

THE KERALA GENERAL SALES TAX ACT, 1963

(Act 15 of 1963)

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ACT 15 OF 1963 *

THE KERALA GENERAL SALES TAX ACT, 1963

An Act to consolidate and amend the law relating to the levy of a general tax on the sale or purchase of goods in the State of Kerala.

Preamble.—WHEREAS it is expedient to consolidate and amend the law relating to the levy of a general tax on the sale or purchase of goods in the State of Kerala ;

Be it enacted in the Fourteenth Year of the Republic of India as follows :—

CHAPTER I

Preliminary

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala General Sales Tax Act, 1963.

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

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

(i) “ Appellate Assistant Commissioner ” means any person appointed to be an Appellate Assistant Commissioner under section 3 ,

(ii) “ Appellate Tribunal ” means the Appellate Tribunal appointed under section 4 ,

(iii) “ assessee ” means a person by whom tax or any other sum of money is payable under this Act, and includes every person in respect of whom any proceedings under this Act have been taken for the assessment of tax payable by him ;

(iv) “ assessing authority ” means any person authorised by the Government or by any authority empowered by them to make any assessment under this Act ,

(v) “ Board of Revenue ” means the Board of Revenue constituted under the Kerala Board of Revenue Act, 1957 ,

(vi) “ business ” includes any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture, with or without profit motive in such trade, commerce, manufacture, adventure or concern ;

(vii) “ casual trader ” means a person who has, whether as principal, agent or in any other capacity, occasional transactions of a business nature involving the buying, selling, supply or distribution of goods in the State, whether for cash or for deferred payment, or for commission, remuneration, or other valuable consideration ,

* Received the assent of the Governor on the 5th day of March 1963 and published in the Gazette Extraordinary, dated the 6th March 1963.

(viii) "dealer" means any person who carries on the business of buying, selling, supplying or distributing goods, directly or otherwise, whether for cash or for deferred payment, or for commission, remuneration or other valuable consideration and includes—

(a) the Central Government, a State Government, local authority, company, a Hindu undivided family, a Marumakkathayam tarwad, a family governed by the Kerala Nambudiri Act, 1958, an Aliyasanthana family, a firm, a society, a club or an association which carries on such business ;

(b) a casual trader ,

(c) a commission agent, a broker or a *del credere* agent, or an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of buying, selling, supplying or distributing goods on behalf of any principal ,

(d) a non-resident dealer or an agent of a non-resident dealer, or a local branch of a firm or company or association situated outside the State ;

(e) a person who sells goods produced by him by manufacture, agriculture, horticulture or otherwise.

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

(ix) "declared goods" means goods declared by section 14 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956), to be of special importance in inter-State trade or commerce ,

(x) "Deputy Commissioner" means any person appointed to be a Deputy Commissioner of Sales Tax under section 3 ;

(xi) "food grains" means paddy, rice, wheat, maize, jowar, bajra, barley and ragi and includes such other articles as the Government may, by notification in the Gazette, specify as such ,

(xii) "goods" means all kinds of movable property (other than newspapers, actionable claims, electricity, stocks and shares and securities) and includes live-stock, all materials, commodities, and articles (including those to be used in the fitting out, improvement or repair of movable property), and all growing crops, grass or things attached to, or forming part of, the land which are agreed to be severed before sale or under the contract of sale;

(xiii) "Inspecting Assistant Commissioner" means any person appointed to be an Inspecting Assistant Commissioner of Sales Tax under section 3,

(xiv) "local authority" means a municipal council, a municipal corporation, a township committee or a panchayat,

(xv) "motor spirit" means any substance which by itself or in admixture with other substances is ordinarily used directly or indirectly to provide reasonably efficient fuel for automative or stationary internal combustion engines and includes petrol, diesel oil and other internal

combustion oils, but does not include kerosene, furnace oil, coal or charcoal;

(xvi) "permit" means a permit granted under section 15;

(xvii) "petrol" means dangerous petroleum having its flashing point below 24.4 degrees centigrade;

(xviii) "place of business" means any place where a dealer purchases or sells goods and includes—

(a) any warehouse, godown or other place where a dealer stores or processes his goods,

(b) any place where a dealer produces or manufacture goods;

(c) any place where a dealer keeps his books of account; and

(d) in any case where a dealer carries on business through an agent (by whatever name called), the place of business of such agent,

(xix) "prescribed" means prescribed by rules made under this Act;

(xx) "registered dealer" means a dealer registered under this Act;

(xxi) "sale" with all its grammatical variations and cognate expressions means every transfer of the property in goods by one person to another in the course of trade or business for cash or for deferred payment or other valuable consideration, but does not include a mortgage, hypothecation, charge or pledge.

