

**GOVERNMENT OF WEST BENGAL
LAW DEPARTMENT**

Legislative

**West Bengal Act XLIX of 1994
THE WEST BENGAL SALES TAX ACT, 1994.**

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West Bengal Act XLIX of 1994

THE WEST BENGAL SALES TAX ACT, 1994.

[*Passed by the West Bengal Legislature.*]

[Assent of the President of India was first published in the *Calcutta Gazette, Extraordinary*, of the 23rd March, 1995.]

[23rd March, 1995.]

An Act to consolidate and amend the laws relating to the levy of tax on sale or purchase of goods in West Bengal.

WHEREAS it is expedient to consolidate and amend the laws relating to the levy of tax on sale or purchase of goods in West Bengal;

It is hereby enacted in the Forty-fifth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

CHAPTER I

Preliminary

1. (1) This Act may be called the West Bengal Sales Tax Act, 1994.
- (2) It extends to the whole of West Bengal.
- (3) This section shall come into force at once; and the remaining provisions of this Act shall come into force on such date or dates as the State Government may, by notification, appoint, and different dates may be appointed for different provisions of this Act.

Short title,
extent and
commence-
ment.

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

Definitions.

(1) “Additional Commissioner” means an Additional Commissioner of Commercial Taxes appointed under sub-section (1) of section 5 or deemed to have been appointed under clause (c) of section 107;

(2) “Appellate and Revisional Board” means the West Bengal Commercial Taxes Appellate and Revisional Board deemed to have been constituted under section 6;

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

(4) “Bureau” means the Bureau of Investigation constituted under section 7 or deemed to have been constituted under clause (c) of section 107;

(Chapter I.—Preliminary.—Section 2.)

(5) “business” includes—

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

(6) “casual trader” means a person, other than a registered dealer, who, whether as a principal or agent or in any other capacity, makes occasional purchases of goods, other than goods specified in Schedule IV, in West Bengal for purposes other than his personal use or consumption of such goods in West Bengal or makes occasional sales of goods, other than goods specified in Schedule IV, in West Bengal, and who has no fixed place of business in West Bengal, and includes a consignor or consignee of such goods in West Bengal or a transporter as defined in clause (a) of the *Explanation* to section 72 and an owner or lessee of a warehouse let out to any person for storage of such goods.

Explanation 1.—A transporter, who while carrying goods, other than goods specified in Schedule IV, in his goods vehicle within the meaning of section 72 fails to disclose the name and address of the consignee or consignor in West Bengal, or fails to furnish copy of invoice, challan, transport receipt or consignment note or document of like nature, in respect of such goods, shall be deemed to be a casual trader in respect of such goods carried in his goods vehicle.

Explanation 2.—An owner or lessee of a warehouse, who fails to disclose the name and address of the owner of any goods, other than goods specified in Schedule IV, stored in such warehouse shall be deemed to be a casual trader in respect of such goods;

(7) “Commissioner” means the Commissioner of Commercial Taxes appointed under sub-section (1) of section 3 or deemed to have been appointed under clause (c) of section 107;

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

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(Chapter I.—Preliminary.—Section 2.)

(9) “contractual transfer price”, in relation to any period, shall mean the aggregate of the amounts received or receivable by a dealer during such period for the transfer of property in goods used by way of accretion or accession in West Bengal in execution of a works contract, whether or not the amount received or receivable for such transfer is shown separately in the works contract, and shall comprise the value of such goods purchased, manufactured, processed or procured otherwise, by the dealer and the cost of freight or delivery as may be incurred by such dealer for carrying such goods to the place where such goods are used in execution of such works contract, but shall not include such portion of the amounts as aforesaid as may be prescribed;

(10) “dealer” means any person who carries on the business of selling or purchasing goods in West Bengal or any person making sales under section 15, and includes—

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

Explanation 1.—A co-operative society or a club or any association which sells goods to its members is a dealer.

Explanation 2.—A factor, a broker, a commission agent, a *del credere* agent, an auctioneer, an agent for handling or transporting of goods or handling of document of title to goods or any other mercantile agent, by whatever name called, and whether of the same description as hereinbefore mentioned or not, who carries on the business of selling goods and who has, in the customary course of business, authority to sell goods belonging to principals, is a dealer;

(11) “director”, in relation to a company, includes any person occupying the position of director, by whatever name called;

(12) “enrolled” means enrolled under sub-section (3) of section 19;

(13) “goods” includes all kinds of movable property other than actionable claims, stocks, shares or securities;

(14) “Government” means the Central Government, the Government of any State or the Government of any Union Territory;

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

(Chapter I.—Preliminary.—Section 2.)

(16) “jute-mill” means a factory as defined in, or declared to be a factory under, the Factories Act, 1948, which is engaged wholly or in part in the manufacture of jute products; 63 of 1948.

(17) “manufacture”, with all its grammatical variations and cognate expressions, means producing, making, extracting or blending any goods or such processing of any goods as may be prescribed, but does not include a works contract or such manufactures or manufacturing processes as may be prescribed;

(18) “motor spirit” means any liquid or admixture of liquids which is ordinarily used directly or indirectly as fuel for a motor vehicle or stationary internal combustion engine.

Explanation.—For the purposes of this clause, the expression “motor vehicle” shall include any means of carriage, conveyance or transport by land, air or water;

(19) “notification” means a notification published in the *Official Gazette*;

(20) “occupier of a jute-mill” means the person who has ultimate control over the affairs of the jute-mill;

(21) “partnership”, “partner” and “firm” shall have the meanings respectively assigned to them in the Indian Partnership Act, 1932; 9 of 1932.

(22) “place of business” means any place where a dealer sells any goods or keeps accounts relating to sales or purchases of goods, and includes any warehouse of such dealer;

(23) “prescribed” means prescribed by rules made under this Act;

(24) “principal officer”, in relation to a company, means the secretary, manager, director or managing director of such company;

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

(26) “purchase price” means the amount of valuable consideration paid or payable by a person for the purchase of any goods, less any sum allowed as cash discount according to ordinary trade practice, but including any sum charged for anything done by the seller in respect of the goods at the time of, or before, delivery thereof, other than the cost of freight or delivery or the cost of installation or interest when such cost or interest is separately charged;

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(Chapter 1.—Preliminary.—Section 2.)

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

(28) “registered” means registered under section 26 or section 27;

(29) “rules” means the rules made under this Act;

(30) “sale” means any transfer of property in goods for cash, deferred payment or other valuable consideration, and includes—

- (a) any transfer, otherwise than in pursuance of a contract, of property in any goods for cash, deferred payment or other valuable consideration;
- (b) any delivery of goods on hire-purchase or any system of payment by instalments;
- (c) any transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;
- (d) any supply, by way of, or as part of, any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating), where such supply or service is for cash, deferred payment or other valuable consideration;
- (e) any supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration;

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

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

- (a) in the case of specific or ascertained goods, at the time the contract of sale is made; and
- (b) in the case of unascertained or future goods, at the time of their appropriation to the contract of sale by the seller, whether the assent of the buyer to such appropriation is prior or subsequent to the appropriation:

Provided that where there is a single contract of sale in respect of goods situated in West Bengal as well as in places outside West Bengal, provisions of this *Explanation* shall apply as if there were a separate contract of sale in respect of the goods situated in West Bengal;

(Chapter I.—Preliminary.—Section 2.)

(31) “sale-price” means the amount payable to a dealer as valuable consideration for the sale, other than that referred to in section 15, of any goods, less any sum allowed as cash discount according to ordinary trade practice, but including any sum charged for anything done by the dealer in respect of the goods at the time of, or before, delivery thereof, other than the cost of freight or delivery or the cost of installation or interest when such cost or interest is separately charged;

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

(33) “Special Commissioner” means the Special Commissioner of Commercial Taxes appointed under sub-section (1) of section 4 or deemed to have been appointed under clause (c) of section 107;

(34) “specified purchase price”, in relation to any period, means the aggregate of the purchase prices or parts of purchase prices paid or payable by a dealer during such period in respect of purchases liable to tax under section 13, after deducting therefrom the amount, if any, refunded to the dealer by the seller in respect of any such purchase of goods returned to the seller;

(35) “tax” means the tax payable under this Act;

(36) “Tax Recovery Officer” means a Tax Recovery Officer appointed by the State Government under sub-section (4) of section 52;

(37) “the State Government” means the Government of West Bengal;

(38) “Tribunal” means the West Bengal Taxation Tribunal established under section 3 of the West Bengal Taxation Tribunal Act, 1987;

(39) “turnover of purchases”, in relation to any period, means,—

(a) in the case of the occupier of a jute mill, the aggregate of the purchase prices or parts of purchase prices payable by such occupier for the quantities of raw jute purchased by him during such period after deducting the amounts, if any, refunded to him by the seller during such period in respect of any quantity of raw jute returned to the seller within ninety days from the date of its purchase and such other amounts as may be prescribed;

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

West Ben.
Act VIII
of 1987.

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(Chapter I.—Preliminary.—Section 2.)

(40) “turnover of sales”, in relation to any period, means the aggregate of the sale-prices or parts of sale-prices receivable by a dealer, or if a dealer so elects, actually received by the dealer, during such period after deducting therefrom—

- (a) the sale-prices or the parts of sale-prices, if any, in respect of sale during such period, of sugar, tobacco, cotton fabrics, woollen fabrics and man-made fabrics on which additional excise duty in lieu of sales tax is levied under the Additional Duties of Excise (Goods of Special Importance) Act, 1957, and of goods specified in Schedule IV which are shown to the satisfaction of the Commissioner to have been purchased by the dealer in West Bengal.
- (b) the amounts, if any, refunded by the dealer in respect of any goods returned by the purchaser within such period, and
- (c) the amounts, if any, separately charged as turnover tax payable under section 16 during such period:

Provided that an election as aforesaid once made shall not be altered except with the permission of the Commissioner and on such terms and conditions as he may think fit to impose;

(41) “warehouse” means any enclosure, building or place where a dealer or a person keeps stocks of goods, and includes a vessel, vehicle or godown;

(42) “works contract” means any agreement for carrying out for cash, deferred payment or other valuable consideration—

- (a) the construction, fitting out, improvement or repair of any building, road, bridge or other immovable property,
- (b) the installation or repair of any machinery affixed to a building or other immovable property,
- (c) the overhaul or repair of—
 - (i) any motor vehicle,
 - (ii) any sea-going vessel, river craft or steamer,
 - (iii) any other vessel propelled by internal combustion engine or by any other mechanical means,
 - (iv) railway engine,
 - (v) any aircraft, or
 - (vi) any component or accessory part of any of the goods mentioned in items (i) to (v), or
- (d) the fitting of, assembling, altering, ornamenting, finishing, furnishing, improving, processing other than the processing referred to in clause (17), treating or adapting any goods;

(43) “year”, in relation to any particular dealer, means the year by reference to which, according to a declaration made by such dealer, the accounts of such dealer are ordinarily maintained in his books, and where no such declaration is made, the year commencing on the first day of January and ending on the last day of December according to the British calendar:

(Chapter II.—Taxing Authorities, Appellate and Revisional Board and Bureau.—Sections 3, 4.)

Provided that a registered dealer shall not change his year except with the previous permission of the Commissioner and except on such terms and conditions as the Commissioner may determine.

CHAPTER II

Taxing Authorities, Appellate and Revisional Board and Bureau

Commissioner and other authorities and delegation of power by Commissioner.

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

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

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

(4) Subject to such restrictions and conditions as may be prescribed, the Commissioner may, by order in writing, delegate any of his powers under this Act except those under sub-section (4) of section 17 and sub-section (12) of section 88 to any person appointed under sub-section (1) to assist him.

Special Commissioner.

4. (1) The State Government may appoint a person to be the Special Commissioner of Commercial Taxes.

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

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

(4) The Commissioner may, notwithstanding anything contained in sub-section (2), withdraw to himself from the Special Commissioner any case or matter which the Special Commissioner is competent to deal with in exercise or performance of the powers or duties specified in the notification under sub-section (2).

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(Chapter II.—Taxing Authorities, Appellate and Revisional Board and Bureau.—Sections 5, 6.)

5. (1) The State Government may appoint one or more persons to be an Additional Commissioner or Additional Commissioners of Commercial Taxes, and such person or persons shall assist the Commissioner.

Additional
Commis-
sioner.

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

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

(4) The Commissioner may transfer to, or withdraw to himself from, an Additional Commissioner any case or matter with which an Additional Commissioner is competent to deal in exercise or performance of the powers or duties specified in the notification under sub-section (2), or may transfer any such case or matter from an Additional Commissioner competent to deal with the same to another Additional Commissioner so competent.

6. (1) With effect from the appointed day, the West Bengal Commercial Taxes Tribunal constituted under the Bengal Finance (Sales Tax) Act, 1941, shall be deemed to have been constituted under this Act and shall be called the West Bengal Commercial Taxes Appellate and Revisional Board.

Ben. Act VI
of 1941.

Appellate
and
Revisional
Board.

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

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

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

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

(Chapter II.—Taxing Authorities, Appellate and Revisional Board and Bureau.—Section 7.)

(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 members of the Appellate and Revisional Board, and such point or points shall be decided according to the majority of the members of the Appellate and Revisional Board, who heard the case including those who first heard it:

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

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

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

Bureau of
Investigation.

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

(2) The Bureau shall consist of an Additional Commissioner (hereinafter referred to as the Special Officer) and such number of other persons appointed under sub-section (1) of section 3 to assist the Commissioner as the State Government may deem fit to appoint.

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

(4) The Bureau may, for the purpose of holding investigation or inquiry under sub-section (3), exercise all the powers under section 65, section 66, section 67, section 69, section 70, section 71, section 72 and section 73:

Provided that the Commissioner may, on receipt of a report under sub-section (3), require the Bureau to transfer to him any accounts, registers or documents relating to the said report seized by the Bureau

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(Chapter II.—Taxing Authorities, Appellate and Revisional Board and Bureau.—Section 8.)

and, on such transfer, such accounts, registers or documents shall be retained by him subject to the provisions of section 66.

(5) The Bureau may, with the prior approval of the Commissioner, require any person appointed under sub-section (1) of section 3 to assist the Commissioner to transfer to it any accounts, registers or documents seized by him from any dealer or person under section 66 and, on such transfer, such accounts, registers or documents shall, subject to the provisions of section 66, be retained by the Bureau for carrying out the purposes referred to in sub-section (3) and sub-section (6).

(6) The Bureau may, after a case has been investigated or inquired into by it, by order, assess or re-assess tax, impose penalty, determine interest, or collect or enforce payment of tax, penalty or interest in respect of such case under this Act.

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

(8) The Bureau shall have, for carrying out the purposes of this Act, the same powers as are referred to in section 86.

(9) For the removal of doubts, it is hereby declared that subject to the other provisions of this Act, the Special Officer shall be competent to exercise all the powers which are exercisable under this Act by an Additional Commissioner, and any person appointed under sub-section (1) of section 3 to assist the Commissioner when appointed in the Bureau, shall be competent to exercise all the powers which are exercisable by such person under this Act and the rules made thereunder.

(10) Notwithstanding anything contained in sub-section (1) of section 3, the Special Officer and the other persons appointed in the Bureau under sub-section (2) shall have jurisdiction over the whole of West Bengal.

8. All persons appointed or deemed to have been appointed under this Act to exercise any power to perform any function thereunder shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.

Persons appointed under the Act to be deemed to be public servants.

(Chapter III.—Incidence and levy of tax and rate of tax.—Section 9.)

CHAPTER III

Incidence and levy of tax and rate of tax

Incidence of
tax on sale.

9. (1) Subject to the other provisions of this Act, with effect from the appointed day,—

(a) every dealer—

(i) who has been liable immediately before the appointed day to pay tax under section 4 or section 8 of the Bengal Finance (Sales Tax) Act, 1941, and who would have continued to be so liable on such appointed day under that Act had this Act not come into force, or

Ben. Act VI
of 1941.

(ii) whose gross turnover during a year first exceeds the taxable quantum as applicable to him under the Bengal Finance (Sales Tax) Act, 1941, on the day immediately preceding the appointed day,

(b) every dealer registered under the West Bengal Sales Tax Act, 1954, who is in possession of a registration certificate under that Act on the day immediately before the appointed day, and to whom clause (a) does not apply, and

West Ben.
Act IV of
1954.

(c) every dealer registered under the West Bengal Motor Spirit Sales Tax Act, 1974, who is in possession of a registration certificate under that Act on the day immediately before the appointed day, and to whom clause (a) or clause (b) does not apply,

West Ben.
Act XI of
1974.

shall be liable to pay tax under this Act on all sales, other than those referred to in section 15, effected on or after the appointed day.

(2) Every dealer to whom sub-section (1) does not apply shall, if his gross turnover of sales calculated from the commencement of any year exceeds the taxable quantum at any time within such year, be liable to pay tax under this Act on all sales, other than those referred to in section 15, effected on and from the date immediately following the day on which such gross turnover of sales first exceeds the taxable quantum.

(3) In this Act the expression “taxable quantum” means,—

(a) in relation to any dealer who imports for sale any goods, other than those specified in Schedule IV, into West Bengal, 20,000 rupees; or

(b) in relation to any dealer who makes sales, referred to in sub-clause (c) of clause (230) of section 2, of video cassette tapes, 25,000 rupees; or

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*(Chapter III.—Incidence and levy of tax and rate
of tax.—Section 10.)*

- (c) in relation to any dealer who manufactures or produces any goods, other than those specified in Schedule IV and cooked foods, for sale, 50,000 rupees; or
- (d) in relation to any dealer who manufactures or produces cooked foods for sale, 1,00,000 rupees; or
- (e) in relation to any other dealer, 2,00,000 rupees.

(4) Every dealer who has become liable to pay tax under sub-section (1) or sub-section (2) shall continue to be so liable until the expiry of three consecutive years, during each of which his gross turnover of sales has failed to exceed the taxable quantum, and such further period after the date of such expiry as may be prescribed, and on the expiry of this later period his liability to pay tax under sub-section (1) or sub-section (2) shall cease.

Explanation.—For the purposes of sub-section (4), in computing the period of three consecutive years in respect of a dealer who has become liable to pay tax under sub-section (1), the year or years which expired before the appointed day during which or each of which the gross turnover failed to exceed the taxable quantum referred to in the Bengal Finance (Sales Tax) Act, 1941, shall be included.

(5) Every dealer whose liability to pay tax under sub-section (1) or sub-section (2) has ceased under sub-section (4), shall, if his gross turnover of sales calculated from the commencement of any year again exceeds the taxable quantum at any time within such year, be liable to pay such tax on all sales, other than those referred to in section 15, effected on and from the date immediately following the day on which such gross turnover of sales again first exceeds the taxable quantum.

(6) The Commissioner shall, after making such enquiry as he may think necessary and after giving the dealer an opportunity of being heard, fix the date on and from which such dealer shall become liable to pay tax under sub-section (2) or sub-section (5).

10. (1) Every dealer who is not liable to pay tax under section 9, shall, notwithstanding anything contained in that section, be liable to pay tax on his turnover of sales, other than those referred to in section 15, of goods specified in Schedule IV with effect from the day on which he effects his first sale of such goods.

Special
liability to
pay tax on
sales.

(2) The State Government may, with a view to ensuring that there is no evasion of tax on the sale of any goods, other than those specified in Schedule IV, by notification specify such goods (hereinafter referred to as notified goods) and, with effect from the date of such notification, every dealer who imports into West Bengal, or manufactures or produces, such notified goods for sale and who is not liable to pay tax under section 9 shall be liable to pay tax on all sales, other than those referred to in section 15, of such notified goods:

*(Chapter III.—Incidence and levy of tax and rate
of tax.—Section 11.)*

Provided that in the case of cottage industry products, the State Government may, by general or special order, exempt from the provisions of this sub-section any dealer selling such notified goods manufactured or produced by himself or by any member of his family.

Liability to
pay tax on
sales by
casual
trader.

11. (1) Notwithstanding anything contained elsewhere in this Act, a casual trader shall be liable to pay tax on all his sales in West Bengal of goods, other than those specified in Schedule IV, brought by him into West Bengal from any place outside West Bengal or procured by him otherwise than by way of purchase from a person other than a registered dealer:

Provided that no tax shall be levied on—

- (a) sales of goods declared tax-free under section 24;
- (b) sales of notified goods, tax on which is payable by him under sub-section (2) of section 10;
- (c) sales of goods which are effected on or after the date on which he becomes liable to pay tax under section 9 or sub-section (3) of section 27 and is registered under section 26 or section 27.

(2) The tax payable under this section by a casual trader shall be levied at the rate referred to in clause (a), clause (b) or clause (d), as the case may be, of sub-section (1) of section 17.

(3) The tax payable under this section shall, notwithstanding anything contained in section 46, be determined, collected and recovered in such manner and by such authority as may be prescribed and shall be paid by such time as may be prescribed.

(4) If the Commissioner or any person appointed under sub-section (1) of section 3 to assist him is satisfied that a casual trader may become liable to pay tax under sub-section (1) in respect of any goods, he may, in order to secure payment of tax that may become due upon determination of tax under sub-section (3) and for reasons to be recorded in writing, demand from such casual trader an amount in advance equivalent to the amount of tax that may become due from him after determination, or security for an equivalent amount, after taking into consideration the saleable value of such goods.

(5) The amount in advance equivalent to the amount of tax that may become due from a casual trader after determination after taking into consideration the saleable value of the goods as aforesaid shall, on demand under sub-section (4), be paid by him in advance and shall be adjusted with the amount of tax due from him; and the security, if any, for the equivalent amount shall, on demand, be furnished by him, and shall be refunded to him, in such manner and on such terms and conditions as may be prescribed.

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*(Chapter III.—Incidence and levy of tax and rate
of tax.—Sections 12, 13.)*

(6) The provisions of production and inspection of accounts, registers and documents, seizure of accounts and entry and search of warehouse under section 65, section 66 or section 67, as the case may be, shall apply to a casual trader as and when the Commissioner requires him to produce accounts, registers or documents, or as and when the Commissioner makes any seizure of accounts from him or enters or searches warehouse, as the case may be.

12. (1) Every dealer whose turnover of purchases of raw jute as occupier of jute-mill or shipper of jute, as the case may be, is subject to the levy of tax under section 3 of the Bengal Raw Jute Taxation Act, 1941, on the day immediately before the appointed day and who would have continued to be liable to pay such tax on such appointed day under that Act had this Act not come into force, shall, in addition to his liability to pay tax, if any, under any other provisions of this Act, be liable to pay tax on all his purchases of raw jute in West Bengal with effect from the appointed day.

Incidence of
tax on
purchase of
raw jute.

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

13. (1) Every dealer, who is liable to pay tax under sub-section (1), sub-section (2), or sub-section (5), of section 9, section 10 or sub-section (3) of section 27 and who is registered, shall, in addition to the tax payable under any other provisions of this Act, be also liable to pay tax under this Act on all his purchases from—

Contingent
liability to
pay tax on
purchases of
goods.

- (a) a dealer, who is not registered, of goods, other than gold, rice, wheat, raw jute and goods specified in Schedule IV, intended for direct use in the manufacture in West Bengal of goods for sale by him, and of containers and other materials for the packing of goods so purchased or manufactured;
- (b) a registered dealer, to whom a declaration referred to in the second proviso to sub-section (2) of section 17 has been or will be furnished by him in respect of sales, referred to in clause (b), clause (c), clause (d) or clause (e), of sub-section (2) of that section, of goods purchased against such declaration;
- (c) any person, whether a dealer or not, who is not registered, of goods, other than gold, rice, wheat, raw jute and goods specified in Schedule IV, intended for any purpose, other than the purpose specified in clause (a) or section 15.

Ben. Act XI
of 1941.

*(Chapter III.—Incidence and levy of tax and rate
of tax.—Section 14.)*

(2) The burden of proving that any purchase effected by a dealer is not liable to tax under sub-section (1) shall be on such dealer.

(3) Every registered dealer whose business has been discontinued or whose liability to pay tax has ceased under sub-section (4) of section 9 or whose registration has been cancelled under sub-section (10) of section 26 or sub-section (5), or sub-section (6), of section 27, and who, on the date of such discontinuance or on the date of such cessation or on the date of such cancellation, whichever is earlier, holds stock of any goods, shall, in addition to tax payable by him under this Act, be liable to pay tax, at the rate applicable to sales of such goods, on the purchase price of—

- (a) goods held in stock for resale, or containers or other materials held in stock for packing of any goods for resale;
- (b) goods held in stock for use in the manufacture of goods for sale, and containers or other materials held in stock for packing of—
 - (i) the goods held in stock for use in the manufacture of goods for sale, or
 - (ii) the goods intended to be manufactured for sale;
- (c) goods and containers or other materials for packing which have been used in the goods manufactured or packing of the goods so manufactured and where such manufactured goods are held in stock for sale,

where such goods, containers or other materials for packing have been purchased by him by issuing declaration referred to in the proviso or the second proviso to sub-section (2), or the proviso to sub-clause (ii) of clause (a) of sub-section (3), of section 17:

Provided that the tax payable by him under this sub-section shall be reduced by the amount of tax, if any, realised from him at the time of sale to him by the dealer selling such goods, containers or other materials for packing.

Liability to
pay tax on
purchases by
casual
trader.

14. (1) Notwithstanding anything contained elsewhere in this Act, a casual trader shall, subject to the provisions of sub-section (3), be liable to pay tax on his every purchase of goods, other than those specified in Schedule IV and raw jute, in West Bengal:

Provided that no tax shall be levied on—

- (a) purchases of goods, sales of which are declared tax-free under section 24;
- (b) purchases of goods specified in section 14 of the Central Sales Tax Act, 1956, on a prior sale or purchase whereof in West Bengal due tax is shown to the satisfaction of the Commissioner to have been paid;

74 of 1956.

XLIX of 1994.]

*(Chapter III.—Incidence and levy of tax and rate
of tax.—Section 14.)*

- (c) purchases of goods which are shown to the satisfaction of the Commissioner to have been made from a registered dealer in West Bengal;
- (d) such other purchases on such conditions and restrictions as may be prescribed.

(2) The tax payable by a casual trader on the purchase of any goods shall be levied at the rate referred to in clause (a), clause (b) or clause (d), as the case may be, of sub-section (1) of section 17.

(3) Where a casual trader makes regular sales of goods in the course of business from a fixed place of business in West Bengal and gets himself registered under section 26 or section 27, as the case may be, the tax, if any, paid under this section on the purchases of goods made within one year immediately preceding the date on which such trader becomes liable as a dealer to pay tax under section 9, shall, on application, be refunded to him in accordance with the provisions of section 60.

(4) The tax payable under this section shall, notwithstanding anything contained in section 46, be determined, collected and recovered in such manner and by such authority as may be prescribed and shall be paid by a casual trader at such time as may be prescribed.

(5) The provisions of production and inspection of accounts, registers and documents, seizure of accounts and entry and search of warehouse under section 65, section 66 or section 67, as the case may be, shall apply to a casual trader as and when the Commissioner requires him to produce accounts, registers or documents, or as and when the Commissioner makes any seizure of accounts from him or enters or searches warehouse, as the case may be.

(6) Where there is no claimant of the ownership of any goods, whether in the custody of any transporter or stored in any warehouse in West Bengal, and where such transporter or the owner or lessee of such warehouse denies his liability to pay tax under this section, the Commissioner or any person appointed under sub-section (1) of section 3 to assist him may, with a view to checking evasion of tax payable under this section, seize such goods from the custody of the transporter or the owner or lessee of such warehouse, as the case may be, if necessary, by breaking open the door of such warehouse, and shall, before making any seizure, prepare an inventory of such goods in the presence of the transporter or the owner or lessee of such warehouse, as the case may be, and shall get such inventory countersigned by him or any other witness.

(Chapter III.—Incidence and levy of tax and rate
of tax.—Section 15.)

(7) If the goods seized under sub-section (6) are not claimed by the casual trader or bona fide owner of such goods within fifteen days from the date of seizure, the Commissioner may sell such goods in open auction and adjust the amount of tax payable on the purchase of such goods that may be determined under sub-section (4) with the sale proceeds of such goods, and deposit the balance, if any, with a Government Treasury for refund to the casual trader or bona fide owner of such goods upon claim preferred by him in the prescribed manner within one year from the date of sale in open auction.

(8) The provisions of appeal, revision or review under Chapter IX shall apply *mutatis mutandis* to determination of tax or any order passed under this section or section 11.

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

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

(2) With effect from the appointed day, every dealer, who is liable on the day immediately before the appointed day to pay tax under section 6D of the Bengal Finance (Sales Tax) Act, 1941, and who would have continued to be so liable under the said Act had this Act not come into force, shall, in addition to the tax payable, if any, under any other provisions of this Act, be liable to pay tax on all transfers of property in goods involved in the execution of works contract referred to in sub-section (1) at the rate specified in section 21.

Ben. Act VI
of 1941.

(3) Every dealer to whom the provisions of sub-section (2) do not apply and whose contractual transfer price calculated from the commencement of the year ending on the day immediately before the appointed day exceeds two lakh rupees on the last day of such year shall, in addition to the tax payable, if any, by him under any other provisions of this Act, be liable to pay from such appointed day tax on all transfers of property in goods involved in the execution of works contract referred to in sub-section (1) at the rate specified in section 21.

(4) Every dealer to whom the provisions of sub-section (2) or sub-section (3) do not apply shall, if his contractual transfer price calculated from the commencement of any year exceeds two lakh rupees at any time within such year, be liable, in addition to the tax, if any, payable by him under any other provisions of this Act, to pay tax on all transfers of property in goods involved in the execution of works contract referred to in sub-section (1) effected on and from the date immediately following the day on which such contractual transfer price first exceeds two lakh rupees at the rate specified in section 21.

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*(Chapter III.—Incidence and levy of tax and rate
of tax.—Section 16.)*

(5) Every dealer who has become liable to pay tax under sub-section (2), sub-section (3) or sub-section (4) shall continue to be so liable until the expiry of three consecutive years during each of which his contractual transfer price does not exceed two lakh rupees, and on the expiry of such three years, his liability to pay such tax shall cease.

Explanation.—In computing the period of three consecutive years referred to in this sub-section in respect of a dealer who has become liable to pay tax under sub-section (2), the year or years, if any, which expired before the appointed day and during each of which the contractual transfer price did not exceed two lakh rupees shall be included.

(6) Every dealer whose liability to pay tax under this section has ceased under sub-section (5) shall, if his contractual transfer price calculated from the commencement of any year again exceeds two lakh rupees at any time within such year, be liable, in addition to the tax, if any, payable by him under any other provisions of this Act, to pay tax on all transfers of property in goods involved in execution of works contract referred to in sub-section (1) effected on or from the date immediately following the day on which such contractual transfer price again first exceeds two lakh rupees at the rate specified in section 21.

(7) The Commissioner, after making such enquiry as he may think necessary and after giving the dealer an opportunity of being heard, shall fix the date on and from which such dealer shall become liable to pay tax under sub-section (3), sub-section (4) or sub-section (6).

16. (1) Notwithstanding anything contained elsewhere in this Act, every dealer, who is liable on the day immediately before the appointed day to pay turnover tax under—

Incidence of
turnover tax.

(a) the Bengal Finance (Sales Tax) Act, 1941,

(b) the West Bengal Sales Tax Act, 1954, or

(c) the West Bengal Motor Spirit Sales Tax Act, 1974,

and who would have continued to be so liable under the said Act or Acts had this Act not come into force, shall, in addition to the tax payable under any other provisions of this Act, be liable to pay turnover tax with effect from the appointed day at the rate specified in sub-section (2) of section 22 on such part of his gross turnover of sales as is specified in sub-section (1) of that section.

Ben. Act VI
of 1941.

West Ben.
Act IV of
1954.

West Ben.
Act XI of
1974.

*(Chapter III.—Incidence and levy of tax and rate
of tax.—Section 16.)*

(2) Every dealer to whom the provisions of sub-section (1) do not apply and whose aggregate of the gross turnover under the Bengal Finance (Sales Tax) Act, 1941 and the gross turnover under the West Bengal Sales Tax Act, 1954, or the turnover of sales under the West Bengal Motor Spirit Sales Tax Act, 1974, calculated from the commencement of the year ending on the day immediately before the appointed day, exceeds twenty-five lakh rupees on the last day of such year, shall, in addition to the tax payable by him under any other provisions of this Act, be liable to pay from such appointed day a turnover tax at the rate specified in sub-section (2) of section 22 on such part of his gross turnover of sales as is specified in sub-section (1) of that section.

