to declare the name of manager of his business.

73. (1) Every registered dealer, whose turnover of sales exceeds the prescribed limit, shall furnish a commoditywise return in such form, for such period, by such date and to such authority and through such agency (if any) as may be prescribed. Power to collect statistics.

(2) Without prejudice to sub-section (1), if the Commissioner considers that for the purposes of better administration of this Act, it is necessary so to do, he may, by notification in the *Official Gazette*, direct that further statistics be collected relating to any matter dealt with by or under this Act.

(3) Upon such direction being made by the Commissioner, he may by notice in any newspapers or in such other manner as in his opinion is best calculated to bring the notice to the attention of the dealers, call upon all dealers or any class of dealers to furnish such information or returns as may be stated therein relating to any matter in respect of which statistics are to be collected. The form in which, the persons to whom, or the authorities to which, such information or returns should be furnished, the particulars which they should contain, and the intervals at which such information or returns should be furnished, shall be such, as may be specified in such notice.

## CHAPTER VII

### PROCEEDINGS

74. (1) If any question arises, otherwise than in proceedings before a Court or before the Commissioner has commenced assessment or reassessment or revision of a dealer under sections 44, 46, 59 or 79, whether, for the purposes of this Act,— Determination of disputed question.

(a) any person is a dealer; or

(b) any particular thing done to any goods amounts to or results in the manufacture of goods, within the meaning of that term, or

(c) any transaction is a sale or purchase or where it is a sale or purchase the sale price or the purchase price, as the case may be, therefor, or

(d) any tax is payable in respect of any particular sale or purchase, or if tax is payable the rate thereof,

the Commissioner shall, on an application made in that behalf, make an order determining such question.

*Explanation 1.*—For the purpose of this sub-section, the Commissioner shall be deemed to have commenced assessment, re-assessment or revision of a dealer under sections 44, 46, 59 or 79, when the dealer is served with any notice by the Commissioner under sections 44, 46, 59 or 79, as the case may be.

*Explanation 2.*—No application for determination of the question under clause (c) shall be entertained, unless the applicant is liable to pay tax directly to Government if such transaction is held to be a sale or purchase.

*Explanation 3.*—No application under clause (d) shall be entertained, unless the applicant is liable to pay tax, directly to Government on the particular transaction of sale or purchase.

(2) The Commissioner may direct that the determination shall not affect the liability of the applicant or any other person under this Act, as respects any sale or purchase effected prior to the determination.

(3) If any such question arises from any order already passed under this Act or any earlier law, no such question shall be entertained for determination under this section, but such question may be raised in appeal against, or by way of revision of such order.

**Powers of Tribunal, Settlement Commission, and Commissioner.** 75. (1) In discharging their functions under this Act, the Tribunal, the Settlement Commission and the Commissioner shall have all the powers of a Civil Court for the purpose of—

- (a) proof of facts by affidavit;
- (b) summoning and enforcing the attendance of any person, and examining him on oath or affirmation;
- (c) compelling the production of documents; and
- (d) issuing commissions for the examination of witnesses.

(2) In the case of any affidavit to be made for the purposes of this Act, any officer appointed by the Tribunal, the Settlement Commission, or the Commissioner, may administer the oath to the deponent.

(3) Without prejudice to the provisions of any other law for the time being in force, where a person, to whom a summons is issued by the Tribunal, the Settlement Commission or the Commissioner, either to attend to give evidence or to produce books of accounts, registers or other documents at a certain place and time, intentionally omits to attend or to produce the documents at a certain place and time, the Tribunal, the Settlement Commission, or the Commissioner, as the case may be, may impose on him such fine not exceeding five hundred rupees, as it or he thinks fit; and the fine so levied may be recovered in the manner provided in this Act for recovery of arrears of tax:

Provided that, before imposing any such fine, the person concerned shall be given a reasonable opportunity of being heard.

(4) If any documents are produced by a person on whom a summons was issued by the Commissioner, and the Commissioner has reason to believe that any dealer has evaded or is attempting to evade the payment of any tax due from him and the documents produced are necessary for establishing the case against such dealer, the Commissioner may, for reasons to be recorded in writing, impound the documents and shall grant a receipt for the same and shall retain the same for so long as may be necessary in connection with the proceedings or for a prosecution under this Act.

**Bar to certain proceeding.** 76. Save as is provided by section 84, no assessment made and no order passed under this Act or the rules made thereunder by the Commissioner or an officer or person subordinate to him shall be called in question in any Court, and save as is provided by sections 77 and 79 no appeal or application for revision shall lie against any such assessment or order.

**Appeal.** 77. (1) Any person aggrieved by any original order (not being an order mentioned in section 78) passed against him, under this Act or under the rules made thereunder, may appeal to—

- (a) the Assistant Commissioner, if the order is made by a Sales Tax Officer or any other Officer subordinate to him;
- (b) the Deputy Commissioner, if the order is made by an Assistant Commissioner;
- (c) the Tribunal, if the order is made by the Deputy Commissioner, Additional Commissioner or Commissioner.

(2) In the case of an order passed in appeal by an Assistant Commissioner or a Deputy Commissioner, a second appeal shall lie to the Tribunal.

(3) Every order passed in appeal under this section shall, subject to the provisions of sections 79, 84 and 85, be final.

(4) Subject to the provisions of section 83, no appeal shall be entertained unless it is filed within sixty days from the date of communication of the order appealed against.

(5) No first appeal or second appeal against an order of assessment with or without penalty, or against an order imposing penalty shall ordinarily be entertained by an appellate authority, unless such appeal is accompanied by satisfactory proof of the payment of tax with or without penalty due as per the order in respect of which the appeal has been preferred :

Provided that, an appellate authority may if it thinks fit, for reasons to be recorded in writing, entertain an appeal against such order—

(a) without payment of tax with penalty (if any), or, as the case may be, of the penalty on the appellant furnishing in the prescribed manner security for such an amount as it may direct, or

(b) on proof of payment of such smaller sum (which shall not be less than the admitted amount of tax and penalty and interest) with or without security for such an amount of tax or penalty which remains unpaid, as it may direct.

(6) Subject to such rules of procedure as may be prescribed, every appellate authority (both in the first appeal and second appeal) may,

(a) confirm, reduce, enhance or annul the assessment or penalty or both, or

(b) set aside the assessment (including any penalty imposed) and direct to make fresh assessment or impose fresh penalty after such further enquiry as may be directed, or

(c) set aside the penalty and direct to impose fresh penalty after such further inquiry as may be directed, or

(d) pass such order as it deems just and proper:

Provided that, the appellate authority shall not enhance the assessment or penalty or reduce the amount of drawback, set-off or refund of tax (whether such enhancement or reduction is on the points in appeal or not) unless the appellant has been given a reasonable opportunity of showing cause against such enhancement or reduction.

**78. No appeal and no application for revision shall lie against —**

- (1) any notice issued under this Act ;
- (2) an order pertaining to the seizure or retention of account books, registers and other documents;
- (3) an order sanctioning prosecution under this Act;
- (4) an order passed under sub-section (8) of section 31 and section 96;
- (5) orders, instructions or directions issued under sub-section (10) of section 31;
- (6) any communication directing payment of interest under section 49;
- (7) directions issued under section 52;
- (8) any order passed under sub-section (2) of section 64;
- (9) an order withholding refund under section 65;

Non-appealable orders.

(10) an order directing a dealer or a class of dealers to maintain books of accounts under sub-section (2) of section 70 ;

(11) an order passed under clause (b) of sub-section (1) of section 79 ;

(12) any interim order not being an order passed under sub-clause (b) of sub-section (5) of section 77 passed in the course of any proceedings under this Act ;

(13) an order passed by the Settlement Commission under section 80.

**Revision** 79. (1) Subject to the provisions of section 78 and to any rules which may be made in this behalf,—

(a) the Commissioner may of his own motion call for and examine the record of any order passed including an order passed in appeal under this Act or the rules made thereunder by any officer or person subordinate to him and pass such order thereon as he thinks just and proper after making such enquiry as he deems fit :

Provided that, no notice shall be served by the Commissioner under this clause after the expiry of three years from the date of the communication of the order sought to be revised, and no order in revision shall be made by him hereunder after the expiry of five years from such date :

Provided further that, where the appellate or revising authority decides that a sale held as covered by section 3 of the Central Sales Tax Act, 1956, is not so covered, then the Commissioner may within two years from the date of the appeal or revision order, revise under this section the order passed under this Act and hold that the sale is not covered by section 102 of this Act ;

(b) the Commissioner on an application made to him against any order passed by any authority subordinate to him may call for and examine the record of any such order and pass such order thereon as he thinks just and proper :

Provided that, no application under this clause shall be entertained by the Commissioner unless :—

(i) the application is made after the expiry of the period for filing of the appeal under section 77 but is within one year from the date of communication of the order for which application for revision is made ;

(ii) the applicant shows that no appeal under section 77 has been preferred against such order and also undertakes not to prefer any appeal under section 77 against such order ;

(iii) the applicant satisfies the Commissioner that he had sufficient cause for not preferring an appeal against such order, and

(iv) the applicant produces satisfactory evidence about the payment of the admitted amount of tax, penalty and interest.

(2) No order shall be passed under this section which adversely affects any person, unless such person has been given a reasonable opportunity of being heard.

(3) The order passed by the Commissioner under clause (b) of sub-section (1) of this section shall, subject to the provisions of section 85, be final.

**Settlement of Cases.** 80. (1) (a) Where any dealer desires to get his liability to pay tax including interest and penalty settled by the Settlement Commission at any stage of proceedings or before initiation or after completion thereof, he may make an application in such form and in such manner containing such particulars, as may be prescribed, to the Settlement Commission to have his liability in respect of the proceedings settled by the Settlement Commission.

(b) Every application made under this section shall be accompanied by such fees, as may be prescribed.

(c) On receipt of the application, the Settlement Commission shall call for a report from the Commissioner and on the basis of the materials contained in such report and having regard to the nature and circumstances of the case or the complexity of the investigation involved therein, the Settlement Commission may, by order, allow the application to be proceeded with or reject the application :

Provided that, an application shall not be rejected, unless an opportunity has been given to the applicant of being heard :

Provided further that, an application shall not be proceeded with under this sub-section if the Commissioner objects to the application being proceeded with on the ground that concealment of turnover or any other particulars for evading tax has been established or is likely to be established by any Sales Tax Authority in relation to the case of the applicant.

(d) A copy of every order passed as aforesaid by the Settlement Commission shall be sent to the applicant and to the Commissioner.

(2) An application made under sub-section (1) shall not be allowed to be withdrawn, without the previous permission of the Settlement Commission.

(3) Where an application is allowed to be proceeded with under sub-section (1), the Settlement Commission may call for the relevant records from the Commissioner and after examination of such records, if the Settlement Commission is of the opinion that any further inquiry or investigation in the matter is necessary, it may direct the Commissioner to make or cause to be made such further inquiry or investigation and furnish a report on the matters covered by the application and any other matter relating to the case.

(4) After examination of the records and the report of the Commissioner, received under sub-section (1), and the report, if any, of the Commissioner received under sub-section (3), and after giving an opportunity to the applicant and to the Commissioner to be heard, either in person or through a representative duly authorised in this behalf, and after examining such further evidence as may be placed before it or obtained by it, the Settlement Commission may, in accordance with the provisions of this Act and in the manner provided for in the regulations, pass such order as it thinks fit on the matters covered by the application or any other matter relating to the case not covered by the application, but referred to in the report of the Commissioner.