Explanation (1).—A transfer of the property in the following goods, namely, tea, coffee, rubber, cardamom or timber, whether in the course of trade or business or otherwise, for cash or for deferred payment or other valuable consideration, by a person who produces the same, shall be deemed to be a sale for the purposes of this Act.

Explanation (2).—The transfer of property involved in the supply or distribution of goods by a society (including a co-operative society), club, firm, or any association to its members, for cash, or for deferred payment or other valuable consideration, whether or not in the course of business, shall be deemed to be a sale for the purposes of this Act.

Explanation (3).—A transfer of goods on hire-purchase or other instalment system of payment shall, notwithstanding the fact that the seller retains the title in the goods as security for payment of the price, be deemed to be a sale.

Explanation (4).—(a) The sale or purchase of goods shall be deemed, for the purposes of this Act, to have taken place in the State, wherever the contract of sale or purchase might have been made, if the goods are within the State,—

(i) in the case of specific or ascertained goods, at the time the contract of sale or purchase is made, and

(ii) in the case of unascertained or future goods, at the time of their appropriation to the contract of sale or purchase by the seller or by the purchaser, whether the assent of the other party is prior or subsequent to such appropriation.

(b) Where there is a single contract of sale or purchase of goods situated at more places than one, the provisions of clause (a) shall apply as if there were separate contracts in respect of the goods at each of such places.

Explanation (5).—Notwithstanding anything to the contrary contained in this Act or any other law for the time being in force, two independent sales or purchases shall, for the purposes of this Act, be deemed to have taken place—

(a) When the goods are transferred from a principal to his selling agent and from the selling agent to the purchaser, or

(b) when the goods are transferred from the seller to a buying agent and from the buying agent to his principal, if the agent is found in either of the cases aforesaid—

- (i) to have sold the goods at one rate and to have passed on the sale proceeds to his principal at another rate; or
- (ii) to have purchased the goods at one rate and to have passed them on to his principal at another rate, or
- (iii) not to have accounted to his principal for the entire collections or deductions made by him in the sales or purchases effected by him on behalf of his principal; or
- (iv) to have acted for a fictitious or non-existent principal,

Provided that the deduction or addition, as the case may be, of the commission agreed upon and specified in the accounts and incidental charges incurred by the agent which are specified in the accounts and which the assessing authority considers legitimate shall not be deemed to be a difference in the rates referred to in sub-clauses (i) and (ii);

(xxii) "Sales Tax Officer" means any person appointed to be a Sales Tax Officer under section 3;

(xxiii) "State" means the State of Kerala,

(xxiv) "tax" means the tax payable under this Act;

(xxv) "taxable turnover" means the turnover on which a dealer shall be liable to pay tax as determined after making such deductions from his total turnover and in such manner as may be prescribed, but shall not include the turnover of purchase or sale in the course of inter-State trade or commerce or in the course of export of the goods out of the territory of India or in the course of import of the goods into the territory of India;

(xxvi) "total turnover" means the aggregate turnover in all goods of a dealer at all places of business in the State, whether or not the whole or any portion of such turnover is liable to tax, including the turnover of purchase or sale in the course of inter-State trade or commerce or in the course of export of the goods out of the territory of India or in the course of import of the goods into the territory of India;

(xxvii) "turnover" means the aggregate amount for which goods are either bought or sold, or supplied or distributed, by a dealer, either directly or through another, on his own account or on account of others,

whether for cash or for deferred payment or other valuable consideration, provided that the proceeds of the sale by a person of agricultural or horticultural produce, grown by himself or grown on any land in which he has an interest, whether as owner, usufructuary mortgagee, tenant, or otherwise, shall be excluded from his turnover.