Ben. Act VI
of 1941.
West Ben.
Act IV of
1954.
West Ben.
Act XI of
1974.

(3) Every dealer to whom the provisions of sub-section (1) or sub-section (2) do not apply and whose gross turnover of sales calculated from the commencement of any year ending on or after the appointed day exceeds twenty-five lakh rupees at any time within such year, shall, in addition to the tax payable by him under any other provisions of this Act, be liable to pay, with effect from the date immediately following the day on which such gross turnover of sales first exceeds twenty-five lakh rupees, a turnover tax at the rate specified in sub-section (2) of section 22 on such part of his gross turnover of sales as is specified in sub-section (1) of that section.

(4) Every dealer, who has become liable to pay the turnover tax under sub-section (1), sub-section (2) or sub-section (3), shall continue to be so liable until the expiry of three consecutive years during each of which his gross turnover of sales does not exceed twenty-five lakh rupees and, on the expiry of such three years, his liability to pay the turnover tax shall cease.

Explanation.—In computing the period of three consecutive years referred to in sub-section (4) in respect of a dealer who has become liable to pay turnover tax under sub-section (1), the year or years, if any, which expired before the appointed day during each of which the aggregate of his gross turnover under the Bengal Finance (Sales Tax) Act, 1941 and the gross turnover under the West Bengal Sales Tax Act, 1954, or the turnover of sales under the West Bengal Motor Spirit Sales Tax Act, 1974, did not exceed twenty-five lakh rupees, shall be included.

(5) Every dealer, whose liability to pay the turnover tax under this section has ceased under the provisions of sub-section (4), shall, if his gross turnover of sales calculated from the commencement of any year again exceeds twenty-five lakh rupees at any time within such year, be liable to pay, with effect from the date immediately following the day on which such gross turnover of sales again first exceeds twenty-five lakh rupees, a turnover tax at the rate specified in sub-section (2) of section 22 on such part of his gross turnover of sales as is specified in sub-section (1) of that section.

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*(Chapter III.—Incidence and levy of tax and rate
of tax.—Section 17.)*

17. (1) Subject to the provisions of sub-section (2), the tax payable by a dealer, who is liable to pay tax under section 9, section 10 or sub-section (3) of section 27 on his taxable turnover of sales, shall be levied—

Levy and
rates of tax
on sale.

- (a) at the rate of fifteen *per centum* of such part of his taxable turnover of sales as represents sales of any goods specified in Schedule II:

Provided that the tax payable by the Canteen Stores Department of the Government of India or the Regimental or Unit-run canteen attached to the military units in West Bengal shall be levied at the rate of five *per centum* of such part of its taxable turnover of sales as represents sales of any goods included in Schedule II when an officer, not below the rank of a Commanding Officer, certifies in writing that such goods have been sold to the members of the Defence Forces of India;

- (b) at the rate of four *per centum* of such part of his taxable turnover of sales as represents sales of any goods specified in column (2) of Schedule III, subject to the conditions or exceptions, if any, set out in the corresponding entry in column (3) thereof;
- (c) at such rate as may be fixed by the State Government under section 18 on such part of his taxable turnover of sales as represents sales of any goods specified in Schedule IV;
- (d) at the rate fixed in column (3) of Schedule V against the corresponding entry of goods in column (2) on such part of his taxable turnover of sales as represents sales of any such goods.

(2) The tax payable by a dealer under this section shall, subject to the conditions referred to in the provisos, be levied on his taxable turnover of sales at the rate of—

- (a) one *per centum* of such part of his taxable turnover of sales as represents sales to a registered dealer of goods, other than—
- (i) gold,
 - (ii) bicycles and spare parts, accessories and components thereof,
 - (iii) goods referred to in section 14 of the Central Sales Tax Act, 1956,
 - (iv) foreign liquor as specified in serial No. 13 of Schedule II,

*(Chapter III.—Incidence and levy of tax and rate
of tax.—Section 17.)*

- (v) goods specified in Schedule IV, or
 - (vi) such other goods as the State Government may, by notification, specify under clause (i).
- of the class or classes specified in the certificate of registration of such dealer as being intended for resale, other than by way of sale referred to in sub-clause (c) of clause (30) of section 2 or in section 15, by him in West Bengal, and of containers and other materials for the packing of goods of the class or classes so specified;
- (b) two *per centum* of such part of his taxable turnover of sales as represents sales to a registered dealer of goods, other than gold and goods specified in Part B of Schedule IV, of the class or classes specified in the certificate of registration of such dealer, as being intended for use by him directly in the manufacture in West Bengal of taxable goods or newspapers for sale, other than the sale referred to in section 15, by him in West Bengal, and of containers and other materials for the packing of goods of the class or classes so specified;
 - (c) two *per centum* of such part of his taxable turnover of sales as represents sales to a registered dealer of containers and other materials for the packing of goods which are intended for use by him in the packing in West Bengal of taxable goods or newspapers manufactured by him in West Bengal for sale, other than the sale referred to in section 15, by him in West Bengal;
 - (d) three *per centum* of such part of his taxable turnover of sales as represents sales to a registered dealer, engaged in the business of raising coal, of goods of the class or classes specified in the certificate of registration of such dealer, as being required for use by him directly in connection with the raising of coal for sale, and of containers and other materials for the packing of such goods;
 - (e) one *per centum* of such part of his taxable turnover of sales as represents sales to any undertaking supplying electrical energy under a licence or sanction granted or deemed to have been granted in accordance with the provisions of the Indian Electricity Act, 1910, or under the authority of any

9 of 1910.

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*(Chapter III.—Incidence and levy of tax and rate
of tax.—Section 17.)*

- (f) five *per centum* of such part of his taxable turnover of sales as represents sales of goods, other than goods specified in Part B of Schedule IV, to Government or a corporation or undertaking established by Government under the Road Transport Corporations Act, 1950 or the Darjeeling Gorkha Hill Council constituted under the Darjeeling Gorkha Hill Council Act, 1988;
- (g) five *per centum* of such part of his taxable turnover of sales as represents sales of white butter and butter oil to Mother Dairy, Calcutta, a project under the Department of Animal Resources Development of the Government of West Bengal;
- (h) five *per centum* of such part of his taxable turnover of sales as represents sales referred to in sub-clause (c) of clause (30) of section 2 of goods other than video-cassette tapes referred to in clause (j);
- (i) fifteen *per centum* of such part of his taxable turnover of sales as represents sales, other than those referred to in sub-clause (c) of clause (30) of section 2, of such goods, not being the goods specified in Schedule IV, as the State Government may, by notification, specify;
- (j) fifteen *per centum* of such part of his taxable turnover of sales as represents sales referred to in sub-clause (c) of clause (30) of section 2 of video-cassette tapes:

Provided that the provisions of clause (a) shall not apply to any sale referred to therein unless the dealer selling the goods furnishes in the prescribed manner a declaration containing prescribed particulars in the prescribed form obtainable in such manner and subject to such conditions and restrictions as may be prescribed from the prescribed authority duly filled up and signed by the registered dealer to whom the goods are sold:

Provided further that the provisions of clause (b), clause (c), clause (d) and clause (e) shall not apply to any sale referred to therein unless the dealer selling the goods furnishes in the prescribed manner a declaration containing prescribed particulars in the prescribed form obtainable in such manner and subject to such conditions and restrictions as may be prescribed from the prescribed authority duly filled up and signed by the registered dealer to whom, or by the owner or representative of the undertaking to which, the goods are sold:

64 of 1950.
West Ben.
Act XIII of
1988.

*(Chapter III.—Incidence and levy of tax and rate
of tax.—Section 17.)*

Provided also that notwithstanding the rate of tax fixed in clause (i), the tax payable by a dealer shall be levied at the rate of one *per centum* of such part of his taxable turnover of sales as represents sales of any goods specified in notification issued under clause (i) where he proves to the satisfaction of the Commissioner that such goods have been purchased by him in West Bengal, on or after the date on which such goods are specified, from a registered dealer and furnishes in the prescribed manner a declaration containing prescribed particulars in the prescribed form duly filled up and signed by the registered dealer from whom such goods are purchased.

Explanation.—In this sub-section,—

- (a) “gold” means gold of a fineness not below ninety *per centum*;
- (b) “taxable goods” means goods other than goods sales of which are tax-free under section 24.

(3) In this Act, the expression “taxable turnover of sales” means, in the case of a dealer who is liable to pay tax on sales of goods under section 9, section 10 or sub-section (3) of section 27, that part of his gross turnover of sales during any period which remains after deducting therefrom—

- (a) his turnover of sales during that period as represents—
 - (i) sales of goods declared tax-free under section 24;
 - (ii) sales to a registered dealer of goods, other than iron and steel, rice and wheat, referred to in section 14 of the Central Sales Tax Act, 1956, specified in the certificate of registration of such dealer as being intended for resale, other than the sale referred to in sub-clause (c) of clause (30) of section 2 or section 15, by him in West Bengal, and of containers and other materials for the packing of such specified goods:

74 of 1956.

Provided that the provisions of this sub-clause shall not apply to any sale referred to therein unless the dealer selling the goods furnishes in the prescribed manner a declaration containing prescribed particulars in the prescribed form obtainable in such manner and subject to such conditions and restrictions as may be prescribed from the prescribed authority duly filled up and signed by the registered dealer to whom the goods are sold;

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*(Chapter III.—Incidence and levy of tax and rate
of tax.—Section 17.)*

74 of 1956.

- (iii) sales of goods which are shown to the satisfaction of the Commissioner not to have taken place in West Bengal, or to have taken place in the course of inter-State trade or commerce within the meaning of section 3 of the Central Sales Tax Act, 1956, or in the course of import of the goods into, or export of the goods out of, the territory of India within the meaning of section 5 of that Act;
- (iv) sales of goods, other than iron and steel, referred to in section 14 of the Central Sales Tax Act, 1956, on a prior sale whereof in West Bengal due tax is shown to the satisfaction of the Commissioner to have been paid;
- (v) sales of rice and wheat purchases whereof are shown to the satisfaction of the Commissioner as have been made by him in West Bengal from a registered dealer;
- (vi) sales of iron and steel referred to in section 14 of the Central Sales Tax Act, 1956, where he proves to the satisfaction of the Commissioner that such iron and steel were purchased by him in the same form in West Bengal from a registered dealer who, in respect of sales of such goods to him, has not claimed deduction under sub-clause (viii):

Provided that deduction on account of sales referred to in this sub-clause shall be allowed to the dealer who sales such goods only when he can furnish in the prescribed manner a declaration in the prescribed form after being duly countersigned by the registered dealer from whom such goods were purchased;

- (vii) sales of bicycles and spare parts, accessories and components thereof referred to in Schedule V, where he proves to the satisfaction of the Commissioner that such goods were purchased by him in West Bengal from a registered dealer and furnishes in the prescribed manner a declaration containing prescribed particulars in the prescribed form obtainable in the prescribed manner and subject to such conditions and restrictions as may be prescribed from the prescribed authority duly filled up and signed by the registered dealer from whom such goods were purchased;

(Chapter III.—Incidence and levy of tax and rate
of tax.—Section 17.)

- (viii) sales of goods referred to in section 39;
- (ix) sales of foreign liquor as specified in serial number 13 of Schedule II, purchases whereof are shown to the satisfaction of the Commissioner to have been made by him in West Bengal from a registered dealer, other than a registered dealer who has liability to make payment of excise duty as required by the Bengal Excise Act, 1909, but has not made payment of such excise duty payable by him in respect of such goods;
- (x) sales of foreign liquor as specified in serial number 13 of Schedule II, when the registered dealer selling such goods has liability to make payment of excise duty as required by the Bengal Excise Act, 1909, but has not made payment of such excise duty payable by him in respect of such goods.

Ben. Act V
of 1909.

Explanation.—For the removal of doubt, it is hereby declared that no turnover of sales representing sales of foreign liquor referred to in sub-clause (ix) or sub-clause (x) by a registered dealer shall be deducted under that sub-clause where the registered dealer selling such foreign liquor makes payment of excise duty in respect of such goods under the Bengal Excise Act, 1909;

- (xi) such other sales on such conditions and restrictions as may be prescribed; and
- (b) the amount arrived at by applying the formula—
rate of tax \times the balance of his gross turnover of sales after
making deduction therefrom under clause (a)

100 plus rate of tax:

Provided that while making deduction on the basis of the above formula, the amount charged and collected by way of tax on sales separately, if not already included in the gross turnover of sales, shall be added to it.

Explanation.—Where the turnover of sales of a dealer is taxable at different rates, the formula as aforesaid shall be applied separately in respect of each part of the turnover of sales liable to be taxed at different rates.

- (4)(a) Notwithstanding anything contained in the first proviso or the second proviso to sub-section (2) or the proviso to sub-clause (ii) of clause (a) of sub-section (3), if the Commissioner, on an application made by a dealer and after making such enquiries as he may consider

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*(Chapter III.—Incidence and levy of tax and rate of tax.—
Sections 18, 19.)*

necessary, is satisfied that the dealer is not in a position to furnish all or any of the declarations referred to in the said provisos on account of the loss of such declaration or declarations due to fire or flood beyond the control of such dealer and that the application of the said provisos will cause undue hardship to such dealer, the Commissioner may, by order in writing, exempt such dealer from furnishing such declaration or declarations, subject to such conditions as may be prescribed and to such further conditions, if any, as may be specified by the Commissioner in the order.

(b) Any order passed by the Commissioner under clause (a) shall be final.

18. (1) The State Government may, by notification, fix the rate of tax, not exceeding twenty *per centum* of the taxable turnover of sales, other than those referred to in sub-clause (c) of clause (30) of section 2, of goods specified in Schedule IV, and different rates may be fixed for different items of such goods.

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

(2) Notwithstanding anything contained in sub-section (1), the State Government may, if it is satisfied that it is necessary so to do in the public interest, by notification, and subject to such conditions as may be specified therein, direct that tax shall be payable at such rate, lower than that fixed under sub-section (1), by such dealer or category of dealers or for such class of sales as may be specified in the notification.

19. (1) Notwithstanding anything contained in section 17, any dealer, who is not registered under this Act and whose gross turnover of sales during a year does not exceed five lakh rupees, may, subject to the restrictions and conditions specified hereinafter and as may be prescribed, opt for payment of a lump sum of four thousand rupees for such year in lieu of the tax payable by him under section 17:

Payment of a lump sum in lieu of tax under section 17.

Provided that if a dealer is liable to pay tax under section 15, he shall not be eligible for payment for that year in accordance with the provisions of this section.

(2) A dealer who opts under sub-section (1) to make payment of the lump sum shall, in the prescribed manner, pay on or before such date as may be prescribed such lump sum into a Government Treasury or the Reserve Bank of India and shall furnish to the Commissioner a receipted challan from such Treasury or Bank showing the payment of such sum in such manner and by such date as may be prescribed.

(3) The Commissioner shall, on furnishing of the receipted challan referred to in sub-section (2) by the dealer, enrol the dealer in the prescribed manner and thereafter allot an enrolment number to the dealer in the prescribed manner.

*(Chapter III.—Incidence and levy of tax and rate
of tax.—Section 20.)*

(4) If any enrolled dealer makes the payment of lump sum for any year as referred to in sub-section (1), the provision of section 26, section 30 or section 46 shall not apply to such entrolled dealer in respect of the year for which he makes lump sum payment.

(5) Any dealer whose gross turnover of sales during any year exceeds five lakh rupees shall cease to be eligible for lump sum payment for such year and he shall, from the commencement of such year, be liable to make payment of tax at the rate specified in section 17, and the lump sum payment, if any, made by such dealer for such year shall be adjusted with the amount of tax payable under section 17.

(6) If a certificate of registration is granted to a dealer under sub-section (3) of section 26, such dealer shall furnish returns along with receipted challans showing payment of tax in accordance with the provisions of sub-section (5) by such date and in such manner as may be prescribed.

Rate of tax
on purchase
of raw jute
and other
goods.

20. (1) (a) The tax payable by a dealer, who is liable to pay tax on purchase of raw jute under section 12, shall be levied on his turnover of purchases of raw jute at the rate of four *per centum* of such turnover of purchases.

(b) In calculating the tax payable under this sub-section by a dealer, who is the occupier of a jute mill, on his turnover of purchases of raw jute during any period, the purchase price in respect of any quantity of raw jute sold and despatched by him during such period subsequently to his purchase thereof to any place inside West Bengal shall be deducted from such turnover of purchases.

(c) No tax shall be leviable under this sub-section in respect of the purchase price of any quantity of raw jute in respect of which such tax has already been paid in West Bengal:

Provided that the burden of proving that such tax has already been paid in West Bengal shall be upon the dealer who claims the benefit of this clause.

(2) The tax payable by a dealer liable to pay tax under section 13 shall be levied on his taxable specified purchase price at the rate of—

- (a) four *per centum* of such purchase price as relates to purchases referred to in clause (a) or clause (c), and
- (b) three *per centum* of such purchase price as relates to purchases referred to clause (b),

of sub-section (1) of section 13.

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*(Chapter III.—Incidence and levy of tax and rate
of tax.—Section 21.)*

(3) In this Act, the expression “taxable specified purchase price”, in relation to any period, means, in the case of a dealer who is liable to pay tax under sub-section (1) of section 13, that part of the specified purchase price payable or paid, as the case may be, by him during such period which remains after deducting therefrom the specified purchase price payable or paid, as the case may be, by him during that period on—

- (a) purchases of goods, sales of which are declared tax-free under section 24;
- (b) purchases of goods which are shown to the satisfaction of the Commissioner not to have taken place in West Bengal, or to have taken place in the course of inter-State trade or commerce within the meaning of section 3 of the Central Sales Tax Act, 1956, or in the course of import of the goods into, or export of the goods out of, the territory of India within the meaning of section 5 of that Act;
- (c) purchases of goods referred to in section 14 of the Central Sales Tax Act, 1956, on a prior sale or purchase whereof in West Bengal due tax is shown to the satisfaction of the Commissioner to have been paid;
- (d) purchases, other than those referred to in clause (c) or clause (e), of goods liable to tax under clause (b) of sub-section (1) of section 13 for use directly in the manufacture of goods in West Bengal or in the packing in West Bengal of goods so manufactured for sale in West Bengal;

Provided that where specified purchase price of goods, other than that in respect of purchases referred to in clause (c) or clause (e), cannot be fully identified by such dealer, the specified purchase price in respect of purchases referred to in this clause shall be determined in such manner as may be prescribed;

- (e) such other purchases as may be prescribed.

21. (1) The tax payable by a dealer, who is liable to pay tax under section 15, shall be levied at the rate of ten *per centum* of that part of his contractual transfer price of goods during any period which remains after deducting therefrom his contractual transfer price during that period on—

- (a) contractual transfer of goods referred to in section 14 of the Central Sales Tax Act, 1956, on a prior sale whereof in West Bengal due tax under this Act is shown to the satisfaction of the Commissioner to have been paid;
- (b) contractual transfer of goods, sales of which are declared tax-free under section 24;

Levy and
rate of tax
on works
contract.

74 of 1956.

(Chapter III.—Incidence and levy of tax and rate
of tax.—Section 22.)

- (c) such other contractual transfers as may be prescribed:

Provided that the tax payable by a dealer shall be levied at the rate of four *per centum* of such part of the contractual transfer price liable to tax under this section as represents contractual transfer of—

- (i) goods referred to in section 14 of the Central Sales Tax Act, 1956, other than those specified in clause (a), or
- (ii) any goods, other than those specified in clause (i), the purchase whereof has been made in West Bengal from a registered dealer and a certificate in the prescribed form containing prescribed particulars is furnished by the dealer executing the works contract after having such certificate countersigned by such registered dealer from whom such goods are purchased.

74 of 1956.

(2) Where a dealer enters into a contract with, and engages, another dealer for execution of a works contract, whether in part or in full, the contractual transfer price relating to the execution of such works contract executed by that other dealer shall, subject to the production of the proof of payment of tax by that other dealer, be deducted from the contractual transfer price of the dealer who engages the other dealer for execution of the works contract.

Levy and
rate of
turnover
tax.

22. (1) The turnover tax payable by a dealer, who is liable to pay the turnover tax under section 16, shall be levied on that part of his gross turnover of sales during any period which remains after deducting therefrom his turnover of sales during that period as represents—

- (a) sales, other than those on which tax is levied under section 17 at a rate of two *per centum* or less, of goods referred to in section 14 of the Central Sales Tax Act, 1956;
- (b) sales of electrical energy and newspapers;
- (c) sales of goods declared tax-free under section 24;
- (d) sales referred to in sub-clause (iii) of clause (a) of sub-section (3) of section 17 of goods, other than those specified in clause (a), clause (b) and clause (c);
- (e) such other sales as may be prescribed.

(2) The turnover tax shall be levied—

- (a) on such part of the gross turnover of sales referred to in sub-section (1) as represents sales of goods, other than those specified in Part B of Schedule IV, at the rate of—

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*(Chapter III.—Incidence and levy of tax and rate
of tax.—Section 23.)*

- (i) *two per centum* of such part of the turnover of sales as is specified in sub-section (1), if the turnover of sales of the dealer liable to pay such tax exceeds one crore rupees during the year in respect of which or part of which the turnover tax is levied;
- (ii) *one per centum* of such part of the turnover of sales as is specified in sub-section (1), if the provisions of sub-clause (i) do not apply:

Provided that the turnover tax payable by a dealer under sub-clause (i) shall not exceed a sum equivalent to the aggregate of one-half of the turnover tax payable by him in accordance with the said sub-clause and ten *per centum* of the amount by which his aforesaid gross turnover of sales exceeds one crore rupees;

- (b) on such part of the gross turnover of sales referred to in sub-section (1) as represents sales of goods specified in Part B of Schedule IV at the rate of two and a half *per centum* of that part of the gross turnover of sales.

23. (1) Notwithstanding anything contained in section 21, such class or classes of dealers as may be specified by the State Government by notification, who are liable to pay tax under section 15 and are registered under this Act, may, at their option, subject to such conditions and restrictions as may be specified in such notification, pay tax at such compounded rate, not exceeding four *per centum*, of the amount received or receivable as valuable consideration of works contract, as may be fixed in the notification for such year as may be specified therein:

Payment of
tax at
compounded
rates on
works
contract.

Provided that no dealer shall be entitled to make payment of any tax at a compounded rate specified in the notification issued under this section in lieu of tax payable in accordance with the provisions of section 21 in respect of any year specified in such notification if his contractual transfer price exceeds five lakh rupees during the year immediately preceding the year so specified in such notification.

(2) The tax payable under sub-section (1) shall be paid by a dealer in such manner as may be specified in the notification referred to in that sub-section.

(3) If any dealer contravenes any of the conditions provided under this section or specified in the notification referred to in sub-section (1) with regard to payment of tax under this section in respect of any year, he shall not be eligible for availing himself of the benefit of payment of

*(Chapter III.—Incidence and levy of tax and rate of tax.—
Section 24, 25.)*

tax under this section for such year, and the provisions with regard to the rates of tax as applicable under section 21 to his contractual transfer price, levy, collection, assessment and recovery of tax, penalty and interest under this Act shall apply to such dealer in respect of such year, and the tax paid at the compounded rate under this section, if any, shall be adjusted against the tax payable by him under section 21.

Tax-free sale
of goods.

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

Power of
State
Government
to amend
Schedules.

25. (1) The State Government, after giving by notification not less than fourteen days' notice of its intention so to do, may, by like notification, add to, amend, or alter, any Schedule to this Act:

Provided that no entry or part thereof in respect of any goods specified in Schedule I shall be omitted from that Schedule:

Provided further that no Schedule, other than Schedule IV, shall be so amended by way of addition or alteration as to enhance the rate of tax on sale of any goods to more than fifteen *per centum* of the taxable turnover of sales of such goods.

(2) Where any goods specified in a Schedule, other than Schedule IV, is transferred to Schedule IV, and where a dealer, who has purchased such goods before the date of such transfer to Schedule IV against the declaration referred to in the first proviso to sub-section (2) of section 17 issued or to be issued by him, sells such goods on or after the aforesaid date, the tax payable by him on his taxable turnover of sales of such goods shall, notwithstanding the rate of tax fixed under section 18, be levied—

- (a) at the rate fixed in clause (a), clause (b) or clause (d) of sub-section (1) of section 17 which would have been applicable to sales of such goods on the date immediately preceding the date of such transfer to Schedule IV, or
- (b) at the rate fixed in clause (b), clause (c), clause (d) or clause (e) of sub-section (2) of section 17 in respect of sales referred to therein,

as the case may be.

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*(Chapter IV.—Registration of dealer and demand
of security etc.—Section 26.)*

CHAPTER IV

Registration of dealer and demand of security etc.

26. (1) Subject to the other provisions of this chapter, no dealer shall, while being liable to pay tax under section 9, section 10, section 12 or section 15, carry on business as a dealer unless he has been registered and possesses a certificate of registration:

Compulsory
registration
of dealers.

Provided that a dealer liable to pay tax under section 9, section 10, section 12 or section 15 shall be allowed two months' time from the date from which he is first liable to pay such tax to get himself registered.

(2) Every dealer required by sub-section (1) to be registered shall make application in this behalf in the prescribed manner to the prescribed authority and such application shall be accompanied by a declaration in the prescribed form duly filled up and signed by the dealer specifying therein the class or classes of goods for the purposes of clause (a), clause (b) or clause (d) of sub-section (2), or sub-clause (ii) of clause (a) of sub-section (3), of section 17.

(3) If a dealer who is not registered under this Act opts to make lump sum payment under sub-section (1) of section 19 and subsequently ceases or is found to have ceased, under sub-section (5) of that section, to be eligible to make such lump sum payment, he shall make an application under sub-section (2) of this section for registration and the prescribed authority shall, on such application, grant such dealer a certificate of registration under sub-section (5) with effect from the commencement of the year in respect of which he ceases to be liable to make lump sum payment under section 19.

(4) The lump sum paid, if any, by a dealer under section 19 in respect of any year during which he gets himself registered, shall be adjusted against tax payable by him under section 17 for any period or periods of such year.

(5) If the said authority is satisfied that an application for registration is in order, he shall, in accordance with such rules as may be prescribed, register the applicant and grant him a certificate of registration in the prescribed form which shall specify the class or classes of goods for the purposes of clause (a), clause (b) or clause (d) of sub-section (2), or sub-clause (ii) of clause (a) of sub-section (3), of section 17.

(6) Where the application for registration is made under this section, the prescribed authority shall grant him the certificate of registration from the date of filing of such application:

*(Chapter IV.—Registration of dealer and demand
of security etc.—Section 26.)*

Provided that the prescribed authority shall grant to such dealer the certificate of registration from the date of commencement of his liability to pay tax where the application for registration is made within thirty days of such date:

Provided further that where the prescribed authority is satisfied that during the pendency of an application made by a dealer under section 27, such dealer has become liable to pay tax under section 9, section 10 or section 12, he shall grant to such dealer the certificate of registration from the date of commencement of such liability.

(7) Where any dealer, who has been registered on any day before the appointed day, and continues to be so registered on the day immediately before such appointed day, under—

(a) the Bengal Finance (Sales Tax) Act, 1941,

Ben. Act VI
of 1941.

(b) the Bengal Raw Jute Taxation Act, 1941,

Ben. Act XI
of 1941.

(c) the West Bengal Sales Tax Act, 1954, or

West Ben.
Act IV of
1954.

(d) the West Bengal Motor Spirit Sales Tax Act, 1974,

West Ben.
Act XI of
1974.

and is liable to pay tax under this Act on such appointed day, the prescribed authority shall issue to such dealer in the prescribed manner a fresh certificate of registration under this Act.

(8) The prescribed authority may from time to time amend any certificate of registration in accordance with information furnished under section 97 or otherwise received, and such amendment may be made with retrospective effect in such circumstances and subject to such restrictions and conditions as may be prescribed.

(9) When any dealer has been convicted or has paid composition money under section 88 or section 90, as the case may be, in respect of any contravention of the provisions of sub-section (1) of this section, the prescribed authority shall register such dealer and grant him a certificate of registration, and such registration shall take effect from the date of order as if it had been made under sub-section (5) of this section on the dealer's application.

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*(Chapter IV.—Registration of dealer and demand
of security etc.—Section 27.)*

(10) When—

- (a) any business in respect of which a certificate of registration has been granted to a dealer on an application made, has been discontinued, or
- (b) a dealer has ceased to be liable to pay tax under section 9, section 10, section 12 and section 15,

the prescribed authority shall cancel the registration of such dealer.

(11) When any dealer to whom a certificate of registration is granted under sub-section (5), or a fresh certificate of registration is issued under sub-section (7) of this section or a certificate of registration is granted under section 27, has failed to pay any tax, penalty or interest payable under this Act, the prescribed authority may, after giving the dealer an opportunity of being heard, cancel the registration of such dealer.

(12) Notwithstanding the provisions of this section or section 27, a dealer, whose certificate of registration is cancelled under sub-section (11), shall not be granted another certificate of registration under this Act until he pays the tax, penalty or interest referred to in that sub-section.

(13) Any dealer registered under sub-section (5) for his liability to pay tax under section 10, section 12 or section 15, shall, notwithstanding that his gross turnover of sales does not exceed the taxable quantum referred to in sub-section (3) of section 9, also be liable to pay tax on all sales of goods under section 9.

27. (1) Any dealer, whose gross turnover of sales during a year exceeds ten thousand rupees, may, notwithstanding that he is not liable to pay tax under section 9, apply in the prescribed manner to the prescribed authority for registration under this Act.

Voluntary
registration
of dealers.

(2) The provisions of sub-section (2), sub-section (5), sub-section (8), clause (a) of sub-section (10), sub-section (11), and sub-section (12), of section 26 shall apply in respect of any application for registration, or any certificate of registration granted on application made, as the case may be, under sub-section (1) of this section.

(3) Every dealer who has been registered on application made under this section shall, for so long as his registration remains in force, be liable to pay tax under this Act.

(4) The registration of a dealer on application made under this section shall be in force for a period of not less than three complete years and shall remain in force thereafter unless cancelled under the provisions of this Act.

*(Chapter IV.—Registration of dealer and demand
of security etc.—Section 28.)*

(5) Subject to the provisions of sub-section (4), a dealer registered on application made under this section may apply in the prescribed manner, not less than six months before the end of a year, to the authority which granted him his certificate of registration for the cancellation of such registration to take effect at the end of the year in which the application for such cancellation is made; and the said authority shall, unless the dealer is liable to pay tax under the provisions of section 9, section 10, section 12 or section 15 cancel the registration accordingly.

(6) Notwithstanding anything contained in sub-section (3) or sub-section (5), when the gross turnover of sales of any dealer registered on application made under this section has, for three successive years after the period of three years referred to in sub-section (4), has failed to exceed the taxable quantum, the prescribed authority may, unless the dealer is liable to pay tax under the provisions of section 10, section 12 or section 15, after giving the dealer a reasonable opportunity of being heard, cancel registration of such dealer.

Security to
be furnished
in certain
cases.

28. (1) The Commissioner may, at the time of grant of certificate to a dealer under section 26 or section 27 or at any time thereafter, for good and sufficient reasons to be recorded in writing, require the dealer to furnish in the prescribed manner such security or such additional security as may be specified by him for securing proper and timely payment of tax or any other sum payable by him under this Act.

(2) The Commissioner may, by order in writing and for good or sufficient reasons to be recorded therein, demand from any registered dealer or any undertaking supplying electrical energy to the public under a licence or sanction granted or deemed to have been granted under the Indian Electricity Act, 1910, a reasonable security for the proper use and safe custody of the declarations referred to in the first and the second proviso to sub-section (2), or the proviso to sub-clause (ii) of clause (a) of sub-section (3), of section 17, whether obtained by such registered dealer or undertaking from the prescribed authority, or furnished to such registered dealer or undertaking by a registered dealer or undertaking to whom or by whom the goods have been sold.