(5) Any amount settled by the Settlement Commission in accordance with this section shall be deemed to be the amount of tax and penalty and interest assessed or reassessed, levied or imposed and all the provisions contained in this Act regarding recovery of tax, penalty and interest shall apply accordingly.

(6) If it is subsequently found by the Settlement Commission that the order passed by it is based on fraud or mis-representation of facts by or on behalf of the applicant, the Settlement Commission may pass an order declaring the order passed under sub-section (4) as void :

Provided that, no such order under this section shall be passed without affording to the applicant a reasonable opportunity of being heard.

(7) Where any order of settlement is passed by the Settlement Commission in respect of any assessment or reassessment or penalty or interest proceedings, the assessing authority shall not pursue the proceedings unless the settlement order is declared to be void.

(8) Where the Settlement Commission has passed an order of settlement in respect of any proceedings, no proceedings for an offence under this Act shall be instituted against the applicant or no penalty shall be imposed in respect of the same facts.

(9) Nothing contained in the application made by any dealer to the Settlement Commission or in any statements made before the Commission shall be binding on the applicant, if the application is rejected by the Commission. Nothing contained in such application or statement can also be used by the assessing authority in the assessment or re-assessment proceedings continued by such authority after the rejection of the application or after the declaration of the settlement order as void.

(10) Subject to the provisions of this section and section 85, every order of the Settlement Commission passed under this section shall be conclusive as to the matter stated therein.

Assessment proceedings etc., not to be invalid on certain grounds.

81. (1) No assessment (including re-assessment, rectification and revision), notice, summons or other proceedings made or issued taken or purported to have been made or issued or taken in pursuance of any of the provisions of this Act or under the earlier law shall be invalid or shall be deemed to be invalid merely by reasons of any mistake, defect or omission in such assessment, notice, summons or other proceedings, if such assessment, notice, summons or other proceedings are in substance and effect in conformity with or according to the intent and purposes of this Act or any earlier law.

(2) The service of any notice, order or communication shall not be called in question if the said notice, order or communication, as the case may be, has already been acted upon by the dealer or person to whom it is issued or which service has not been called in question at or in the earliest proceedings commenced, continued or finalised pursuant to such notice, order or communication.

(3) No order of assessment, re-assessment, revision or rectification passed under the provisions of this Act shall be invalid merely on the ground that the action could also have been taken by any other authority under any other provisions of this Act.

Court-fee on appeal and application for revision and certain other applications.

82. (1) Notwithstanding anything contained in the Bombay Court-fees Act, 1959, the appeal preferred under section 77, an application for revision made under section 79 and an application made under sections 74 and 80 shall bear a Court-fee stamp of such value (not exceeding one hundred rupees) as may be prescribed, and any other application not otherwise provided in this Act when presented to a prescribed authority for a prescribed purpose shall bear a Court-fee stamp of two rupees.

(2) The State Government may, from time to time, by notification in the *Official Gazette*, remit the fees prescribed under sub-section (1) in respect of any appeal or application under this Act.

Application of sections 4 and 12 of

83. (1) In computing the period laid down under sections 77, 79, 84 and 85, the provisions of sections 4 and 12 of the Limitation Act, 1963, shall, so far as they may be, apply.

Limitation Act, and extension of period of limitation in certain cases.

(2) An appellate authority may admit any appeal under section 77 and the Tribunal may admit an application under section 84 after the period of limitation laid down in the said sections, if the appellant or the applicant satisfies the appellate authority or the Tribunal, as the case may be, that he had sufficient cause for not preferring the appeal or making the application, within such period.

*Explanation.*—When an appeal is preferred under section 77 or an application is made under section 79, after the period of limitation laid down in those sections, the fact that the appellant or the applicant, as the case may be, came to know any judgement, decision or order of any Court, Tribunal or other authority after the expiry of the period of limitation aforesaid (whether such judgement, decision or order was delivered or made before or after the expiry of that period), shall not be sufficient cause for the purpose of this section.

Bom. XXXVI of 1959.

XXXXVI of 1963.

84. (1) Within ninety days from the date of communication of any order passed by the Tribunal under the provisions of this Act, the person in whose proceedings such order is passed or the Commissioner may, by application in writing (accompanied where the application is made by that person by a fee of one hundred rupees) require the Tribunal to refer to the High Court any question of law arising out of such order. The Tribunal shall, as soon as may be after the receipt of such application, draw a statement of case and refer it to High Court, provided that, if the Tribunal refuses to state the case which it has been required to do on the ground that no question of law arises, then that person, or, as the case may be, the Commissioner, may, within ninety days of such refusal, either withdraw his application (and if he does so any fee paid shall be refunded), or apply to the High Court against such refusal.

Statement  
of case to  
the High  
Court.

(2) If upon receipt of an application under sub-section (1), the High Court is not satisfied as to the correctness of the decision of the Tribunal, it may require the Tribunal to state the case and refer it; and accordingly, on receipt of any such requisition the Tribunal shall state the case and refer it to the High Court.

(3) If the High Court is not satisfied that the Statement in the case referred under this section is sufficient to enable it to determine the question raised thereby, it may refer the case back to the Tribunal to make such additions thereto or alterations therein, as the High Court may direct in that behalf.

(4) The High Court, upon the hearing of any such case, shall decide the question of law raised thereby, and shall deliver its judgement thereon containing the grounds on which such decision is founded, and shall send to the Tribunal a copy of such judgement under the seal of the Court and the signature of the Registrar, and the Tribunal shall dispose of the case accordingly.

(5) Where a reference is made to the High Court under this section, the costs including the refund of the fee referred to in sub-section (1), shall be in the discretion of the Court.

(6) The payment of the amount of tax, if any, due in accordance with the order of the Tribunal 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 a result of such reference, the excess tax paid shall be refunded in accordance with the provisions of section 61.

(7) The refund of any amount due to any person in accordance with the order of the Tribunal in respect of which an application has been made under sub-section (1) shall be granted by the Commissioner provided that if the authority competent to grant such refund is of the opinion that the grant of refund is likely to adversely affect the revenue, such authority may with the previous approval of the Commissioner direct such person to furnish a suitable bank guarantee or security to the satisfaction of such authority before granting such refund :

Provided that, where such refund cannot be granted to such person by reason of his inability to furnish a suitable bank guarantee or security to the satisfaction of the authority competent to grant such refund and if that matter is finally decided in favour of the person concerned, then the State Government shall, on application of such person, pay simple interest at the rate of 6 per cent, per annum on the amount from the expiry of ninety days from the date of receipt of the order passed by the Tribunal to the date of issue of refund payment order.

85. (1) (a) The Commissioner may, at any time within two years from the date of any order passed by him, of his own motion, initiate proceedings for rectifying any mistake apparent from the record which rectification has the effect of enhancing the tax, interest or penalty or reducing the amount of refund, and may proceed to pass order rectifying such mistake, after giving the person affected a reasonable opportunity of being heard.

Rectification  
of mistakes

(b) Any person who is affected by any order passed by the Commissioner in his own proceedings may, at any time within two years from the date of communication of such order, apply to the Commissioner for rectification of any mistake apparent from the record; and the Commissioner shall pass such order thereon as he deems fit, provided that no order rejecting the application shall be passed, unless the person is given reasonable opportunity of being heard.

(c) The Commissioner may, within two years from the date of any order passed by him of his own motion, rectify any mistake apparent from the record which does not have the effect of enhancing the tax, interest or penalty or reducing the amount of refund.

(2) The provisions of sub-section (1) shall apply to the rectification of a mistake in an order passed by an appellate authority (including the Tribunal) under section 77 or by a revising authority under section 79 or by the Settlement Commission under section 80 as they apply to the rectification of a mistake by the Commissioner; and likewise the revising authority, the Tribunal or the Commission may rectify a mistake apparent from the record, on an application by the Commissioner or any officer appointed under section 31.

(3) Where any such rectification has the effect of reducing the amount of the tax or penalty, the Commissioner shall, in the prescribed manner, refund any amount due to such person.

(4) Where any such rectification has the effect of enhancing the amount of tax, interest or penalty or reducing the amount of the refund, the Commissioner shall recover the amount due from such person in the manner laid down in section 53.

Transfer to  
defraud  
revenue  
void.

86. Notwithstanding anything contained in any law for the time being in force, where any dealer or person who is liable to pay tax under this Act or under any earlier law and from whom any amount is due or likely to be due as a result of the proceedings under this Act or any earlier law, creates a charge or parts with possession by way of sale, mortgage, gift, exchange or any other mode of transfer whatsoever, whether for valuable consideration or not, any property (other than stock in trade) belonging to him in favour of any other person, the Commissioner, after bringing on record necessary evidence and for reasons to be recorded in writing, shall declare such charge, gift or transfer as void, in spite of the fact that the person to whom such property is transferred had no notice of any amount due or likely to be due to Government under the provisions of this Act:

Provided that, no such charge, gift or transfer shall be declared to be void, unless a reasonable opportunity of being heard is granted to such dealer or person and to the person to whom the property is transferred by any of the modes referred to above:

Provided further that, such charge, gift or transfer shall not be void if it is made with the previous permission of the Commissioner and subject to such conditions as the Commissioner may impose.

Provisional  
attachment  
to protect  
revenue in  
certain  
cases.

87. (1) Where, during the pendency of any proceedings for the assessment of any turnover of sales or purchases or reassessment of any turnover of sales or purchases which has escaped assessment under this Act or under any earlier law, the authority which has initiated proceedings or before which the proceedings are pending, is of the opinion that for the purposes of protecting the interest of the revenue it is necessary so to do, the authority may, with the previous approval of the Commissioner, by order in writing, attach provisionally any property belonging to the dealer or any person in respect of whom such proceedings are initiated.

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of six months from the date of the order made under sub-section (1):

Provided that, the Commissioner may, for reasons to be recorded in writing, extend the aforesaid period by such further period or periods as he thinks fit, so, however, that the total period of extension shall not in any case exceed two years.

## CHAPTER VIII

## OFFENCES AND PENALTIES

88. (1) Whoever—

Offences  
and  
Penalties.