Explanation (1).—“Agricultural or horticultural produce” shall not include—

(i) such produce as has been subjected to any physical, chemical or other process for being made fit for consumption, save mere cleaning, grading, sorting, drying or dehusking,

(ii) tea, coffee, rubber, cardamom or timber.

Explanation (2).—Subject to such conditions and restrictions, if any, as may be prescribed in this behalf,—

(i) the amount for which goods are sold shall include any sums charged for anything done by the dealer in respect of the goods sold at the time of, or before, the delivery thereof,

(ii) any cash or other discount on the price allowed in respect of any sale and any amount refunded in respect of articles returned by customers shall not be included in the turnover; and

(iii) where for accommodating a particular customer, a dealer obtains goods from another dealer and immediately disposes of the same to the said customer, the sale in respect of such goods shall be included in the turnover of the latter dealer but not in that of the former;

(xxviii) “vehicle” includes every wheeled conveyance used for the carriage of goods solely or in addition to passengers;

(xxix) “vessel” includes any ship, barge, boat, raft, timber, bamboos or floating materials propelled in any manner,

(xxx) “year” means the financial year.

CHAPTER II

Authorities and Appellate Tribunal

3. *Sales tax authorities.*—(1) The Board of Revenue shall have and exercise all the powers and shall perform all the duties conferred or imposed upon it by or under this Act.

(2) The Government shall appoint as many Deputy Commissioners, Appellate Assistant Commissioners, Inspecting Assistant Commissioners, Sales Tax Officers and such other officers as they think fit for the purpose of performing the functions respectively assigned to them by or under this Act. Such officers shall perform the said functions within such local limits as the Government or any authority or officer empowered by them in this behalf may assign to them.

(3) All officers and persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the officers superior to them:

Provided that no such orders, instructions or directions shall be given so as to interfere with the discretion of the Appellate Assistant Commissioner in the exercise of his appellate functions.

4. *Appellate Tribunal*.—(1) The Government shall appoint an Appellate Tribunal consisting of a Chairman and two other members to perform the functions assigned to the Appellate Tribunal by or under this Act. The Chairman shall be a person who is or has been a Judicial Officer not below the rank of a District Judge and the other two members shall possess such qualifications as may be prescribed.

(2) Any vacancy in the office of a member of the Appellate Tribunal shall be filled by the Government.

(3) (a) The functions of the Appellate Tribunal may be performed—

- (i) by a Bench consisting of all the members of the Tribunal, or
- (ii) by a Bench consisting of two members constituted by the Chairman, or
- (iii) by a Bench consisting of the Chairman and other member in the event of the office of a member other than the Chairman being vacant:

Provided that, if any case which comes up before a Bench (of which the Chairman is not a member) involves a question of law, the Bench may, in its discretion, reserve such case for decision by a Bench to be constituted under this clause of which the Chairman shall be a member.

(b) Where an appeal or application is heard by a Bench consisting of all the three members of the Tribunal and the members differ in opinion on any point, the point shall be decided in accordance with the opinion of the majority.

(c) Where an appeal or application is heard by a Bench consisting of two members and the members are divided in their opinion on any point, the point shall be referred for decision to a Bench consisting of all the members.

(4) The Appellate Tribunal shall, with the previous sanction of the Government, make regulations consistent with the provisions of this Act and the rules made thereunder for regulating its procedure and the disposal of its business.

(5) The regulations made under sub-section (4) shall be published in the Gazette.

CHAPTER III

Incidence and Levy of Tax

5. *Levy of tax on sale or purchase of goods*.—(1) Every dealer (other than a casual trader or agent of a non-resident dealer) whose total turnover for a year is not less than ten thousand rupees and every casual trader or agent of a non-resident dealer, whatever be his total turnover for the year, shall pay tax on his taxable turnover for that year,—

- (i) in the case of goods specified in the First or Second Schedule, at the rates and only at the points specified against such goods in the said Schedules, and
- (ii) in the case of other goods, at the rate of two per cent.