9 of 1910.

(3) The Commissioner may, by order in writing and for good or sufficient reasons to be recorded therein, demand from any person who imports into West Bengal any consignment of goods specified in Part A of Schedule IV or notified goods, a reasonable security for ensuring that there is no evasion of tax.

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*(Chapter IV.—Registration of dealer and demand
of security etc.—Section 28.)*

(4) The Commissioner may, by order in writing and for good or sufficient reasons to be recorded therein, demand from a dealer, a reasonable security for the proper use and safe custody of the form referred to in sub-section (3) of section 68 and obtained from the prescribed authority, whether such form is blank or duly filled up and signed by such dealer.

(5) The Commissioner may, by order in writing and for good or sufficient reasons to be recorded therein, forfeit the whole or any part of the security or additional security referred to in sub-section (1), sub-section (2), sub-section (3) or sub-section (4), as the case may be, furnished by a dealer, registered dealer, undertaking or person as required by sub-section (1) or demanded under sub-section (2), sub-section (3) or sub-section (4), for—

- (a) realising or recovery of tax or any other sum due, or
- (b) recovery of any financial loss caused to the State Government due to negligence or default in not making proper use of, or not keeping in safe custody, declarations or blank forms of declaration.

(6) Where, by reason of an order under sub-section (5), the security furnished by a dealer, registered dealer, undertaking or person is forfeited in whole or is rendered insufficient, such dealer, registered dealer, undertaking or person shall, on demand by order of the Commissioner, furnish fresh or further security of the requisite amount or shall make up the deficiency, as the case may be, in such manner and within such period as may be specified in such order.

(7) The Commissioner may, on application by a dealer, registered dealer, undertaking or person, who has furnished security as required by sub-section (1) or demanded under sub-section (2), sub-section (3) or sub-section (4), refund in the prescribed manner any amount of security or part thereof if such security is not required for the purposes for which it was furnished.

(8) Security as required by sub-section (1) or demanded under sub-section (2), sub-section (3), sub-section (4) or sub-section (6) shall be furnished by a dealer, registered dealer, undertaking or person in such manner and by such time as may be specified in the order requiring to furnish, or demanding, such security.

(9) No order shall be passed under this section without giving the dealer, registered dealer, undertaking or person an opportunity of being heard.

*(Chapter IV.—Registration of dealer and demand of security etc.—
Section 29.—Chapter V.—Return and payment of tax, interest, penalty
and deduction of amount at source towards payment of tax etc.—
Section 30.)*

Imposition
of penalty
for failure
to get
registered.

29. (1) If a dealer, who is required by sub-section (1) of section 26 to get himself registered within two months from the date from which he is first liable to pay tax under section 9, section 10, section 12 or section 15, as the case may be, fails to get himself so registered, the prescribed authority may, after giving the dealer an opportunity of being heard, by order impose by way of penalty a sum, not less than five hundred rupees and not exceeding one thousand rupees, for each month of default:

Provided that no penalty shall be imposed under this sub-section in respect of the same fact for which a prosecution under sub-section (2) of section 88 has been instituted and no such prosecution shall lie in respect of a fact for which a penalty has been imposed under this section.

(2) If any penalty is imposed under sub-section (1), the prescribed authority shall issue a notice in the prescribed form directing the dealer to pay such penalty by such date as may be specified in the notice, and the date to be specified shall not be less than fifteen days from the date of service of such notice and the penalty so imposed shall be paid by the dealer into a Government Treasury or the Reserve Bank of India by the date so specified:

Provided that the prescribed authority may, for reasons to be recorded in writing, extend the date of such payment as specified in the notice in this behalf or allow such dealer to pay the penalty imposed in such number of instalments as he may determine.

(3) Any amount of penalty that remains unpaid after the date specified in the notice referred to in sub-section (2) shall be recoverable in accordance with the provisions of section 52.

CHAPTER V

Return and payment of tax, interest, penalty and deduction of amount at source towards payment of tax etc.

Periodical
returns and
payment
of tax.

30. (1) Tax payable under this Act shall be paid in the manner hereinafter provided at such intervals as may be prescribed.

(2) Every registered dealer shall, in the prescribed manner, furnish such returns by such dates and to such authority as may be prescribed.

(3) Any dealer, other than a registered dealer referred to in sub-section (2), shall, if so required by the Commissioner by a notice served in the prescribed manner, furnish returns in accordance with the provisions of sub-section (2).

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(Chapter V.—Return and payment of tax, interest, penalty and deduction of amount at source towards payment of tax etc.—Section 30.)

(4) Before any dealer furnishes a return required by sub-section (2) or sub-section (3), he shall, in the prescribed manner, pay into a Government Treasury or the Reserve Bank of India the full amount of tax due from him under this Act according to such return, and shall furnish along with such return a receipt from the Treasury or Bank showing the payment of such amount:

Provided that a registered dealer shall, subject to such conditions as may be prescribed, pay in the prescribed manner the tax payable under this Act for any prescribed part of the period for which a return is required to be furnished under sub-section (2) or sub-section (3) by such date as may be prescribed after the expiry of the prescribed part of the period as aforesaid.

(5) Where a deduction of an amount is made under sub-section (1) of section 38 from the payment of any sum to a dealer for execution of a works contract, and such amount is deposited under sub-section (2) of that section, the deduction of such amount shall be deemed to be a payment of tax by such dealer made by him on the date of such deduction, and he shall furnish along with his return required by sub-section (2) or sub-section (3) of this section, as the case may be, in respect of such amount a certificate of deduction referred to in sub-section (3) of section 38 as proof of such payment of tax:

Provided that where a dealer does not receive a certificate of deduction under sub-section (3) of section 38 on or before the prescribed date of furnishing of return for the return period, he shall, while furnishing such return to the prescribed authority, state the fact in writing, and furnish to such authority such certificate of deduction within fifteen days of issue of such certificate to him under sub-section (3) of section 38.

(6) If any dealer discovers any omission or other error in any return furnished by him, he may, at any time before the date prescribed for the furnishing of the next return by him, furnish a revised return; and if the revised return shows a greater amount of tax to be due than what was shown in the original return, it shall be accompanied by a receipt showing payment of the extra amount in the manner provided in sub-section (4).

(7) If the Commissioner—

- (a) discovers any error or omission in any return furnished by a dealer, or
- (b) has reasons to believe upon information or otherwise that a dealer has furnished incorrect statement of his turnover of sales or purchases or incorrect particulars of his sales or purchases in any return,

he may require such dealer to produce any accounts, registers, statements or documents or to furnish any information regarding purchases, sales, deliveries, stock of goods or payments made or received or any other related or incidental matter for the purpose of verification of such return.

(Chapter V.—Return and payment of tax, interest, penalty and deduction of amount at source towards payment of tax etc.—Section 31.)

Interest for non-payment or delayed payment of tax before assessment.

31. (1) Where a registered dealer, or a dealer required to furnish return under sub-section (3) of section 30, furnishes a return referred to in that section in respect of any period by the prescribed date or thereafter, but fails to make full payment of the tax payable under sub-section (4) of that section in respect of such period by such prescribed date, he shall pay a simple interest at the rate of two *per centum* for each British calendar month of default from the first day of such month next following the prescribed date up to the month preceding the month of full payment of such tax or up to the month prior to the month of assessment under section 45 or section 46, as the case may be, in respect of such period, whichever is earlier, upon so much of the amount of tax payable by him according to such return as remains unpaid at the end of each such month of default:

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

(2) Where a registered dealer, or a dealer required to furnish return under sub-section (3) of section 30, fails to furnish a return referred to in that section in respect of any period by the prescribed date or thereafter before the assessment under section 45 or section 46, as the case may be, in respect of such period, and on such assessment full amount of tax payable for such period is found not to have been paid by him by such prescribed date, he shall pay a simple interest at the rate of two *per centum* for each British calendar month of default from the first day of the month next following the prescribed date up to the month preceding the month of full payment of tax for such period or up to the month prior to the month of assessment under section 45 or section 46, as the case may be, in respect of such period, whichever is earlier, upon so much of the amount of tax payable by him according to such assessment as remains unpaid at the end of each such month of default:

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

(3) A dealer liable to pay interest under sub-section (1) or sub-section (2) of this section or sub-section (8) of section 40, as the case may be, shall, in the prescribed manner, pay into a Government Treasury or the Reserve Bank of India the amount of interest payable by, or due from, him by such date as may be prescribed.

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(Chapter V.—Return and payment of tax, interest, penalty and deduction of amount at source towards payment of tax etc.—Sections 32-34.)

(4) Interest under sub-section (1) or sub-section (2) of this section shall be payable in respect of the returns, the prescribed dates for furnishing of which under sub-section (2) or sub-section (3) of section 30 are the dates subsequent to the appointed day.

32. (1) Where a dealer fails to make payment of any tax payable after assessment' by the date specified in the notice issued under section 47 for payment thereof, he shall pay a simple interest at the rate of two *per centum* for each British calendar month of default from the first day of the month next following the date specified in such notice up to the month preceding the month of full payment of such tax or up to the month preceding the month of commencement of proceedings under section 52, whichever is earlier, upon so much of the amount of tax payable by him according to such notice as remains unpaid at the end of each such month of default.

Interest for non-payment or delayed payment of assessed tax.

(2) A dealer liable to pay interest under sub-section (1) of this section or sub-section (8) of section 40 shall, in the prescribed manner, pay into a Government Treasury or the Reserve Bank of India the amount of interest payable by, or due from, him by such date as may be prescribed.

(3) Where as a result of an order under section 79, section 80, section 81, section 82 or section 83 the amount of tax payable is modified, the interest payable under sub-section (1) of this section or sub-section (8) of section 40, as the case may be, shall be determined or redetermined on the basis of such modified amount and the excess interest paid, if any, shall be refunded.

(4) Interest under sub-section (1) shall be payable in respect of assessment, notices for which under section 47 are issued, on or after the appointed day.

33. Notwithstanding anything contained in section 31 or section 32, no interest shall be payable in such cases or under such circumstances and subject to such conditions, if any, as may be prescribed.

Exemption from payment of interest.

34. The Commissioner shall, in the prescribed manner, pay a simple interest at the rate of two *per centum* for each British calendar month of delay in making refund to a dealer of the amount of tax paid in excess which arises out of an order under section 79, section 80, section 81, section 82 or section 83, passed on or after the appointed day, from the first day of the month next following the date of such order up to the month preceding the month in which the refund is made in the manner referred to in section 60, upon the amount of tax refundable to him according to such order.

Interest payable by Commissioner.

(Chapter V.—Return and payment of tax, interest, penalty and deduction of amount at source towards payment of tax etc.—Sections 35-37.)

Rounding
off of tax
payable for
calculation
of interest.

35. In calculating the interest payable under section 31, section 32, section 34 or sub-section (8) of section 40, the amount of tax in respect of which such interest is to be calculated shall be rounded off to the nearest multiple of one hundred rupees and for this purpose, where such amount contains a part of one hundred rupees, if such part is fifty rupees or more, it shall be increased to one hundred rupees and, if such part is less than fifty rupees, it shall be ignored.

Rounding
off of
amount of
tax or
penalty.

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

Collection
of tax only
by dealers
liable to
pay tax.

37. (1) No dealer who is not liable to pay tax under this Act shall collect, in respect of any sales of goods by him, any amount of tax under this Act, and no dealer, who is liable to pay tax under this Act, shall make any such collection except in accordance with the provisions of this Act or in excess of the amount of tax payable by him under his Act:

Provided that the provisions of this sub-section shall not apply to any dealer who avails of the benefit of exemption from payment of tax under section 39 or the benefit of remission of tax under section 41, section 42 or section 43.

(2) If any dealer contravenes the provisions of sub-section (1), he shall, notwithstanding anything contained elsewhere in this Act, deposit the amount collected by way of tax or the amount collected by way of tax in excess of the amount payable under this Act, as the case may be, into a Government Treasury or the Reserve Bank of India within thirty days from the date of such collection and intimate the Commissioner of such deposit along with a receipt from such Treasury or Bank showing payment of such amount.

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

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

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(Chapter V.—Return and payment of tax, interest, penalty and deduction of amount at source towards payment of tax etc.—Section 38.)

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

(5) The penalty imposed under sub-section (4) shall be paid by the dealer into a Government Treasury or the Reserve Bank of India by such date as may be specified by the Commissioner in a notice issued for the purpose and the date to be so specified shall not be less than fifteen days from the date of service of such notice.

(6) Any penalty that remains unpaid after the date specified in the notice referred to in sub-section (5) shall be recoverable in accordance with the provisions of section 52.

38. (1) Notwithstanding anything contained in section 30 or any rules made thereunder or any terms of a contract to the contrary, any person responsible for paying any sum to any dealer for execution of a works contract referred to in section 15 wholly or partly in pursuance of a contract between such dealer and—

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

- (a) Government,
- (b) a local authority,
- (c) a corporation or a body established by or under any law for the time being in force,
- (d) a company incorporated under the Companies Act, 1956, including a Government Undertaking,
- (e) a co-operative society registered or deemed to be registered under the West Bengal Co-operative Societies Act, 1983, or
- (f) an educational institution,

shall, at the time of payment of such sum in cash or by issue of a cheque or draft or any other mode of payment, deduct an amount towards tax equal to two *per centum* of such sum being paid in respect of such works contract:

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

- (i) the payment is made as advance on account of the execution of such works contract;
- (ii) no transfer of property in goods (whether as goods or in some other form) is involved in the execution of such works contract; or

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(Chapter V.—Return and payment of tax, interest, penalty and deduction of amount at source towards payment of tax etc.—Section 38.)

- (iii) where the dealer produces a certificate from the Commissioner under section 94 that he has no liability to pay tax under section 15 or that he has paid tax payable by, or due from, him under that section:

Provided further that no deduction under this sub-section shall be made in respect of that part of payment to a dealer which represents his contractual transfer price of the goods as referred to in clause (a) of sub-section (1) of section 21 where such dealer declares in writing to that effect claiming exemption from tax.

(2) Where deduction of an amount is made under sub-section (1), the person making such deduction shall deposit the amount so deducted into a Government Treasury or the Reserve Bank of India within such time, in such manner, and in such form of challan, as may be prescribed.

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

(4) On receipt of a certificate of deduction referred to in sub-section (3), the deposit of an amount on account of a dealer referred to in sub-section (2) shall be adjusted by the Commissioner towards tax liability of the dealer under section 21, and shall constitute a good and sufficient discharge of the liability of the person deducting such amount to the dealer to the extent of the amount deducted and deposited.

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

(6) Where the dealer from whose account any amount has been deducted under sub-section (1) and deposited under sub-section (2) proves to the satisfaction of the Commissioner that he is not liable to pay tax under section 15 and such amount was not wholly or partly payable by him under this Act, the Commissioner shall refund or adjust the amount refundable to the dealer in such manner as may be prescribed.

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(Chapter VI.—Incentives to industrial units—tax holiday, deferment of payment of tax and remission of tax.—Sections 39, 40.)

CHAPTER VI

Incentives to industrial units—tax holiday, deferment of payment of tax and remission of tax

39. Subject to such conditions and restrictions as may be prescribed, no tax shall be payable by a dealer for such period as may be prescribed in respect of his sales of goods manufactured by him in his newly set up small-scale industrial unit situated in the prescribed area, and in calculating his taxable turnover of sales under sub-section (3) of section 17, that part of his gross turnover of sales which represents the turnover of sales of such goods shall be deducted from his gross turnover of sales under sub-clause (viii) of clause (a) of sub-section (3) of that section.

Tax holiday for new small-scale industrial units.

40. (1) Notwithstanding anything contained in sub-section (4) of section 30 or section 47, the tax payable by a registered dealer under this Act according to his returns referred to in sub-section (2) of section 30 or the tax due from him according to a notice issued under section 47 shall, subject to the other provisions of this section or the rules made thereunder, be deferred,—

Deferment of payment of tax in respect of new and existing industrial units.

- (a) in the case of a newly set up industrial unit in West Bengal, from the prescribed date on which such tax becomes payable according to such return in a year during the period referred to in sub-section (2) in respect of sales of goods, other than such goods as may be prescribed, manufactured in such unit or goods purchased for use directly in the manufacture of such goods, or
- (b) in the case of an existing industrial unit in West Bengal which has been expanded on approval of the State Government, from the prescribed date on which such tax becomes payable according to such return in a year during the period referred to in sub-section (2) in respect of sales of goods, other than such goods as may be prescribed, manufactured in the expanded portion of such industrial unit on utilisation of the added capacity of the plant and machinery installed therein or goods purchased for use directly in the manufacture of such goods,

for such period, not exceeding nine years, as may be prescribed, and different periods may be prescribed for different such newly set up or existing industrial units, having regard to the location of such units in different areas as may be prescribed:

Provided that deferment of payment of tax payable by a dealer in respect of sales of goods manufactured by him in such industrial units situated in any of the areas prescribed under this sub-section may be restricted to sales of such class or classes of goods as may be prescribed:

(Chapter VI.—Incentives to industrial units—tax holiday, deferment of payment of tax and remission of tax.—Section 40.)

Provided further that the period prescribed under this sub-section and sub-section (2) may, subject to such conditions and restrictions as may be prescribed, be extended by two years in the case of such industrial units as may be prescribed, where investment in fixed capital assets exceeds one hundred crore rupees.

(2) The period in respect of which the dealer is eligible for deferment of tax under sub-section (1) (hereinafter referred to as the eligible period) shall commence,—

- (a) in respect of a newly set up industrial unit in West Bengal, from the prescribed date on which such tax becomes first payable according to such return in respect of goods manufactured in such unit or goods purchased for use directly in the manufacture of such goods, or
- (b) in respect of an existing industrial unit in West Bengal, from the prescribed date on which such tax becomes first payable according to such return in respect of goods manufactured in such unit on utilisation of the added capacity of new plant and machinery installed therein by way of expansion on approval by the State Government or goods purchased for use directly in the manufacture of such goods,

and shall expire on the completion of such period, not exceeding nine years, or eleven years in the case of the industrial units referred to in the second proviso to sub-section (1), from such commencement as may be prescribed, and different periods may be prescribed in respect of different such newly set up or existing industrial units, having regard to the location of such units in different areas:

Provided that payment of tax shall not be deferred after the amount of tax or the aggregate of the amounts of tax payable from the date referred to in sub-section (2) exceeds any of the limits prescribed under sub-section (3) at any time before the expiry of the eligible period.

(3) The amount of tax or the aggregate of the amounts of tax payable that the dealer is eligible for deferment under sub-section (1) for the whole of the eligible period shall be,—

- (a) in the case of a newly set up industrial unit in West Bengal, such percentage of the gross value of the fixed capital assets as stand on the date of first commercial production in such unit, or
- (b) in the case of an existing industrial unit in West Bengal which has been expanded on approval of the State Government, such percentage of the gross value of the fixed capital assets as stand on the date of first commercial production in the expanded portion of such unit,

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(Chapter VI.—Incentives to industrial units—tax holiday, deferment of payment of tax and remission of tax.—Section 40.)

not exceeding one hundred *per centum* of such gross value, as may be prescribed or fifty crore rupees, whichever is less, and different percentages of such gross value may be prescribed for such newly set up or existing industrial units, having regard to the location of such units in different areas.

- (4) A newly set up industrial unit or an existing industrial unit,—
- (a) where such newly set up industrial unit was established and commissioned by the dealer for manufacture of goods in West Bengal for the first time on or after the 1st day of April, 1989, but not later than the 31st day of March, 1993, or
 - (b) where such existing industrial unit was established before the 1st day of April, 1989 and expanded on or before the 31st day of March, 1993,

and has enjoyed, or has been entitled to enjoy, the benefit of deferment of payment of tax in respect of such newly set up industrial unit or the expanded portion of such existing industrial unit in accordance with the corresponding provisions of the Bengal Finance (Sales Tax) Act, 1941 or the West Bengal Sales Tax Act, 1954, as they stood on the 14th day of April, 1993, shall continue to enjoy or to be entitled to enjoy such benefit in accordance with such corresponding provisions of the said Act.

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(5) Subject to such conditions and restrictions as may be prescribed, a dealer who has enjoyed the benefit of deferment of payment of tax under this section may, in addition to such benefit as enjoyed by him, be eligible, if he so opts, for further deferment of payment of such amount of tax or the aggregate of the amounts of tax as may be equivalent to the capital investment subsidy receivable by him under any scheme approved by the State Government for such period, not exceeding four years from such date, as may be prescribed.

(6) A registered dealer shall not be eligible for deferment of payment of tax under this section in respect of any sale of goods manufactured in his newly set up industrial unit or expanded portion of his existing industrial unit, if he once opts for remission of tax under section 41, section 42 or section 43 in respect of sale of such goods manufactured in such industrial unit.

(7) The tax deferred under sub-section (1) shall be paid, in such manner as may be prescribed, by a registered dealer into a Government Treasury or the Reserve Bank of India after such period, at such intervals, in such instalments, and by such dates, as may be prescribed.

(Chapter VI.—Incentives to industrial units—tax holiday, deferment of payment of tax and remission of tax.—Section 40.)

(8) Notwithstanding anything contained in section 31 and section 32, no interest shall be payable by a registered dealer on the tax deferred under sub-section (1) until the amount of tax so deferred becomes payable in the prescribed manner referred to in sub-section (7), and where such registered dealer fails to make payment of tax under sub-section (7) in the prescribed manner and by the prescribed date, he shall pay a simple interest at the rate of two *per centum* for each British calendar month of default from the first day of such month next following such prescribed date up to the month preceding the month of full payment of such tax or up to the month preceding the month of commencement of proceedings under section 52, whichever is earlier, upon so much of the amount of such tax payable by him in accordance with the provisions contained in sub-section (7) as remains unpaid at the end of each such month and all other provisions of section 31 or section 32 and those of section 49 and section 50 shall apply accordingly.

(9) A registered dealer availing of the benefit of deferment of payment of tax under this section shall, notwithstanding such deferment, furnish return as required by section 30 and the rules made thereunder.

(10) Where the tax payable by a dealer in respect of a year or part of a year is deferred under sub-section (1) and where a loan liability equal to the amount of tax so deferred is created by such authority as the State Government may, by special or general order, specify, and such loan liability is admitted by such dealer in the prescribed manner for the prescribed eligible period, such tax shall be deemed to have been paid in accordance with the provisions of sub-section (4) of section 30 and section 47, as the case may be, in respect of the year or part of a year for which such tax is payable by, or due from, such dealer, and such deferred tax shall become due for payment under sub-section (7), at the expiration of the said eligible period.

(11) For the contravention of any provisions of this Act or the rules made thereunder, the benefit of deferment of tax under sub-section (1) shall, subject to such conditions and restrictions as may be prescribed, be discontinued even before the expiry of the eligible period referred to in sub-section (2).

(12) A newly set up industrial unit or an existing industrial unit,—

- (a) where such newly set up industrial unit was established and commissioned by a dealer for manufacture of goods in West Bengal for the first time on or after the 1st day of April, 1993, but not later than the day immediately before the appointed day, or
- (b) where such existing industrial unit was established before the 1st day of April, 1989 and expanded before the appointed day,

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and has enjoyed, or has been entitled to enjoy, the benefit of deferment of payment of tax in respect of such newly set up industrial unit or the expanded portion of such existing industrial unit in accordance with the corresponding provisions of the Bengal Finance (Sales Tax) Act, 1941 or the West Bengal Sales Tax Act, 1954, as they stood on the day immediately before the appointed day, shall continue to enjoy or to be entitled to enjoy such benefit in accordance with such corresponding provisions of the said Act.

Explanation.—For the purposes of this section or section 41, except for the purposes of sub-section (4) and sub-section (12) of this section or sub-section (5) and sub-section (6) of section 41,—

- (a) the expression “newly set up industrial unit” shall mean an industrial unit having investment in fixed capital assets exceeding ten lakh rupees which is established and commissioned by the dealer for the manufacture of goods in West Bengal for the first time on or after the appointed day under any scheme approved by the State Government and which is registered with such authority as may be prescribed;
- (b) the expression “existing industrial unit” shall mean an industrial unit having investment in fixed capital assets exceeding ten lakh rupees which is established and commissioned by the dealer for the manufacture of goods in West Bengal before the appointed day and which is registered with such authority as may be prescribed and expanded on or after such appointed day;
- (c) the expression “expanded portion”, in relation to an existing industrial unit, shall mean the portion expanded with additional capacity on or after the appointed day with the approval of the State Government for the manufacture of goods in West Bengal, either in its existing location or in a different area;
- (d) the expression “gross value of fixed capital assets” shall mean,—
 - (i) in relation to a newly set up industrial unit, the actual price or premium paid by the dealer for the land, whether freehold or leasehold, expenditure incurred for construction of office building excluding residential portion thereof, and factory shed erected by him and the cost of new plant and machinery including the productive equipment, installed or acquired by him on or before the date of first commercial production in such unit, and

(Chapter VI.—Incentives to industrial units—tax holiday, deferment of payment of tax and remission of tax.—Section 41.)

- (ii) in relation to an existing industrial unit, the expenditure incurred by a dealer for construction of a factory shed including the price or premium paid for land used for erection of such factory shed and the cost of new plant and machinery including the productive equipment, installed or purchased by such dealer on or before the date of first commercial production in the expanded portion of such unit on the basis of any scheme approved by the State Government.

Remission of tax payable by new and existing industrial units.

41. (1) Where a registered dealer manufactures any goods, other than such goods as may be prescribed, in a newly set up industrial unit established by him, or in an expanded portion of an existing industrial unit, in West Bengal, the tax payable by such dealer under this Act according to his returns referred to in sub-section (2) of section 30 in respect of sales of such goods manufactured in such unit shall, subject to such conditions and restrictions as may be prescribed, be remitted or continue to be remitted until the amount or the aggregate of the amounts of such tax exceeds the limit of such percentage of the gross value of fixed capital assets as on the date of first commercial production in such newly set up industrial unit or expanded portion of such existing industrial unit, not exceeding one hundred *per centum* of such gross value as may be prescribed or fifty crore rupees, whichever is less, and different percentages of such gross value may be prescribed for such newly set up industrial units or expanded portion of such existing industrial units, having regard to the location of such units, in such areas as may be prescribed:

Provided that remission of such tax to the extent of the prescribed limit shall in no case continue in the case of a newly set up industrial unit or expanded portion of existing industrial unit beyond such period exceeding nine years as may be prescribed, and different periods may be prescribed for newly set up industrial units or expanded portion of existing industrial units, having regard to the location of such units in different areas:

Provided further that the remission of tax payable by a dealer in respect of goods manufactured by him in any of the prescribed areas may be restricted to sales of such class or classes of goods as may be prescribed:

Provided also that the period prescribed under the first proviso may, subject to such conditions and restrictions as may be prescribed, be extended by two years in the case of such industrial units as may be prescribed where investment in fixed capital assets exceeds one hundred crore rupees.

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(2) Subject to such conditions and restrictions as may be prescribed, a dealer who has enjoyed the benefit of remission of tax under this section may, in addition to such benefit as enjoyed by him, be eligible, if he so opts, for further remission of such amount of tax or the aggregate of the amounts of tax as may be equivalent to the capital investment subsidy receivable by him under any scheme approved by the State Government for such period, not exceeding four years from such date, as may be prescribed.

(3) A registered dealer availing the benefit of remission of tax under this section shall, notwithstanding such remission, furnish returns as required by section 30 and the rules made thereunder.

(4) A registered dealer shall not be eligible for remission of tax under this section in respect of any sale of goods manufactured in his newly set up industrial unit or expanded portion of his existing industrial unit, if he once opts for deferment of payment of tax under section 40 in respect of sale of such goods manufactured in such industrial unit.

(5) A newly set up industrial unit or an existing industrial unit,—

- (a) where such newly set up industrial unit was established and commissioned by the dealer for manufacture of goods in West Bengal for the first time on or after the 1st day of June, 1990, but not later than the 31st day of March, 1993, or
- (b) where such existing industrial unit was established before the 1st day of June, 1990 and expanded on or after the 1st day of June, 1990, but not later than the 14th day of April, 1993,

and has enjoyed, or has been entitled to enjoy, the benefit of remission of tax in respect of such newly set up industrial unit or the expanded portion of such existing industrial unit in accordance with the corresponding provisions of the Bengal Finance (Sales Tax) Act, 1941 or the West Bengal Sales Tax Act, 1954, as they stood on the 14th day of April, 1993, shall continue to enjoy or to be entitled to enjoy such benefit in accordance with such corresponding provisions of the said Act.

(6) A newly set up industrial unit or an existing industrial unit,—

- (a) where such newly set up industrial unit was established and commissioned by a dealer for manufacture of goods in West Bengal for the first time on or after the 1st day of April, 1993, but not later than the day immediately before the appointed day, or
- (b) where such existing industrial unit was established before the 1st day of June, 1990, and expanded on or after the 15th day of April, 1993, but not later than the day immediately preceding the appointed day,

(Chapter VI.—Incentives to industrial units—tax holiday, deferment of payment of tax and remission of tax.—Section 42.)

and has enjoyed, or has been entitled to enjoy, the benefit of remission of tax in respect of such newly set up industrial unit or the expanded portion of such existing industrial unit in accordance with the corresponding provisions of the Bengal Finance (Sales Tax) Act, 1941 or the West Bengal Sales Tax Act, 1954, as they stood on the day immediately before the appointed day, shall continue to enjoy or to be entitled to enjoy such benefit in accordance with such corresponding provisions of the said Act.

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Deferment
of payment
of tax and
remission of
tax for
closed
industrial
units.

42. (1) A registered dealer in respect of such industrial unit in West Bengal as the State Government may, by general or special order, declare as a closed unit shall, subject to the other provisions of this section, be eligible for deferment of payment of tax according to the provisions of section 40 or remission of tax according to the provisions of section 41 where—

- (a) the ownership of the business relating to such unit is transferred, by sale or otherwise, to such dealer for being registered as a transferee according to section 99, and
- (b) such unit is rehabilitated or revived on or after the appointed day by such dealer under any scheme approved by the State Government in this behalf on transfer of the ownership of the business relating to such unit.

(2) A closed unit, after being rehabilitated or revived, shall be deemed to be a newly set up industrial unit for the purposes of section 40 or section 41, and the part of the eligible period, if any, for which the transferor-dealer has availed the benefit of deferment of payment of tax or remission of tax, shall not be reckoned for computation of the eligible period for the transferee-dealer.

(3) The amount of tax or the aggregate of the amounts of tax payable by, or due from, the dealer, upon the transfer of the business relating to such unit under section 99, shall be such percentage of the gross value of fixed capital assets on the date of first commercial production in such unit following the rehabilitation or revival as prescribed under section 40 or section 41, as the case may be.

(4) The amount of tax or the aggregate of the amounts of tax that a registered dealer, upon the transfer of the business relating to such unit under section 99, is eligible for deferment under sub-section (3) of section 40 or remission of tax under section 41, as the case may be, shall be reduced by the amount of tax in respect of which the transferor-dealer has enjoyed the benefit of deferment of payment of tax under section 40 or remission of tax under section 41, as the case may be.

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(Chapter VI.—Incentives to industrial units—tax holiday, deferment of payment of tax and remission of tax.—Section 43.)

(5) The provisions of sub-section (6) of section 40 or sub-section (4) of section 41 shall not apply to a closed unit if the transferor-dealer of such unit has enjoyed the benefit under section 40 or section 41 before the closure of such unit, but if such registered dealer opts once for deferment of payment of tax after its rehabilitation or revival, he shall not be eligible for remission of tax and vice versa.

(6) A closed unit which, after being rehabilitated or revived on or after the 1st day of April, 1993 and before the appointed day, has enjoyed, or has been entitled to enjoy, the benefit of deferment of payment of tax or remission of tax in respect of such unit under the provisions of section 10H of the Bengal Finance (Sales Tax) Act, 1941 or section 8J of the West Bengal Sales Tax Act, 1954, as the case may be, as they stood on the day immediately before the appointed day, shall continue to enjoy or to be entitled to enjoy such benefit in accordance with such provisions of the said Act.

Ben. Act VI
of 1941.
West Ben.
Act IV of
1954.