(a) carries on business as a dealer without being registered in contravention of section 34, or

(b) not being a Registered dealer under section 34 falsely represents that he is or was a Registered dealer at the time when he sells or buys any goods, or

(c) fails to present his Authorization, Recognition or Permit, for cancellation as required by section 39, or

(d) fails, without sufficient cause, to furnish any information required by section 41, or

(e) fails without sufficient cause to furnish any return as required by section 43 or 59 by the date and in the manner prescribed, or

(f) a return under section 43, which is false, or

(g) not holding an Authorisation, Recognition or Permit falsely represents at the time when he purchases or sells any goods that he holds Authorization, Recognition or Permit, or

(h) gives declarations under sections 12, 13, 16 or 59 which he knows or has reason to believe to be false, or

(i) knowingly issues to any person or produces before the Commissioner false bill, cash memo, voucher, declaration, certificate or other documents for any purpose referred to in sub-section (5) of section 50, or

(j) fails without sufficient cause to pay tax and penalty as required by section 53 or any amount of money as required by section 56, or

(k) contravenes any of the provisions of section 68, or

(l) contravenes any of the provisions of section 69, or

(m) contravenes any of the provisions of section 70 or fails when directed so to under that section to keep any accounts or record in accordance with the directions, or

(n) fails to comply with any requirement made of him under section 71, or

(o) knowingly produces incorrect accounts, registers or documents or furnishes incorrect information, or

(p) obstructs any officer making an inspection or search or seizure under section 71, or

(q) fails to comply with the summons issued under section 75 (1) (b) or fails to produce documents when so directed under section 75 (1) (c), or

(r) aids or abets any person in the commission of any act specified in clauses (a) to (q),

shall, on conviction, be punished,—

(i) when the offence is under clauses (f), (g), (h), (i), (m), (o), (p), (q) or under clause (r) read with any of the aforesaid clauses, with rigorous imprisonment for a term which may extend to three years and with fine:

Provided that, in the absence of special and adequate reasons to the contrary to be recorded in the judgment of the Court, such imprisonment shall not be for less than one month and such fine shall not be less than four hundred rupees ;

(ii) when the offence is under clause (k), with simple imprisonment for a term which may extend to six months or with fine which shall not be less than the amount collected in contravention of section 68 or with both ;

(iii) when the offence is under any other provisions of this sub-section, with simple imprisonment for a term which may extend to six months or with fine not exceeding two thousand rupees or with both ;

(iv) when the offence is a continuing one under any of the provisions of this sub-section, with a further daily fine not exceeding hundred rupees during the period of continuance of the offence.

(2) Where a dealer is accused of an offence specified in clauses (b), (c), (d), (e), (g), (h), (i), (k), (l), (m), (n), (o), or (p) of sub-section (1), the person deemed to be a manager of the business of such dealer under section 72 shall also be deemed to be guilty of such offence unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission thereof.

(3) No prosecution for an offence under this section shall be instituted in respect of the same facts on which a penalty has been imposed and paid under any provisions of this Act.

Action  
against an  
authority  
for  
vexatious  
order or  
wilful  
under  
assessment

89. The Commissioner may,—

(i) of his own motion, or

(ii) on receipt of any complaint from any dealer or person liable to pay tax under this Act that any authority has made in his own proceedings a false or vexatious order or has taken any action under the Act vindictively, or

(iii) on receipt of a report from any authority appointed under section 31 or from the Tribunal, that a particular authority has knowingly or wilfully under-assessed any person or dealer,

take such action against such authority as the Commissioner thinks fit and proper, after giving such authority a reasonable opportunity of being heard.

Disclosure  
of  
information  
by a public  
servant

90. (1) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Act, or in any record of evidence given in the course of any proceedings under this Act (other than proceedings before a Criminal Court), or in any record of any assessment proceedings, or any proceeding relating to the recovery of a demand, prepared for the purposes of this Act, shall, save as provided in sub-section (3), be treated as confidential; and notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall, save as aforesaid, be entitled to require any servant of the Government, to produce before it any such statement, return, account, document or record or any part thereof, or to give evidence before it in respect thereof. 1 of 1872.

(2) If, save as provided in sub-section (3), any servant of the Government discloses any of the particulars referred to in sub-section (1), he shall, on conviction, be punished with imprisonment which may extend to six months or with fine or with both.

(3) Nothing contained in this section shall apply to the disclosure—

(a) of any such particulars in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition in any record of assessment and recovery proceedings for the purpose of any prosecution under the Indian Penal Code or the Prevention of Corruption Act, 1947, or this Act, or any other law for the time being in force; or

(b) of any such particulars to the State Government or to any authority acting in the execution of this Act, or to any person for carrying out the purposes of this Act; or

(c) of any such particulars, when such disclosure is occasioned by the lawful employment under this Act of any process for the service of any notice or the recovery of any demand; or

(d) of any such particulars to a Civil Court in any suit, to which the Government is a party, which relates to any matter arising out of any proceedings under this Act; or

(e) of any such particulars to any officer appointed to audit receipts or refunds of the tax imposed by this Act; or

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1850

(f) of any such particulars, where such particulars are relevant to any inquiry into the conduct of an officer of the Sales Tax Department to any person or persons appointed as Commissioner under the Public Servants (Inquiries) Act, 1850, or to any officer, otherwise appointed to hold such inquiry or to a Public Service Commission established under the Constitution, when exercising its function in relation to any matter arising out of such inquiry; or

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of  
1973

(g) of any such particulars to any officer, authority or body performing any functions under any law relating to the imposition of any tax, duty, or cess or to dealings in foreign exchange as defined in section 2(h) of the Foreign Exchange Regulation Act, 1973; or

(h) of any such particulars to such officer, authority of the Central or any State Government or of any body performing functions under any other law as may be necessary for the purposes of enabling that Government or body to administer that law; or

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(i) of any such particulars, when such disclosure is occasioned by the lawful exercise by a public servant of his powers under the Bombay Stamp Act, 1958 or the Indian Stamp Act, 1899, to impound an insufficiently stamped document; or

(j) of any such particulars, where such particulars are relevant to any inquiry into a charge of misconduct in connection with sales tax proceedings against a legal practitioner, sales tax practitioner, Cost Accountant or Chartered Accountant to the authority empowered to take disciplinary action against members practising the profession of a legal practitioner, sales tax practitioner, Cost Accountant or Chartered Accountant, as the case may be; or

(k) of any such particulars to the Director, of Economics and Statistics or any officer serving under him or to any person or persons authorised under sub-section (3) of section 73 as may be necessary for enabling the Director or such person or persons to work out the incidence of tax on any commodity; or

(l) of any such particulars to any person or agency entrusted with the work relating to compilation and computerisation of the information for the purposes of the administration of this Act.

(4) (i) Notwithstanding anything contained in sub-section (l) of section 91, if the State Government is of opinion that it is necessary or expedient in the public interest to publish or disclose the names of any dealer or other persons and any other particulars relating to any proceedings under this Act in respect of such dealers and persons, it may publish or disclose or cause to be published or disclosed such names and particulars in such manner as it thinks fit.

(ii) No publication or disclosure under this section shall be made in relation to any tax levied or penalty imposed or any conviction for any offence connected with any proceedings under this Act, until the time for presenting an appeal to the appropriate appellate authority has expired without an appeal having been presented or the appeal, if presented, has been disposed of.

*Explanation.*—In the case of a firm, company or other association of persons, the names of the partners of the firm, the directors, managers, agents, secretaries, treasurers or managers of the company or the members of the association, as the case may be, may also be published or disclosed, if, in the opinion of the State Government, the circumstances of the case justify it.

Disclosure of information required under section 73 and failure to furnish information or return under that section.

91. (1) No information of any individual return and no part of individual return, with respect to any matter given for the purposes of section 73 shall without the previous consent in writing of the owner for the time being or his authorised agent be published in such manner as to enable any particulars to be identified as referring to a particular dealer and no such information shall be used for the purpose of any proceedings under the provisions of this Act.

(2) Except for the purpose of prosecution under this Act, or under the Indian Penal Code, no person who is not engaged in the collection of statistics under section 73 or for compilation, computerisation thereof in the administration of this Act shall be permitted to see or have access to any information or any individual return referred to in that section. XLV of 1860.

(3) If any person required to furnish any information or return under section 73,

(a) wilfully refuses or without lawful excuse neglects to furnish such information or return as may by that section be required, or

(b) wilfully furnishes or causes to be furnished any information or return which he knows to be false,

he shall, on conviction, be punished with fine which may extend to one hundred rupees, and in case of a continuing offence to a further fine which may extend to ten rupees for each day during which the offence continues.

(4) If any person engaged in connection with the collection of statistics under section 73 or compilation or computerisation thereof wilfully discloses any information or the contents of any return given or made under that section, otherwise than in execution of his duties under that section or for the purposes of the prosecution of an offence under this Act or under the Indian Penal Code, he shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both. XLV of 1860.

Offences by companies. 92. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offences 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 in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

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

*Explanation.*—For the purpose of this section,—

(a) “ company ” means a body corporate and includes a firm, association of persons or body of individuals, whether incorporated or not, and

(b) “ Director ” in relation to a firm means a partner in the firm and in relation to any association of persons or body of individuals means any member controlling the affairs thereof.

93. (1) No Court shall take cognizance of any offence punishable under section 88, 90 or 91 or under any rules made under this Act and no police officer shall investigate any such offence, except with the previous sanction of the Commissioner. Cognizance of offences.
- II of 1974. (2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences punishable under this Act or rules made thereunder shall be cognizable and bailable.
- II of 1974. (3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, it shall be lawful for a Metropolitan Magistrate or Magistrate of the First Class to pass on any person convicted of an offence under section 88, 90 or 91 a sentence of fine as provided in the relevant section, in excess of his powers under section 29 of the said Code.

94. (1) Subject to such conditions as may be prescribed, the Commissioner may authorise either generally or in respect of a particular case or class of cases, any officer or person subordinate to him to investigate all or any of the offences punishable under this Act. Investigation of offences.
- (2) Every officer so authorised shall in the conduct of such investigation, exercise the powers conferred by the Code of Criminal Procedure, 1973, upon an officer in charge of a police station for the investigation of a cognizable offence. Investigation of offences.

95. (1) The Commissioner may, either before or after the institution of proceedings for any offence punishable under section 88 or under any rules made under this Act, accept from any person charged with such offence by way of composition of the offence a sum not exceeding two thousand rupees or where the offence charged is under clause (a), (b), (f), (g), (h), (i), (j), (k) or (o) of sub-section (1) of section 88 a sum not exceeding double the amount of tax which would have been payable on the sale, purchase or turnover to which the said offence relates, whichever is greater. Compounding of offences.

(2) On payment of such sum as may be determined by the Commissioner under sub-section (1), no further proceedings shall be taken against the accused person in respect of the same offence, and any proceedings, if already taken, shall stand abated.

## CHAPTER IX

### MISCELLANEOUS

96. (1) The Commissioner may, after giving the parties a reasonable opportunity of being heard in the matter, wherever it is possible so to do, and after recording his reasons for doing so, by order in writing transfer any pending proceedings or class of proceedings under any provision of this Act, from himself to any other officer and he may likewise transfer any such proceedings including a proceeding already transferred under this section from any officer to any other officer or to himself : Power to transfer proceedings.

Provided that, nothing in this section shall be deemed to require any such opportunity to be given where the transfer is from any officer to any other officer and the offices of both officers are situated in the same city, locality or place.

(2) Where no proceedings are pending before any authority, then any authority having concurrent territorial jurisdiction over the dealer or person can initiate and complete the proceedings under any provisions of this Act.

*Explanation.*—For the purposes of this section, the proceedings shall be deemed to have commenced only when the authority having concurrent territorial jurisdiction issues notice under the provisions of this Act and the proceedings shall be deemed to be pending only after issue of such notice.

Appearance  
before any  
authority  
in  
proceedings.

97. (1) Any person, who is entitled or required to attend before any authority in connection with any proceeding under this Act, may attend—

- (a) by a relative or a person regularly employed by him, or
- (b) by a legal practitioner, a Chartered Accountant or a Cost Accountant, who is not disqualified by or under sub-section (2), or
- (c) by a sales tax practitioner, who possesses the prescribed qualifications and is entered in the list which the Commissioner shall maintain in that behalf, and who is not disqualified by or under sub-section (2),

if such relative, or person employed, legal practitioner, Chartered Accountant, Cost Accountant or sales tax practitioner is authorised by such person in the prescribed form, and such authorisation may include authority to act on behalf of such person in such proceedings.