(2) Every dealer other than a dealer referred to in sub-section (1) whose total turnover for a year in respect of the goods specified in the First or Second Schedule is not less than two thousand five hundred rupees shall pay tax at the rate and only at the point specified against the goods in the First or Second Schedule, as the case may be, on his taxable turnover in that year relating to such goods :

Provided that where a tax has been levied under sub-section (1) or sub-section (2) in respect of the sale or purchase of goods specified in the Second Schedule and such goods are sold in the course of inter-State trade or commerce, the tax so levied shall be refunded to such person in such manner and subject to such conditions as may be prescribed.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the tax payable by a dealer in respect of any sale of the goods mentioned in the First Schedule by such dealer to another for use by the latter as component part of any other goods mentioned in the said Schedule, which he intends to manufacture inside the State for sale, shall be at the rate of only one per cent on the taxable turnover relating to such sale :

Provided that the provisions of this sub-section shall not apply to any sale unless the dealer selling the goods furnishes to the assessing authority in the prescribed manner a declaration duly filled in and signed by the dealer to whom the goods are sold containing the prescribed particulars in a prescribed form.

(4) Notwithstanding anything contained in sub-section (1), every dealer registered under sub-section (3) of section 7 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956), shall whatever be the quantum of his total turnover, pay tax for each year in respect of the sale of the goods with reference to the purchase of which he has furnished a declaration under sub-section (4) of section 8 of the aforesaid Central Act at the rate of two per cent of his taxable turnover in respect of the goods other than those specified in the First or Second Schedule .

Provided that this sub-section shall not apply to any dealer in respect of the sale of the goods the purchase of which is liable to tax under sub-section (1).

6. *Tax under this Act to be in addition to tax under Central Act 74 of 1956 or any other law.*—The provisions of this Act relating to taxation of successive sales or purchases inside the State, only at a single point or at one or more points, shall apply only to sales or purchases inside the State (other than sales or purchases in the course of inter-State trade or commerce) . and the tax under this Act shall be levied in addition to any tax levied under the Central Sales Tax Act, 1956 (Central Act 74 of 1956), or any other law for the time being in force.

7. *Payment of tax at compounded rates.*—(1) Notwithstanding anything contained in sub-section (1) of section 5,—

(i) every dealer (other than a dealer in cooked food including coffee, tea and like articles served in a hotel, restaurant or any other place) whose total turnover in a year is not less than ten thousand

rupees but not more than twenty-five thousand rupees may, at his option instead of paying the tax in accordance with the provisions of that sub-section, pay tax at the following rates :—

	<i>Rate of tax</i>
(a) Where the total turnover is not less than ten thousand rupees but is less than fifteen thousand rupees	One per cent on the taxable turnover.
(b) Where the total turnover is not less than fifteen thousand rupees but is not more than twenty-five thousand rupees	One and a half per cent on the taxable turnover.
(ii) every dealer in cooked food including coffee, tea and like articles served in a hotel, restaurant, or any other place, whose total turnover in respect of such food is not less than twenty thousand rupees but is not more than fifty thousand rupees, may, at his option, instead of paying the tax in accordance with the provisions of that sub-section in respect of the turnover relating to such food, pay tax at the following rates :—	

	<i>Rs.</i>
(a) Where the total turnover is not less than twenty thousand rupees but is less than twenty-five thousand rupees ..	360
(b) Where the total turnover is not less than twenty-five thousand rupees but is less than thirty thousand rupees ..	480
(c) Where the total turnover is not less than thirty thousand rupees but is less than forty thousand rupees ..	540
(d) Where the total turnover is not less than forty thousand rupees but is not more than fifty thousand rupees ..	720

(2) Any dealer whose estimated total turnover for a year is within the limits specified in clause (i) or clause (ii) of sub-section (1) may apply to the assessing authority to be permitted to pay the tax under this section and on being so permitted he shall pay the tax due in advance during the year in monthly or other prescribed instalments and for that purpose shall submit such returns and in such manner as may be prescribed. The application shall be submitted to the assessing authority within such time and in such manner as may be prescribed :

Provided that the assessing authority may, for sufficient reasons, condone the delay in case of late application.

(3) It shall be open to the assessing authority to reject any such application for permission for good and sufficient reasons to be recorded in writing after giving the dealer a reasonable opportunity of being heard.

(4) Notwithstanding anything contained in clause (i) of sub-section (1), if under any of the other provisions of this Act the sale or purchase of any goods by a dealer is subject to tax only at a lower rate, the tax payable under the said sub-section on his turnover, in so far as

the turnover or any part thereof relates to the sale or purchase of such goods, shall be calculated only at such lower rates.