Explanation.—The expression “gross value of fixed capital assets”, in relation to a closed industrial unit, shall, for the purposes of section 40 or section 41, mean the value of the land, freehold or leasehold, office building excluding residential portion, factory shed, plant and machinery including productive equipments, as stood on the date on which the ownership of the business of such unit is transferred, and the cost of new plant and machinery including productive equipments, if any, purchased and installed by the transferee-dealer on or before the date of first commercial production after rehabilitation or revival of such closed industrial unit.

43. (1) A registered dealer in respect of such industrial unit in West Bengal as the State Government may, by general or special order, declare as a sick unit shall, subject to the other provisions of this section, be eligible for deferment of payment of tax or remission of tax according to the provisions of section 40 or section 41, as the case may be, where such unit is rehabilitated or revived by such dealer himself on or after the appointed day under any scheme approved by the State Government.

Deferment
of payment
of tax and
remission of
tax for sick
industrial
units.

(2) The benefit of deferment of payment of tax or remission of tax, as the case may be, referred to in sub-section (1), shall be available to a new owner of the business relating to such unit if the ownership of such business is taken over by, and is transferred to, such new owner and is registered as transferee-dealer according to section 99, and the unit is rehabilitated or revived by such new owner, being the transferee-dealer, on or after the appointed day under any scheme approved by the State Government.

*(Chapter VI.—Incentives to industrial units—tax holiday,
deferment of payment of tax and remission of tax.—
Section 44.)*

(3) A sick unit, after being rehabilitated or revived, shall be deemed to be a newly set up industrial unit in West Bengal, and the part of the eligible period, if any, for which the dealer availed of the benefit before the rehabilitation or revival, shall not be reckoned for computation of the eligible period for the dealer or transferee-dealer, as the case may be, after such rehabilitation or revival.

(4) The amount of tax or the aggregate of the amounts of tax payable by, or due from, the dealer, upon rehabilitation or revival of such unit by the dealer himself or upon rehabilitation or revival by the transferee-dealer on transfer of the ownership of the business relating to such unit according to section 99, shall be such percentage of the gross value of fixed capital assets on the date of first commercial production in such unit following the rehabilitation or revival, as prescribed under section 40 or section 41, as the case may be.

(5) The amount of tax or the aggregate of the amounts of tax that such dealer, upon rehabilitation of such unit by the dealer himself for or upon rehabilitation on transfer of the business relating to such unit according to section 99, is entitled to deferment under sub-section (3) of section 40 or remission of tax under section 41, as the case may be, shall be reduced by the amount of tax in respect of which the dealer has enjoyed the benefit of deferment of payment of tax under section 40 or remission of tax under section 41, as the case may be, before rehabilitation or revival of the unit.

(6) A sick unit which, after being rehabilitated or revived on or after the 1st day of April, 1993 and before the appointed day, has enjoyed, or has been entitled to enjoy, the benefit of deferment of payment of tax or remission of tax in respect of such unit under the provisions of 10 I of the Bengal Finance (Sales Tax) Act, 1941 or section 8K of the West Bengal Sales Tax Act, 1954, as the case may be, as they stood on the day immediately before the appointed day, shall continue to enjoy or to be entitled to enjoy such benefit in accordance with such provisions of the said Act.

Ben. Act VI
of 1941.
West Ben.
Act IV of
1954.

Explanation.—The expression “gross value of fixed capital assets”, in relation to a sick industrial unit, shall, for the purposes of section 40 or section 41, mean the value of the land, freehold or leasehold, office building excluding residential portion, factory shed, plant and machinery including productive equipments, as stood on the date of rehabilitation or revival of such sick industrial unit, and the cost of new plant and machinery including productive equipments, if any, purchased and installed by a dealer on or before the date of first commercial production in such sick industrial unit.

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(Chapter VI.—Incentives to industrial units—tax holiday, deferment of payment of tax and remission of tax.—Section 44.—Chapter VII.—Assessment of tax, imposition of penalty, payment, collection and recovery of tax, interest and penalty and refund of tax, interest and penalty.—Section 45.)

44. Notwithstanding anything contained in section 40, section 41, section 42 or section 43 or the rules made thereunder, the State Government may, if it considers necessary or expedient so to do, by notification relax the provisions of section 40, section 41, section 42 or section 43 or the rules made thereunder in such manner, to such extent, and on such terms and conditions, as it deems fit in the public interest.

Power of the State Government to relax certain provisions of the Act.

CHAPTER VII

Assessment of tax, imposition of penalty, payment, collection and recovery of tax, interest and penalty and refund of tax, interest and penalty

45. If no returns are furnished by a registered dealer in respect of any period by the prescribed date, or if the Commissioner is not satisfied that the returns furnished are correct and complete, the Commissioner shall proceed in such manner as may be prescribed to assess to the best of his judgement the amount of tax due from the dealer and, in making such assessment, shall give the dealer a reasonable opportunity of being heard; and in the case of failure by a registered dealer to furnish in respect of any period a return accompanied by a receipt from a Government Treasury or the Reserve Bank of India, as required under sub-section (4) of section 30, by the prescribed date, the Commissioner may, if he is satisfied that the default was made without reasonable cause, direct that the dealer shall pay by way of penalty, in addition to the amount of tax so assessed, a sum not exceeding one and a half times that amount:

Assessment of tax payable by registered dealers.

Provided that no penalty under this section shall be imposed in respect of the same fact for which a prosecution under clause (b) of sub-section (1) of section 88 has been instituted and no prosecution would lie vice versa:

Provided further that if interest is payable in terms of section 31 in respect of any period, penalty under this section for failure to furnish a return by the prescribed date for such period shall not exceed fifty *per centum* of the amount of tax so assessed.

(Chapter VII.—Assessment of tax, imposition of penalty, payment, collection and recovery of tax, interest and penalty and refund of tax, interest and penalty.—Sections 46-48.)

Assessment
of tax
payable by
dealers other
than
registered
dealers.

46. If upon information which has come into his possession, the Commissioner is satisfied that any dealer, who has been liable to pay tax under this Act in respect of any period but has failed to get himself registered or has not been registered, the Commissioner shall proceed in such manner as may be prescribed to assess to the best of his judgement the amount of tax due from the dealer in respect of such period and all subsequent periods and, in making such assessment, shall give the dealer a reasonable opportunity of being heard.

Payment of
assessed tax
and penalty.

47. The amount of tax—

- (a) due from a dealer where the returns are furnished without receipt showing full payment of tax, or
- (b) assessed under section 45 or section 46 for a period, less the sum, if any, already paid by a dealer in respect of the said period, together with any penalty that may be directed to be paid under section 45, if any,

shall be paid by such dealer into a Government Treasury or the Reserve Bank of India by such date as may be specified in a notice issued by the Commissioner in this behalf, and the date to be so specified shall be ordinarily not less than thirty days from the date of service of such notice.

Limitation
for
assessment.

48. (1) No assessment under section 45 shall be made after the expiry of two years, and no assessment under section 46 shall be made after the expiry of six years, from the end of the year in respect of which or part of which the assessment is made, where such two years or six years end on the 30th day of June or the 31st day of December.

(2) No assessment under section 45 shall be made—

- (a) after the 30th day of June next following the expiry of two years from the end of the year in respect of which or part of which the assessment is made, where such two years end on any date during the period commencing on the 1st day of January and ending on the 29th day of June; and
- (b) after the 31st day of December next following the expiry of two years from the end of the year in respect of which or part of which the assessment is made, where such two years end on any date during the period commencing on the 1st day of July and ending on the 30th day of December.

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(Chapter VII.—Assessment of tax, imposition of penalty, payment, collection and recovery of tax, interest and penalty and refund of tax, interest and penalty.—Section 49.)

(3) No assessment under section 46 shall be made—

- (a) after the 30th day of June next following the expiry of six years from the end of the year in respect of which or part of which the assessment is made, where such six years end on any date during the period commencing on the 1st day of January and ending on the 29th day of June; and
- (b) after the 31st day of December next following the expiry of six years from the end of the year in respect of which or part of which the assessment is made, where such six years end on any date during the period commencing on the 1st day of July and ending on the 30th day of December.

Explanation.—In this section, the months of January, June, July and December shall be reckoned according to the British calendar.

(4) Notwithstanding anything contained in sub-section (1), sub-section (2), or sub-section (3), when a fresh assessment is required to be made in pursuance of an order under section 79, section 80, section 81, or section 82, or in pursuance of any order of the Tribunal or any court, such fresh assessment may be made at any time within two years from the date of such order.

(5) In computing the time limited by sub-section (1), sub-section (2), sub-section (3) or sub-section (4) for making any assessment under section 45 or section 46, the period during which the Commissioner is restrained from commencing or continuing any proceedings for such assessment by an order of the Tribunal or any court shall be excluded.

49. (1) Where the Commissioner is satisfied that a dealer is liable to pay interest under section 31 or section 32, he shall, in such manner as may be prescribed, determine the amount of interest payable by such dealer. If on such determination, any additional amount of interest is found to be payable by the dealer or any excess amount of interest is found to be refundable to the dealer, the Commissioner shall issue a notice, in the prescribed manner, to such dealer directing him to pay such additional amount or informing him of the excess amount paid, as the case may be.

Determina-
tion of
interest.

(2) No determination of interest under sub-section (1) in respect of interest payable under section 31 shall be made after the date of assessment under section 45 in respect of the period for which interest is determined.

(Chapter VII.—Assessment of tax, imposition of penalty, payment, collection and recovery of tax, interest and penalty and refund of tax, interest and penalty.—Sections 50-52.)

Rectification of mistake in determination of interest.

50. (1) Where there is an apparent mistake in the determination of interest under sub-section (1) of section 49, the Commissioner may, on his own motion or upon application made by a dealer within six months from the date of such determination of interest, rectify the amount of interest payable by such dealer or refundable to such dealer and issue a fresh notice for payment of interest in the manner prescribed under that section.

(2) Where on rectification of the amount of interest under sub-section (1), any excess amount is found refundable to a dealer, the Commissioner shall, in the manner referred to in section 60, refund such excess amount of interest to such dealer.

Certain transfers of immovable property by a dealer to be void.

51. (1) Where during the period commencing on the date of service of a notice of demand under section 47, sub-section (1) of section 49 or sub-section (1) of section 50 and ending on the date of service of notice by the authority competent to issue such notice under clause (a) or clause (b) of sub-section (1) of section 52, as the case may be, any dealer without having made full payment of tax, interest or penalty specified in such notice of demand as aforesaid, creates a charge on, or transfers or delivers possession (by way of sale, mortgage, gift, exchange or any other mode of transfer of right, title or interest) of, any of his immovable properties in favour of other person, such charge, transfer or delivery of possession shall be void as against any claim in respect of the amount of tax, interest or penalty due from such dealer:

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

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

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

Recovery of tax, penalty, interest, appointment of Tax Recovery Officer, etc.

52. (1) Any amount of tax, penalty or interest due under this Act from a dealer, casual trader, transporter, owner or lessee of warehouse, person or owner of goods which remains unpaid after the date specified in a notice of demand issued in this behalf under this Act or the rules made thereunder, directing payment of such amount of tax, penalty or interest, shall be recoverable—

- (a) as an arrear of land revenue as if it were payable to the Collector, or

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(Chapter VII.—Assessment of tax, imposition of penalty, payment, collection and recovery of tax, interest and penalty and refund of tax, interest and penalty.—Section 52.)

- (b) by the Tax Recovery Officer in accordance with provisions of sub-section (2) of this section, section 53, section 54, section 55 or section 56 and the rules regulating the procedure for recovery of tax, penalty and interest as laid down in Schedule VI (hereinafter referred to as the rules in Schedule VI), where the State Government directs by general or special order so to do in respect of such class or classes of dealers having their places of business on such area or areas as may be specified in such order.

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

- (a) attachment and sale of the movable property of the certificate-debtor;
- (b) attachment and sale of the immovable property of the certificate-debtor;
- (c) arrest of the certificate-debtor and his detention in prison;
- (d) appointing a receiver for the management of the movable and immovable properties of the certificate-debtor.

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

(4) For the purposes of this section, section 53, section 54, section 55 or section 56 and the rules in Schedule VI, the State Government may by notification appoint such number of Tax Recovery Officers as it may deem fit, and specify in the notification the area or areas over which they shall exercise jurisdiction.

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

(Chapter VII.—Assessment of tax, imposition of penalty, payment, collection and recovery of tax, interest and penalty and refund of tax, interest and penalty.—Section 52.)

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

- (a) any private transfer or delivery of any of his immovable property situated in the area in which the certificate is sent, or of any interest in any such property, shall be void against any claim enforceable in execution of the certificate; and
- (b) the amount due from time to time in respect of the certificate shall be a charge upon the immovable property of the certificate-debtor, wherever situated, to which every other charge created subsequently to the service of the said notice shall be postponed.

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

(8) The Tax Recovery Officer to whom the original certificate is sent shall, subject to the provisions of sub-section (1) of section 55, hear the petition, take evidence, if necessary, and determine whether the certificate-debtor is liable for the whole or any part of the amount for which certificate was signed.

(9) Where any proceedings for the recovery of any amount of tax, penalty or interest remaining unpaid have been commenced under this chapter and the amount of tax, penalty or interest is subsequently modified, enhanced or reduced in consequence of any assessment made, or order passed on appeal revision or review, under this Act, the Commissioner may, in such manner and within such period as may be prescribed, inform in this behalf the certificate-debtor and the Collector or the Tax Recovery Officer, as the case may be, by whom or under whose order the recovery is being made or to be made, and thereupon such proceedings may be continued as if the amount of tax, penalty or interest as so modified, enhanced or reduced has been substituted for the amount of tax, penalty or interest which was to be recovered under sub-section (1).

(10) Where a Tax Recovery Officer causes to be served upon a certificate-debtor a notice in the prescribed manner and in the prescribed form under sub-section (5) and such certificate-debtor fails to pay the

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(Chapter VII.—Assessment of tax, imposition of penalty, payment, collection and recovery of tax, interest and penalty and refund of tax, interest and penalty.—Sections 53, 54.)

amount specified in such notice within fifteen days from the date of service of such notice, the certificate-debtor shall pay a simple interest at the rate of two *per centum* for each British calendar month of default from the date immediately following the end of the period of time specified in such notice up to the date preceding the date of full payment of the amount specified in such notice upon so much of the amount as remains unpaid.

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

53. (1) The Commissioner may forward the certificate referred to in sub-section (2) of section 52 in respect of a certificate-debtor to—

Tax
Recovery
Officer to
whom
certificates
to be
forwarded.

(a) the Tax Recovery Officer within whose jurisdiction such certificate-debtor carries or carried on his business or within whose jurisdiction the principal place of business is situated or within whose jurisdiction the goods are seized under section 70; or

(b) the Tax Recovery Officer within whose jurisdiction such certificate-debtor resides or any movable or immovable property of such certificate-debtor is available or situated.

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

(a) is not able to recover the entire amount by the sale of the property, movable or immovable, within his jurisdiction, or

(b) is of the opinion that for the purpose of expediting or securing the recovery of the whole or any part of the amount under this section, it is necessary so to do,

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

54. (1) Notwithstanding that a certificate has been forwarded to a Tax Recovery Officer, the Commissioner shall have the power to withdraw or cancel such certificate or to correct any clerical or arithmetical mistake in such certificate.

Amendment
of certificates
for tax
recovery.

(Chapter VII.—Assessment of tax, imposition of penalty, payment, collection and recovery of tax, interest and penalty and refund of tax, interest and penalty.—Sections 55-57.)

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

Validity of
certificates
for tax
recovery.

55. (1) When the Commissioner forwards a certificate to a Tax Recovery Officer under section 52, it shall not be open to the certificate-debtor to dispute before the Tax Recovery Officer the propriety or correctness of the assessment of tax, imposition of penalty or determination of interest, under this Act and no objection to such certificate on any such ground shall be entertained by the Tax Recovery Officer.

(2) It is hereby declared that where any amount of tax, penalty or interest is recoverable in accordance with the provisions of clause (a) of sub-section (1) of section 52, the provisions of section 9 and section 10 of the Bengal Public Demands Recovery Act, 1913, shall not apply to any proceedings for the recovery of such amount of tax, penalty or interest.

Ben. Act III
of 1913.

Transmission
of certificates
for tax
recovery to
Collector in
certain cases.

56. Notwithstanding anything contained in section 52, where any amount of tax, penalty or interest due from a certificate-debtor cannot be recovered by the Tax Recovery Officer by any one of the modes referred to in that section and where the Tax Recovery Officer has information that such certificate-debtor owns any property outside West Bengal, the amount of such tax, penalty or interest remaining unpaid shall be deemed to be an arrear of land revenue as if it were payable to the Collector, and the Tax Recovery Officer shall apply to the Collector of the district in West Bengal in which such certificate-debtor carries on his business, has his principal place of business or his goods have been seized, as the case may be, for the recovery of the said amount in accordance with the provisions of the Revenue Recovery Act, 1890.

1 of 1890.

Special mode
of recovery
of tax,
penalty and
interest by
Commissioner.

57. (1) Notwithstanding the forwarding of a certificate under section 52 for recovery of any amount of tax, penalty or interest, the Commissioner may, at any time or from time to time, by notice in the prescribed form, require any person from whom money is due or may become due to a dealer or any person who holds or may subsequently hold money for, or on account of, such dealer, to deposit into a Government Treasury or the Reserve Bank of India under the appropriate head of account, either forthwith upon the money becoming due or being held or at or within the time specified in the notice (not being before the money becomes due or is held), so much of the money as is sufficient to pay the amount due from such dealer in respect of the arrears of such tax, penalty or interest or the whole of the money when such money is equal to or less than that amount.

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(Chapter VII.—Assessment of tax, imposition of penalty, payment, collection and recovery of tax, interest and penalty and refund of tax, interest and penalty:—Section 57.)

(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 purposes of this section, the shares of the joint-holders in such account shall be presumed, until the contrary is proved, to be equal.

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

(4) Save as otherwise provided in this section, every person to whom a notice is issued under this section shall be bound to comply with such notice, and, in particular, where any such notice is issued to a post office, banking company or insurer, it shall not be necessary for any pass book, deposit receipt, policy or any other document to be produced for the purpose of any entry, endorsement or the like being made before payment is made, notwithstanding any rule, practice or requirement to the contrary.

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

(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 or that the money demanded or any part thereof is not likely to be due to the dealer or be held for, or on account of, the dealer, then, nothing contained in this section shall be deemed to require such person to deposit any such sum or part thereof, as the case may be.

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

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

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

(Chapter VII.—Assessment of tax, imposition of penalty, payment, collection and recovery of tax, interest and penalty and refund of tax, interest and penalty.—Sections 58, 59.)

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

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

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

5 of 1908.

Explanation.—For the purposes of this section, “dealer” shall include a casual trader, transporter, owner or lessee of warehouse, person or owner of goods for whom or on whose account money is demanded for payment of tax, penalty or interest under this section.

Assessment without prejudice to prosecution for any offence.

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

Assessment after partition of Hindu undivided family or dissolution of firm and tax payable by a deceased dealer.

59. (1) Where a dealer is a Hindu undivided family, firm or other association of persons, and such family, firm or association is partitioned, disrupted or dissolved, as the case may be,—

- (a) the tax, penalty or interest payable under this Act by such family, firm or association of persons for the period up to the date of such partition, disruption shall be assessed, imposed or determined as if no such partition, disruption or dissolution had taken place and all the provisions of this Act shall apply accordingly, and
- (b) every person who was, at the time of such partition, disruption or dissolution, a member of the Hindu undivided family, partner of a firm or member of an association of persons, and the legal representative of any such person, who is deceased, shall, notwithstanding such partition,

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(Chapter VII.—Assessment of tax, imposition of penalty, payment, collection and recovery of tax, interest and penalty and refund of tax, interest and penalty.—Sections 60, 61.)

disruption or dissolution, be jointly and severally liable for the payment of the tax, penalty or interest payable under this Act by such family, firm or association of persons for the period up to the date of such partition, disruption or dissolution, whether assessment of such tax, imposition of such penalty or determination of such interest is made prior to or after, such partition, disruption or dissolution.

(2) Where a dealer carrying on a business as the sole proprietor dies and the business is partitioned, disrupted or discontinued upon his death, the executor or administrator of, or the legal heir to, the estate of such deceased dealer shall pay tax, penalty or interest payable by, or due from, such deceased dealer out of such estate; and such executor, administrator or legal heir shall, notwithstanding the provisions of clause (10) of section 2, be deemed to be a dealer under this Act for the purposes of assessment of tax, determination of interest and payment, recovery and refund of tax or interest, and all the provisions of this Act relating to appeal, revision or review in respect of the tax assessed or interest determined, shall apply accordingly.

60. (1) The Commissioner shall, in the prescribed manner, refund to a dealer any amount of tax, penalty or interest paid by such dealer in excess of the amount due from him under this Act, either by cash payment or by deduction or adjustment of such excess from the amount of tax, penalty or interest due in respect of other period.

Refunds.

(2) Nothing in sub-section (1) shall be deemed to empower the Commissioner to amend, vary or rescind any assessment, or to amend, vary or rescind any order passed on appeal, revision or review under section 79, section 80, section 81, section 82 or section 83, or to confer on a dealer any relief in addition to what he is entitled under the provisions of this Act.

61. (1) Where a tax has been levied under this Act in respect of the sale or purchase of any goods referred to in section 14 of the Central Sales Tax Act, 1956, and such goods are subsequently sold in the course of inter-State trade or commerce, and tax has been paid under that Act in respect of sale of such goods in the course of inter-State trade or commerce, the tax levied or paid under this Act shall be reimbursed to the dealer making such sale in the course of inter-State trade or commerce in the manner and subject to the conditions hereinafter provided.

Reimbursement of tax levied under the Act in respect of sales or inter-State sales of declared goods.

(Chapter VIII.—Maintenance, production and inspection of accounts; search and seizure of accounts; measures to regulate transport of goods; checkposts; seizure of goods; imposition of penalty; disposal of seized goods, etc.—Section 62.)

(2) The dealer making the sale of such goods in the course of inter-State trade or commerce referred to in sub-section (1) shall, in the prescribed manner, make an application to the Commissioner for reimbursement of the tax levied under this Act on sale to, or purchase by, him of such goods within one year from the date of such inter-State sale.

(3) On receipt of an application from a dealer under sub-section (2), the Commissioner shall, after giving such dealer an opportunity of being heard and after recording reasons for so doing, make an order either granting or rejecting the application wholly or in part.

(4) When an application for reimbursement of tax is granted under sub-section (3) the amount of tax levied under this Act shall be reimbursed to the dealer in the manner referred to in section 60 as if it were a tax refundable under this Act to the dealer.

CHAPTER VIII

Maintenance, production and inspection of accounts; search and seizure of accounts; measures to regulate transport of goods; checkposts; seizure of goods; imposition of penalty; disposal of seized goods, etc.

Maintenance
of accounts,
records, etc.

62. (1) Every registered dealer or a dealer on whom a notice has been served to furnish return under sub-section (3) of section 30 shall maintain and keep a true and up to date account of the value of goods purchased or manufactured or sold by him or goods held by him in stock, and, in addition to the books of accounts that a dealer maintains or keeps for the purposes referred to in this sub-section, he shall maintain and keep such registers or accounts in such form as may be prescribed.

(2) Every registered dealer and every dealer referred to in sub-section (1) shall keep at his place of business all accounts, registers and documents which may be required by the Commissioner or an Additional Commissioner or any person appointed under sub-section (1) of section 3 to assist the Commissioner for the purpose of inspection under sub-section (2) of section 65, and shall not keep or remove elsewhere such accounts, registers and documents except in accordance with the requirement of law or except for any purpose for which just cause is shown to the satisfaction of the Commissioner or the Additional Commissioner or the person appointed under sub-section (1) of section 3 to assist the Commissioner.

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(Chapter VIII.—Maintenance, production and inspection of accounts; search and seizure of accounts; measures to regulate transport of goods; checkposts; seizure of goods; imposition of penalty; disposal of seized goods, etc.—Sections 63, 64.)

63. If—

- (a) a registered dealer, or
- (b) a dealer, not being a registered dealer, whose turnover of sales has exceeded in any year fifty *per centum* of the taxable quantum referred to in sub-section (3) of section 9,

Compulsory
issue of cash
memo or
bill.

sells any goods exceeding fifty rupees in value in any one transaction to any person, he shall issue to the purchaser a cash memorandum or bill serially numbered, signed and dated by him or his regular employee, showing such particulars as may be prescribed, and he shall also keep a counterfoil or duplicate of such cash memorandum or bill, duly signed and dated:

Provided that if the State Government is of the opinion that the requirement under this section shall cause hardship to a certain class or classes of dealers included in clause (b), and that such requirement should, subject to fulfilment by any class or classes of dealers of certain conditions and restrictions to be imposed to ensure that there is no evasion of tax, be dispensed with, it may prescribe by rules such class or classes of dealers, and such conditions and restrictions subject to which the requirement of this section in respect of such class or classes of dealers shall be dispensed with.

64. (1) If a registered dealer or a dealer contravenes the provisions of section 63, the Commissioner may, after giving such dealer a reasonable opportunity of being heard, by an order in writing, direct that he shall pay, in the prescribed manner, by way of penalty, a sum equal to double the amount of tax which could have been levied under this Act in respect of the sales referred to in that section where no cash memorandum or bill has been issued, or five thousand rupees, whichever is greater:

Imposition
of penalty
for failure
to issue cash
memo or
bill.

Provided that if such registered dealer or dealer proves to the satisfaction of the Commissioner that he deals exclusively in goods specified in Schedule I, sales of which are declared tax-free under section 24, or that it is not practicable for such registered dealer or dealer to issue cash memorandum or bill against each transaction in view of the circumstances and nature of his business, the Commissioner may exempt such registered dealer or dealer from payment of penalty or impose such lesser amount of penalty as he deems fit and proper.

(2) Any penalty imposed under sub-section (1) shall be paid by the registered dealer or dealer into a Government Treasury or the Reserve Bank of India by such date as may be specified in a notice to be issued by the Commissioner in this behalf, and the date to be so specified shall not be less than fifteen days from the date of service of such notice.

(Chapter VIII.—Maintenance, production and inspection of accounts; search and seizure of accounts; measures to regulate transport of goods; checkposts; seizure of goods; imposition of penalty; disposal of seized goods, etc.—Sections 65, 66.)

(3) Any amount of penalty that remains unpaid after the date specified in the notice referred to in sub-section (2) shall be recoverable in accordance with the provisions of section 52.

Production and inspection of accounts, registers and documents.

65. (1) The Commissioner or an Additional Commissioner may, subject to such conditions as may be prescribed, require any person or dealer—

- (a) to produce before him any accounts, registers or documents, or
- (b) to furnish any information relating to—
 - (i) stock of goods held by such person or dealer,
 - (ii) purchases, sales or deliveries of goods made by such person or dealer, or
 - (iii) any other matter, and
- (c) to explain to the Commissioner or the Additional Commissioner any accounts, registers or documents produced by such person or dealer,

as may be deemed necessary for the purposes of this Act.

(2) All accounts, registers and documents relating to the stock of goods held, or purchases, sales or deliveries of goods, by any dealer; and all goods kept in any place of business of any dealer shall, at all reasonable time, be open to inspection by the Commissioner or Additional Commissioner.

Seizure of dealer's accounts.

66. If the Commissioner, an Additional Commissioner or any person appointed under sub-section (1) of section 3 to assist the Commissioner, has reason to suspect that any dealer is attempting to evade payment of any tax, 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 such accounts, registers or documents seized by him and shall retain all or any of them only for such period as may be necessary for examination thereof or for prosecution or for any other purpose of this Act:

Provided that—

- (a) the Commissioner or an Additional Commissioner shall not retain any of the accounts, registers or documents seized by him under this section for a period exceeding one year from the date of the seizure unless he records in writing the reasons therefor, and
- (b) any person appointed under sub-section (1) of section 3 to assist the Commissioner shall not retain any of the accounts, registers or documents seized by him under this section for a period exceeding one year from the date of the seizure unless he states the reason in writing therefor and obtains sanction of the Commissioner in writing in respect thereof.

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(Chapter VIII.—Maintenance, production and inspection of accounts; search and seizure of accounts; measures to regulate transport of goods; checkpoints; seizure of goods; imposition of penalty; disposal of seized goods, etc.—Sections 67, 68.)

67. (1) For the purposes of section 65 or section 66, the Commissioner, an Additional Commissioner, or any person appointed under sub-section (1) of section 3 to assist the Commissioner, may enter and search—

Entry and search of place of business or any other place.

(a) any place of business of any dealer, person, transporter or owner or lessee of warehouse, or

(b) any other place,

where the Commissioner, the Additional Commissioner or the person appointed under sub-section (1) of section 3 to assist the Commissioner, has, upon information received, reason to believe that such dealer, person, transporter or owner or lessee of warehouse, keeps or is, for the time being, keeping any accounts, registers, documents or records of his business or any stock of goods for sale.

(2) The Commissioner, the Additional Commissioner, or any person appointed under sub-section (1) of section 3 to assist the Commissioner, may, while entering or searching any place of business of a dealer, person, transporter or owner or lessee of warehouse or any other place referred to in sub-section (1), break open any door or window of a house, room or warehouse where, or any almirah, safe, box or receptacle in which, the Commissioner, the Additional Commissioner, or the person appointed under sub-section (1) of section 3 to assist the Commissioner, has reason to believe, such dealer, person, transporter or owner or lessee of warehouse keeps or is, for the time being, keeping any accounts, registers, documents or records of his business or any stock of goods for sale either before or after entering or searching or during search of any place of business of any dealer or any other place referred to in sub-section (1) and then, if necessary, break open any door or window of such house, room, or warehouse or any almirah, safe, box or receptacle.

(3) The Commissioner, an Additional Commissioner, or any person appointed under sub-section (1) of section 3 to assist the Commissioner, may, subject to such conditions and restrictions as may be prescribed, seal any house, room, warehouse, almirah, safe, box or receptacle in which, he has reason to believe, a dealer, person, transporter or owner or lessee of warehouse, keeps or is, for the time being, keeping any accounts, registers, documents or records of his business or any stock of goods for sale.

68. (1) No person shall transport from any railway station, steamer station, airport, port, post office or any other place, to be notified in this behalf by the State Government, any consignment of goods specified in Part A of Schedule IV, or notified goods, exceeding such quantity or value, and except in accordance with such restrictions and conditions to ensure that there is no evasion of tax, as may be prescribed.

Restriction on movement of goods specified in Part A of Schedule IV and notified goods.

(Chapter VIII.—Maintenance, production and inspection of accounts; search and seizure of accounts; measures to regulate transport of goods; checkpoints; seizure of goods; imposition of penalty; disposal of seized goods, etc.—Section 69.)

(2) To ensure that there is no evasion of tax, transport of goods specified in Part A of Schedule IV, or notified goods, from any place, other than those referred to in sub-section (1), shall, subject to such restrictions and conditions as may be prescribed, be regulated in such manner as may be prescribed.

(3) Subject to the restrictions and conditions prescribed under sub-section (1) or sub-section (2), any consignment of goods specified in Part A of Schedule IV, or notified goods, may be transported by any person after he furnishes in the prescribed manner such particulars in such form obtainable from such authority or in such other form as may be prescribed.

(4) Subject to such restrictions and conditions as may be prescribed, nothing in sub-section (1) shall apply to—

- (a) duly accredited diplomatic personnel attached to foreign consulates or other diplomatic offices,
- (b) organisations and specialised agencies of the United Nations,
- (c) *Khadi* and Village Industries Commission,
- (d) Embarkation Headquarters, Shipping Section, Customs Group, Ministry of Defence, Government of India, Calcutta, or
- (e) such other persons, organisations or institutions as may be prescribed.

Interception,
detention
and search
of road
vehicles and
search of
warehouse
etc.