(2) The Commissioner may, by order in writing and for reasons to be recorded therein, disqualify for such period as is stated in the order from attending before any such authority any legal practitioner, Chartered Accountant, Cost Accountant or sales tax practitioner,—

- (i) who has been removed or dismissed from Government service, or
- (ii) who, being a legal practitioner, Chartered Accountant or Cost Accountant, is found guilty of misconduct in connection with any proceedings under this Act by an authority empowered to take disciplinary action against the members of the profession to which he belongs, or
- (iii) who, being a sales tax practitioner, is found guilty of such misconduct by the Commissioner.

(3) No order of disqualification shall be made in respect of any particular person, unless he is given a reasonable opportunity of being heard.

(4) The order of the Commissioner shall not take effect until one month of the making thereof.

Persons  
appointed  
under  
section 31  
and  
member of  
Tribunal etc.  
to be  
public  
servants.

98. The Commissioner and all officers and persons appointed under section 31 and all members of the Tribunal and all members of the Settlement Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

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Indemnity. 99. No suit, prosecution or other legal proceedings shall lie against any servant of the Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

Power to  
make rules.

100. (1) The power to make rules under this Act shall be exercisable by the State Government by notification in the *Official Gazette*.

(2) Without prejudice to any power to make rules contained elsewhere in this Act, the State Government may make rules consistent with this Act to carry out the purposes of this Act.

(3) In making any rules, the State Government may direct that a breach thereof shall, on conviction, be punished with fine not exceeding two thousand rupees, and when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the continuance of the offence.

(4) All rules made under this Act shall be subject to the condition of previous publication :

Provided that, if the State Government is satisfied that circumstances exist which render it necessary to take immediate action, it may dispense with the previous publication of any rule to be made under this Act.

101. Every notification issued under section 27 or 59 and every rule made under section 100 shall be laid, as soon as may be, after it is issued or made before each House of the State Legislature, while it is in session for a total period of thirty days, which may be comprised in one session or in two successive sessions, and if, before expiry of the session in which it is so laid or the session immediately following, both the Houses agree in making any modification in the notification or the rule or both the Houses agree that the notification or the rule should not be issued or made, and notify their decision to that effect in the *Official Gazette*, the notification or rules shall from the date of publication of such decision in the *Official Gazette* have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under the notification or the rule.

Notification issued under section 27 and 59 and rules made under the Act to be laid before both Houses and liable to be modified or annulled by them.

102. Nothing in this Act or the rules made thereunder shall be deemed to impose or authorise the imposition of a tax on any sale or purchase of any goods, where such sale or purchase takes place—

Certain sales and purchases not to be liable to tax.

(a) (i) outside the State; or

(ii) in the course of the import of the goods into the territory of India, or the export of the goods out of such territory; or

(b) in the course of inter-State trade or commerce;

and the provisions of this Act and the rules made thereunder shall be read and construed accordingly.

*Explanation.*—For the purpose of this section, whether a sale or purchase takes place—

(i) outside the State, or

(ii) in the course of the import of the goods into the territory of India or export of the goods out of such territory, or

(iii) in the course of inter-State trade or commerce,

LXXIV shall be determined in accordance with the principles specified in sections 3, 4 and 5 of 1956. of the Central Sales Tax Act, 1956.

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of 1959.

103. The Bombay Sales Tax Act, 1959, is hereby repealed.

Repeal.

104. (1) Notwithstanding the repeal by section 103 of the law referred to therein— Savings.

(a) that law (including any earlier law continued in force under any provisions thereof), and all rules, regulations, orders, notifications, forms and notices issued under those laws and in force immediately before the appointed day shall, subject to the provisions of sections 22, 30, 44 and 60, continue to have effect for the purposes of the levy, assessment, re-assessment, collection, refund or set-off of any tax, or the granting of draw-back in respect thereof, or the imposition of any

penalty; which levy, assessment, reassessment, collection, refund, set-off, draw-back or penalty relates to any period before the appointed day, or for any other purpose whatsoever connected with or incidental to any of the purposes aforesaid;

(b) any registration certificate issued by or under the Bombay Sales Tax Act, 1959, being a registration certificate in force immediately before the appointed day, Bom. LI of 1959.

(i) shall in so far as the liability to tax under sub-section (1) of section 3 exists, be deemed, on the appointed day, to be a certificate of registration issued under this Act; and

(ii) any Authorization, Recognition or Permit issued under the Bombay Sales Tax Act, 1959, being an Authorization, Recognition or Permit in force immediately before the appointed day, shall be deemed, on the appointed day, to be an Authorization, Recognition or Permit issued under this Act, provided such Authorization, Recognition or Permit could have been granted under the provisions of this Act, if it had then been in force; Bom. LI of 1959.

and accordingly, such registration certificate, Authorization, Recognition or Permit shall be valid and effectual as a certificate of registration, Authorization or Permit under this Act, for a period to be notified in the *Official Gazette* by the Commissioner in this behalf or until a certificate of registration, Authorization, Recognition or Permit is duly issued or granted under this Act, whichever is earlier;

(c) any person entitled to appear before any authority under the law repealed shall be deemed to be entitled to appear before any authority under this Act, and accordingly, if such person is a sales tax practitioner, he shall be entitled to have his name entered in the list maintained under section 97.

(2) The certification of any dealer for any purpose under the provisions of the law so repealed, which certification was in force immediately before the appointed day, shall in so far as it is not inconsistent with any certification necessary or required by or under the provisions of this Act be deemed to be such certification under this Act and shall continue in force for a period to be notified in the *Official Gazette*, by the Commissioner in this behalf or until a fresh certificate is issued under this Act, whichever is earlier.

(3) Without prejudice to the provisions contained in the foregoing sub-sections and subject thereto, section 7 of the Bombay General Clauses Act, 1904, shall apply in relation to the repeal of the law referred to in section 103, as if the law so repealed had been an enactment within the meaning of section 7 of that Act. Bom. I of 1904.

(4) Any reference in any provision of the law now repealed by this Act to an Officer, authority or Tribunal shall for the purpose of carrying into effect the provisions contained in sub-section (1) to (3) of this section be construed as reference to the corresponding officer, authority or Tribunal appointed or constituted by or under this Act, and if any question arises as to who such corresponding officer, authority or Tribunal is, the decision of the State Government thereon shall be final.

Power to remove difficulties. 105. (1) If any difficulty arises in giving effect to the provisions of section 104, the State Government may, by order published in the *Official Gazette*, make such provisions or give such direction, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for the purpose of removing the difficulty.

(2) No order under sub-section (1) shall be made after the expiration of two years from the appointed day.

SCHEDULE 'A'

(See section 5)

*Goods, the sale or purchase of which is free from all taxes*

Serial No. 1	Description of goods 2	Conditions and exceptions, subject to which exemption is granted 3
1	Agricultural implements worked or operated exclusively by human or animal agency, as may be specified, from time to time, by the State Government by notification in the <i>Official Gazette</i> and components and parts of such implements.	
2	Books and periodicals including almanacs and <i>Panchangs</i> [but excluding catalogues, all publications which mainly publicise goods and articles for commercial purposes, race cards, taxi tariff cards, account books, diaries, calendars and books (not being exercise books) containing space exceeding eight pages for writing].	
3	Bread in loaf or rolls or in slices, toasted or otherwise.	
4	Bullock carts primarily made from wood and components, parts and accessories thereof.	
5	Butter-milk, Curds and <i>Lassi</i>	..
6	Cattle, Sheep, Goats, Pigs and Poultry	..
7	Cattle-feed including fodder and concentrates meant exclusively for cattle (but excluding cottonseed, oil cake and feed supplements).	
8	Cereals and Pulses— (i) in whole grain, split, broken or powder form (excluding maize flour) and (ii) in parched or puffed forms such as <i>Poha</i> , <i>Lahya</i> and <i>Churmura</i> .	
9	Charkha and other implements used in the production of handspun yarn as may be specified by the State Government by notification in the <i>Official Gazette</i> .	
10	Chillies and turmeric, whole or powdered; tamarind, whole or separated (excluding tamarind seed when sold in separated form).	
11	Coconut in shell; and separated kernel of coconut other than Copra.	
12	(i) Cotton Fabrics, (ii) Man made Fabrics, (iii) Woollen Fabrics, (iv) Sugar, (v) Tobacco. as defined from time to time in the First Schedule to the Central Excises and Salt Act, 1944 and subjected to additional excise duty under the Additional Duties of Excise (Goods of Special Importance) Act, 1957, and which are not exempt from the payment of the said duty by or under the provisions of the said Additional Duties of Excise (Goods of Special Importance) Act, 1957.	
13	Eggs	.. .. .
14	Electricity	.. .. .

SCHEDULE 'A'—*contd.*

1	2	3
15	Farsan .. .. .	When sold at a price not exceeding Rs. 5 per Kilogram.
16	Fertilizers .. .. .	
17	(a) Films and film strips certified by the Central Board of Film Censors to be predominantly educational in nature. (b) Such films and film strips as may be recognised as educational by the State Government by notification in the <i>Official Gazette</i> .	
18	Firewood, Charcoal and Badami Charcoal .. .. .	
19	Fish .. .. .	Except when sold in sealed containers.
20	Food and non-alcoholic drinks (excluding food and drinks specified in entry 35 of Part II of Schedule 'C') served at one time at a price not more than five rupees per person for consumption inside any eating house, restaurant, hotel, refreshment room or boarding establishment, which is not conducted primarily for the sale or service of food and drinks specified in entry 35 of Part II of Schedule 'C'. <i>Explanation.</i> —An establishment shall be considered as primarily conducted for sale or service of food and drinks specified in entry 35 of Part II of Schedule 'C' if the aggregate sales of such articles (including those served) exceed fifty per cent. of the total sales of food and drinks in any year.	
21	Fresh Flowers.	
22	Fresh vegetables and potatoes, sweet potatoes and elephant's foot (Yam).	
23	Glass Bangles.	
24	(i) Handloom and parts thereof. (ii) The following handloom accessories namely:— (a) <i>Rach</i> (b) <i>Fani</i> (c) Cotton healds (d) Shuttles (e) Bobbins (f) Pins (g) Pickers (iii) The following handloom auxiliary machines, namely (a) Warping frames worked by hand, (b) Sectional drum type warping machine worked by hand and V shaped creel, used therewith. (iv) The following attachments to the handloom, namely Wooden dobbies.	
25	<i>Kumkum</i> in powder form .. .. .	
26	<i>Mangalsutra</i> with blackglass beads sold at a price not exceeding hundred rupees each.	
27	Manures excluding oil cakes.	
28	Mathematical instrument boxes, colour boxes and slide rules sold at a price not exceeding Rs. 10 per piece.	
29	Meat (including flesh of poultry) .. .. .	Except when sold in sealed containers

SCHEDULE 'A'—concl'd.