(5) Notwithstanding anything contained in clause (1) of sub-section (1),—

(i) a dealer whose total turnover in a year relates only to goods specified in the First or Second Schedule or a casual trader or agent of a non-resident dealer shall not be entitled to exercise the option under the said clause ; and

(ii) a dealer whose turnover relates to the goods specified in the First or Second Schedule and also to goods other than those specified in the said Schedules shall be entitled to exercise the option under clause (1) of sub-section (1) only in respect of the turnover relating to the goods other than those specified in the First or Second Schedule, and in respect of the turnover relating to the goods specified in the First or Second Schedule, he shall be liable to pay the tax under section 5.

(6) The tax paid under sub-section (2) shall be subject to such adjustments as may be prescribed on the completion of the final assessment in the manner prescribed.

8. *Stage of levy of taxes in respect of imported and exported goods.*—Where in the case of any goods tax is leviable at one point in a series of sales or purchases, such series shall,—

(a) in the case of goods imported into the State either from outside the territory of India or from any other State in India, be deemed to commence at the stage of the sale or purchase effected immediately after the import of such goods ;

(b) in the case of goods exported out of the State to any place outside the territory of India or to any other State in India, be deemed to conclude at the stage of the sale or purchase effected immediately before the export of such goods.

9. *Exemption from tax.*—Subject to such restrictions and conditions as may be prescribed, a dealer who deals in the goods specified in the Third Schedule shall not be liable to pay any tax under this Act in respect of the sale or purchase of such goods.

10. *Power of Government to grant exemption and reduction in rate of tax.*—(1) The Government may, if they consider it necessary in the public interest, by notification in the Gazette, make an exemption, or reduction in rate, in respect of any tax payable under this Act—

(i) on the sale or purchase of any specified goods or class of goods, at all points or at a specified point or points in the series of sales or purchases by successive dealers, or

(ii) by any specified class of persons, in regard to the whole or any part of their turnover.

(2) Any exemption from tax, or reduction in the rate of tax, notified under sub-section (1),—

(a) may extend to the whole State or to any specified area or areas therein,

(b) may be subject to such restrictions and conditions as may be specified in the notification.

(3) The Government may, by notification in the Gazette, cancel or vary any notification issued under sub-section (1).

11. *Liability to tax of persons and not observing restrictions and conditions prescribed under section 9 or notified under section 10.*—If any restriction or condition prescribed under section 9 or notified under section 10 is contravened or is not observed by a dealer, the sales or purchases of such dealer may, with effect from the commencement of the year in which such contravention or non-observance took place, be assessed to tax or taxes under the appropriate provisions of this Act as if the provisions of section 9 or section 10, as the case may be, did not apply to such sales or purchases.

12. *Burden of proof.*—The burden of proving that any transaction of a dealer is not liable to tax under this Act shall lie on such dealer.

CHAPTER IV

Registration and Permit

13. *Registration of dealers.*—(1) Every dealer whose total turnover in any year is not less than seven thousand five hundred rupees shall, and any other dealer may, get himself registered under this Act.

(2) Notwithstanding anything contained in sub-section (1), every dealer carrying on business in all or any of the goods mentioned in the First and the Second Schedules whose total turnover in respect of those goods in any year is not less than two thousand five hundred rupees shall get himself registered.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2),—

- (i) every casual trader,
- (ii) every dealer registered under sub-section (3) of section 7 of the Central Sales tax Act, 1956 (Central Act 74 of 1956);
- (iii) every dealer residing outside the State, but carrying on business in the State;
- (iv) every agent of a non-resident dealer; and
- (v) every commission agent, broker, *del credere* agent, auctioneer or any other mercantile agent, by whatever name called, who carries on the business of buying, selling, supplying or distributing goods on behalf of any principal,

shall get himself registered under this Act, irrespective of the quantum of his total turnover in such goods.

(4) Nothing contained in this section shall apply to any State Government, the Central Government or any local authority.

14. *Procedure for registration.*—(1) An application for registration shall be made to such authority, in such manner and within such period as may be prescribed and shall be accompanied by a fee of ten rupees.