69. For the purpose of verifying whether goods specified in Part A of Schedule IV, or notified goods, are being or have been transported in contravention of the provisions of section 68, the Commissioner, an Additional Commissioner, or any person appointed under sub-section (1) of section 3 to assist the Commissioner, may, subject to such restrictions as may be prescribed,—

- (a) intercept, detain and search at any place notified under sub-section (1) of section 68, or at any other place referred to in sub-section (2) of that section, a road vehicle or river craft or any load carried by a person, or
- (b) search at any warehouse or at any other place in which, according to his information, such goods so transported in contravention of the provisions of sub-section (1) of section 68 have been stored.

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(Chapter VIII.—Maintenance, production and inspection of accounts; search and seizure of accounts; measures to regulate transport of goods; checkpoints; seizure of goods; imposition of penalty; disposal of seized goods, etc.—Sections 70, 71.)

70. (1) Where, upon interception or search referred to in clause (a) of section 69, the Commissioner, an Additional Commissioner, or any person appointed under sub-section (1) of section 3 to assist the Commissioner, has reason to believe that any goods specified in Part A of Schedule IV or any notified goods are being transported in contravention of the provisions of sub-section (1) of section 68, he shall first detain the vehicle carrying such goods for a period not exceeding twenty-four hours and if the person bringing, importing or receiving such goods fails to furnish such particulars in such form as may be prescribed under sub-section (2) of section 68, shall thereafter seize such goods together with any container or other materials for the packing of such goods.

Seizure of goods specified in Part A of Schedule IV and notified goods.

(2) Where, upon search of any warehouse or any other place referred to in clause (b) of section 69, the Commissioner, the Additional Commissioner, or the person appointed under sub-section (1) of section 3 to assist the Commissioner, has reason to believe that any goods specified in Part A of Schedule IV or any notified goods, transported in contravention of the provisions of sub-section (1) of section 68, have been stored in such warehouse or other place, he shall seize goods together with container or any other materials for the packing of such goods or, in case such goods are not seized, he may seal such warehouse.

71. (1) If any goods specified in Part A of Schedule IV or any notified goods are seized under section 70, the Commissioner or the Additional Commissioner may, by an order in writing, impose upon the person from whom such goods are seized or the owner of such goods, where particulars of the owner of such goods are available, or where there is no claimant for such goods at the time of such seizure, any person who subsequently establishes his claim of ownership or possession of such goods, after giving such person or owner, as the case may be, a reasonable opportunity of being heard, a penalty of a sum not exceeding twenty-five *per centum* of the value of such goods as may be determined by him in accordance with the rules made under this Act.

Penalty for transporting goods into West Bengal in contravention of section 68.

(2) A penalty imposed under sub-section (1) shall be paid by the person or the owner of goods, as the case may be, into a Government Treasury or the Reserve Bank of India by such date as may be specified by the Commissioner or the Additional Commissioner in a notice to be issued for this purpose, and the date so specified shall not be earlier than fifteen days from the date of the notice:

(Chapter VIII.—Maintenance, production and inspection of accounts; search and seizure of accounts; measures to regulate transport of goods; checkposts; seizure of goods; imposition of penalty; disposal of seized goods, etc.—Section 71.)

Provided that the Commissioner or the Additional Commissioner may, for reasons to be recorded in writing, extend the date of payment of the penalty for such period as he may think fit.

(3) The goods specified in Part A of Schedule IV, or the notified goods, seized under section 70 shall be released in the prescribed manner on payment of the penalty imposed under sub-section (1).

(4) If the penalty is not paid by the date specified in the notice issued under sub-section (2), the Commissioner or the Additional Commissioner may, in such manner and subject to such restrictions and conditions as may be prescribed, sell the goods so seized under section 70 in open auction and remit the sale proceeds thereof to a Government Treasury.

(5) Notwithstanding anything contained in sub-section (3),—

- (a) the person to whom the Commissioner has, under sub-section (4) of section 3, delegated his power for revision under section 81, pending disposal of an application for revision against an order for imposition of penalty referred to in sub-section (1), or
- (b) the Commissioner, where there is no application for revision under section 81,

may, for reasons to be recorded in writing, direct release of the goods seized under section 70 on such terms and conditions as he may deem fit.

(6) Notwithstanding anything contained in sub-section (4), the Commissioner may, subject to such rules as may be made under this Act, where the goods seized under section 70 are—

- (a) of perishable nature, or
- (b) required to be used by a specified date,

sell such goods in open auction after the expiry of such period as he may consider fit and proper, if he is of opinion that such goods may become unusable or unsaleable on detention, or destroy such goods if the said goods become unusable before the sale in open auction actually takes place.

(7) The proceeds of sale of the goods referred to in sub-section (4) or sub-section (6) shall be applied in the prescribed manner for payment in the following order of priority:—

- (a) first, for incidental charges, if any, relating to auction sale of such goods;
- (b) secondly, for expenses, if any, for storage of such goods;
- (c) thirdly, for penalty imposed under sub-section (1); and

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(Chapter VIII.—Maintenance, production and inspection of accounts; search and seizure of accounts; measures to regulate transport of goods; checkposts; seizure of goods; imposition of penalty; disposal of seized goods, etc.—Section 72.)

the balance of the proceeds of sale, if any, shall be paid to the owner of the goods or, if his particulars are not available, to the person from whom such goods were seized under section 70, upon application within one year from the date of sale or within such further period as may be allowed by the Commissioner for cause shown to his satisfaction.

(8) Any amount of penalty imposed under sub-section (1), which remains unpaid after the date specified in the notice issued under sub-section (2) or which cannot be recovered in accordance with the provisions of sub-section (4), sub-section (6) or sub-section (7), shall be recoverable in accordance with the provisions of section 52.

72. (1) When a goods vehicle, transporting any goods specified in Part A of Schedule IV, or notified goods, exceeding such quantum or value as the State Government may, by notification, specify, enters into West Bengal from any place outside West Bengal, and such vehicle transporting such goods is bound for any place outside West Bengal, the transporter of such goods shall, in the prescribed manner, declare in such form as may be prescribed that the goods being so transported in his vehicle shall not be unloaded, delivered or sold in West Bengal:

Regulatory measures for transport of goods through West Bengal.

Provided that the provisions of this sub-section shall not apply where the transporter of such goods proves to the satisfaction of the Commissioner, or the other authority referred to in sub-section (2), that the transport of such goods in such vehicle is in the course of export within the meaning of sub-section (1) of section 5 of the Central Sales Tax Act, 1956, to such country as the State Government may, by notification, specify.

74 of 1956.

(2) For the purpose of sub-section (1), a declaration in triplicate together with such documents as may be prescribed shall be produced before the Commissioner at the first checkpost that the transporter reaches after entry of the vehicle into West Bengal or, where such vehicle is intercepted before it reaches the first checkpost, before such other authority as may be prescribed, at the place where the vehicle is intercepted.

(3) A declaration produced in accordance with the provisions of sub-section (2) shall, in the manner prescribed, be countersigned by the Commissioner or the other authority referred to in sub-section (2), as the case may be, and the copies of such declaration marked 'original' and 'duplicate' and documents duly countersigned shall be returned to the transporter and the copy marked 'triplicate' shall be retained by the Commissioner or the other authority as aforesaid for record.

(Chapter VIII.—Maintenance, production and inspection of accounts; search and seizure of accounts; measures to regulate transport of goods; checkposts; seizure of goods; imposition of penalty; disposal of seized goods, etc.—Section 72.)

(4) The transporter shall carry with him the copies of the declaration marked 'original' and 'duplicate' referred to in sub-section (3) while transporting the goods specified in Part A of Schedule IV or notified goods through the routes as may be specified in the declaration and produce such declaration before the Commissioner at the last checkpost that he reaches before the exit of the vehicle with such goods from West Bengal, and the Commissioner shall, in the prescribed manner, endorse such declaration evidencing exit from West Bengal of the vehicle transporting the same goods as specified in the said declaration and return to the transporter the copy thereof marked 'duplicate' and retain the copy marked 'original' for record.

(5) For the purpose of verifying whether any goods specified in Part A of Schedule IV or any notified goods are being transported in contravention of the provisions of this section, the Commissioner or such other authority as may be prescribed, may, subject to such restrictions and conditions as may be prescribed, intercept any goods vehicle at any place within West Bengal and search such vehicle.

(6) Where after the search of the vehicle made under sub-section (5), the Commissioner or the other authority referred to in sub-section (5) is satisfied, for reasons to be recorded in writing, that the transporter has contravened the provisions of this section, he may, after giving the transporter a reasonable opportunity of being heard, impose, by an order to be passed in the prescribed manner, such penalty, not exceeding twenty-five *per centum* of the value of the goods so transported, as may be determined by him in accordance with the rules made under this Act.

(7) Any penalty imposed under sub-section (6) shall be paid by the transporter into a Government Treasury or the Reserve Bank of India by such date as may be specified by the Commissioner or the other authority referred to in sub-section (5) in a notice to be issued for this purpose, and the date so specified shall not be earlier than fifteen days from the date of service of the notice:

Provided that the Commissioner or the other authority referred to in sub-section (5) may, for reasons to be recorded in writing, extend the date of such payment.

(8) Until the penalty imposed under sub-section (6) is paid and a receipt showing payment of such penalty is furnished and the declaration referred to in sub-section (2) is produced, the goods specified in Part A of Schedule IV or notified goods so transported shall be detained by the Commissioner or the other authority who imposes such penalty.

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(Chapter VIII.—Maintenance, production and inspection of accounts; search and seizure of accounts; measures to regulate transport of goods; checkposts; seizure of goods; imposition of penalty; disposal of seized goods, etc.—Section 72.)

(9) If the penalty is paid by the date specified in the notice referred to in sub-section (7) and transporter furnishes the declaration in accordance with the provisions of this section, the Commissioner or the other authority who imposes the penalty shall countersign the declaration and the documents in accordance with the provisions of this section and allow the vehicle to resume, its journey.

(10) If the penalty is not paid by the date specified in the notice referred to in sub-section (7), the goods specified in Part A of Schedule IV or notified goods shall be seized by the Commissioner or the other authority under whose order such goods are detained.

(11) Notwithstanding anything contained in sub-section (8) and sub-section (10), the Commissioner, pending final disposal of an application for revision under section 81 against an order of imposition of penalty under this section, may direct transport of the goods specified in Part A of Schedule IV or notified goods through West Bengal on such terms and conditions as he may consider fit and proper.

(12) Subject to such restrictions and conditions as may be prescribed, the Commissioner may sell the goods specified in Part A of Schedule IV or notified goods seized under sub-section (10) in open auction or otherwise, and remit the proceeds of sale thereof to a Government Treasury.

(13) The proceeds of sale of the goods specified in Part A of Schedule IV or notified goods referred to in sub-section (12) shall be applied in the prescribed manner for payment in the following order of priority:—

- (a) first, the incidental charges, if any, relating to sale in auction or otherwise;
- (b) secondly, the expenses, if any, for storage of such goods seized under sub-section (10);
- (c) thirdly, the penalty imposed under sub-section (6);

and the balance of such proceeds of sale, if any, shall be paid in the prescribed manner to the owner of such goods seized under sub-section (10).

(14) Subject to the provisions of sub-section (10) and sub-section (12), if the transporter fails to produce the declaration countersigned under sub-section (3) or sub-section (9) before the Commissioner as required under sub-section (4) within such time as may be specified in the declaration, it shall be presumed that the goods specified in Part A of Schedule IV or notified goods so transported have been sold in West Bengal by the transporter, and he shall be deemed to be a dealer under this Act.

(Chapter VIII.—Maintenance, production and inspection of accounts; search and seizure of accounts; measures to regulate transport of goods; checkposts; seizure of goods; imposition of penalty; disposal of seized goods, etc.—Section 73.)

(15) The provisions of this Act shall, for the purposes of levy, collection and assessment of tax, determination of interest, payment and recovery of tax and interest, appeal, review or revision, apply to the transporter deemed to be a dealer under sub-section (14).

(16) If the State Government is, at any time, of the opinion that it would be in the public interest so to do, it may, by notification, exempt from such date, for such period, and subject to such terms and conditions, as may be specified therein, any class or classes of goods specified in Part A of Schedule IV or notified goods from the operation of the provisions of this section.

Explanation.—For the purposes of this section and section 73,—

- (a) “transporter” means the owner, or any person having possession or control, of a goods vehicle who transports on account of any other person, for hire or on his own account any goods from one place to another, and includes any person whose name is entered in the permit granted under the Motor Vehicles Act, 1988, as the holder thereof, the driver or any other person in charge of such vehicle; 59 of 1988.
- (b) “goods vehicle” means any motor vehicle as defined in the Motor Vehicles Act, 1988, constructed or adapted for use for transportation of goods or any motor vehicle not so constructed or adapted when used for the transportation of goods, and includes a trailer attached to such vehicle.

Measures to prevent evasion of tax on sales within West Bengal.

73. (1) Where a transporter carries from any place in West Bengal in a goods vehicle such goods as the State Government may, by notification, specify and such vehicle is bound for any place outside West Bengal, he shall, in addition to a document of title to the goods, carry with him, in respect of such goods.—

- (a) where carriage is caused by the sale of such goods, two copies of the bill or cash memorandum issued by the seller of such goods, and a declaration in the prescribed form containing such particulars as may be prescribed, or
- (b) where carriage is caused otherwise than by sale of such goods, two copies of the forwarding note, delivery challan or document of like nature by whatever name called, issued by the owner or consignor of such goods, and a declaration in the prescribed form containing such particulars as may be prescribed:

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(Chapter VIII.—Maintenance, production and inspection of accounts; search and seizure of accounts; measures to regulate transport of goods; checkposts; seizure of goods; imposition of penalty; disposal of seized goods, etc.—Section 74.)

74 of 1956.

Provided that the provisions of this sub-section shall not apply where the transporter carrying such goods, proves to the satisfaction of the Commissioner that consequent upon a sale of such goods in the course of export within the meaning of sub-section (1) of section 5 of the Central Sales Tax Act, 1956, his goods vehicle carrying such goods is bound for such country as the State Government may, by notification, specify.

(2) The transporter, while carrying the goods referred to in sub-section (1), shall stop the vehicle at the checkpost or at any place when so required by the Commissioner, and produce the documents referred to in sub-section (1) along with the document of title to such goods before the Commissioner, and the Commissioner shall countersign the documents referred to in clause (b) of sub-section (1) in the carriage of such goods is caused otherwise than by a sale.

(3) Where a transporter contravenes the provisions of sub-section (1) or sub-section (2), it shall be presumed that the movement of the goods as aforesaid has been caused otherwise than by a sale in the course of inter-State trade and commerce within the meaning of section 3, or in the course of import or export within the meaning of section 5, of the Central Sales Tax Act, 1956, or otherwise than by way of transfer of goods to agent, principal or branch of the owner or consignor of such goods within the meaning of section 6A of that Act and that the sale of such goods has been made in West Bengal and there has been an attempt to evade the tax payable thereon under this Act.

(4) Upon such presumption as aforesaid, the movement of the goods as aforesaid from West Bengal shall remain suspended till the requirement of the provisions of sub-section (2) are complied with.

(5) If the State Government is, at any time, of the opinion that it would be in the public interest so to do, it may, by notification, exempt from such date, for such period, and subject to such conditions, as may be specified therein, any class or classes of transporter carrying any class or classes of goods referred to in sub-section (1) from carrying the declaration referred to in that sub-section.

74. Nothing in section 72 or section 73 shall apply to transport of goods referred to in section 72 of section 73 where such goods are transported by or on behalf of—

- (a) the King of Nepal, the King of Bhutan, the Royal Family of Nepal or Bhutan or the Government of Nepal or Bhutan;
- (b) Government or a local authority;
- (c) a diplomatic or consular office, any organisation or specialised agency of the United Nations;

Exemption from operation of the provisions of section 72 and section 73.

(Chapter VIII.—Maintenance, production and inspection of accounts; search and seizure of accounts; measures to regulate transport of goods; checkposts; seizure of goods; imposition of penalty; disposal of seized goods, etc.—Sections 75, 76.)

(d) Indian Red Cross Society or a Charitable Institution for charitable purposes recognised by Government;

(e) an official on transfer as personal effects.

Setting up of
checkposts.

75. If the State Government is of the opinion that it is necessary so to do with a view to preventing evasion of tax in respect of sale or purchase of goods in West Bengal, it may, by notification, set up checkposts or barriers for carrying out the purposes of section 69, section 72 or section 73 at such places within West Bengal as may be specified in such notification.

Penalty for
concealment
of sales and
for
furnishing of
incorrect
particulars of
sales and
purchases.

76. (1) Where—

(a) a dealer has concealed any sales or any particulars thereof,
or

(b) a dealer, being a registered dealer or a dealer required by the Commissioner to furnish return under sub-section (3) of section 30, has furnished incorrect statement of his turnover of sales or purchases or incorrect particulars of such sales or purchases in the return furnished by him under sub-section (2) of that section or otherwise,

with intent to reduce the amount of tax payable by him, the Commissioner may, after giving such dealer a reasonable opportunity of being heard, by an order in writing direct that he shall, in addition to any tax levied or penalty imposed under this Act, pay, by way of penalty, a sum, not less than one and a half times but not exceeding thrice the amount of tax which would have been avoided by him if such concealed sales or purchases or particulars thereof or incorrect statement of his turnover of sales or purchases or incorrect particulars of such sales or purchases were not detected and taken into account or if turnover of sales or particulars of sales furnished in returns or shown in his books of account were accepted as correct, as the case may be, in making an assessment or passing any order upon appeal, revision or review under this Act.

Explanation.—In this sub-section, the expression “tax levied” shall include the amount of tax determined afresh by any order passed upon appeal, revision or review, or by any order of assessment consequent upon such appeal, revision or review, under this Act.

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(Chapter VIII.—Maintenance, production and inspection of accounts; search and seizure of accounts; measures to regulate transport of goods; checkpoints; seizure of goods; imposition of penalty; disposal of seized goods, etc.—Section 77.)

(2) Any penalty imposed under sub-section (1) shall be paid by the dealer into a Government Treasury or the Reserve Bank of India by such date as may be specified by the Commissioner in a notice issued for the purpose, and the date to be so specified shall not be less than fifteen days from the date of such notice:

Provided that the Commissioner may, for reasons to be recorded in writing, extend the date of such payment or allow the dealer to pay the penalty imposed in such number of instalment as the Commissioner may determine.

(3) Any amount of penalty that remains unpaid after the date specified in the notice referred to in sub-section (2) or, where such date has been extended under the proviso to that sub-section, after the expiry of the extended time, shall be recoverable in accordance with the provisions of section 52.

77. (1) If any registered dealer or undertaking, after purchasing any goods for any of the purposes referred to in clause (a), clause (b), clause (c), clause (d) and clause (e) of sub-section (2), or sub-clause (ii) of clause (a) of sub-section (3), of section 17, makes use of the same for any other purpose, the prescribed authority may, after giving such registered dealer or the owner of such undertaking a reasonable opportunity of being heard in the prescribed manner, by an order in writing, impose a penalty not exceeding double the amount of the tax which could have been levied under this Act in respect of the sale of such goods.

Imposition of penalty for unauthorised use of goods by any registered dealer or undertaking.

(2) If any penalty is imposed under sub-section (1), the prescribed authority shall issue a notice in the prescribed form directing the registered dealer or the owner of the undertaking to pay such penalty by such date as may be specified in the notice, and the date to be so specified shall not be less than fifteen days from the date of service of such notice:

Provided that the prescribed authority may, for reasons to be recorded in writing, extend the date of such payment.

(3) Any penalty imposed under sub-section (1) shall be paid by the registered dealer or the owner of the undertaking, as the case may be, into a Government Treasury or the Reserve Bank of India by the date specified in the notice referred to in sub-section (2).

(4) No penalty under sub-section (1) shall be imposed in respect of purchases on which tax is payable under section 13.

(Chapter VIII.—Maintenance, production and inspection of accounts; search and seizure of accounts; measures to regulate transport of goods; checkposts; seizure of goods; imposition of penalty; disposal of seized goods, etc.—Section 78.—Chapter IX.—Appeal, revision, review, power of taking evidence on oath and reference.—Section 79.)

Imposition of penalty for improper use of declaration by a registered dealer.

78. (1) If any registered dealer furnishes a declaration referred to in the first proviso or the second proviso to sub-section (2) of section 17 or in the proviso to sub-clause (ii) of clause (a) of sub-section (3) of that section—

- (a) in respect of a sale to him of goods of any class or classes not specified at the time of the sale in the certificate of registration granted to him under sub-section (5) of section 26, or
- (b) in respect of a sale of any goods, where the sale was made to him before he was registered,

the prescribed authority may, after giving such registered dealer a reasonable opportunity of being heard in the prescribed manner, by an order in writing, direct that he shall pay by way of penalty a sum not exceeding double the amount of the tax which could have been levied under this Act in respect of the sale of such goods.

(2) The provisions of sub-section (2) and sub-section (3) of section 77 shall apply in respect of penalty imposed under this section.

CHAPTER IX

Appeal, revision, review, power of taking evidence on oath and reference

Appeal against assessment.

79. (1) Any dealer may, in the prescribed manner, appeal to the prescribed authority against any assessment within forty-five days or such further period as may be allowed by the said authority for cause shown to his satisfaction from the receipt of a notice of demand in respect thereof:

Provided that no appeal shall be entertained by the said authority unless he is satisfied that such amount of the tax, penalty or interest, as the case may be, as the appellant may admit to be due from him has been paid:

Provided further that where the payment of tax due from a registered dealer under section 47 stand deferred under section 40, section 42 or section 43, an appeal shall, notwithstanding that the tax admitted to be due from him has not been paid, be entertained.

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(Chapter IX.—Appeal, revision, review, power of taking evidence on oath and reference.—Sections 80, 81.)

(2) Subject to such rules of procedure as may be prescribed, the appellate authority, in disposing of any appeal under sub-section (1), may,—

- (a) confirm, reduce, enhance or annul the assessment, or
- (b) when such authority is satisfied, for reasons to be recorded in writing, that it is not practicable or desirable to act in accordance with the provisions of clause (a), set aside the assessment and direct the assessing authority to make a fresh assessment after such further inquiry as may be directed.

(3) While acting in accordance with the provisions of clause (b) of sub-section (2), the appellate authority may set aside any part or parts of an assessment and, if he does so, the assessing authority shall make a fresh assessment in respect of such part or parts only, and the remaining part or parts of the previous assessment shall remain unaltered and valid.

(4) Pending disposal of an appeal referred to in sub-section (2), the appellate authority may, on application, at his discretion and subject to such conditions and restrictions as may be prescribed, stay realisation of the amount of tax, penalty or interest in dispute wholly or in part.

Explanation.—For the purposes of this section or section 82,—

- (a) “assessment” includes—
 - (i) determination of tax under sub-section (3) of section 11 or sub-section (4) of section 14,
 - (ii) assessment of tax and imposition of penalty under section 45,
 - (iii) assessment of tax under section 46,
 - (iv) determination of interest under section 49, or
 - (v) rectification of mistake in determination of interest under section 50;
- (b) “notice of demand” means any notice served in accordance with the provisions of this Act for realisation of the tax, penalty or interest referred to in clause (a).

80. Subject to such rules as may be made and for reasons to be recorded in writing, the Commissioner may, on his own motion, revise any assessment made or order passed by a person appointed under sub-section (1) of section 3 to assist him.

Suo motu revision by the Commissioner.

81. Subject to such rules as may be prescribed and for reasons to be recorded in writing, the Commissioner may, upon application, revise any order, other than an order referred to in section 82 and an order of assessment against which an appeal lies under section 79, passed by a person appointed under sub-section (1) of section 3 to assist him.

Revision by Commissioner upon application.

(Chapter IX.—Appeal, revision, review, power of taking evidence on oath and reference.—Section 82.)

Revision by
Appellate
and
Revisional
Board.

82. (1) Subject to such rules as may be prescribed and for reasons to be recorded in writing, the Appellate and Revisional Board may, upon application, revise a final appellate or revisional order from an order of assessment.

(2) All applications for revision of appellate or revisional orders from orders of assessment pending before the West Bengal Commercial Taxes Tribunal constituted under the Bengal Finance (Sales Tax) Act, 1941, on the date immediately before the appointed day, shall, on and from such appointed day, stand transferred to the Appellate and Revisional Board for disposal in accordance with the provisions of this section and the rules made thereunder or the regulations made under sub-section (7) of section 6.

Ben. Act VI
of 1941.

(3) Where during the pendency of an application for revision preferred by a dealer under sub-section (1) before the Appellate and Revisional Board, the Commissioner, having discovered—

- (a) any error or omission, whether in fact or law, in the final appellate or revisional order referred to in sub-section (1), or
- (b) any concealment by a dealer of his turnover of sales or purchases or incorrect statement by such dealer of particulars of his sales or purchases or claim for deduction of any part of gross turnover of sales or purchases or claim for lower rate of tax payable under this Act,

is of the opinion that the amount of tax assessed is liable to be enhanced from what has been made in the order of assessment or in the final appellate or revisional order in the matter of the amount of tax so assessed, as the case may be, he may, subject to such rules as may be made, file, at any time before the application for revision is finally heard by the Appellate and Revisional Board, a memorandum bringing to its notice the error or omission referred to in clause (a) or the concealment by the dealer of the turnover of sales or purchases or incorrect statement by him of the particulars referred to in clause (b).

(4) The Appellate and Revisional Board shall, while proceeding to revise under sub-section (1) any final appellate or revisional order from order of assessment, entertain the memorandum filed under sub-section (2) as an application by the Commissioner for revision and pass such revisional order as it deems fit.

(5) Where the Commissioner, after revision made by the Appellate and Revisional Board under sub-section (1), discovers any concealment by a dealer of his turnover of sales or purchases or incorrect statement by a dealer of particulars of his sales or purchases or claim for deduction of any part of gross turnover of sales or purchases or claim for lower rate of

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(Chapter IX.—Appeal, revision, review, power of taking evidence on oath and reference.—Sections 83-86.)

tax, he may, subject to such rules as may be made, make, within four years from the date of order of the Appellate and Revisional Board, an application to the Appellate and Revisional Board, and the Appellate and Revisional Board, may thereupon, after giving the Commissioner and the dealer a reasonable opportunity of being heard, review its order passed under sub-section (1) and pass such order as it deems fit.

83. Subject to such rules as may be made, any assessment made or order passed under this Act or the rules made thereunder by any person appointed under sub-section (1) of section 3, section 4 or section 5 may be reviewed by the person passing it upon application or on his own motion, and, subject to the rules as aforesaid, the Appellate and Revisional Board may, in the like manner and for reasons to be recorded in writing, review any order passed by it, either on its own motion or upon as application:

Review of order.

Provided that if the Commissioner considers it necessary to modify any order passed either by any of his predecessors-in-office, or by any person in the rank of Additional Commissioner when such person ceases to hold the rank of the Additional Commissioner, the Commissioner may review any such order.

84. An appeal, review or revision in respect of any order passed in the matter of tax recoverable under clause (b), of sub-section (1) of section 52, section 53, section 54 or section 56 shall lie in the manner and to the authority provided in the rules in Schedule VI.

Appeal, review or revision in certain cases to lie in the manner and to the authority provided in rules in Schedule VI.

85. Before any order under section 79, section 80, section 81, section 82 or section 83, which is likely to affect any person adversely, is passed, such person shall be given a reasonable opportunity of being heard.

Reasonable opportunity for hearing.

86. The Appellate and Revisional Board, the Commissioner, the Special Commissioner, the Additional Commissioner, or any person appointed under sub-section (1) of section 3 to assist the Commissioner, shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely,—

Power of taking evidence on oath.

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

5 of 1908.

(Chapter IX.—Appeal, revision, review, power of taking evidence on oath and reference.—Section 87.)

and any proceeding under this Act before the Appellate and Revisional Board, the Commissioner, the Special Commissioner, the Additional Commissioner, or any person appointed under sub-section (1) of section 3 to assist the Commissioner, shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228, and for the purpose of section 196, of the Indian Penal Code.

45 of 1860.

Reference to
Tribunal.

87. (1) Within sixty days from the date of passing by the Appellate and Revisional Board of any order under section 82 affecting any liability of any dealer to pay tax, penalty or interest under this Act, such dealer, by application in writing accompanied by a fee of one hundred rupees, or the Commissioner, by application in writing, may require the Appellate and Revisional Board to refer to the Tribunal any question of law arising out of such order.

(2) If, for reasons to be recorded in writing, the Appellate and Revisional Board refuses to make such reference, the applicant may, within ninety days of such refusal, either—

- (a) withdraw his application and if he does so, the fee, if any paid, shall be refunded, or
- (b) apply to the Tribunal against such refusal.

(3) If upon the receipt of an application under clause (b) of sub-section (2), the Tribunal is not satisfied with the correctness of the decision of the Appellate and Revisional Board, it may require the Appellate and Revisional Board to state the case and refer it, and, on the receipt of such requisition, the Appellate and Revisional Board shall state and refer the case to the Tribunal accordingly.

(4) If the Tribunal is not satisfied that the statements in a case referred to it under this section are sufficient to enable it to determine the question of law raised thereby, it may refer the case back to the Appellate and Revisional Board to make such addition thereto or alterations therein as it may direct in this behalf.

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

(6) Where a reference is made to the Tribunal under this section, the costs (including fees) shall be in the discretion of the Tribunal.

(7) The payment of the amount, if any, of tax, penalty or interest due in accordance with the order of the Appellate and Revisional Board in respect of which an application has been made under sub-section (1), shall not be stayed pending the disposal of such application or any reference made in consequence thereof, but if such amount is reduced as the result of such reference, the amount of tax, penalty or interest paid in excess shall be refunded in accordance with the provisions of section 60.

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(Chapter X.—Offences and penalties, special provision for liability to prosecution and compounding of offences.—Section 88.)

CHAPTER X

Offences and penalties, special provision for liability to prosecution and compounding of offences

88. (1) Whoever—

Offences and penalties.

- (a) carries on business as a dealer without furnishing the security demanded under section 28; or
- (b) fails to pay full amount of tax payable for any period in accordance with the provisions of sub-section (4) of section 30; or
- (c) fails to make payment of interest payable under section 31 or section 32; or
- (d) fails to comply with the provisions of section 62; or
- (e) contravenes the provisions of section 68; or
- (f) fails to comply with any requirement under section 73; or
- (g) neglects or refuses to furnish information required by section 95; or
- (h) neglects to furnish any information required by section 97,

shall be punishable with simple imprisonment which may extend to six months or with fine not exceeding one thousand rupees or with both and, a court having jurisdiction may, in addition to any fine as aforesaid, order confiscation of any goods seized under section 70 for the offence of contravention of section 68.

(2) Whoever carries on business as a dealer in contravention of sub-section (1) of section 26 shall be punishable with simple imprisonment which may extend to one year or with fine not exceeding one thousand rupees or with both, and when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the period of the continuance of the offence.

(3) Whoever, being a registered dealer, falsely represents while purchasing any class of goods that the goods of such class are covered by his certificate of registration, or, not being a registered dealer, falsely represents while purchasing goods that he is a registered dealer, shall be punishable with imprisonment of either description which may extend to six months or with fine not exceeding one thousand rupees or with both, and when the offence is a continuing one, with a daily fine, not exceeding one hundred rupees, during the period of the continuance of the offence.

(Chapter X.—Offences and penalties, special provision for liability to prosecution and compounding of offences.—Section 88.)

(4) Whoever—

- (a) furnished a false return referred to in section 30; or
- (b) fails without reasonable cause to furnish a return under section 30; or
- (c) refuses to comply with any requirement under section 65,

shall be punishable with imprisonment of either description which shall not be less than three months but which may extend to two years and with fine not exceeding ten thousand rupees or with both, and when the offence is a continuing one, with a daily fine, not exceeding fifty rupees, during the period of the continuance of the offence.

(5) Whoever has in his possession any prescribed form referred to in the first proviso, or the second proviso, to sub-section (2), or the proviso to sub-clause (ii), or sub-clause (vii), of clause (a), of sub-section (3), of section 17, not obtained by him or by his principal or agent in accordance with the provisions of this Act or any rules made thereunder, shall be deemed to have committed the offence of criminal breach of trust under section 405 of the Indian Penal Code, and every such person who commit such criminal breach of trust, shall, on conviction, be punishable with imprisonment of either description which shall not be less than three months but which may extend to three years or with fine not exceeding ten thousand rupees or with both.