1	2	3
30 Milk in liquid form but not including condensed milk, sweetened milk or flavoured milk.		* *
31 Motor spirit as defined in the Bombay Sales of Motor Spirit Taxation Act, 1958.		
32 (i) Footwear made by hand without using power at any stage.		When sold at a price not exceeding Rs. 25 per pair.
(ii) Orthopaedic footwear.		When sold by a dealer recognised by the Commissioner in this behalf.
33 <i>Pan, Tambul, Vida</i> or <i>Patti</i> prepared from betel leaves.		* *
34 Plaintain leaves, <i>Patraval</i> and <i>dron</i> .		
35 (a) Products of Village Industries as defined in the Khadi and Village Industries Commission Act, 1956, and the Bombay Khadi and Village Industries Act, 1960; (b) Khadi and readymade garments and other articles prepared from khadi.		(1) When sold by a producer or a dealer certified for this purpose by the Commissioner after taking into account the recommendations of the Khadi and Village Industries Commission constituted under the Khadi and Village Industries Commission Act, 1956 or, as the case may be, of the Maharashtra State Khadi and Village Industries Board constituted under the Bombay Khadi and Village Industries Act, 1960, or
<i>Explanation.</i> —For the purposes of this entry <i>Khadi</i> means any cloth woven on handloom in India from cotton, silk or woollen yarn handspun in India or from the mixture of any two or more of such yarns.		(2) when sold by another dealer who has purchased the goods from a producer or dealer certified under condition (1).
36 Readymade garments and other articles of personal wear (excluding hosiery goods, and garments and articles to which entry 35 of this Schedule and the articles of personal wear to which entry 64 in Part II of Schedule C applies) prepared from any textile fabrics sold at a price not exceeding twenty rupees per garment or article.		* *
37 Salt		* *
38 Silk worm eggs and silk worm cocoons		* *
39 (a) Slates of all kinds and slate pencils, chalk sticks and crayons, foot rules, exercise and drawing books and lead pencils excluding those covered by entry 28 of Part II of Scheduled 'C'.		*
(b) Orreries and their parts		* *
40 <i>Khandsari</i> sugar and Palmyra sugar produced without the aid of power in the course of production.		* *
41 Sugarcane		* *
42 Water, except when sold in sealed, capsuled or corked containers.		* *

SCHEDULE 'B'

(See sections 7, 18 and 20)

*Declared goods the sale or purchase of which is subject to sales tax or purchase tax and the rates of tax*

Serial No.	Description of goods	Rate of sales tax	Rate of purchase Tax
1	2	3	4
1	Coal including coke in all its forms .. ..	Four paise in the rupee.	Four paise in the rupee.
2	Cotton, that is to say, all kinds of cotton (indigenous or imported) in its unmanufactured state, whether ginned or unginned, baled, pressed or otherwise, but not including cotton-waste.	Do.	Do.
3	(i) Cotton Fabrics .. ..	Do.	Do.
	(ii) Man made Fabrics .. ..		
	(iii) Woollen Fabrics .. ..		
	(iv) Sugar and .. ..		
	(v) Tobacco .. ..		
	as defined from time to time in the first Schedule to the Central Excises and Salt Act, 1944 other than those covered by entry 12 of Schedule 'A'.		
4	Cotton yarn, but not including cotton yarn waste. ..	Do.	Do.
5	Crude oil, that is to say, crude petroleum oils and crude oils obtained from bituminous minerals (such as shale, calcareous rock, sand), whatever their composition, whether obtained from normal or condensation oil-deposits or by the destructive distillation of bituminous minerals and whether or not subjected to all or any of the following processes:—	Do.	Do.
	(1) decantation;		
	(2) de-salting;		
	(3) dehydration;		
	(4) stabilisation in order to normalise the vapour pressure;		
	(5) elimination of very light fractions with a view to returning them to the oil deposits in order to improve the drainage and maintain the pressure;		
	(6) the addition of only those hydrocarbons previously recovered by physical methods, during the course of the abovementioned processes;		
	(7) any other minor process (including addition of pour point depressants or flow improvers) which does not change the essential character of the substance.		
6	Hides and skins, whether in a raw or dressed state ..	Do.	Do.
7	Iron and steel, that is to say,—	Do.	Do.
	(i) pig iron and cast iron, including ingot moulds, bottom plates, iron scrap, cast iron scrap, runner scrap and iron skull scrap;		
	(ii) steel semis (ingots, slabs, blooms and billets of all qualities, shapes and sizes);		
	(iii) skelp bars, tin bars, sheet bars; hoe-bars and sleeper bars;		

SCHEDULE 'B'—contd.

1	2	3	4
<p>(iv) steel bars (rounds, rods, squares, flats, octagons and hexagons, plain and ribbed or twisted, in coil form as well as straight lengths);</p> <p>(v) steel structurals (angles, joints, channels, tees, sheet piling sections, Z sections or any other rolled sections);</p> <p>(vi) sheets, hoops, strips and skelp, both black and galvanised, hot and cold rolled, plain and corrugated, in all qualities, in straight lengths and in coil form, as rolled and in rivetted condition;</p> <p>(vii) plates both plain and chequered in all qualities;</p> <p>(viii) discs, rings, forgings and steel castings;</p> <p>(ix) tool, alloy and special steels of any of the above categories;</p> <p>(x) steel melting scrap in all forms including steel skull, turnings and borings;</p> <p>(xi) steel tubes, both welded and seamless, of all diameters and lengths, including tube fittings;</p> <p>(xii) tin-plate, both hot dipped and electrolytic and tinfree plates;</p> <p>(xiii) fish plate bars, bearing plate bars, crossing sleeper bars, fish plates, bearing plates, crossing sleepers and pressed steel sleepers, rails—heavy and light crane rails;</p> <p>(xiv) wheels, tyres, axles and wheel sets;</p> <p>(xv) wire rods and wires-rolled, drawn, galvanised, aluminised, tinned or coated such as by copper;</p> <p>(xvi) defectives, rejects, cuttings or end pieces of any of the above categories.</p>	<p>Four paise in the rupee.</p>	<p>Four paise in the rupee.</p>	
<p>8 Jute that is to say, the fibre extracted from plants belonging to the species <i>Corchorus Capsularis</i> and <i>Corchorus olitorius</i> and the fibre known as mesta or bimli extracted from plants of the species <i>Hibiscus cannabinus</i> and <i>Hibiscus subdariffa</i>-Var <i>altissima</i> and the fibre known as Sunn or Sannhemp extracted from plants of the species <i>Crotalaria Juncea</i> whether baled or otherwise.</p>	<p>Do.</p>	<p>Do.</p>	
<p>9 Oilseeds, that is to —</p>	<p>Do.</p>	<p>Do.</p>	
<p>(i) Groundnut or Peanut (<i>Arayhis hypogaea</i>) ..</p> <p>(ii) Sesamum or Til (<i>Sesamum orientale</i>) ..</p> <p>(iii) Cotton seed (<i>Gassypium Spp.</i>) ..</p> <p>(iv) Soyabean (<i>Glycine seja</i>) ..</p> <p>(v) Rapeseed and Mustard—</p> <p>(1) Toria (<i>Brassica compestros var toria</i>) ..</p> <p>(2) Rai (<i>Brassica juncea</i>) ..</p> <p>(3) Jamba-Taramira (<i>Eruca Satiya</i>) ..</p> <p>(4) Sarson, yellow and brown (<i>Brassica compestris var sarson</i>).</p> <p>(5) Banarsi Rai or True Mustard (<i>Brassica nigra</i>).</p> <p>(vi) Linseed (<i>Linum usitatissimum</i>) ..</p> <p>(vii) Castor (<i>ricinus communis</i>) ..</p> <p>(viii) Coconut (i e. Copra excluding tender coconuts) (<i>cocos nucifera</i>) ..</p> <p>(ix) Sunflower (<i>Helianthus annus</i>) ..</p>			

SCHEDULE 'B'—concl'd.

1	2	3	4
(x)	Nigar seed ( <i>Guizotia abyssinica</i> )	.. Four paise in the rupee	Four paise in the rupee
(xi)	Neem, vepa ( <i>Azadirachta indica</i> )	..	
(xii)	Mahua, illupai, Ippe ( <i>Madhuca indica</i> M. <i>Latifolia</i> , <i>Bassia</i> , <i>Latifolia</i> and <i>Madhuca longifolia</i> syn. M. <i>Longifolia</i> ).	..	
(xiii)	Karanja, Pongam, Honga ( <i>Pongamia pinnata</i> syn. P. <i>Glabra</i> ).	..	
(xiv)	Kusum ( <i>Schleichera oleosa</i> , syn. S. <i>Trijuga</i> )	..	
(xv)	Punna, Undi ( <i>Calophyllum inophyllum</i> )	..	
(xvi)	Kokum ( <i>Carcinia indica</i> )	..	
(xvii)	Sal ( <i>Shorea robusta</i> )	..	
(xviii)	Tung ( <i>Aleurites foidii</i> and A. <i>montana</i> )	..	
(xix)	Red palm ( <i>Elaeis guinensis</i> )	..	
(xx)	Safflower ( <i>Carthamus tinctorius</i> )	..	

SCHEDULE 'C'

(See sections 8, 18 and 20)

Goods, other than declared goods, the sale or purchase of which is subject to sales tax or purchase tax and the rates of tax

PART I

Serial No.	Description of goods	Rate of sales tax	Rate of purchase tax
1	2	3	4
1	Bullion and specie .. <i>Explanation.</i> —The expression "bullion" in this entry means gold or silver of fineness of not less than fifty per cent.	One half of	One half of one per cent.
2	Articles made of gold or silver or of both of fineness of not less than fifty per cent not containing precious stones, synthetic or artificial precious stones or pearls whether real, artificial or cultured, of a value exceeding one tenth of the value of each article.	Do.	Do.
3	Articles and utensils made of <i>Kansa</i> (bell metal) ..	Two paise in the rupee.	Two paise in the rupee.
4	Betel leaves but not <i>Pan</i> , <i>Tambul</i> , <i>Vida</i> or <i>Patti</i> prepared therefrom specified in entry 33 of Schedule A.	Do.	Do.
5	Betelnuts .. .. .	Do.	Do.
6	Fish sold in sealed containers .. .. .	Do.	Do.
7	Flower, fruit and vegetable seeds (other than oil seeds, <i>Dhania</i> , <i>Methi</i> and <i>Suva</i> ), seeds of lucerne and other fodder grass; seeds of sann hemp; bulbs, corns, rhizomes, suckers and tubers (other than edible tubers), bud grafts, cuttings, grafts, layers and seedlings, plants	Do.	Do.
8	Fresh fruits .. .. .	Do.	Do.
9	Gur including <i>Kakavi</i> or <i>Kakab</i> .. .. .	Do.	Do.

## SCHEDULE 'C'—contd.

1	2	3	4
10	<i>Kumkum</i> in any form other than that specified in entry 25 in Schedule 'A'.	Two paise in the rupee.	Two paise in the rupee.
11	<i>Mangalsutra</i> with black glass beads sold at a price exceeding hundred rupees each.	Do.	Do.
12	Meat including flesh of poultry when sold in sealed container.	Do.	Do.
13	Oil-cakes.	Do.	Do.
14	Poultry feed and concentrates exclusively meant for poultry but excluding feed supplements.	Do.	Do.
15	Safety matches (excluding matches ordinarily used as fire-works).	Do.	Do.
16	Readymade garments and other articles of personal wear (excluding hosiery goods, and garments and articles to which entries 35 and 36 of Schedule 'A' or entry 64 of Part II of Schedule 'C' applies) prepared from any textile fabrics including those which have been embroidered or otherwise decorated.	Four paise in the rupee.	Four paise in the rupee.
17	Hosiery goods	Do.	Do.
18	(i) Agricultural machinery and implements other than tractors, oil engines, electric motors, pumps and electric pumping sets and implements specified in entry 1 of Schedule 'A'.	Do.	Do.
	(ii) Components, parts and accessories of agricultural machinery and implements other than components, parts and accessories of tractors, oil engines, electric motors, pumps, electric pumping sets and implements specified in entry 1 of Schedule 'A'.	Do.	Do.
19	Aromatic chemicals natural and synthetic essential oils and their compounds.	Do.	Do.
20	Artificial silk yarn	Do.	Do.
21	Caustic soda and soda ash	Do.	Do.
22	Cotton waste and cotton yarn waste	Do.	Do.
23	Cotton thread	Do.	Do.
24	(1) Medicines (other than those specified in any other entries in this Schedule or in any other Schedule) of the following description :— Any medicinal formulation or preparation made up ready for direct use, internally or externally by human beings, or for animals for treatment, mitigation or prevention of diseases.	Do.	Do.
	(2) Water for injection	Do.	Do.
25	Gunny bags and hessian; jute twine	Do.	Do.
26	Kerosene	Do.	Do.
27	Mathematical instrument boxes, colour boxes and slide rules other than those specified in entry 28 of Schedule 'A'.	Do.	Do.