(2) If the prescribed authority after making such enquiries as it may consider necessary is satisfied that the application is in order and

that the particulars furnished therein are correct, it shall register the applicant and issue to him a certificate in the prescribed form.

(3) Where a dealer has more than one place of business, the registration certificate shall cover all such places of business. The assessing authority shall issue copies of the registration certificate to the dealer for exhibition at each of his places of business and the dealer shall pay a fee of five rupees for each copy.

(4) The prescribed authority shall have power for good and sufficient reasons to demand from any dealer, who has been registered or has applied for renewal of registration, security for the proper payment of tax by him for an amount not exceeding one-half of the tax payable on the turnover of the dealer for the year as estimated by the prescribed authority or three months' compounded rate in the case of applicants who have opted to pay tax under section 7:

Provided that the assessing authority shall have power to demand at any time additional security if such authority has reason to believe that the turnover estimated under this sub-section was too low.

(5) A certificate issued under sub-section (2) shall be valid for a year and shall be renewed from year to year on payment of the fee specified in sub-section (1).

(6) A dealer registered under sub-section (1) or sub-section (2) of section 13 shall be entitled to have his registration cancelled if he is able to prove to the satisfaction of the prescribed authority that his turnover in each of the two consecutive years immediately preceding the application was less than the limits mentioned in the respective sub-sections.

(7) The prescribed authority shall have power, for good and sufficient reasons, to cancel, modify or amend any registration certificate issued by it.

(8) No application for registration and no renewal under this section shall be refused and no order under sub-section (4) or sub-section (7) shall be made, unless the dealer concerned has been given an opportunity of being heard.

(9) When a dealer has ceased to do business in any year, and gives notice of that fact to the prescribed authority, he shall not be liable to pay any registration fee from the commencement of the following year unless he resumes business.

(10) The dealer shall exhibit the certificate of registration granted under sub-section (2) at the place of business mentioned in the certificate. Where the dealer has more than one place of business, he shall exhibit the certificate of registration at the principal place of business mentioned in the certificate and a copy of such certificate granted under sub-section (3) at every other place of business within the State mentioned in the certificate.

15. *Issue of permits.*—(1) Every registered dealer who transacts business at places other than his registered place or places of business

or employs a travelling salesman or representative to transact business as aforesaid, shall obtain a permit issued under this Act authorising himself or, as the case may be, the travelling salesman or representative so to do.

(2) The entire turnover of business carried on under the permit shall be included and accounted for by the registered dealer in his accounts and returns and shall be dealt with as if it were the turnover of business done by the registered dealer himself at the registered place of business.

(3) Every permit holder shall carry the permit with him and shall produce it on demand by any officer of the Sales Tax Department empowered by the Government in this behalf. He shall maintain and produce on demand to any such officer a true and correct account of all the transactions carried on under the permit and also a stock-book showing the quantities of goods held by him, the quantities disposed of from day to day by sale or otherwise and the balance on hand at the end of each day.

(4) An application for the permit referred to in sub-section (1) shall be made to such authority, in such manner and within such period as may be prescribed and shall be accompanied by such fee not exceeding ten rupees as may be prescribed.

Explanation.—A separate application with a separate fee shall be necessary for the registered dealer and for each travelling salesman or representative employed by him.

(5) If the prescribed authority is satisfied that the application is in order, and the particulars furnished therein are correct, it shall issue the permit in the prescribed form.

(6) A permit issued under sub-section (5) shall be valid for a year and shall be renewed from year to year on receipt of an application from the registered dealer accompanied by such fee not exceeding ten rupees as may be prescribed.

(7) The prescribed authority shall cancel a permit—

- (a) on requisition made in writing by the registered dealer, or
- (b) on the cancellation of the certificate of registration.

(8) The prescribed authority may cancel a permit if the permit holder has contravened any of the terms or conditions of the permit or any of the provisions of this Act or the rules made there under.

(9) No permit shall be cancelled under sub-section (8) unless the person affected has been given a reasonable opportunity of being heard.

CHAPTER V

Assessment, Collection and Penalty

16. *Assessment of tax.*—(1) The tax under this Act shall be assessed, levied and collected in such manner as may be prescribed.

(2) In the case of a dealer with more than one place of business, the aggregate turnover of all such places of business shall be taken as the turnover of the business for the purposes of this Act.