45 of 1860.

(6) Whoever wilfully attempts in any manner to evade or defeat any tax imposed under this Act, shall, in addition to any other penalty provided by any law for the time being in force, be liable also for the offence of dishonest misappropriation of property under section 403 of the Indian Penal Code, and shall be punishable with imprisonment of either description which shall not be less than three months but which may extend to two years or with fine not exceeding ten thousand rupees or with both.

(7) Whoever knowingly produces incorrect accounts, registers or documents, or knowingly furnishes incorrect information or suppresses material information shall be punishable with imprisonment of either description which shall not be less than three months but which may extend to two years or with fine not exceeding ten thousand rupees or with both.

(8) Whoever obstructs any officer making inspection or search or seizure or taking other actions under section 65, section 66, section 67, section 69, section 70, section 72 or section 73 shall be punishable with imprisonment of either description which shall not be less than three months but which may extend to two years or with fine not exceeding ten thousand rupees or with both.

XLIX of 1994.]

(Chapter X.—Offences and penalties, special provision for liability to prosecution and compounding of offences.—Section 89.)

(9) Whoever abets any of the offences mentioned in sub-section (2), sub-section (3), sub-section (5), sub-section (6) or sub-section (7) shall, if the act of offence is committed in consequence of the abetment, be punishable with the same punishment as provided for the offence.

(10) Any offence punishable under sub-section (1), sub-section (2), sub-section (3), sub-section (4), or sub-section (9), shall be cognizable and bailable while that punishable under sub-section (5), sub-section (6), sub-section (7) or sub-section (8) shall be cognizable and non-bailable.

(11) In any prosecution for an offence under this Act which requires a culpable mental state on the part of the accused, the court shall presume the existence of such culpable mental state until the contrary is proved.

Explanation 1.—In this sub-section, “culpable mental state” includes intention, motive, knowledge of a fact, or belief in, or reason to believe, a fact.

Explanation 2.—If any of the offences under sub-section (2), sub-section (3) or clause (c) of sub-section (4) continues, such offence shall be deemed to be a continuing offence.

(12) No court shall take cognizance of any offence under this Act or the rules made thereunder except with the previous sanction of the Commissioner, and no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate shall try such offence.

(13) No prosecution for any offence enumerated hereinbefore in this section shall be instituted in respect of the same facts for which a penalty has been imposed under sub-section (1) of section 77 or sub-section (1) of section 78 and no such penalty shall be imposed *vice versa*.

89. (1) Where an offence referred to in section 88 has been committed by a dealer, every person who, at the time the offence was committed, was in charge of, and was responsible to the dealer for the conduct of, the business of the dealer, as well as the dealer shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Special provision for liability to prosecution.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided under section 88, if he proves that such offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(Chapter X.—Offences and penalties, special provision for liability to prosecution and compounding of offences.—Section 90.—

Chapter XI.—Miscellaneous.—Section 91.)

(2) Notwithstanding anything contained in sub-section (1), where an offence under section 88 has been committed by a dealer and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer, as the case may be, of the dealer, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Compounding
of offences.

90. (1) Subject to such conditions as may be prescribed, any person alleged to have committed an offence under clause (b), clause (c), clause (d), clause (e), clause (f), or clause (h), of sub-section (1), sub-section (2), sub-section (3), clause (b), or clause (c) of sub-section (4), sub-section (5), sub-section (6), sub-section (7), or sub-section (9), of section 88, or under any rules made under this Act, may, either before or after the commencement of any proceedings against him in respect of such offence, at his option, compound such offence, and the Commissioner may, at his discretion, accept from such person, by way of composition of such offence, such sum not exceeding fifty thousand rupees as may be determined by the Commissioner.

(2) On payment in full of the sum determined by the Commissioner under sub-section (1),—

- (a) no proceedings shall be commenced against such person as aforesaid; and
- (b) if any proceedings have already been commenced against such person as aforesaid, such proceedings shall not be further proceeded with.

CHAPTER XI

Miscellaneous

Option for
cancellation
of registra-
tion under
specified
circumstances.

91. (1) Notwithstanding anything contained in section 26 or section 27, a registered dealer who does not manufacture goods in West Bengal for sale may apply in the prescribed manner to the prescribed authority for cancellation of his registration granted under this Act, if, during the year in which such application is made and during the year immediately preceding such year, he dealt exclusively in tax-free goods specified in Schedule I.

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

(3) A registered dealer whose registration has been cancelled under sub-section (2) shall continue to be liable to pay tax in accordance with the provisions of sub-section (4) of section 9 in the event of his making any sale of goods taxable under this Act subsequent to such cancellation of registration, but during the period of such liability to pay tax, he shall, within thirty days of such sale, apply for registration under section 26 and such application shall be disposed of in accordance with the provisions of that section.

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

Indemnity of
Government
servant.

93. (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 the proceedings before a criminal court, shall, save as provided in sub-section (3), be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall, save as aforesaid, be entitled to require any Government servant to produce before it any such statement, return, accounts, documents, or record or any part thereof, or to give evidence before it in respect thereof.

Returns etc.
to be
confidential.

1 of 1872.

(2) If, save as provided in sub-section (3), any Government servant discloses any of the particulars referred to in sub-section (1), he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine.

(3) Nothing in this section shall apply to the disclosure of any of the particulars referred to in sub-section (1)—

45 of 1860.

49 of 1988.

- (a) for the purposes of any prosecution under the Indian Penal Code, the Prevention of Corruption Act, 1988, or this Act or any preliminary inquiry for ascertaining whether such prosecution lies,
- (b) in connection with any suit or proceeding in a civil court to which the State Government or any person appointed under this Act is a party and which relates to any matter arising out of any proceeding under this Act,
- (c) where it is necessary to make such disclosure for the purposes of this Act,

(Chapter XI.—Miscellaneous.—Section 94.)

- (d) to an officer of Government for the purpose of enabling such Government to levy or realise any tax or duty imposed by it,
- (e) to an officer of Government for the audit of receipts and refunds of tax, penalty or interest under this Act,
- (f) in connection with an inquiry concerning allegations of corruption or official misconduct against any Government servant or for the purpose of taking disciplinary action against such Government servant,
- (g) in any inquiry into a charge of misconduct in connection with any proceeding under this Act against any legal practitioner, chartered accountant or other person entitled to appear on behalf of a dealer or person before the taxing authorities under this Act, to the authority competent to take disciplinary action against such legal practitioner, chartered accountant or other person,
- (h) to any officer of the State Government to enable such officer to perform his executive functions relating to the affairs of the State,
- (i) to any person for purposes other than those referred to in clause (a), clause (b), clause (c), clause (d), clause (e), clause (f), clause (g), and clause (h), if the State Government considers such disclosure necessary in the public interest.

Clearance
Certificate.

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

- (a) no Government, local authority, educational institution, or corporation or body corporate established by or under a Central or State Act shall place order with, or make purchases of any goods from, any dealer or make any payment to such dealer for such purchases, or
- (b) no Government, local authority, educational institution, corporation or body corporate established by or under a Central or State Act, or company incorporated under the Companies Act, 1956, or co-operative society registered or deemed to be registered under the West Bengal Co-operative Societies Act, 1983, shall enter into any works contract with any dealer for execution by him of such works contract and shall make payment to such dealer for execution of works contract, unless the Commissioner certifies in the prescribed manner that such dealer—
 - (i) has no liability to pay tax or has not defaulted in furnishing any return or returns together with the receipted challan or challans showing payment of all tax payable under this Act or the Central Sales Tax Act, 1956,

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Act XLV of
1983.

74 of 1956.

(Chapter XI.—Miscellaneous.—Sections 95, 96.)

- (ii) has not defaulted in making payment of tax otherwise payable by, or due from, him under this Act or the Central Sales Tax Act, 1956, or
- (iii) has made satisfactory provision for securing the payment of tax by furnishing bank guarantee in favour of the Commissioner or otherwise,

as the case may be:

Provided that the provisions of this sub-section shall not apply to any payment referred to in clause (b) where any amount is deductible from such payment under sub-section (1) of section 38.

(2) Where an application made by a dealer in the prescribed form, the Commissioner, after making such enquiry as he deems fit and proper, is satisfied and issues a certificate in the prescribed form to the effect that such dealer is not liable to pay tax under section 15 or that he has paid tax payable by, or due from, him under that section, payment may, notwithstanding anything contained in sub-section (1), be made to such dealer for execution by him of a works contract referred to in section 15 on production by him of such certificate of the Commissioner.

(3) The application for the certificate required under sub-section (1) shall be made by the dealer referred to in that sub-section to the Commissioner and shall be in such form and shall contain such particulars as may be prescribed.

95. Subject to the provisions of any law for the time being in force, the Commissioner, the Additional Commissioner, or any person appointed under sub-section (1) of section 3 to assist the Commissioner, may require, by notice, any bank, post office, railway, transporter, carrier, shipper, owner or lessee of a warehouse, or clearing, forwarding or transporting agent to furnish to him any information or statement useful for, or relevant to, any proceedings under this Act or to produce before him any accounts, registers, documents or other records in the possession of such bank, post office, railway, transporter, carrier, shipper, owner or lessee of a warehouse, or clearing, forwarding or transporting agent for examination for the purposes of this Act.

Power to call for information or statement from bank, post office, railway, etc.

96. If, in the opinion of the State Government, there is appreciable evasion of tax in respect of any goods, the State Government may, by notification, specify such goods, and thereupon every person transporting, carrying, shipping, or clearing, forwarding or warehousing, whether as owner or lessee of a warehouse, such goods, shall furnish a statement or declaration in such form, within such time, in such manner, and for such period, as may be specified in the notification.

Statement to be furnished by transporter, owner or lessee of warehouse, etc.

(Chapter XI.—Miscellaneous.—Sections 97-100.)

Information to be furnished by dealers regarding changes of business.

97. If any dealer to whom the provisions of sub-section (2), or sub-section (3), of section 30 apply,—

- (a) sells or otherwise disposes of his business or any part of his business or effects or comes to know of any other change in the ownership of his business, or
- (b) discontinues his business or changes his place of business or opens a new place of business, or
- (c) changes the name or nature of his business or effects any change in the class or classes of goods in which he carries on his business and which is or are specified in his certificate of registration, or
- (d) in the case of a company, effects any change in the constitution of its board of directors,

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

Additional information to be furnished by dealers.

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

Transfer of business by registered dealers.

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

Bar to proceedings in civil court.

100. (1) Save as provided in section 87, no assessment made and no order passed under this Act or the rules made thereunder by the Commissioner, the Special Commissioner, an Additional Commissioner, or any person appointed under sub-section (1) of section 3 to assist the Commissioner, and no order passed by the Appellate and Revisional

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(Chapter XI.—Miscellaneous.—Sections 101-104.)

Board under this Act or the rules made thereunder shall be called into question in any civil court, and save as provided in section 79, section 80, section 81 or section 82, no appeal or application for revision or review shall lie against such assessment or order.

(2) Save as provided in section 84, no order passed by the Tax Recovery Officer under this Act or the rules in Schedule VI and no order passed upon an appeal from, or review or revision of, any order of the Tax Recovery Officer in accordance with the provisions of this Act and the rules in Schedule VI shall be called into question in any civil court, and, save as provided in section 84, no appeal, review or revision shall lie against such order.

101. Where the manner of payment of any tax, penalty, or interest, payable by a person, or any sum determined by the Commissioner in compounding any offence, under this Act, is not provided specifically elsewhere in this Act, such tax, penalty, interest or sum shall be paid into a Government Treasury or the Reserve Bank of India in the prescribed manner.

Manner of payment of tax, penalty, interest, etc.

102. If the Commissioner considers that for the purpose of better administration of this Act, it is necessary to collect statistics relating to any matter dealt with by or under this Act, he may, by notification, call upon dealers or such class or classes of dealers as may be specified in the notification, to furnish such information relating to any matter in respect of which it is necessary to collect statistics, in such form, containing such particulars, to such authorities, and at such intervals, as may be specified in the notification.

Power of Commissioner to collect statistics from dealers.

103. (1) Fees payable upon a memorandum of appeal or application for review or revision, or upon any other miscellaneous application or petition, other than an application referred to in sub-section (1) of section 87, for relief shall be such as may be prescribed:

Power of State Government to prescribe rates of fees.

Provided that any fee prescribed under this section shall not exceed two hundred rupees.

(2) The fee as aforesaid shall be paid in court-fee stamp to be affixed to the memorandum of appeal, application for review or revision or other miscellaneous application or petition, as the case may be, referred to in sub-section (1).

104. (1) The State Government may, by notification, make rules, with prospective or retrospective effect, for carrying out the purposes of this Act.

Power of State Government to make rules.

(Chapter XI.—Miscellaneous.—Sections 105, 106.)

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters which under any provision of this Act are required to be prescribed, or to be provided for by rules.

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

Saving in relation to sales outside West Bengal, inter-State sales, and sales in course of import or export.

105. Nothing in this Act shall be construed to impose, or authorise the imposition of, tax on the sale or purchase of goods where such sale or purchase takes place—

- (a) outside West Bengal;
- (b) in the course of import of the goods into, or export of the goods out of, the territory of India;
- (c) in the course of inter-State trade or commerce.

Repeal and Savings.

106. (1) The Bengal Finance (Sales Tax) Act, 1941, the Bengal Raw Jute Taxation Act, 1941, the West Bengal Sales Tax Act, 1954, and the West Bengal Motor Spirit Sales Tax Act, 1974, are hereby repealed.

(2) Notwithstanding the repeal of the Bengal Finance (Sales Tax) Act, 1941, or the Bengal Raw Jute Taxation Act, 1941, or the West Bengal Sales Tax Act, 1954, or the West Bengal Motor Spirit Sales Tax Act, 1974, under sub-section (1), such repeal shall not—

- (a) affect the previous operation of the Bengal Finance (Sales Tax) Act, 1941, or the Bengal Raw Jute Taxation Act, 1941, or the West Bengal Sales Tax Act, 1954, or the West Bengal Motor Spirit Sales Tax Act, 1974, so repealed or anything duly done or suffered thereunder; or
- (b) affect any right, privilege, obligation or liability acquired, accrued or incurred under the Bengal Finance (Sales Tax) Act, 1941, or the Bengal Raw Jute Taxation Act, 1941, or the West Bengal Sales Tax Act, 1954, or the West Bengal Motor Spirit Sales Tax Act, 1974, so repealed; or
- (c) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against, or in respect of any contravention of any provision of, the Bengal Finance (Sales Tax) Act, 1941, or the Bengal Raw Jute Taxation Act, 1941, or the West Bengal Sales Tax Act, 1954, or the West Bengal Motor Spirit Sales Tax Act, 1974, so repealed; or

Ben. Act VI of 1941.
Ben. Act XI of 1941.
West Ben. Act IV of 1954.
West Ben. Act XI of 1974.

- (d) affect any investigation, legal proceeding or remedy, in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been passed.

Ben. Act VI
of 1941.
Ben. Act XI
of 1941.
West Ben.
Act IV
of 1954.
West Ben.
Act XI of
1974.

107. Notwithstanding the repeal of the Bengal Finance (Sales Tax) Act, 1941, or the Bengal Raw Jute Taxation Act, 1941, or the West Bengal Sales Tax Act, 1954, or the West Bengal Motor Spirit Sales Tax Act, 1974, under sub-section (1) of section 106,—

Transitional
provision.

- (a) where a dealer, registered only under any one of the Acts so repealed, is in possession of certificate of registration thereunder on the day immediately before the appointed day referred to in section 26 or section 27, such dealer shall be deemed to be a registered dealer under this Act, and such certificate of registration shall be deemed to have been granted under this Act and shall continue to have effect till such time as the State Government may, by notification, specify in this behalf unless cancelled otherwise before such time as aforesaid;
- (b) where a dealer, registered under more than one of the Acts so repealed, is in possession of certificates of registration thereunder on the day immediately before the appointed day, such dealer shall be deemed to have been registered under this Act, and—
- (i) if he is so registered under the Bengal Finance (Sales Tax) Act, 1941, his certificate of registration under that Act, or
- (ii) if he is so registered under the West Bengal Sales Tax Act, 1954, but not under the Bengal Finance (Sales Tax) Act, 1941, his certificate of registration under the West Bengal Sales Tax Act, 1954, or
- (iii) if he is so registered under the West Bengal Motor Spirit Sales Tax Act, 1974, but not under the Bengal Finance (Sales Tax) Act, 1941, or the West Bengal Sales Tax Act, 1954, his certificate of registration under the West Bengal Motor Spirit Sales Tax Act, 1974,

shall be deemed to have been granted under this Act and shall continue to have effect till such time as the State Government may, by notification, specify in this behalf unless cancelled otherwise before such time as aforesaid, and his other certificate or certificates of registration under any other Act or Acts so repealed shall stand cancelled on such appointed day:

(Chapter XI.—Miscellaneous.—Section 107.)

West Ben.
Act IV
of 1954.

Provided that where any certificate of registration of a dealer under the West Bengal Sales Tax Act, 1954, stands cancelled under this clause, the class or classes of goods, if any, specified in such certificate shall, be deemed to be specified on such appointed day in his certificate of registration deemed to have been granted under this clause;

Ben. Act VI
of 1941.

- (c) any person appointed as the Commissioner, Special Commissioner or Additional Commissioner, or any person appointed to assist the Commissioner, under the Bengal Finance (Sales Tax) Act, 1941, and continuing in office as such immediately before the appointed day, shall, on and from the appointed day, be deemed to have been appointed under this Act and shall continue in office as such till such person ceases to be the Commissioner, Special Commissioner or Additional Commissioner or ceases to be the person appointed to assist the Commissioner;
- (d) the President or any member of the West Bengal Commercial Taxes Tribunal appointed under the Bengal Finance (Sales Tax) Act, 1941, and continuing in office as such immediately before the appointed day, shall, on and from the appointed day, be deemed to have been appointed as the President or the member of the Appellate and Revisional Board under this Act and shall continue in office as such till he ceases to be such President or member;
- (e) The Bureau of Investigation constituted under the Bengal Finance (Sales Tax) Act, 1941, and continuing to have jurisdiction and powers under that Act immediately before the appointed day, shall, on and from the appointed day, be deemed to have been constituted, and shall have jurisdiction and powers, under this Act, and the Special Officer, and other persons appointed under sub-section (1) of section 3 of that Act to assist the Commissioner, appointed in the Bureau of Investigation as aforesaid and continuing in office immediately before the appointed day, shall, on and from the appointed day, be deemed to have been appointed in the Bureau under this Act and shall continue in office as such till such special officer or other person ceases to be appointed in the Bureau;
- (f) the provisional certificate, certificate of eligibility or clearance certificate, if any, issued under any of the Acts so repealed or the rules made thereunder and continuing to be valid immediately before the appointed day, shall, unless revoked or cancelled under this Act, continue to be valid on and from the appointed day for such unexpired period of its validity as ends on or after the appointed day;

(Chapter XI.—Miscellaneous.—Section 107.)

- (g) a dealer liable to furnish return under any of the Acts so repealed immediately before the appointed day shall, notwithstanding that a period, in respect of which he is so liable to furnish return, commences on any day before such appointed day and ends on any day after such appointed day, furnish such return in respect of tax payable for sales or purchases made up to the day immediately before such appointed day and pay tax in accordance with the provisions of the Act or Acts so repealed, and shall furnish a separate return in respect of the remaining part of the period which commences on such appointed day and pay tax due on such return for sales or purchases made on and from such appointed day in accordance with the provisions of this Act;
- (h) any assessment of tax, or determination of interest, payable by a dealer under any of the Acts so repealed in respect of any period commencing on any day before the appointed day and ending on any day after such appointed day shall, notwithstanding that such assessment of tax or determination of interest is made on or after such appointed day, be made in respect of that part of the period which ends on the day immediately before such appointed day in accordance with the provisions of the Act or Acts so repealed and the tax so assessed or interest so determined shall be deemed to be valid and enforceable against the dealer under such Act or Acts, and the assessment of tax or determination of interest for the remaining part of such period which commences on such appointed day shall be made in accordance with the provisions of this Act;
- (i) the re-opening of any assessment in respect of any period deemed to have been made on the 30th day of June, 1993, under any of the Acts so repealed, and fresh assessment in respect of such period may be made by the Commissioner on or after the appointed day in accordance with the provisions of such Act;
- (j) any order delegating any power under any of the Acts so repealed or the rules made thereunder by the Commissioner to any person appointed, by any designation, under subsection (1) of section 3 of the Bengal Finance (Sales Tax) Act, 1941, so repealed, to assist him before the appointed day and continuing in force on the day immediately before such appointed day shall, on and from such appointed day, continue in force until the Commissioner amends, varies or rescinds such order after such appointed day under this Act;

(Chapter XI.—Miscellaneous.—Section 107.)

- (k) any accounts, registers or documents of any dealer seized before the appointed day under any of the Acts so repealed and retained on the day immediately before such appointed day, shall continue to be retained in accordance with the provisions of such Act;
- (l) any goods including notified goods and notified commodities, seized before the appointed day under any of the Acts so repealed and not released before such appointed day shall continue to remain seized until such goods are released in accordance with the provisions of such Act;
- (m) all forms of notices, declarations or applications or any other forms prescribed under any of the Acts so repealed or the rules made thereunder and continuing in force on the day immediately before the appointed day shall, with effect from such appointed day, continue in force and shall be used *mutatis mutandis* for the purposes for which they were being used before such appointed day until the State Government directs, by notification, the discontinuance of the use of such forms till such time as the State Government may, by notification, specify in this behalf;
- (n) all rules, regulations, notifications or orders made or issued under any of the Acts so repealed and continuing in force on the day immediately before the appointed day shall continue to be in force on or after such appointed day in so far as they are not inconsistent with the provisions of this Act or the rules made thereunder until they are repealed or amended;
- (o) where a tax has been levied under any of the Acts so repealed in respect of the sale or purchase in West Bengal of declared goods within the meaning of section 14 of the Central Sales Tax Act, 1956, or any goods specified in Schedule IV before the appointed day, no tax shall be levied under this Act on sale or purchase of such goods in West Bengal on or after such appointed day;
- (p) any declaration form obtained or obtainable by a dealer from any prescribed authority or any declaration furnished or to be furnished by or to a dealer under any of the Acts so repealed or the rules made thereunder in respect of any sale of goods before the appointed day shall be valid where such declaration form is obtained or such declaration is furnished on or after such appointed day;

74 of 1956.

(Chapter XI.—Miscellaneous.—Section 108.)

- (q) any declaration endorsed, permit issued or order passed before the appointed day under any of the Acts so repealed or the rules made thereunder for the transport of any consignment of goods specified in Schedule IV or notified goods into West Bengal or outside West Bengal and continuing to be valid on the day immediately before the appointed day shall continue to be valid on or after such appointed day for the purposes as aforesaid unless the periods of validity of such declaration, permit or order otherwise expires;
- (r) any application for revision, review or reference arising from any order passed before the appointed day or any appeal arising from any assessment of tax or determination of interest made before such appointed day or any application for refund, or for declaration form, in respect of any period before such appointed day, under any of the Acts so repealed, if made before such appointed day and pending on such appointed day or if made on or after such appointed day, shall be disposed of in accordance with the provisions of the Act or Acts so repealed;
- (s) the Appellate and Revisional Board, or the Commissioner or any other authority to whom power in this behalf has been delegated by the Commissioner under any of the Acts so repealed, may, on its or his own motion, review or revise any order passed before the appointed day in accordance with the provisions of the Act or Acts so repealed;
- (t) any application for registration, amendment of certificate of registration or clearance certificate or any application for permit, or for declaration, for transport of goods into West Bengal, pending on the day immediately before the appointed day, shall be deemed to have been made under this Act and shall be disposed of in accordance with the provisions of this Act;
- (u) any tax assessed, interest determined or penalty imposed under any of the Acts so repealed in respect of sales or purchases made, or in respect of tax payable, or in respect of contravention of any provision of any of the Acts so repealed, before the appointed day, shall be payable or recoverable in accordance with the provisions of the Act or Acts so repealed.

108. If any difficulty arises in giving effect to any of the provisions of this Act, the State Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty:

Power to
remove
difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the appointed day.

(Schedule I.)

SCHEDULE I

(See section 24.)

Goods on sale of which no tax is payable

Serial No.	Description of goods	Conditions and exceptions
(1)	(2)	(3)
1.	Articles made of bamboo and cane.	
2.	Agricultural implements.	Except implements operated by power and spare parts, accessories and components thereof.
3.	Books and periodicals excluding account books and diaries.	
4.	Bread.	
5.	Betel leaves including packing materials.	
6.	Barley products, namely, flour, <i>suji</i> , <i>atta</i> and <i>dalia</i> made from barley.	Except when sold in sealed containers.
7.	Biscuits of all kinds manufactured, made or processed in India otherwise than in a factory as defined in the Factories Act, 1948.	
8.	Bedding stuffed with cotton.	
9.	Bio-gas plants.	
10.	Bee-keeping apparatus.	
11.	Bangles made of glass, rubber, plastic or celluloid.	
12.	Bangles made of aluminium, whether coloured or not, but without stones thereon or similar decoration.	
13.	Balanced feed for cattle and pig.	
14.	Balanced poultry feed, commonly known as "Mash".	
15.	Cereals and pulses and broken particles, husk and bran thereof, but excluding rice and wheat.	Except when sold in sealed containers.
16.	Cotton yarn.	

63 of 1948.

XLIX of 1994.]

(Schedule I.)

Serial No.	Description of goods	Conditions and exceptions
(1)	(2)	(3)
17.	Cinchona alkaloids and their salts and chloroquine phosphate tablets.	
18.	<i>Charkha</i> .	
19.	Cotton.	
20.	Country liquor (including <i>tari</i> and <i>pachwai</i>), <i>ganja</i> , opium and <i>bhang</i> .	
21.	Charcoal, that is to say, charred wood used for fuel.	
22.	Computer software.	
23.	Condom (a contraceptive device).	
24.	Candle.	
25.	Crutch, orthopaedic footwear and artificial limb.	
26.	Combs of all varieties made of rubber, plastic or celluloid.	
27.	Cardiac pace-maker, heart-valve and accessories thereof.	
28.	<i>Chanachur</i> , <i>dalmut</i> , fried potato chips and salted peanuts.	Except when sold in sealed containers.
29.	Conch shell products.	
30.	Electrical energy.	
31.	Enamelled utensils, that is to say, enamelled tumblers, dishes and plates; and enamelled spittoons, urinals and bed pans.	
32.	Egg.	
33.	Exercise book, laboratory note book, drawing book, graph book, ruled paper and graph paper.	
34.	Fishing boat, fishing hook and fishing net.	
35.	Fresh fish.	
36.	Flour, <i>suji</i> , <i>atta</i> and <i>dalia</i> , made from maize.	
37.	Fodder seed, green manure seed and grass seed.	
38.	Flower seed, that is to say, seed for growing flower plant.	

(Schedule I.)

Serial No.	Description of goods	Conditions and exceptions
(1)	(2)	(3)
39.	Football and table-tennis bat and ball.	
40.	Fresh fruit.	
41.	Flower and plant.	
42.	<i>Gur</i> and molasses.	
43.	Glass chimney, other than chimney for use in gas light and petromax light.	
44.	Hurricane lantern and kerosene lamp.	
45.	Handloom woven—	
	(a) <i>gamcha</i> ,	
	(b) <i>khaddar</i> or <i>khadi</i> as defined in the West Bengal Khadi and Village Industries Board Act, 1959, except that made of silk yarn.	
	(c) garments made of <i>khaddar</i> or <i>khadi</i> referred to in sub-item (b), and	
	(d) <i>khaddar</i> or <i>khadi</i> as defined in the West Bengal Khadi and Village Industries Board Act, 1959, made of silk yarn.	Except when sold by a dealer who does not manufacture such goods in his <i>khadi</i> production unit approved or certified by the Khadi and Village Industries Commission.
46.	Hosiery goods made exclusively of cotton.	
47.	Household articles made of brass or bell metal.	
48.	Hearing aid.	
49.	Honey.	
50.	Hand-made paper, that is to say, paper made by hand and not made by, or processed in, machine.	
51.	Jute seed, <i>mesta</i> seed and sunhemp seed.	

West Ben.
Act XIV of
1959.

XLIX of 1994.]

(Schedule I.)

Serial No.	Description of goods	Conditions and exceptions
(1)	(2)	(3)
52.	Kerosene oil of inferior grade, that is to say, kerosene referred to in item 7 of the First Schedule to the Central Excises and Salt Act, 1944, and having all the following characteristics also:—	
	(a) it is not lighter in colour than a solution with the following composition: Quarter-normal aqueous solution of—	
	(i) ferric chloride (FeCl ₃ , 6H ₂ O),	
	(ii) cobaltous chloride (CoCl ₂ , 6H ₂ O),	
	(iii) copper sulphate (CuSO ₄ , 5H ₂ O), mixed in the ratio of 6:3:1, and	
	(b) it has a flashing point below 65.6° Celsius.	
53.	Livestock including poultry.	
54.	Lac and shellac.	
55.	Lead pencil, mathematical instrument box and map.	
56.	Lottery ticket.	
57.	Meat being not cured or frozen.	
58.	Milk other than powdered or condensed milk.	
59.	Mustard seed and rape seed.	
60.	Methylated spirit and rectified spirit.	
61.	Mat locally known as <i>madur</i> made wholly or principally of <i>Cyperus Corymbosus</i> known locally as <i>gola methi</i> , <i>madur kathi</i> , <i>mutha</i> , or <i>Cyperus Malaccensis</i> known locally as <i>chimati pati</i> , and handicraft made of mat.	

1 of 1944.

(Schedule 1.)

Serial No.	Description of goods	Conditions and exceptions
(1)	(2)	(3)
62.	Matstick and reed obtainable from <i>Cyperus Corymbosus</i> known locally as <i>gola methi</i> , <i>madur kathi</i> , <i>mutha</i> , or <i>Cyperus Malaccensis</i> known locally as <i>chimati pati</i> .	
63.	Newspaper.	
64.	Oil cake, that is to say, cake or mass of oilseeds which is left after the oil has been extracted.	
65.	Organic manure.	
66.	Paddy seed and wheat seed.	
67.	<i>Papad</i> commonly known as <i>papar</i> .	
68.	Plain paper, commonly known as cartridge paper sold by Government Treasuries through the agency of licensed stamp vendors.	
69.	Dot pen and refill and cartridges thereof, fountain pen and writing ink.	
70.	Pure silk yarn.	
71.	Raw jute.	
72.	Straw, hay and grass for use as fodder for cattle.	
73.	Soap other than the soap manufactured, made or processed in a factory as defined in the Factories Act, 1948.	
74.	<i>Sago</i> and tapioca globules.	
75.	Salt.	
76.	<i>Sabai</i> grass and all articles made thereof.	
77.	Sapling.	
78.	Sweetmeat, other than cake, pastry and biscuit, but including curd.	Except when sold in sealed container.
79.	Silkworm egg and silkworm cocoon.	

63 of 1948.

XLIX of 1994.]

(Schedule I.)

Serial No.	Description of goods	Conditions and exceptions
(1)	(2)	(3)
80.	Salted cooked food made wholly or principally of flour, <i>atta</i> , <i>suji</i> or <i>bason</i> locally known as <i>nonta khabar</i> , that is to say, <i>singara</i> , <i>nimki</i> , <i>kachuri</i> , <i>khasta kachuri</i> , <i>luchi</i> , <i>radhaballavi</i> , and <i>dalpuri</i> .	
81.	Solar thermal device.	
82.	Sponge-wood, commonly known as <i>sola</i> or <i>solapith</i> , and all handicrafts made thereof.	
83.	Sugar manufactured or made in India.	
84.	Tri-wheeler cycle operated by hand for use of disabled person.	
85.	Textile fabrics of all varieties made wholly or partly of cotton, rayon, artificial silk or wool, including handkerchiefs, towels, bedsheets, bed spreads, table cloths, napkins, dusters, cotton velvets and velveteen tapes, niwars and laces, whether embroidered or not, but excluding pure silk cloth, rubberised cloth, belting, pipes (including hose pipes), <i>sataranchi</i> , carpets and druggets.	
86.	Tobacco as referred to in the First Schedule to the Central Excises and Salt Act, 1944, including cigarette and tobacco for <i>hookah</i> , that is to say, tobacco paste, ready for use in <i>hookah</i> .	
87.	Toy and doll made wholly or principally of clay and handicrafts made of clay, whether burnt or unburnt.	