## SCHEDULE 'C'—contd.

1	2	3	4
28	Milk products including sweetened and flavoured milk, milk powder, condensed milk, butter, ghee, <i>khoa</i> and <i>chakka</i> , but excluding articles covered by entry 5 of Schedule 'A' and entry 35 of Part II of this Schedule.	Four paise in the rupee.	Four paise in the rupee.
29	Non-ferrous metal sheets, rods, wires, bars, slabs, blocks, ingots, circles and scrap (other than those of gold and silver specified in entry 1 of Part I of this Schedule).	Do. ..	Do.
30	Petroleum products including light diesel oil but excluding kerosene, solvent oil, lubricants and motor spirits as specified in entry 31 of Schedule 'A'.	Do. ..	Do.
31	Raw silk and silk yarn .. ..	Do. ..	Do.
32	Raw wool, wool-tops, woollen yarn (other than knitting yarn).	Do. ..	Do.
33	Staple fibre and staple fibre yarn .. ..	Do. ..	Do.
34	Starches and maize flour and tapioca flour ..	Do. ..	Do.
35	Vegetable non-essential oils other than hydrogenated vegetable oils and those to which entry 67 of Part II of this Schedule applies.	Do. ..	Do.

## SCHEDULE 'C'

## PART II

Serial No. 1	Description of goods 2	Rate of sales tax 3	Rate of purchase tax 4
1	Bricks (other than refractory bricks) and earthen roofing tiles.	Six paise in the rupee.	Six paise in the rupee.
2	Boot polish .. ..	Do. ..	Do.
3	Cement .. ..	Do. ..	Do.
4	Coffee, chicori and tea in leaf or powder; instant tea and instant coffee.	Do. ..	Do.
5	Dried fruits, except when sold in sealed containers of weight not exceeding 5 Kgs. in each container.	Do. ..	Do.
6	Inks .. ..	Do. ..	Do.
7	Linguaphone, language records and cassettes, that is to say, gramophone records and cassettes for teaching or learning of languages.	Do. ..	Do.
8	Lubricants .. ..	Do. ..	Do.
9	Paper of all kinds, that is to say,— (i) Cigarette Tissue .. ..	Do. ..	Do.
	(ii) Blotting, Toilet or target tissue, teleprinter, type-writing, Manifold Bank, Bond or Art paper, Chrome paper, tubsized paper, Cheque paper, Stamp paper, Cartridge paper, Parchment and coated board (including Art-board, Chromeboard and board for playing cards).	Do. ..	Do.

## SCHEDULE 'C'—contd.

1	2	3	4
9	(iii) Printing and writing paper, wrapping paper (excluding Cellophane or PVC film and sheets), straw board and pupilboard including greyboard, corrugated board, duplex and triplex boards, millboard, paste-board or card-board.	Six paise in the rupee.	Six paise in the rupee.
	(iv) Abrasive paper, carbon paper and Ferro-Ammonia sensitised paper.	Do. ..	Do.
10	Razors, components, parts and accessories thereof and razor blades.	Do. ..	Do.
11	Sewing machines, components, parts and accessories thereof and needles used therewith.	Do. ..	Do.
12	Soaps of all kinds including medicated soaps (but excluding shampoos in liquid form) and detergents.	Do. ..	Do.
13	Spices of all kinds including pepper, Saffron, <i>Dhania</i> , <i>Methi</i> , and <i>Suva</i> but excluding those covered by entry 10 in Schedule 'A'.	Do. ..	Do.
14	Steel trunks and school bags and cases made of steel or aluminium.	Do. ..	Do.
15	Spectacles, sunglasses, goggles, lenses, contact lenses, glasses, rough blanks and frames, components, parts and accessories thereof.	Do. ..	Do.
16	Syringes of all kinds intended for use by the medical profession and components, parts and accessories thereof and needles used therewith.	Do. ..	Do.
17	Utensils and articles made of non-ferrous metals but excluding—	Do. ..	Do.
	(i) Utensils and articles made of gold and silver ..	Do. ..	Do.
	(ii) Utensils and articles made of non-ferrous metal specified elsewhere.	Do. ..	Do.
18	Umbrellas of all kinds, including garden and beach umbrellas and components, parts and accessories thereof.	Do. ..	Do.
19	Zari thread and embroidery materials of gold, silver or gilded metal including badla and <i>kasab</i> .	Do. ..	Do.
20	(i) Glassware when sold at a price not exceeding three rupees per piece. <i>Explanation.</i> —(a) One cup and one saucer, and (b) any vessel and its lid sold together shall be deemed to be one piece but not a set of cups and saucers, plates or dishes etc.	Four paise in the rupee.	Four paise in the rupee.
	(ii) Glassware (other than that specified in sub-entry (i) of this entry), Chinaware or articles made of porcelain and glazed earthenware other than those specified in entry 49 in this Schedule.	Twelve paise in the rupee.	Twelve paise in the rupee.
	(iii) All kinds of glass sheets, glass rods, glass tubes, glass ampoules and silvered mirrors.	Do. ..	Do.
21	Bicycles, tandem cycles, tricycles and cycle combinations and tyres, tubes, components, parts and accessories thereof.	Eight paise in the rupee.	Eight paise in the rupee.

## SCHEDULE 'C'—contd.

1	2	3	4
22	Food and non-alcoholic drinks not being food or drinks to which entry 98 in this Schedule applies, served at one time for consumption inside any eating house, restaurant, hotel, refreshment room or boarding establishment.		
	(a) at a price more than five rupees but not more than thirty rupees per person.	Eight paise in the rupee.	Eight paise in the rupee.
	(b) at a price of more than thirty rupees per person . .	Fifteen paise in the rupee.	Fifteen paise in the rupee.
23	Articles of cement and asbestos cement (other than those specified elsewhere) and hume pipes.	Eight paise in the rupee.	Eight paise in the rupee.
24	Books and periodicals other than those covered by entry 2 of Schedule 'A'.	Do.	Do.
25	(i) Building materials including lime, sand, stone, rubble, refractory bricks but excluding those specified elsewhere.	Do.	Do.
	(ii) Timber (other than firewood), Bamboo (whether whole or split) plywood and hard-board.	Do.	Do.
26	Coir products including coir mattresses but excluding those specified in entry 80 of this Schedule.	Do.	Do.
27	Food stuffs and food provisions of all kinds including dried fruits and dried vegetables, raw, semi-cooked, semi-processed, or ready to serve foods, pickles, sauces, jams, marmalades, jellies, preserved fruits and honey when sold in sealed containers of weight not exceeding five kilograms in each container but excepting items specified in entries 28 and 35 in Part I of Schedule C.	Do.	Do.
28	Fountain pens, ball pens, stylograph pens and propelling pencil and components, parts and accessories of such pens and pencils and refills used therewith.	Do.	Do.
29	Horses.	Do.	Do.
30	Hydrogenated vegetable oils including vanaspati.	Do.	Do.
31	Insecticides, pesticides, fungicides and weedicides.	Do.	Do.
32	Oil engines (other than those covered by entry 62 in this Schedule) and components, parts and accessories thereof.	Do.	Do.
33	Professional, scientific and laboratory instruments, implements and tools and components, parts and accessories thereof, except those classified elsewhere.	Do.	Do.
34	Rubber and rubber product except those covered by any entry of this Schedule or any other Schedules.	Do.	Do.
35	(1) Sweets and sweetmeats, including <i>Shrikhand</i> , <i>Basundi</i> and <i>Doodhpak</i> , Cakes, pastries, biscuits and other confectionary, ice-cream and <i>kulfi</i> and non-alcoholic drink containing ice-cream and <i>kulfi</i> .	Do.	Do.
	(2) Sweet drops, toffees and chocolate.	Do.	Do.
36	Tooth powders and tooth pastes of all kinds whether medicated or not and tooth brushes.	Do.	Do.

## SCHEDULE 'C'—contd.

1	2	3	4
37	Tarpaulins	Eight paise in the rupee	Eight paise in the rupee.
38	Tents, sails and canvas goods, other than those covered by any other entry of this Schedule or any other Schedule.	Do.	Do.
39	Toys and sports goods other than those covered by any other entry of this Schedule or any other Schedule.	Do.	Do.
40	X-ray apparatus and films plates and other equipments required for use therewith and components, parts and accessories thereof.	Do.	Do.
41	(i) Bangles made of plastic	Two paise in the rupee.	Two paise in the rupee.
	(ii) Bangles made of Ivory	Eight paise in the rupee.	Eight paise in the rupee.
42	Foot wear other than that specified in entry 32 in Schedule 'A'		
	(a) When sold at a price not exceeding Rs. 25 per pair.	Do.	Do.
	(b) When sold at a price exceeding Rs. 25 per pair.	Twelve paise in the rupee.	Twelve paise in the rupee.
43	Coal Gas	Ten paise in the rupee.	Ten paise in the rupee.
44	Electrical goods of all kinds (other than those specified elsewhere in this Schedule) used in the generation, transmission, distribution or in connection with the consumption of electricity such as all kinds of wires and cables, holders, plugs, switches, casings, cappings, reapers, bends, junction boxes, meter-boards, switch-boards, electrical earthen-ware and porcelainware.	Do.	Do.
	(b) All instruments, apparatus and appliances (other than electronic systems, instruments, apparatus and appliances specified in entry 96 in this Schedule).	Do.	Do.
	(c) Generators and transformers and components, parts and accessories thereof.	Do.	Do.
45	Stoves, pressure lamps including petromax and cookers of all kinds and components, parts and accessories thereof, including gas mentles.	Do.	Do.
46	Stainless steel articles and utensils (excluding stainless steel rolls and circles) other than those specified elsewhere.	Twelve paise in the rupee.	Twelve paise in the rupee.
47	Aerated waters and non-alcoholic beverages (including fruit juices, squashes, syrups and cordials) when sold in sealed, capsuled, or corked bottles, jars, tins, drums or other containers.	Do.	Do.
48	Aeroplanes of all kinds, including helicopters and components, parts and accessories thereof.	Do.	Do.
49	Sanitary ware of all kinds and fittings thereof.	Do.	Do.
50	Binoculars, telescopes, opera glasses and magnifying glasses and components, parts and accessories thereof.	Do.	Do.
51	Cigarette cases, holders and lighters, tobacco pipes and hooka.	Do.	Do.

## SCHEDULE 'C'—contd.

1	2	3	4
52	Cinematographic equipment, including cameras, projectors and sound recording and reproducing equipment and lenses, films (other than the films declared tax free under entry 17 of Schedule A) and cinema carbons required for use therewith and components, parts and accessories thereof and film strips (other than those declared tax-free under the said entry 17) and cinema slides and raw films.	Twelve paise in the rupees.	Twelve paise in the rupee.
53	Country liquor, as defined in the Maharashtra Country Liquor Rules, 1973.	Do.	Do.
54	Dictaphone and other similar apparatus for recording sound and components, parts and accessories thereof.	Do.	Do.
55	Floor, wall, or roofing tiles, other than those covered by entry 1 of this Schedule.	Do.	Do.
56	Furniture (other than that specified in entry 84 of this Schedule).	Do.	Do.
57	Gold and Silver filigree	Do.	Do.
58	Goods made primarily from any kind of plastic excluding those covered by entries 41, 55, 63 and 80 of this Schedule.	Do.	Do.
59	Gramophones of every description, components, parts and accessories thereof, needles used therewith and gramophone records other than those covered by entry 7 of this Schedule.	Do.	Do.
60	(a) Jewellery including articles containing precious stones, synthetic or artificial precious stones or pearls whether real, artificial or cultured the value of which exceeds one tenth of the value of the article. (b) Precious stones, synthetic or artificial precious stones and pearls, real, artificial or cultured.	Do.	Do.
61	Plastic Laminates	Do.	Do.
62	(1) Motor vehicles including motor cars, motor taxi-cabs, motor cycles, motor cycle combinations, motor scooters, motorettes, motor omnibuses, motor vans, motor lorries and chassis of motor vehicles and bodies or tankers built or meant for mounting on chassis of motor vehicles but excluding tractors whether on wheels or on tracts. (2) (a) Components and parts of vehicles specified in subentry (1). (b) other articles (including rubber and other tyres and tubes and batteries) adapted for use as parts and accessories of vehicles specified in sub-entry (1), not being such articles as are predominantly also used otherwise than as such parts and accessories. (c) Trailors adapted for use along with vehicles specified in sub-entry (1) not being such trailors as are predominantly also used alongwith any other vehicles.	Do. Do. Do. Do.	Do. Do. Do. Do.
63	(a) Photographic and other cameras and enlargers, lenses, papers, films and plates required for use therewith and components, parts and accessories thereof and photographic prints, whether mounted, framed or otherwise. (b) Raw diapositive plates	Do. Do.	Do. Do.

## SCHEDULE 'C'—contd.

1	2	3	4
64	Silk fabrics as defined in the First Schedule to the Central Excises and Salt Act, 1944 and Handloom silk fabrics; and articles made from silk fabrics and handloom silk fabrics (but excluding pile carpets).	Twelve paise in the rupee.	Twelve paise in the rupee.
65	Solvent oil	Do.	Do.
66	Sound transmitting equipments including telephones, loudspeakers and electrically operated gramophone record players and record changers and components, parts and accessories of such equipment but excluding sound amplifying apparatus carried on the person and adapted for use as a hearing aid.	Do.	Do.
67	(a) Synthetic pigments, other than textiles dyes (b) All kinds of paints other than those specified in entry 75 of this Schedule but including distempers, cement colours of paints, powder paints, stiff paste paints, enamels and liquid paints, whether ready for use or not. (c) Varnishes, french polish, vegetable turpentine, paint removers and stainers of all kinds. (d) All kinds of vehicles, diluents and thinners, including natural and synthetic drying and semidrying oils such as double boiled linseed oil, blown linseed oil, stand oil, sulphurised linseed oil, perilla oil, whale oil and tung oil.	Do. ... Do. Do.	Do. ... Do. Do.
68	Table cutlery including knives, forks and spoons but excluding aluminium spoons.	Do.	Do.
69	Vacuum flasks of all kinds including thermoses, thermic jugs, ice buckets or boxes, urns and other domestic receptacles to keep food or beverages hot or cold and components, parts and accessories thereof.	Do.	Do.
70	Wireless reception instruments and apparatuses and radio gramophones and electrical valves, batteries, transmitters, accumulators, amplifiers and loudspeakers required for use therewith and components, parts and accessories of such wireless instruments, apparatuses and radio gramophones.	Do.	Do.
71	Arms including rifles, revolvers, pistols and ammunition therefor and components, parts and accessories thereof.	Do.	Do.
72	Clocks, time pieces and watches, electric time switches, mechanical timers, time recorders and stop watches, and Components, parts and accessories thereof.	Fifteen paise in the rupee.	Fifteen paise in the rupee.
73	(a) Domestic, commercial and other non-industrial electrical appliances such as grinders, mixers, blenders, irons, lighters, hair driers, shavers, washing machines, heaters, hot plates, toasters, cooking ranges, boilers, ovens, geysers, vacuum cleaners and components, parts and accessories thereof. (b) All kinds of electric fans, air circulators and exhaust fans.	Do. Do.	Do. Do.
74	Ice including dry ice	Do.	Do.
75	(a) Acrylic and plastic emulsion paints (b) All types of lacquers	Do. Do.	Do. Do.

## SCHEDULE 'C'—contd.

1	2	3	4
76	Articles made of ivory (other than those specified in entry 41 of this Schedule), sandal wood or black wood or inlaid therewith and ornamental metalware (not being articles specified in entry 2 of Part I of this Schedule.)	Fifteen paise in the rupee.	Fifteen paise in the rupee.
77	Ganja, Bhang and opium	Do.	Do.
78	Culinary and flavouring essences	Do.	Do.
79	Fire-works including matches and other articles ordinarily used as fire-works.	Do.	Do.
80	Foam rubber or plastic foam or other synthetic foam or fibre foam or rubberised coir and articles made therefrom.	Do.	Do.
81	Ladies handbags and vanity bags	Do.	Do.
82	Lifts, hoists and cranes operated by electricity or any other power and components, parts and accessories thereof.	Do.	Do.
83	Marble, Granite and articles made of marble or granite	Do.	Do.
84	(1) Metal safes, cash boxes and almirahs, all kinds of metal furniture, whether sold in assembled or unassembled form and ready to assemble parts of metal furniture, furniture made from fibreglass reinforced plastics or made primarily from any kind of plastics, upholstered furniture and furniture in the manufacture of which laminated sheets are used.	Do.	Do.
	(2) Slotted angles	Do.	Do.
85	Non-potable liquors, that is :—	Do.	Do.
	(a) rectified spirit	Do.]	Do.
	(b) denatured spirit	Do.]	Do.
	(c) methyl alcohol	Do.]	Do.
	(d) absolute alcohol	Do.]	Do.
	(e) any other liquor which the State Government may by notification in the Official Gazette declare to be non-potable for the purposes of this entry.	Do.]	Do.
86	Perfumes (excluding those covered by entry 19 of Part I of this Schedule) depilatories, cosmetics, toilet articles and preparations whether medicated or otherwise (including hair creams, hair tonic and liquid shampoo) but excluding those covered by any other entry of this or any other Schedule.	Do.	Do.
87	Pile carpets	Do.	Do.
88	Suit cases, attache cases, brief cases and despatch cases	Do.	Do.
89	Spirituos medicinal preparations containing more than twelve per cent by volume of alcohol (but other than those which are declared by the State Government by notification in the Official Gazette to be not capable of causing intoxication).	Do.	Do.
90	Tabulating, calculating, cash registering, indexing, card punching, franking and addressing machines and components, parts and accessories of such machines.	Do.	Do.

## SCHEDULE 'C'—contd.

1	2	3	4
91	Television sets and antennas, television cameras, television monitors and components, parts and accessories thereof.	Fifteen paise in the rupee.	Fifteen paise in the rupee.
92	(i) Typewriting machines, components, parts and accessories thereof and ribbons used therewith.	Do.	Do.
	(ii) Duplicating machines including duplicators and any other apparatus for obtaining copies whether of reduced, enlarged or the same size as the original and ribbons plates and stencils used in connection therewith and teleprinters and components, parts and accessories of any of them.	Do.	Do.
	(iii) Tape recorders, magnetic tapes, cassettes for use therewith (other than those specified in entry 7 of this Schedule) and components, parts and accessories thereof.	Do.	Do.
93	(a) Fluorescent tubes of all varieties and their fittings, including shades, chokes and starters and other components, parts and accessories pertaining to such tubes.	Do.	Do.
	(b) Electric bulbs other than those covered by any other entry of this Schedule or any other Schedule.	Ten paise in the rupee.	Ten paise in the rupee.
	(c) Torches of all varieties, and components, parts and accessories thereof including bulbs used therewith.	Twelve paise in the rupee.	Twelve paise in the rupee.
	(d) Dry cells and dry batteries of all varieties	Do.	Do.
94	Air-conditioning plant, including air-conditioners and air-coolers and components, parts and accessories thereof—		
	(a) of capacity upto 1.5 tonnes.	Fifteen paise in the rupee.	Fifteen paise in the rupee.
	(b) of capacity over 1.5 tonnes.	Twenty paise in the rupee.	Twenty paise in the rupee.
95	Refrigeration plants and all kinds of refrigerating appliances and equipments, including refrigerators, deep freezers, mechanical water-coolers, bottle coolers, walk-in-coolers and components, parts and accessories thereof—		
	(a) of capacity upto 165 litres	Fifteen paise in the rupee.	Fifteen paise in the rupee.
	(b) of capacity over 165 litres	Twenty paise in the rupee.	Twenty paise in the rupee.
96	(a) Computers and components, parts and accessories there of and tapes, spools and discs, used therewith.	Twenty paise in the rupee.	Twenty paise in the rupee.
	(b) Electronic Systems, instruments, apparatus and appliances (other than those specified in any entry in this Schedule) and components, parts and accessories thereof.	Do.	Do.
97	Furs and articles made therefrom	Do.	Do.
98	Food or drink served for consumption in hotel or restaurant or any part thereof or in any other place, with which a cabaret, floor show or similar entertainment is provided therein.	Forty paise in the rupee.	Forty paise in the rupee.
99	Country liquor (that is, all Liquor other than Country Liquor to which entry 53 in this Schedule applies and other than foreign liquor to which entry 100 in this Schedule applies).	Fifty paise in the rupee.	Fifty paise in the rupee.

SCHEDULE 'C'—concl'd.

1	2	3	4
100	Foreign liquor as defined from time to time in rule 3(6)		
	(1) of the Bombay Foreign Liquor Rules, 1953—		
	(i) such Foreign Liquor brought into India	Fifty paise in the rupee.	Fifty paise in the rupee.
	(ii) such Foreign Liquor manufactured in India—		
	(a) Fermented Liquors and Mild liquors	Thirty-five Paise in the rupee.	Thirty-five paise in the rupee.
	(b) Any other liquors	Twenty-five paise in the rupee.	Twenty-five paise in the rupee.
101	All goods other than those specified, from time to time, in the other Schedules and the preceding entries of this Schedule.	Eight paise in the rupee.	Eight paise in the rupee.