1 of 1944.

(Schedule II.)

Serial No.	Description of goods	Conditions and exceptions
(1)	(2)	(3)
88.	Utensil made wholly or principally of clay.	Except when manufactured in a factory as defined in the Factories Act, 1948.
89.	Vegetable seed.	
90.	Vegetable, green or dried, commonly known as <i>sabji</i> , <i>tarkari</i> or <i>sak</i> , other than dry chilli.	Except when sold in sealed container.
91.	Wheat flour, and <i>atta</i> and <i>suji</i> made from wheat.	
92.	Water.	Except drinking water, mineral water, or aerated water, when sold in bottles or sealed containers.
93.	Writing slate and slate pencil.	

63 of 1948.

SCHEDULE II

[See section 17(1)(a).]

Goods on sale of which tax is leviable at the rate of fifteen *per centum*

Serial No.	Description of goods
(1)	(2)
1.	Air-conditioner, air-cooler, air-conditioning plant, and spare parts, accessories and components thereof.
2.	Apparatus for making coffee under pressure, commonly known as espresso.
3.	Arms of all types including rifles, revolvers and pistols, and ammunition for the same.
4.	Article, other than utensil, made wholly or principally of stainless steel.
5.	Carpets of all varieties and descriptions.
6.	Clocks, time-pieces and watches of all types and parts thereof.

XLIX of 1994.]

(Schedule II.)

Serial No.	Description of goods
(1)	(2)
7.	Cooked food, other than the cooked food specified in Schedule I and Schedule IV, served in, or supplied from, any air-conditioned— (a) hotel, (b) restaurant, (c) refreshment room, (d) club, or (e) eating-house.
8.	Cushion, mattress, pillow and other articles made wholly or partly of artificial or synthetic resin or plastic foam.
9.	Cushion, mattress, pillow and other articles made wholly or partly of rubber foam.
10.	Dyes (other than textile dyes) and pigments.
11.	Electronic toy including video game, electronic game and electronic game kit.
12.	Fancy leather goods, that is to say, brief-case, attache-case, ornamented vanity-bag, and hand-bag, made of leather.
13.	Foreign liquor, whether made in India or not, including brandy, whisky, vodka, gin, rum, liqueur, cordials, bitters and wines or a mixture containing any of these, as also beer, ale, porter, cider, perry and other similar potable fermented liquors.
14.	Footwears of all descriptions, when sold at a price exceeding two hundred rupees per pair.
15.	Fur and article made of fur.
16.	Iron and steel safe and almirah.
17.	Lift, whether operated by electricity or steam, and spare parts, accessories and components thereof.
18.	Moulded furniture, brief-case, suit-case and other cases and boxes, excluding school-boxes, made of fiber glass, polyvinyl chloride (P.V.C.), plastic or other synthetic substances.
19.	Perfume.
20.	Sanitary ware and sanitary fitting.
21.	Sound transmitting equipment including amplifier and loud-speaker.

(Schedule III.)

Serial No.	Description of goods
(1)	(2)
22.	Spare parts, accessories and components of— (a) sound transmitting equipment, amplifier and loud-speaker, (b) television set, (c) television monitor, (d) video cassette recorder, (e) video cassette player, (f) radio, and (g) transistor radio.
23.	Telephone and spare parts, accessories and components thereof.
24.	Typewriter and other office machines and apparatuses (including tabulating, duplicating, cash registering, cheque writing, accounting, statistical, indexing and card punching machines) and spare parts, accessories and components thereof.
25.	Upholstered wooden furniture.
26.	Vacuum cleaner.

SCHEDULE III

[See section 17(1)(b).]

Goods on sale of which tax is leviable at the rate of four *per centum*

Serial No.	Description of goods	Conditions and exceptions
(1)	(2)	(3)
1.	Goods, other than rice and wheat, referred to in section 14 of the Central Sales Tax Act, 1956.	
2.	Machineries required in the manufacture of tea.	
3.	Tea.	

74 of 1956.

XLIX of 1994.]

(Schedule IV.)

SCHEDULE IV

[See sections 10 and 17(1)(c).]

Goods on sale of which tax is leviable at such rate as may be fixed by notification under sub-section (1) of section 18 (single-point levy) read with sub-clause (a) of clause (40) of section 2.

Serial No.	Description of goods
(1)	(2)

PART A

1. Aerated water (including soda water) and non-alcoholic beverage (including fruit juice, fruit concentrate, fruit squash, fruit syrup and fruit cordial) when sold in sealed, capsuled or corked bottle, jar, tin, drum or other container.
2. Aluminium in all its forms, namely, aluminium ingots, slabs, bars, rods, pipes, tubes, wires, coils, sheets, plates, circles, sections, channels, angles, joists, extrusions, but excluding aluminium foils as specified in serial No. 3.
3. Aluminium foils including aluminium foils backed or inter-leaved with any substance other than paper.
4. Aluminium wares, that is to say, utensils, kitchen implements, receptacles, tiffin carriers, tiffin boxes, soap cases and trays, coat-hangers, suitcases, flower vases, thermic jugs, basins, chamber pots, commode pots, spittoons and similar other wares, made solely or mainly from aluminium, whether anodised or not.
5. Betel nuts known locally as *supari*, whole, broken, perfumed or otherwise treated or of any other form or description whatsoever.
6. Binocular, telescope and opera glass.
7. Biscuits of all kinds other than those specified in serial No. 7 of Schedule I.
8. Bleaching powder of all varieties and descriptions.
9. Calcium carbonate of any form or description, other than lime stone.
10. Carbon paper, stencil paper, aluminium foiled paper (that is to say, aluminium foil backed or inter-leaved with paper), paper (other than paper specified in serial No. 60) commonly known as continuous stationery mainly used in computer, all types of sensitized paper and any other type of specially processed paper.

(Schedule IV.)

Serial No.	Description of goods
(1)	(2)
11.	Cathode ray tubes used in televisions and commonly known as picture tubes.
12.	Cement.
13.	Cigarette case and lighter.
14.	Chassis or bodies of the goods mentioned in serial Nos. 53, 56 and 58.
15.	Coffee and chicory in whole or powdered form including instant coffee.
16.	Coir rope.
17.	Compact disc.
18.	Computers including central processing units and peripheral devices and spare parts, accessories and components thereof.
19.	Cosmetics of all varieties including (i) talcum and other powders for face and skin, (ii) snow and cream of all descriptions and varieties, (iii) depilatories, (iv) blemish remover, beauty-milk and cleansing milk, (v) hair dyes and hair darkeners, (vi) hair cream, (vii) hair tonic and hair lotion, (viii) hair spray, (ix) pomade, brilliantine and vaseline, (x) <i>alta</i> , (xi) lipstick, (xii) nail polish, (xiii) eyeliner, (xiv) eye-tex, (xv) rouge, (xvi) <i>bindi</i> and (xvii) after-shave lotion and cream.
20.	Crockery in all its forms and descriptions manufactured from porcelain, glazed earthen ware (including stone ware) or glass, in a factory as defined in the Factories Act, 1948, and includes cups, dishes, saucers, plates, pots and similar other articles made of melamine or unbreakable plastic.
21.	Cured or frozen meat and fish, when sold in sealed container.
22.	Dextrose monohydrate or powder for food drink having dextrose monohydrate as major ingredient.
23.	Drinking water when sold in bottles or sealed containers.
24.	(a) Drug as defined in clause (b) of section 3 of the Drugs and Cosmetics Act, 1940, including dichloro diphenyl trichloroethane, pyrethrum, benzene hexachloride, dieldrin and their preparations, but excluding condom (a contraceptive device) and chloroquine phosphate tablet. (b) Ayurvedic (including Siddha) or Unani drug as defined in clause (a) of section 3 of the Drugs and Cosmetics Act, 1940.

63 of 1948.

23 of 1940.

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(Schedule IV.)

Serial No.	Description of goods
(1)	(2)
25.	Dry or preserved fruit, that is to say, any fruit or edible part of fruit that has undergone full or partial dehydration or any other preserving process, including almond, <i>khasta badam</i> , pistachionut, <i>chilgoza</i> or <i>neoza</i> , apricot, <i>alubukhra</i> , fig, cashew nut (including salted cashew-nut), walnut, raisin (locally known as <i>kismis</i> or <i>monacca</i>) and date (locally known as <i>khejur</i> , <i>zahedi</i> or <i>sohera</i>), but excluding any fruit which is oil seed as defined in section 14 of the Central Sales Tax Act, 1956.
26.	Edible oil, that is to say,— (i) ground nut oil, (ii) soyabean oil, (iii) sun flower oil, (iv) sesamum or <i>til</i> oil, and (v) ricebran oil, but shall not include— (a) mustard oil, rape oil and mixture of mustard oil and rape oil, (b) coconut oil, or (c) palm oil.
27.	(a) Electrical fan, exhaust fan, air circulator and spare parts, accessories and components thereof. (b) Electrical appliances, other than those mentioned in (a), that is to say,— (i) heaters of all varieties and descriptions, (ii) kettles, percolators, food mixers, grinders and liquidizers, cooking ranges and cooking ovens, and (iii) geysers.
28.	Fax machines and spare parts, accessories and components thereof.
29.	Fertiliser.
30.	Fireworks.
31.	Fluorescent tubes and vapour lamps of all varieties and their fittings including chokes and starters and other components and accessories appertaining to such tubes and lamps.
32.	Fork lift truck.

(Schedule IV.)

Serial No.	Description of goods
(1)	(2)
33.	Franking machines and address printing machines and spare parts, accessories and components thereof.
34.	Furniture made wholly or principally of iron, steel or aluminium.
35.	Gramophone and components thereof and record. <i>Explanation.</i> —This item will not include amplifier and loud speaker and spare parts and accessories thereof sold as such separately.
36.	Granite in all its forms, and articles made thereof.
37.	Hair oil. <i>Explanation.</i> —“Hair oil” shall mean any oil which is sold in packed container to be used as hair oil or any kind of oil which has been subjected to processing for being used as hair oil, and shall include coconut oil, whether perfumed or not.
38.	Ice and ice-creams of all varieties including ice-candy.
39.	Incense sticks locally known as <i>dhupkathi</i> , <i>dhupbati</i> or <i>agarbati</i> including semi-finished sticks thereof.
40.	Insecticide, pesticide, germicide, fungicide and herbicide (including weedicide), other than bleaching powder.
41.	(a) Copper clad laminated board or sheet. (b) Laminated board or sheet, other than that included in (a) and sold under the trade name and description such is Formica, Sunmica or Sungloss.
42.	Liquid product of cellulose generally for use as fuel, and liquid product of earthen waste commonly known as LPE.
43.	Lime, limestone in all its forms and descriptions, and articles made of limestone.
44.	Linoleum.
45.	Liquefied petroleum gas.
46.	Lozenges of all varieties including any item of lozenge made or processed in pan or cooker, hard-boiled suger confectionary, toffee, caramel, chocolate, chocolate bar, whether, with any brand name, such as Cadbury’s chocolate, Sathé’s chocolate or Amul chocolate, or not; any gelatine product known as cough lozenge or jujube, and sweet gum such as chewing gum.

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Serial No.	Description of goods
(1)	(2)
47.	Lubricating oil including mobil oil, brake oil, axle oil and industrial oil and grease, but excluding furnace oil.
48.	Machine for filling and weighing liquids in a container.
49.	Magnesium carbonate and dolomite of all forms or descriptions, and articles made of dolomite.
50.	Marble floor tile, marble wall tile and articles made of marble.
51.	Marble in all its forms and descriptions.
52.	Matches of all kinds.
53.	Motor car.
54.	Motor scooter, moped and motorised cycle-rickshaw.
55.	Motor cycle and motor cycle combination of any kind.
56.	Motor vehicle including motorette, but excluding those goods specified in serial Nos. 53, 54, 55 and 58.
57.	Noodle, vermicelli and macaroni including spaghetti.
59 of 1988.	58. Omnibus and goods carriage as defined in the Motor Vehicles Act, 1988, excluding those goods specified in serial Nos. 53, 54, 55 and 56.
	59. Paints of all kinds including acrylic and plastic emulsion paints, lacquers, distempers, cement colours or paints, enamels, liquid paints, stiff paste paints and powder paints, whether ready for use or not.
	60. Paper of all varieties and descriptions, other than— (a) newsprint, (b) hand-made paper, that is to say, paper made by hand and not made or processed in any machine, and (c) paper specified in serial No. 10.
	61. Paper boards of all varieties and descriptions like straw board, mill board and other boards of similar nature.
23 of 1940.	62. Patent or proprietary medicine as defined in clause (h) of section 3 of the Drugs and Cosmetics Act, 1940.
	63. Perambulator including push chair for babies, and spare parts, accessories and components thereof.

(Schedule IV.)

Serial No.	Description of goods
(1)	(2)
64.	Plastic granules and plastic powders.
65.	(a) Powdered or condensed milk, whether skimmed or not, or whether mixed with any other substance or not, principally used as food for babies and sold under various trade names and descriptions such as Glaxo, Lactogen, Amulspray or any other name or descriptions whatsoever. (b) Powdered or condensed milk, other than those in item (a), whether skimmed or not, or whether mixed with any other substance or not, or whether in the form of powder, tablet or in any other form, sold under various trade names and descriptions such as Milkmaid, Indana, Amul Whole Milk, Anikspray, Horlicks, Viva or any other name or description whatsoever.
66.	Powders for food drinks having cocoa or chocolate, malt, soya-bean, wheat flour or rice powder or combination of two or more of such substances as major ingredients, sold under various trade names and descriptions such as Milo, Ovaltine, Bournvita, Tono, Bonus, Complan, Active, Boost or any other name or description.
67.	Processed food, commonly known as instant food, that is to say, pre-cooked food ready to eat without any further cooking or processing except heating, cooling or adding water, when sold in sealed container or air-tight package under various trade names, brand names or descriptions whatsoever, but excluding— (a) Sweetmeat, curd, <i>chanachur</i> , <i>dalmut</i> , fried potato chips and salted peanuts, whether or not sold in sealed container or air-tight package; (b) weaning food sold under various trade names or descriptions such as Cerelac milk cereal, Nastum baby cereal, Farex or any other name or description whatsoever; and (c) any other goods specified in any serial of this Schedule or any other Schedule.
68.	Polyvinyl chloride (P.V.C.) sheets including rolls.
69.	Refined, bleached and deodorised palm oil, including refined, fractionated and otherwise processed palm oil such as palmolene.
70.	(a) Radio, radio-gramophone, transistor radio, tape recoder, tape player (including any combination of two or more of such goods); (b) Dictaphone, electro-magnetic recording tape (excluding cassette tape, whether recorded or not).

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Serial No.	Description of goods
(1)	(2)
71.	Refrigerator.
72.	Shaving set, safety razor, razor blade, razor cartridge and shaving brush.
44 of 1958. 73.	Ship liable to be registered under the Merchant Shipping Act, 1958, all types of tugs, floating docks, floating cranes, dredgers and barges.
74.	Shoe-polish including shoe-wax, cream and whitener.
75.	Soap, which expression shall mean— (a) toilet soap, (b) washing soap, (c) tablet soap, (d) shaving soap, (e) medicated soap, (f) soft soap, (g) liquid soap, (h) soap chip or flake, (i) powdered soap, or (j) soap of any other description whatsoever, whether or not similar in kind to those mentioned in items (a) to (i), but shall not include— (a) jute batching emulsifier, and (b) soap manufactured, made or processed otherwise than in a factory as defined in the Factories Act, 1948.
63 of 1948. 76.	Spices, namely,— (a) Black and white pepper commonly known as <i>golmarich</i> in whole form; (b) Black and white pepper commonly known as <i>golmarich</i> in broken, ground or powdered or any other form (other than whole form) or of any description whatsoever; (c) Cinnamon or cassia locally known as <i>daruchini</i> of any form or description whatsoever; (d) Cloves locally known as <i>labanga</i> of any form or description whatsoever; (e) Turmeric locally known as <i>haridra</i> or <i>halud</i> in whole form; (f) Turmeric locally known as <i>haridra</i> or <i>halud</i> in broken, ground or powdered or any other form (other than whole form) or of any description whatsoever.

(Schedule IV.)

Serial No.	Description of goods
(1)	(2)
77.	Soft drink powder, tablet, crystal or concentrate in liquid form from which non-alcoholic beverage is prepared by adding any potable liquid.
78.	Surgical dressing, which expression shall include gauze, lint, and cotton wool, sterilized and conformed to the accepted standard of the medical profession.
79.	Tape deck mechanism.
80.	Teleprinter and auxiliary machine and spare parts, accessories and components thereof.
81.	Television set and television monitor.
82.	Tile made of polyvinyl chloride (P. V. C.) and sold under various trade names and descriptions such as Marblux.
83.	Tile used for roofing.
84.	Tooth paste, tooth powder and other dentifrices, tooth brushes, mouth washes and deodorants.
85.	(a) Tractor; (b) Bulldozer, scrapper, excavator, wheel-loader and pipe-layer; (c) Power tiller.
86.	Transparent cellulose film and transparent polypropylene film and similar other films, sold under the trade mark Cellophane or other trade mark or description.
87.	Tyre, tube and flap of tyre and tube for any vehicle (whether driven by motor or not) excluding that for bicycle, tricycle, cycle rickshaw, perambulator and wheel chair. <i>Explanation.</i> —Flap shall mean the rubber band which is inserted between the rim of the wheel and tube to prevent damage to the latter.
88.	Vacuum flasks of all kinds and descriptions including refills for such flasks and other thermally insulated flasks, containers and vessels including thermoses, thermic jugs, ice buckets or boxes, urns and receptacles to keep food or beverage or other articles, hot or cold, and components and accessories thereof.
89.	Vanaspati, also known as vegetable <i>ghee</i> and sold under various trade names and descriptions such as Dalda, Rasoi, Kusum, Balloon, Pratap, Rath, Prasad, Telephone or any other name or description whatsoever.
90.	Varnishes, vegetable paint removers and stainers of all kinds.
91.	Video cassette recorder video cassette player.
92.	Voltage stabilizers, voltage regulators and voltage controllers of all types and descriptions.

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(Schedule V.)

Serial No.	Description of goods
(1)	(2)
93.	(a) All non-cotton yarn, other than coir yarn and pure silk yarn; (b) Coir yarn.
94.	Washing synthetic detergents in the form of powders, cakes, flakes, liquids or in any other form, sold under various trade names and descriptions such as Surf, Nirma, Ariel, Key, Rin, Chek or any other name or description whatsoever.
95.	Washing machine.
96.	Weighing machines of all types and varieties.
97.	Wireless reception instrument and apparatus and spare parts, accessories and components thereof.
98.	Yeast.

PART B

1. Furnace oil.
2. Kerosene oil, other than kerosene oil of inferior grade referred to in item 52 of Schedule I.
3. Motor spirit having a flashing point below 24.4 degree Celsius, required for use as fuel in aircraft.
4. Motor spirit having a flashing point at or above 24.4 degree Celsius, required for use as fuel in aircraft.
5. Motor spirit, other than the motor spirit referred to in items 3 and 4, having a flashing point at or above 24.4 degree Celsius.
6. Motor spirit of any other kind.

SCHEDULE V

[See section 17(1)(d).]

Goods on sale of which tax is leviable at the rate fixed in column (3), against the corresponding entry of such goods in column (2), of the Schedule.

Serial No.	Description of goods	Rate of tax per centum
(1)	(2)	(3)
1.	Bicycle and spare parts, accessories and components thereof.	Three.
2.	Cast iron casting.	Five.
3.	Diamond.	Three.
4.	Footwears of all descriptions when sold at a price not exceeding two hundred rupees per pair.	Three.

(Schedule VI.)

Serial No.	Description of goods	Rate of tax per centum
(1)	(2)	(3)
5.	Gas mantle.	One.
6.	Gold	One.
7.	Gold or silver ornaments, whether set with stone or other materials or not, including gold and silver filigree.	Three.
8.	Hosiery goods, other than hosiery goods made exclusively of cotton and woollen hosiery goods.	One.
9.	Mustard oil, rape oil and mixtures of mustard oil and rape oil.	One.
10.	Pearl—real, artificial or cultured.	Three.
11.	Precious stone (other than diamond)—real or artificial.	Three.
12.	Ready-made garment (other than hosiery goods and garment made of <i>Khaddar</i> or <i>Khadi</i>).	Three.
13.	Rice.	One.
14.	Spectacles.	Five.
15.	Umbrella and spare parts and components thereof.	Five.
16.	Wheat.	One.
17.	All other goods not specified in Schedule I, Schedule II, Schedule III, Schedule IV or in this Schedule.	Ten.

SCHEDULE VI

RULES REGULATING THE PROCEDURE FOR RECOVERY OF TAX, PENALTY AND INTEREST

(See section 52.)

PART ONE

GENERAL PROVISIONS

Definitions.

1. In these rules, unless the context otherwise requires,—
 - (a) “certificate”, except in rules 7, 44, 65 and sub-rule (2) of rule 66, means the certificate referred to in sub-section (2) of section 52 in respect of any dealer or any other person referred to in that section;
 - (b) “defaulter” means the dealer or any other person mentioned as defaulter in the certificate;
 - (c) “execution”, in relation to a certificate, means the recovery of arrears of tax, penalty or interest in pursuance of the certificate;

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- (d) "movable property" includes growing crops;
- (e) "officer" means a person authorised to make an attachment or sale under these rules;
- (f) "requiring officer" means an officer who forwards to the Tax Recovery Officer a certificate under section 52;
- (g) "rule" means a rule laid down in this Schedule;
- (h) "share in a corporation" includes stock, debenture stock, debenture or bond.

2. When a certificate has been received by the Tax Recovery Officer from the requiring officer for the recovery of arrears of tax, penalty or interest under these rules, the Tax Recovery Officer shall cause to be served upon the defaulter a notice requiring the defaulter to pay the amount specified in the certificate within fifteen days from the date of service of the notice and intimating that in default, steps shall be taken to realise the amount under these rules.

Issue of
notice.

3. No step in execution of a certificate shall be taken until a period of fifteen days has elapsed since the date of the service of the notice required by rule 2:

When
certificate
may be
executed.

Provided that if the Tax Recovery Officer is satisfied that the defaulter is likely to conceal, remove or dispose of the whole or any part of such of his movable property as would be liable to attachment in execution of a decree of a civil court and that the realisation of the amount of the certificate would, in consequence, be delayed or obstructed, he may at any time direct, for reasons to be recorded in writing, an attachment of the whole or any part of such property:

Provided further that if the defaulter whose property has been so attached furnishes security to the satisfaction of the Tax Recovery Officer, such attachment shall be cancelled from the date on which such security is accepted by the Tax Recovery Officer.

4. If the amount mentioned in the notice is not paid within the time specified therein or within such further time as the Tax Recovery Officer may, in his discretion, grant, the Tax Recovery Officer shall proceed to realise the amount by one or more of the following modes:—

Mode of
recovery.

- (a) by attachment and sale of the defaulter's movable property;
- (b) by attachment and sale of the defaulter's immovable property;
- (c) by arrest of the defaulter and his detention in prison;
- (d) by appointing a receiver for the management of the defaulter's movable and immovable properties.

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Interest, costs
and charges
recoverable.

5. There shall be recoverable, in the proceedings in execution of every certificate,—

- (a) an interest at the rate of two *per centum* for each British calendar month from the date immediately following the period of time specified in the notice referred to in rule 2 upon the amount of tax, penalty or interest or other sum to which the certificate relates, and
- (b) all charges incurred in respect of—
 - (i) the service of notice upon the defaulter to pay the arrears of tax, penalty or interest, and of warrants and other processes, and
 - (ii) all other proceedings taken for realising the arrears of tax, penalty or interest.

Purchaser's
title.

6. (1) Where property is sold in execution of a certificate, there shall vest in the purchaser merely the right, title and interest of the defaulter at the time of the sale, even though the property itself be specified.

(2) Where immovable property is sold in execution of a certificate, and such sale has become absolute, the purchaser's right, title and interest shall be deemed to have vested in him from the time when the property is sold, and not from the time when the sale becomes absolute.

Suit against
purchaser
not maintain-
able on
ground of
purchase
being made
on behalf
of plaintiff.

7. (1) No suit shall be maintained against any person claiming title under a purchase certified by the Tax Recovery Officer in the manner laid down in these rules, on the ground that the purchase was made on behalf of the plaintiff or on behalf of some one through whom the plaintiff makes such claim.

(2) Nothing in this rule shall bar a suit to obtain a declaration that the name of any purchaser certified as aforesaid was inserted in the certificate fraudulently or without the consent of the real purchaser, or interfere with the right of a third person to proceed against that property, though ostensibly sold to the certified purchaser, on the ground that it is liable to satisfy a claim of such third person against the real owner.

Disposal of
proceeds of
execution.

8. (1) Whenever assets are realised by sale or otherwise in execution of a certificate, the proceeds shall be disposed of in the following manner, namely:—

- (a) they shall first be adjusted towards the amount due under the certificate in execution of which the assets were realised and the costs incurred in the course of such execution;
- (b) if there remains a balance after the adjustment referred to in clause (a), the same shall be utilised for satisfaction of any other amount recoverable from the dealer under this Act which may be due on the date on which the assets were realised; and
- (c) the balance, if any, remaining after the adjustments under clauses (a) and (b) shall be paid to the defaulter.

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(2) If the defaulter disputes any adjustment under clause (b) of sub-rule (1), the Tax Recovery Officer shall determine the dispute.

9. Except as otherwise expressly provided in this Act, every question arising between the requiring officer and the defaulter or his representative relating to the execution, discharge or satisfaction of a certificate duly filed under this Act, or relating to the confirmation or setting aside, by an order under this Act, of a sale held in execution of such certificate, shall be determined, not by suit but by order of the Tax Recovery Officer before whom such question arises:

General bar to jurisdiction of civil courts, save where fraud alleged.

Provided that a suit may be brought in a civil court in respect of any such question on the ground of fraud.

5 of 1908.

10. (1) All such property as exempted by the Code of Civil Procedure, 1908, from attachment and sale in execution of a decree of a civil court shall be exempt from attachment and sale under these rules.

Properly exempt from attachment.

(2) The decision of the Tax Recovery Officer as to what property is so entitled to exemption shall be conclusive.

11. (1) Where any claim is preferred to, or any objection is made to the attachment or sale of, any property in execution of a certificate on the ground that such property is not liable to such attachment or sale, the Tax Recovery Officer shall proceed to investigate the claim or objection:

Investigation by Tax Recovery Officer.

Provided that no such investigation shall be made where the Tax Recovery Officer considers that the claim or objection was designedly or unnecessarily delayed.

(2) Where the property to which the claim or objection applied has been advertised for sale, the Tax Recovery Officer ordering the sale may postpone such sale pending the investigation of the claim or objection on such terms as to security or otherwise as the Tax Recovery Officer may deem fit.

(3) The claimant or objector shall adduce evidence to show that—

- (a) in the case of immovable property, at the date of the service of the notice issued under these rules to pay the arrears of tax, penalty or interest, or
- (b) in the case of movable property, at the date of the attachment, he had some interest in, or was possessed of, the property in question.

(4) Where, upon the said investigation, the Tax Recovery Officer is satisfied that for the reason stated in the claim or objection, such property was not, at the said date, in the possession of the defaulter or of some

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person in trust for him or in the occupancy of a tenant or other person paying rent to him, or that, being in the possession of the defaulter at the said date, such property in his possession, not on his own account or as his own property but on account of, or in trust for, some other person, or partly on his own account and partly on account of some other person, the Tax Recovery Officer shall make an order releasing the property, wholly or to such extent as he thinks fit, from attachment or sale.

(5) Where the Tax Recovery Officer is satisfied that the property was, at the said date, in the possession of the defaulter as his own property and not on account of any other person, or was in the possession of some other person in trust for him, or in the occupancy of a tenant or other person paying rent to him, the Tax Recovery Officer shall disallow the claim.

(6) Where a claim or an objection is preferred, the party against whom an order is made may institute a suit in a civil court to establish the right which he claims to the property in dispute, but, subject to the result of such suit, if any, the order of the Tax Recovery Officer shall be conclusive.

Removal of attachment on satisfaction or cancellation of certificate.

12. Where—

- (a) the amount of arrear of tax, penalty or interest with costs and all charges and expenses, resulting from the attachment of any property, or incurred in order to hold a sale, is paid to the Tax Recovery Officer, or
- (b) the certificate is cancelled, the attachment shall be deemed to be withdrawn and, in the case of immovable property, the withdrawal shall, if the defaulter so desires, be proclaimed at his expense, and a copy of the proclamation shall be affixed in the manner provided in these rules for a proclamation of sale of immovable property.

Officer entitled to attach and sell.

13. The attachment and sale of movable property and the attachment and sale of immovable property may be made by such persons as the Tax Recovery Officer may, from time to time, direct in writing.

Defaulting purchaser answerable for loss on resale.

14. Any deficiency of price which may occur on a resale by reason of the purchaser's default, and all expenses attending such resale, shall be certified to the Tax Recovery Officer by the person holding the sale, and shall, on an application by either the Commissioner or the defaulter, be recoverable from the defaulting purchaser under the procedure provided by these rules:

Provided that no such application shall be entertained unless filed within fifteen days from the date of resale.

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15. (1) The Tax Recovery Officer may, in his discretion, adjourn any sale hereunder to a specified day and hour; and the person conducting any such sale may, in his discretion, adjourn the sale, recording reasons for such adjournment:

Adjournment
or stoppage
of sale.

Provided that where the sale is made, in, or within the precincts of, the office of the Tax Recovery Officer, no such adjournment shall be made without the permission of the Tax Recovery Officer.

(2) Where a sale of immovable property is adjourned under sub-rule (1) for a longer period than thirty days, a fresh proclamation of sale under these rules shall be made unless the defaulter consents to waive it.

(3) Every sale shall be stopped if, before the lot is knocked down, the arrears of tax, penalty or interest and costs (including the costs of the sale) are tendered to the person conducting the sale, or proof is given to his satisfaction that the amount of such arrears of tax, penalty or interest and costs has been paid to the Tax Recovery Officer who ordered the sale.

16. (1) Where a notice has been served on a defaulter under rule 2, the defaulter or his representative in interest shall not be competent to mortgage, charge, lease or otherwise deal with any property belonging to him except with the permission of the Tax Recovery Officer, nor shall any civil court issue any process against such property in execution of a decree for the payment of money.

Private
alienation
to be void
in certain
cases.

(2) Where an attachment has been made under these rules, any private transfer or delivery of the property attached or of any interest therein, and any payment to the defaulter of any debt, dividend or other moneys contrary to such attachment, shall be void as against all claims enforceable under the attachment.

17. No officer or other person having any duty to perform in connection with any sale under these rules shall, either directly or indirectly, bid for, acquire, or attempt to acquire, any interest in the property sold.

Prohibition
against
bidding or
purchase
by officer.

18. No sale under these rules shall take place on a Sunday or other public holiday declared as such by the State Government or on any day which has been notified by the State Government to be a holiday other than a public holiday or a local holiday for the area in which the sale is to take place.

Prohibition
against sale
on holidays.

19. Any officer authorised to attach or sell any property or to arrest the defaulter or charged with any duty to be performed under these rules, may apply to the officer-in-charge of the nearest police station for such assistance as may be necessary in the discharge of his duties, and such officer-in-charge shall depute a sufficient number of police officers for providing such assistance.

Assistance
by police.

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PART TWO

ATTACHMENT AND SALE OF MOVABLE PROPERTY

Attachment

Warrant.

20. Except as otherwise provided in these rules, when any movable property is to be attached, the officer shall be furnished by the Tax Recovery Officer a warrant in writing and signed with his name specifying the name of the defaulter and the amount to be realised.

Service of
copy of
warrant.

21. The officer shall cause a copy of the warrant to be served on the defaulter.

Attachment.