## STATEMENT OF OBJECTS AND REASONS

The Bombay Sales Tax Act, 1959, was brought in force on 1st January, 1960 to replace the different Sales Tax Laws then in operation in the component regions of the re-organised State of Bombay. That Act is still in operation in Maharashtra State. In July, 1975, Government appointed a Committee to review the present system of Sales Tax in the State generally in the light of the systems prevailing in comparable States like Gujarat, Tamil Nadu, West Bengal and Karnataka and to make recommendations on the most suitable system and structure of Sales Tax with due regard to the revenue requirement of the State. The Committee was also asked to examine the system of administration of the Sales Tax Law and to suggest improvement therein, so as to simplify the procedure for assessment of Sales Tax, ensuring at the same time, avoidance of evasion of tax. The Committee submitted its report to the Government on 3rd May, 1976. This Report has been published. Representations from various persons and interests affected by Sales Tax offering suggestions on the recommendations made by the Sales Tax Enquiry Committee have also been received and considered. This Bill is accordingly presented incorporating the system of sales tax recommended by the Committee and containing other provisions simplifying the procedure of assessment of tax and intended to minimise evasion of tax.

2. Briefly the system of tax provided for in the Bill is as follows:—

In place of the composite system of Sales Tax embodied in the Bombay Sales Tax Act, 1959, a system of levy of single point sales tax at the first stage of sale for all taxable commodities is provided. 42 categories of goods are exempted from levy of any tax, some of them subject to certain conditions. These are listed in Schedule 'A'. 9 Categories of "Declared Goods" under the Central Sales Tax Act, 1956 are listed in Schedule 'B' and a uniform tax rate of four per cent. is proposed on these commodities. The remaining categories of taxable goods are included in Schedule 'C', which is in two parts. Categories of goods carrying a tax rate of four per cent. or less are included in Part I of Schedule 'C' and those carrying a higher rate of tax are all included in Part II of the said Schedule.

3. Provision is made for levy of purchase tax in certain circumstances on all the classes of goods listed in Schedules 'B' and 'C'. If purchase tax is levied, further transactions in these goods will not normally be liable to sales tax. The rates of purchase tax have been so fixed as to be equal to the rates of sales Tax.

4. Provision is also made for levy of additional tax in the case of dealers whose turnover exceeds rupees ten lakhs a year.

5. The following are the notes on important clauses, namely:—

*Clause 1.*—This deals with the title and extent and lays down that section 1 will come into force at once and the remaining provisions will come into force on such suitable day as the State Government may notify.

*Clause 2.*—This incorporates the definitions. The more important ones are noticed below. The definition of "business" is widened by excluding the element of profit motive as also the requirement of volume, frequency, continuity or regularity of transactions.

The definition of "dealer" is made more explicit so as to include an "auctioneer", as also a manager or agent of a non-resident dealer.

A new definition of "fair market value" is included to prevent loss of revenue arising out of under-valuation of goods.

*Clause 3.*—This clause deals with the liability of a dealer to pay tax. The limit of turnover in respect of purchases or sales which will attract tax is raised to Rs. 20,000 for importers and manufacturers, and to Rs. 50,000 for other classes of dealers. It is also provided that in either case, the value of taxable goods sold or purchased must not be less than Rs. 3,000. The liability of a Commission agent or an auctioneer is made independent of the principal on whose behalf goods are bought or sold.

*Clause 7.*—This clause provides for a single point levy of sales tax on goods, which are “declared goods” under section 14 of the Central Sales Tax Act, 1956. These goods are listed in Schedule ‘B’.

*Clause 8.*—This clause provides for a single point levy of sales tax at the first stage. The goods are listed in Schedule ‘C’.

*Clause 9.*—This clause provides that certain types of sales shall not be eligible for deduction as resale under certain circumstances.

*Clause 10.*—Power is taken to Government to specify the point of sale at which the goods which may be notified may be taxed.

*Clause 11.*—This clause provides for the determination of the sales price of goods equal to the fair market value, where there is under valuation of the goods.

*Clause 19.*—This clause provides for levy of purchase tax on purchases effected by a Recognised dealer or by a Commission agent on behalf of a Recognised dealer.

*Clause 21.*—This clause provides for the declaration of stock of goods held on the appointed day i.e. the day on which the remaining provisions of the new Act will be brought into force.

*Clause 22.*—This clause provides for levy of special purchase tax in respect of goods purchased on a certificate or declaration under the Bombay Sales Tax Act, 1959 and held in stock on the appointed day.

*Clause 27.*—Power is being taken to the State Government to reduce the rate of tax or to omit or amend any entry so as not to enhance the rate of tax or to transpose any entry from one Schedule to another.

*Clause 29.*—This clause declares the partners of a firm to be jointly and severally liable for the tax, interest and penalty due from the firm. To ensure that a retiring partner sends prompt intimation of his retirement, it is provided that such out-going partner will continue to be liable for the tax, interest and penalty due from the firm till the date of intimation of retirement.

*Clause 31.*—This provides for appointment of Sales Tax Authorities. Provision is made to empower the Commissioner to issue general orders, instructions and directions to the subordinate authorities which shall be binding on such authorities. This provision is necessary to maintain uniformity in the administration of the Sales Tax Law in the State. Commissioner is also empowered to give publicity to such instructions, orders or directions for the benefit of the trading community. This is on the lines of similar provisions of the Income-tax Act, 1961.

*Clause 32.*—This clause provides for appointment of the Sales Tax Tribunal. In order to avoid conflict of opinion among different Benches of the Tribunal, a provision is made for constituting a larger Bench.

*Clause 33.*—This clause provides for a Settlement Commission on the lines of similar provisions in the Income-tax Act, 1961 for the settlement of tax liability under circumstances to be prescribed.

*Clause 47.*—This clause provides that if an assessment or reassessment involves a point on which there is an adverse decision of the Tribunal or the High Court which is in reference/appeal, then the assessment or reassessment will be completed in all other respects keeping the disputed issues in abeyance.

*Clause 48.*—This clause will enable the cancellation of assessments at the instance of the dealer under certain circumstances.

*Clause 49.*—This clause provides for levy of interest on taxes payable according to law but not paid in time.

*Clause 51.*—Where a proposed assessment or re-assessment or a proposed order of penalty results in additional dues in excess of a prescribed limit and if such proposed order is not acceptable to the assessee, then this clause enables the authority who is seized of the proceedings to transfer the same to a prescribed higher authority, for disposal.

*Clause 52.*—This clause will enable the Commissioner to give guidance to the subordinate authorities in the disposal of cases wherever it is considered necessary.

*Clause 54.*—This clause will enable the departmental authorities to exercise the powers under the Maharashtra Land Revenue Code, 1966 for the recovery of tax, interest, penalty etc.

*Clause 67.*—This clause is intended to take power not to recover tax which is not levied or which is short levied, as a result of any prevailing general practice. It is on the lines of section 11C inserted in the Central Excises and Salt Act, 1944, by the Central Amendment Act 25 of 1978.

*Clause 75.*—This clause enables the Tribunal, the Settlement Commission, and the Commissioner to exercise all the powers of the Civil Court for certain purposes.

*Clause 80.*—This clause provides for the settlement of cases by the Settlement Commission.

*Clause 81.*—This clause provides that assessment and other proceedings shall not be invalid, if in substance they are in accordance with law.

*Clause 87.*—This clause provides for the provisional attachment of property for protecting the interest of revenue.

*Clause 89.*—This clause empowers the Commissioner to take action against an authority for passing vexatious orders or for wilful under-assessment.

*Clause 101.*—This clause provides that notifications issued under clauses 27 or 59 and rules made under clause 100 should be laid before the Legislature.

*Clause 102.*—This clause mentions the sales and purchases which are not liable to tax under the State law.

*Clauses 103, 104 and 105.*—Clauses 103 and 104 provide for repeal of the existing Act of 1959 and consequential savings and construction of references. Clause 105 provides for the removal of any difficulties, which may arise in giving effect to the saving provisions contained in section 104 of the new Act.

SHANKARRAO B. CHAVAN,  
Minister for Finance.

Dated the 15th day of November 1978.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves certain proposals for the delegation of legislative powers. The more important proposals are as follows:—

*Clause 1.*—This clause will come into force as soon as the Bill receives the assent and is published as an Act in the Gazette. It empowers Government to bring the remaining provisions of proposed Act into force by notification in the Gazette from a suitable date.

*Clause 5.*—The goods, the sale or purchase of which is free from all taxes, are enumerated in Schedule A. Under this clause, the State Government is empowered to add to or enlarge any entry in Schedule A by notification in the Gazette.

*Clauses 12 to 17.*—Under these clauses, the State Government is empowered to prescribe by rules the requisite declarations to be issued by Authorised dealers, Recognised dealers and Permit holders and the manner in which the certificate is to be signed by a selling Registered dealer to enable the buying dealer to claim resale deduction.

*Clause 21.*—Under this clause, the State Government is empowered to prescribe by rules the class of dealers who shall declare the stock held on the appointed day.

*Clause 27.*—Under this clause, the State Government is empowered to reduce any rate of tax specified in Schedules B and C by notification in the Gazette.

*Clause 49 (3).*—This clause empowers the State Government to prescribe by rules, the conditions subject to which the whole or part of the interest may be remitted.

*Clause 58.*—This clause empowers the State Government to prescribe by rules the circumstances and conditions for permitting a dealer to pay a lump sum in lieu of tax.

*Clause 59.*—This clause empowers the State Government to exempt by notification the Gazette any specific class of sales or purchases from payment of the whole or part of tax payable under the Act.

*Clause 60.*—This clause empowers the State Government to frame rules for the grant of draw-back; set-off, refund etc.

*Clause 70.*—This clause empowers the State Government to prescribe by rules the conditions or restrictions subject to which the Commissioner may direct any class of dealers to maintain accounts and records.

*Clause 71.*—This clause empowers the State Government to prescribe by rules the conditions subject to which the Commissioner or any officer appointed to audit receipts may require any dealer to produce accounts etc.

*Clause 73.*—This clause empowers the State Government to prescribe by rules, the manner of filing a commodity-wise return for statistical purposes.

*Clause 80.*—This clause empowers the State Government to prescribe by rules the forms and the manner of application to be made to the Settlement Commission.

*Clause 100.*—In addition to the rule making powers conferred by various clauses, this clause empowers Government to make rules to carry out the purposes of the Act.

*Clause 105.*—In case any difficulty arises in giving effect to the repeal and savings clause, this clause empowers the State Government to make provisions or to give directions by order to be published in the *Official Gazette* as appear necessary or expedient for removing such difficulty.

2. The above proposals for delegation of legislative powers are of a normal character.

## FINANCIAL MEMORANDUM

The Bill seeks to replace the Bombay Sales Tax Act, 1959, consequent to Government's decisions on the recommendations of the Sales Tax Enquiry Committee, 1975-76.

2. Clauses 31, 32 and 33 relate to appointment of the Sales Tax Authorities, Sales Tax Tribunal and Settlement Commission, respectively, for carrying out the purposes of the Bill. Government's decisions on reorganisation of the Staff-structure of the Sales Tax Department are being implemented in phases after bringing proposals constituting New Service before the Legislature as per the budgetary procedure. The provision for running the Sales Tax Department made in the Budget Estimates for 1978-79 is Rs. 421.55 lakhs recurring and Rs. 146.82 lakhs non-recurring. Expenditure on Sales Tax Administration including the Tribunal and the Settlement Commission will be met from the provision made for the department in the Annual Budget Estimates. As such there may not be any further additional cost on account of appointment of staff or authorities contemplated as per the provisions of this Bill. On the other hand, with the reorganised staff structure and with the improved sales tax system, sales tax revenue is expected to go up by Rs. 32 crores for a full financial year and by Rs. 24 crores for 9 months of the year 1979-80 if the provisions of this Bill come into force from the 1st of April 1979 as intended.