22. If, after service of the copy of the warrant, the amount is not paid forthwith, the officer shall proceed to attach the movable property of the defaulter.

Property in
defaulter's
possession.

23. Where the property to be attached is movable property (other than agricultural produce) in the possession of the defaulter, the attachment shall be made by actual seizure, and the officer shall keep the property in his own custody or the custody of one of his subordinates and shall be responsible for due custody thereof:

Provided that when such property is subject to speedy and natural decay or when the expense of keeping it in custody is likely to exceed its value, the officer may sell it at once.

Agricultural
produce.

24. Where the property to be attached is agricultural produce, the attachment shall be made by affixing a copy of the warrant of attachment,—

- (a) where such produce is growing crop, on the land on which such crop has grown, or
- (b) where such produce has been cut or gathered, on the threshing floor or place for treading out grain or the like, or fodder-stack, on or in which it is deposited,

and another copy on the outer door or on some other conspicuous part of the house in which the defaulter ordinarily resides, or with the permission of the Tax Recovery Officer, on the outer door or on some other conspicuous part of the house in which he carries on business or personally works for gain, or in which he is known to have last resided or carried on business or personally worked for gain. The produce shall, thereupon, be deemed to have passed into the possession of the Tax Recovery Officer.

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25. (1) Where agricultural produce is attached, the Tax Recovery Officer shall make such arrangements for the custody, watching, tending, cutting and gathering thereof as he may deem sufficient; and the Commissioner shall bear such sum as the Tax Recovery Officer shall require in order to defray the cost of such arrangement.

Provision as to agricultural produce under attachment.

(2) Subject to such conditions as may be imposed by the Tax Recovery Officer in this behalf, either in the order of attachment or in any subsequent order, the defaulter may tend, cut, gather or store the produce and do any other act necessary for maturing or preserving it; and, if the defaulter fails to do all or any of such acts, any person appointed by the Tax Recovery Officer in this behalf may, subject to the like conditions, do all or any of such acts, and the costs incurred by such person shall be recoverable from the defaulter as if they were included in the certificate.

(3) No agricultural produce attached as growing crop shall be deemed to have ceased to be under attachment or to require re-attachment merely because it has been severed from the soil.

(4) Where an order for the attachment of a growing crop has been made at a considerable time before the crop is likely to be fit to be cut or gathered, the Tax Recovery Officer may suspend the execution of the order for such time as he thinks fit, and may, in his discretion, make a further order prohibiting the removal of the crop pending the execution of the order of attachment.

(5) A growing crop which from its nature does not admit of being stored shall not be attached under this rule at any time less than twenty days before the time at which it is likely to be fit to be cut or gathered.

26. (1) In the case of—

Debts and shares etc.

- (a) a debt not secured by a negotiable instrument,
- (b) a share in a corporation, or
- (c) other movable property not in the possession of the defaulter except property deposited in, or in the custody of, any court, the attachment shall be made by a written order prohibiting,—
 - (i) in the case of the debt, the creditor from recovering the debt and the debtor from making payment thereof until further order of the Tax Recovery Officer;
 - (ii) in the case of the share, the person in whose name the share may be standing, from transferring the same or receiving any dividend thereon;
 - (iii) in the case of the other movable property (except as aforesaid), the person in possession of the same from giving it over to the defaulter.

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(2) A copy of such order shall be affixed on some conspicuous part of the office of the Tax Recovery Officer, and another copy shall be sent, in the case of the debt, to the debtor, in the case of the share, to the appropriate officer of the corporation, and in the case of the other movable property (except as aforesaid), to the person in possession of the same.

(3) A debtor prohibited under clause (i) of sub-rule (1) may pay the amount of his debt to the Tax Recovery Officer, and such payment shall discharge him as effectually as payment to the party entitled to receive the same.

Attachment
of decree.

27. (1) The attachment of a decree of a civil court for the payment of money or for sale in enforcement of a mortgage or charge shall be made by the issue to the civil court of a notice requesting the civil court to stay the execution of the decree unless and until—

- (a) the Tax Recovery Officer cancels the notice, or
- (b) the Commissioner or the defaulter makes an application to the court receiving such notice to execute the decree.

(2) Where a civil court receives an application under clause (b) of sub-rule (1), it shall, on the application of the Commissioner or the defaulter and subject to the provisions of the Code of Civil Procedure, 1908, proceed to execute the attached decree and apply the net proceeds in satisfaction of the certificate.

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(3) The Commissioner shall be deemed to be the representative of the holder of the attached decree, and to be entitled to execute such attached decree in any manner lawful for the holder thereof.

Share in
movable
property.

28. Where the property to be attached consists of the share or interest of the defaulter in a movable property belonging to him and any other person as co-owners, the attachment shall be made by a notice to the defaulter prohibiting him from transferring the share or interest or charging it in any way.

Salary of
employees of
Government
and local
authority.

29. Attachment of the salary or allowances of an employee of Government or of a local authority may be made in the manner provided in rule 48 of Order XXI of the First Schedule to the Code of Civil Procedure, 1908, and the provisions of the said rule shall, for the purposes of this rule, apply subject to such modifications as may be necessary.

Attachment
of negotiable
instrument.

30. Where the property is a negotiable instrument not deposited in a court nor in the custody of a public officer, the attachment shall be made by actual seizure, and the instrument shall be brought before the Tax Recovery Officer and shall be held subject to his orders.

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31. Where the property to be attached is in the custody of any court or public officer, the attachment shall be made by a notice to such court or public officer, requesting that such property, and any interest or dividend becoming payable thereon, may be held subject to the further orders of the Tax Recovery Officer by whom the notice is issued:

Attachment of property in custody of court or public officer.

Provided that where such property is in the custody of a court, any question of title or priority arising between the Commissioner and any other person, not being the defaulter, claiming to be interested in such property by virtue of any assignment, attachment or otherwise, shall be determined by such court.

32. (1) Where the property to be attached consists of an interest of the defaulter, being a partner, in the partnership property, the Tax Recovery Officer may make an order charging the share of such partner in the partnership property and profits with payment of the amount due under the certificate, and may, by the same or subsequent order, appoint a receiver for the share of such partner in the profits, whether already declared or accruing, and of any other money which may become due to him in respect of the partnership, direct to prepare accounts and hold inquiries, and make an order for the sale of such interest or make such other order as the circumstances of the case may require.

Attachment of partnership property.

(2) The other partners shall be at liberty at any time to redeem the interest charged or, in the case of a sale being directed, to purchase the same.

33. In the case of attachment of movable property by actual seizure, the officer shall, after attachment of the property, prepare an inventory of all the property attached, specifying in it the place where it is lodged or kept, and shall forward the same to the Tax Recovery Officer and a copy of the inventory shall be delivered by the officer to the defaulter.

Inventory.

34. The attachment by seizure shall not be excessive, that is to say, the property attached shall be as nearly as possible proportionate to the amount specified in the warrant.

Attachment not to be excessive.

35. Any attachment by seizure shall be made after sunrise and before sunset and not otherwise.

Seizure between sunrise and sunset.

36. The officer may break open any inner or outer door or window of any building and enter any building in order to seize any movable property if the officer has reasonable grounds to believe that such building contains movable property liable to seizure under the warrant and the officer has notified his authority and intention of breaking open if admission is not given:

Power to break open doors etc.

Provided that he shall give all reasonable opportunity to women to withdraw.

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Sale. **37.** The Tax Recovery Officer may direct that any movable property attached under these rules or such portion thereof as may seem necessary to satisfy the certificate shall be sold.

Issue
of pro-
clamation. **38.** When any sale of movable property is ordered by the Tax Recovery Officer, the Tax Recovery Officer shall issue a proclamation, in the language of the district, of the intended sale, specifying the time and place of sale and whether the sale is subject to confirmation or not.

Proclamation
how made. **39.** (1) Such proclamation shall be made by beat of drum or other customary mode,—

- (a) in the case of property attached by actual seizure,—
 - (i) in the village in which the property was seized, or, if the property was seized in a town or city, then, in the locality in which it was seized; and
 - (ii) at such other places as the Tax Recovery Officer may direct;
- (b) in the case of property attached otherwise than by actual seizure, in such places, if any, as the Tax Recovery Officer may direct.

(2) A copy of the proclamation shall also be affixed in a conspicuous part of the office of the Tax Recovery Officer.

Sale after
fifteen days. **40.** Except where the property is subject to speedy and natural decay or when the expense of keeping it in custody is likely to exceed its value, no sale of movable property under these rules shall, without the consent in writing of the defaulter, take place until after the expiry of at least fifteen days calculated from the date on which a copy of the proclamation is affixed in the office of the Tax Recovery Officer.

Sale of
agricultural
produce. **41.** (1) Where the property to be sold is agricultural produce, the sale shall be held,—

- (a) if such produce is a growing crop on or near the land on which such crop has grown, or
- (b) if such produce has been cut or gathered, at or near the threshing floor, or place for treading out grain or the like, or fodder-stock, on or in which it is deposited:

Provided that the Tax Recovery Officer may direct the sale to be held at the nearest place of public resort, if he is of opinion that the produce is thereby likely to sell to greater advantage.

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- (2) Where, on the produce being put up for sale,—
- (a) a fair price, in the estimation of the person holding the sale, is not offered for it, and
 - (b) the owner of the produce, or a person authorised to act on his behalf, applies to have the sale postponed till the next day or, if a market is held at the place of sale, the next market day, the sale shall be postponed accordingly, and shall be then completed, whatever price may be offered for the produce.

42. (1) Where the property to be sold is a growing crop and the crop from its nature admits of being stored but has not yet been stored, the day of the sale shall be so fixed as to admit of the crop being made ready for storing before the arrival of such day, and the sale shall not be held until the crop has been cut or gathered and is ready for storing.

Special provision relating to growing crops.

(2) Where the crop from its nature does not admit of being stored or can be sold to a greater advantage in an unripe stage, such as green wheat, it may be sold before it is cut and gathered, and the purchaser shall be entitled to enter on the land, and to do all that is necessary for the purpose of tending or cutting or gathering the crop.

43. The property shall be sold by public auction in one or more lots as the officer may consider advisable, and if the amount to be realised by sale is satisfied by the sale of a portion of the property, the sale shall be immediately stopped with respect to the remainder of the lots.

Sale to be by auction.

44. (1) Where movable property is sold by public auction, the price of each lot shall be paid at the time of sale or as soon after as the officer holding the sale directs and in default of payment, the property shall forthwith be resold.

Sale by public auction.

(2) On payment of the purchase-money, the officer holding the sale shall grant a certificate specifying the property purchased, the price paid and the name of the purchaser, and the sale shall become absolute.

(3) Where the movable property to be sold is a share in goods belonging to the defaulter and a co-owner, and two or more persons, of whom one is such co-owner, respectively bid the same sum for such property or for any lot, the bidding shall be deemed to be the bidding of the co-owner.

45. No irregularity in publishing or conducting the sale of movable property shall vitiate the sale, but any person sustaining substantial injury by reason of such irregularity at the hand of any other person may institute a suit in a civil court against him for compensation, or if such other person is the purchaser, for the recovery of the specific property and for compensation in default of such recovery.

Irregularity not to vitiate sale, but any person injured may sue.

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Negotiable instruments and shares in a corporation.

46. Notwithstanding anything contained in these rules, where the property to be sold is a negotiable instrument or a share in a corporation, the Tax Recovery Officer may, instead of directing the sale to be made by public auction, authorise the sale of such instrument or share through a broker.

Manner of disposal of coins or currency notes attached.

47. Where the property attached is current coin or currency-note, it shall be disposed of in the manner referred to in rule 8.

PART THREE

ATTACHMENT AND SALE OF IMMOVABLE PROPERTY

Attachment.

48. Attachment of the immovable property of the defaulter shall be made by an order prohibiting the defaulter from transferring or charging the property in any way and prohibiting all persons from taking any benefit under such transfer or charge.

Service of notice of attachment.

49. A copy of the order of attachment shall be served on the defaulter.

Proclamation of attachment.

50. The order of attachment shall be proclaimed at some place on or adjacent to the property attached by beat of drum or other customary mode, and a copy of the order shall be affixed on a conspicuous part of the property and on the notice board of the office of the Tax Recovery Officer.

Attachment to relate back from the date of service of notice.

51. Where any immovable property is attached under these rules, the attachment shall relate back to, and take effect from, the date on which the notice to pay the arrears of tax, penalty or interest, issued under these rules, was served upon the defaulter.

Sale and proclamation of sale.

52. (1) The Tax Recovery Officer may direct that any immovable property which has been attached, or such portion thereof as may seem necessary to satisfy the certificate, shall be sold.

(2) Where any immovable property is ordered to be sold, the Tax Recovery Officer shall cause a proclamation of the intended sale.

Contents of proclamation.

53. A proclamation of sale of immovable property shall be drawn up after notice to the defaulter, and shall state the time and place of sale, and shall specify, as fairly and accurately as possible,—

- (a) the property to be sold with particulars thereof;
- (b) the amount for the recovery of which the sale is ordered;
- (c) the reserve price, if any, below which the property shall not be sold; and
- (d) any other matter which the Tax Recovery Officer considers it material for a purchaser to know, in order to judge the nature and value of the property.

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54. (1) Every proclamation for the sale of immovable property shall be made at some place on or near such property by beat of drum or other customary mode, and a copy of the proclamation shall be affixed on conspicuous part of the property and also upon a conspicuous part of the office of the Tax Recovery Officer.

Mode of making proclamation.

(2) Where the Tax Recovery Officer so directs, such proclamation shall also be published in a local newspaper and the cost of such publication shall be deemed to be costs of the sale.

(3) Where the property is divided into lots for the purpose of being sold separately, it shall not be necessary to make a separate proclamation for each lot, unless proper notice of the sale cannot, in the opinion of the Tax Recovery Officer, otherwise be given.

55. No sale of immovable property under these rules shall, without the consent in writing of the defaulter, take place until after the expiration of at least thirty days calculated from the date on which a copy of the proclamation of sale is affixed on the property or from the date on which a copy of such proclamation is affixed in the office of the Tax Recovery Officer, whichever is later.

Time of sale.

56. The sale shall be by public auction to the highest bidder and shall be subject to confirmation by the Tax Recovery Officer:

Sale to be by auction.

Provided that no sale under this rule shall be made if the amount bid by the highest bidder is less than the reserve price, if any, specified under clause (c) of rule 53.

57. (1) On every sale of immovable property, the person declared to be the purchaser shall make, immediately after such declaration, a deposit of twenty-five *per centum* of the amount of his purchase-money to the officer conducting the sale; and, in default of such deposit, the property shall forthwith be resold.

Deposit by purchaser and resale in default.

(2) The full amount of purchase-money payable shall be paid by the purchaser to the Tax Recovery Officer on or before the fifteenth day from the date of the sale of the property.

58. In default of payment within the period mentioned in rule 57, the deposit may, if the Tax Recovery Officer thinks fit, after defraying the expenses of the sale, be forfeited to the Government, and the property shall be resold, and the defaulting purchaser shall forfeit all claims to the property or to any part of the sum for which it may subsequently be sold.

Procedure in default of payment.

59. (1) Where the sale of a property, for which a reserve price has been specified under clause (c) of rule 53, has been postponed for want of a bid of an amount not less than such reserve price, it shall be lawful for a requiring officer, if so authorised by the Commissioner in this behalf, to bid for the property on behalf of the State Government at any subsequent sale.

Authority to bid.

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(2) All persons bidding at the sale shall be required to declare, if they are bidding on their own behalf or on behalf of their principal. In the latter case, they shall be required to furnish authority from their principals, and in default, their bids shall be rejected.

Application to set aside sale of immovable property on deposit.

60. (1) Where immovable property has been sold in execution of a certificate, the defaulter, or any person whose interests are affected by the sale, may, at any time within thirty days from the date of the sale, apply to the Tax Recovery Officer to set aside the sale, on his depositing,—

- (a) for payment to the Commissioner, the amount specified in proclamation of sale for the recovery of which the sale was ordered with interest thereon at the rate of twenty-four *per centum per annum*, calculated from the date of the proclamation of sale to the date when the deposit is made; and
- (b) for payment to the purchaser, as penalty, a sum not exceeding twenty-five *per centum* of the purchase-money, but not less than five *per centum* of such purchase-money, as may be determined by the Tax Recovery Officer.

(2) Where a person makes an application under rule 61 for setting aside the sale of his immovable property, he shall not, unless he withdraws such application, be entitled to make or prosecute an application under this rule.

Application to set aside sale of immovable property on ground of non-service of notice or irregularity.

61. Where immovable property has been sold in execution of a certificate, the Commissioner, the defaulter, or any person whose interests are affected by the sale, may, at any time within thirty days from the date of the sale, apply to the Tax Recovery Officer to set aside the sale of the immovable property on the ground that notice was not served on the defaulter to pay the arrears of tax, penalty or interest as required by these rules or on the ground of a material irregularity in publishing or conducting the sale:

Provided that—

- (a) no sale shall be set aside on any such ground unless the Tax Recovery Officer is satisfied that the applicant has sustained substantial injury by reason of the non-service of notice or such material irregularity; and
- (b) an application made by a defaulter under this rule shall be disallowed unless the applicant deposits the amount recoverable from him in the execution of the certificate.

Setting aside sale where defaulter has no saleable interest.

62. At any time within thirty days of the sale, the purchaser may apply to the Tax Recovery Officer to set aside the sale on the ground that the defaulter had no saleable interest in the property sold.

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63. (1) Where no application is made for setting aside the sale under the foregoing rules or where such an application is made and disallowed by the Tax Recovery Officer, the Tax Recovery Officer shall, if the full amount of the purchase-money has been paid, make an order confirming the sale, and, thereupon, the sale shall become absolute.

Confirmation of sale.

(2) Where such application is made and allowed, and where in the case of an application made to set aside the sale on deposit of the amount recoverable from the defaulter and penalty and other charges, the deposit is made within thirty days from the date of the sale, the Tax Recovery Officer shall make an order setting aside the sale:

Provided that no order shall be made unless notice of the application has been given to the persons affected thereby.

64. Where a sale of immovable property is set aside, any money paid or deposited by the purchaser on account of the purchase, together with the penalty, if any, deposited for payment to the purchaser, and such interest at the rate not exceeding twenty-four *per centum* of the money paid or deposited by the purchaser as the Tax Recovery Officer may allow, shall be paid to the purchaser.

Return of purchase money in certain cases.

65. (1) Where a sale of immovable property has become absolute, the Tax Recovery Officer shall grant a certificate specifying the property sold and the name of the person who at the time of sale is declared to be the purchaser.

Sale certificate.

(2) Such certificate shall state the date on which the sale become absolute.

66. (1) Where an order for the sale of immovable property has been made, if the defaulter satisfies the Tax Recovery Officer that there is reason to believe that the amount of the certificate may be raised by mortgage, lease or private sale of such property, or some part thereof, or of any other immovable property of the defaulter, the Tax Recovery Officer may, on his application, postpone the sale of the property comprised in the order for sale, on such terms, and for such period, as he thinks proper, to enable him to raise the amount.

Postponement of sale to enable defaulter to raise amount due under certificate.

(2) If the Tax Recovery Officer postpones the sale under sub-rule (1), he shall grant a certificate to the defaulter, authorising him within a period to be mentioned therein, and, notwithstanding anything contained in these rules, to make the proposed mortgage, lease or private sale:

Provided that all moneys payable under such mortgage, lease or private sale shall be paid to the Tax Recovery Officer and not to the defaulter:

Provided further that no mortgage, lease or private sale under this rule shall become absolute until it has been confirmed by the Tax Recovery Officer.

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Fresh
proclamation
before re-
sale.

67. Every re-sale of immovable property, in default of payment of the purchase-money within the period allowed for such payment, shall be made after the issue of a fresh proclamation in the manner and for the period hereinbefore provided for the sale.

Bid to co-
share to have
preference.

68. Where the property sold is a share of undivided immovable property, and two or more persons, of whom one is a co-sharer, respectively bid the same sum for such property or for any lot, the bid shall be deemed to be the bid of the co-sharer.

Acceptance
of property
in
satisfaction
of amount
due from the
defaulter.

69. (1) Without prejudice to the provisions contained in this part, the requiring officer, duly authorised by the Commissioner in this behalf, may accept in satisfaction of the whole or any part of the amount due from the defaulter the property, the sale of which has been postponed for the reasons mentioned in sub-rule (1) of rule 59, at such price as may be agreed upon between the requiring officer and the defaulter.

(2) Where any property is accepted under sub-rule (1), the defaulter shall deliver possession of such property to the Commissioner and on the date the possession of the property is delivered to the Commissioner, the property shall vest in the State Government and the State Government shall, where necessary, intimate the concerned registering officer appointed under the Registration Act, 1908, accordingly.

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(3) Where the price of the property agreed upon under sub-rule (1) exceeds the amount due from the defaulter, such excess shall be paid by the Commissioner to the defaulter within a period of three months from the date of delivery of possession of the property and where the Commissioner fails to pay such excess within the period aforesaid, the State Government shall, for the period commencing on the expiry of such period and ending on the date of payment of the amount remaining unpaid, pay simple interest at the rate of twenty-four *per centum per annum* to the defaulter on such amount.

PART FOUR

APPOINTMENT OF RECEIVER

Appointment
of receiver
for business.

70. (1) Where the property of a defaulter consists of a business, the Tax Recovery Officer may attach the business and appoint a person as receiver to manage the business.

(2) Attachment of a business under this rule shall be made by an order prohibiting the defaulter from transferring or charging the business in any way and prohibiting all persons from taking any benefit under

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such transfer or charge, and intimating that the business has been attached under this rule. A copy of the order of attachment shall be served on the defaulter, and another copy shall be affixed on a conspicuous part of the premises in which the business is carried on and on the notice board of the office of the Tax Recovery Officer.

71. Where immovable property is attached, the Tax Recovery Officer may, instead of directing a sale of the property, appoint a person as receiver to manage such property.

Appointment
of receiver
for
immovable
property.

72. (1) Where any business or other property is attached and taken under management under the foregoing rules, the receiver shall, subject to the control of the Tax Recovery Officer, have such powers as may be necessary for the proper management of the property and the realisation of the profits, or rents and profits, thereof.

Powers of
receiver.

(2) The profits, or rents and profits, of such business or other property, shall, after defraying the expenses of management, be adjusted towards discharge of the arrears of tax, penalty or interest, and the balance, if any, shall be paid to the defaulter.

73. The attachment and management under the foregoing rules may be withdrawn—

Withdrawal
of
attachment
and
management.

- (a) at any time at the discretion of the Tax Recovery Officer,
- (b) if the arrears of tax, penalty or interest are discharged by receipt of profits or rents or the property, or
- (c) if the arrears of tax, penalty or interest are otherwise paid.

PART FIVE

ARREST AND DETENTION OF DÉFAULTER

74. (1) No order for the arrest and detention in civil prison of a defaulter shall be made unless the Tax Recovery Officer has issued and served a notice upon the defaulter calling upon him to appear before the Tax Recovery Officer on the date specified in the notice and to show cause why he should not be committed to the civil prison, and unless the Tax Recovery Officer, for reasons to be recorded in writing, is satisfied—

Notice to
show cause.

- (a) that the defaulter, with the object or effect of obstructing the execution of the certificate, has after the receipt of the certificate from the office of the Tax Recovery Officer, dishonestly or fraudulently transferred, concealed, or removed any part of his property or any part thereof, or

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- (b) that the defaulter has, or has had since the receipt of the certificate from the office of the Tax Recovery Officer, the means to pay the arrears of tax, penalty or interest or some substantial part thereof and refuses or neglects or has refused or neglected to pay the same.

(2) Notwithstanding anything contained in sub-rule (1), a warrant for the arrest of the defaulter may be issued by the Tax Recovery Officer if the Tax Recovery Officer is satisfied, by affidavit or otherwise, that with the object or effect of delaying the execution of the certificate, the defaulter is likely to abscond or leave the local limits of the jurisdiction of the Tax Recovery Officer.

(3) Where appearance is not made in compliance with a notice issued and served under sub-rule (1), the Tax Recovery Officer may issue a warrant for the arrest of the defaulter.

(4) A warrant of arrest issued by a Tax Recovery Officer under sub-rule (2) or sub-rule (3) may also be executed by any other Tax Recovery Officer within whose jurisdiction the defaulter may, for the time being, be found.

(5) Every person arrested in pursuance of a warrant of arrest under this rule shall be brought before the Tax Recovery Officer issuing the warrant as soon as practicable and, in any event, within twenty-four hours of his arrest (exclusive of the time required for the journey):

Provided that if the defaulter pays the amount entered in the warrant of arrest as due and the costs of the arrest to the officer arresting him, such officer shall at once release him.

Explanation.—For the purposes of this rule, where the defaulter is a Hindu undivided family, the *karta* thereof shall be deemed to be the defaulter.

Hearing.

75. When a defaulter appears before the Tax Recovery Officer in compliance with a notice to show cause or is brought before the Tax Recovery Officer under rule 74, the Tax Recovery Officer shall proceed to hear the requiring officer and take all such evidence as may be produced by him in support of execution by arrest, and shall then give the defaulter an opportunity of showing cause why he should not be committed to the civil prison.

Custody
pending
hearing.

76. Pending the conclusion of inquiry, if any, for the purposes of rule 74, the Tax Recovery Officer may, in his discretion, order the defaulter to be detained in the custody of such officer as the Tax Recovery Officer may think fit or release him on his furnishing security to the satisfaction of the Tax Recovery Officer for his appearance when required.

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77. (1) Upon the conclusion of the inquiry as aforesaid, the Tax Recovery Officer may make an order for the detention of the defaulter in the civil prison and shall, in that event, cause him to be arrested if he is not already under arrest:

Order of
detention.

Provided that in order to give the defaulter an opportunity of satisfying the arrears of tax, penalty or interest, the Tax Recovery Officer may, before making the order of detention, leave the defaulter in the custody of the officer arresting him or of any other officer for a specified period not exceeding fifteen days, or release him on his furnishing security to the satisfaction of the Tax Recovery Officer for his appearance at the expiration of the specified period if the arrears of tax, penalty or interest are not so satisfied.

(2) When the Tax Recovery Officer does not make an order of detention under sub-rule (1), he shall, if the defaulter is under arrest, direct his release.

78. (1) Every person detained in the civil prison in execution of a certificate may be so detained,—

Detention in,
and release
from, prison.

- (a) where the certificate is for a demand of an amount exceeding one lakh rupees for a period of six months, and
- (b) in any other case, for a period of six weeks:

Provided that he shall be released from such detention—

- (i) on the amount mentioned in the warrant for his detention being paid to the officer-in-charge of the civil prison, or
- (ii) on the request of the requiring officer or of the Tax Recovery Officer on any ground other than the grounds mentioned in rules 79 and 80.

(2) A defaulter released from detention under this rule shall not, merely by reason of his release, be discharged from his liability for the arrears of tax, penalty or interest; but he shall not be liable to be rearrested under the certificate in execution of which he was detained in the civil prison.

79. (1) The Tax Recovery Officer may order the release of a defaulter who has been arrested in execution of a certificate upon being satisfied that he has disclosed the whole of his property and has placed it at the disposal of the Tax Recovery Officer and that he has not committed any act in bad faith.

Release.

(2) If the Tax Recovery Officer has reasons to believe that the disclosure made by a defaulter under sub-rule (1) is untrue, he may order the rearrest of the defaulter in execution of the certificate, but the period of his detention in the civil prison shall not in the aggregate exceed the period authorised under rule 78.

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Release on
ground of
illness.

80. (1) At any time after a warrant for the arrest of a defaulter has been issued, the Tax Recovery Officer may cancel it on the ground of serious illness of the defaulter.

(2) Where a defaulter has been arrested, the Tax Recovery Officer may release him if, in the opinion of the Tax Recovery Officer, he is not in a fit state of health to be detained in the civil prison.

(3) Where a defaulter has been committed to the civil prison, he may be released therefrom by the Tax Recovery Officer on the ground of the existence of any infectious or contagious disease, or on the ground of his suffering from any serious illness.

(4) A defaulter released under this rule may be re-arrested, but the period of his detention in the civil prison shall not in the aggregate exceed the period authorised under rule 78.

Entry into
dwelling.

81. For the purpose of making an arrest under these rules,—

- (a) no dwelling house shall be entered into after sunset and before sunrise;
- (b) no outer door of a dwelling house shall be broken open unless such dwelling house or a portion thereof is in the occupancy of the defaulter and he or other occupant of the house refuses or in any way prevents access thereto; but, when the person executing any such warrant has duly gained access to any dwelling house, he may break open the door of any room or apartment if he has reason to believe that the defaulter is likely to be found there;
- (c) no room which is in the actual occupancy of a woman who, according to the customs of the country, does not appear in public, shall be entered into unless the officer authorised to make the arrest has given notice to her that she is at liberty to withdraw and has given her reasonable time and facility for withdrawing.

Prohibition
against arrest
of women or
minors, etc.

82. The Tax Recovery Officer shall not order the arrest and detention in the civil prison of—

- (a) a woman, or
- (b) any person who, in his opinion, is a minor or of unsound mind.

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(Schedule VI.)

PART SIX

MISCELLANEOUS

83. The Tax Recovery Officer or any other officer or authority exercising any powers or performing any functions or discharging any duties under these rules shall, in the exercise of such powers, performance of such functions or discharge of such duties be deemed to be acting judicially within the meaning of the Judicial Officers Protection Act, 1850.

Officers deemed to be acting judicially.

18 of 1850.

84. Every officer or authority referred to in rule 83 acting under the provisions of these rules shall have the powers of a civil court while trying a suit for the purpose of receiving evidence, administering oaths, enforcing the attendance of witnesses and compelling the production of documents.

Power to take evidence.

85. No certificate shall cease to be in force by reason of the death of the defaulter.

Continuance of certificate.

86. If at any time after the issue of the certificate by the requiring officer to the Tax Recovery Officer the defaulter dies, the proceedings under these rules, except the proceedings relating to arrest or detention, may be continued against the heir or legal representative of defaulter, and the provisions of these rules shall apply as if the heir or legal representative were the defaulter.

Procedure on death of defaulter.

87. (1) Any person aggrieved by an order passed under these rules, not being an order which is conclusive, may appeal to such authority as the State Government may by rules prescribe.

Appeal.

(2) Every appeal under this rule shall be presented within thirty days from the date of the order appealed against in such manner and in such form as the State Government may by rules prescribe.

(3) Pending the decision in any appeal, execution of the certificate may be stayed if the appellate authority so directs on such terms and conditions as it may deem fit, but not otherwise.

88. Any order passed under these rules may, after notice to all persons having interest in such order, be reviewed by the officer or authority who made the order, or by his successor in office, on account of any mistake apparent from the record.

Review.

(Schedule VI.)

Recovery
from surety.

89. Where any person has under these rules become surety for the amount due by the defaulter, he may be proceeded against under these rules as if he were the defaulter.

Penalties.

90. Whoever fraudulently removes, conceals, transfers or delivers to any person any property or any interest therein, intending thereby to prevent that property or interest therein from being taken in execution of a certificate, shall be deemed to have committed an offence punishable under section 206 of the Indian Penal Code.

45 of 1860.

Subsistence
allowance.

91. (1) When a defaulter is arrested or detained in the civil prison, the sum payable for the subsistence of the defaulter from the time of arrest until he is released shall be borne by the requiring officer.

(2) The sum as aforesaid shall be calculated on the scale fixed by the State Government for the subsistence of judgement-debtors arrested in execution of a decree of a civil court.

(3) Any sum borne by the requiring officer under sub-rule (1) shall be deemed to be a cost in the proceeding:

Provided that the defaulter shall not be detained in the civil prison or arrested on account of any such cost.

Forms.

92. The State Government may prescribe forms to be used for any order, notice, warrant or certificate to be issued under these rules.

Power to
make rules.

93. The State Government may by notification make rules, consistent with the provisions of this Act and these rules, regulating the procedure to be followed by the officers and authorities acting under these rules for carrying out the purposes of these rules.

Saving
regarding
charge.

94. Nothing in these rules shall affect any provision of this Act whereunder the tax is a first charge upon any asset.