(3) Notwithstanding anything contained in sub-section (2) or any of the other provisions of this Act, the Board of Revenue may, with the consent of the dealer, treat each of such places of business as a separate unit for the purposes of levy, assessment and collection of tax and thereupon all the provisions of this Act regarding registration, filing of returns, assessment and collection of tax shall apply as if each of such places of business is a separate unit.

(4) Where any order is passed by the Board of Revenue under sub-section (3), the turnover of each of such places of business shall be liable to tax irrespective of such turnover being below the minimum turnover mentioned in section 5:

Provided that the total turnover in respect of all such places of business together is not less than the minimum turnover mentioned in section 5.

17. *Procedure to be followed by the assessing authority.*— (1) Every dealer who is liable to pay tax under this Act shall submit such return or returns relating to his turnover in such manner and within such period as may be prescribed.

(2) If the assessing authority is satisfied that any return submitted under sub-section (1) is correct and complete, it shall assess the dealer on the basis thereof.

(3) If no return is submitted by the dealer under sub-section (1) within the prescribed period, or if the return submitted by him appears to the assessing authority to be incorrect or incomplete, the assessing authority shall, after making such enquiry as it may consider necessary and after taking into account all relevant materials gathered by it, assess the dealer to the best of its judgment:

Provided that before taking action under this sub-section the dealer shall be given a reasonable opportunity of being heard and, where a return has been submitted, to prove the correctness or completeness of such return.

18. *Provisional assessment.*—(1) The tax for each year payable under any of the provisions of this Act may be assessed, levied and collected in advance during the year in monthly or other prescribed instalments, and for that purpose a dealer may be required to furnish within the prescribed period either an advance estimate of his turnover for the year, or such periodical returns of the actual turnover as may be prescribed. The assessing authority may determine the amount of tax payable in respect of any period and on such assessment the dealer shall pay the sum demanded within such time as may be fixed by such authority.

(2) If no return is submitted by the dealer under sub-section (1) within the prescribed period, or if the return submitted by him appears to the assessing authority to be incorrect or incomplete, the assessing authority may determine the amount of tax payable by the dealer in accordance with the provisions of sub-section (3) of section 17.

(3) If the assessing authority has reason to believe that the provisional assessment made by it for any period was based on too low a turnover or was made at too low a rate or was based on too high a turnover or was made at too high a rate, it may enhance or reduce, as the case may be, such provisional assessment :

Provided that before making an enhancement of the provisional assessment as aforesaid, the assessing authority shall, except where such enhancement is based on the turnover finally determined for the preceding year, give a reasonable opportunity to the dealer to show cause against such enhancement and make such enquiry as it may consider necessary.

(4) The assessment, levy and collection of tax under this section shall be subject to such adjustment as may be prescribed on the completion of final assessment in the manner prescribed.

19. *Assessment of escaped turnover.*—(1) Where for any reason the whole or any part of the turnover of business of a dealer has escaped assessment to tax in any year or has been under-assessed or has been assessed at a rate lower than the rate at which it is assessable, or any deduction has been wrongly made therefrom, the assessing authority may, at any time within four years from the expiry of the year to which the tax relates, proceed to determine to the best of its judgment the turnover which has escaped assessment to tax or has been under-assessed or has been assessed at a rate lower than the rate at which it is assessable or the deduction that has been wrongly made and assess the tax payable on such turnover after issuing a notice on the dealer and after making such enquiry as it may consider necessary :

Provided that before making an assessment under this sub-section the dealer shall be given a reasonable opportunity of being heard.

(2) In making an assessment under sub-section (1), the assessing authority may, if it is satisfied that the escape from assessment is due to wilful non-disclosure of assessable turnover by the dealer, direct the dealer to pay, in addition to the tax assessed under sub-section (1), a penalty not exceeding one and a half times the tax so assessed :

Provided that no penalty under this sub-section shall be imposed unless the dealer affected has had a reasonable opportunity of showing cause against such imposition.

(3) The powers under sub-section (1) may be exercised by the assessing authority even though the original order of assessment, if any, passed in the matter, has been the subject matter of an appeal or revision.

(4) In computing the period of limitation for the purposes of this section, the time during which the proceedings for assessment remained stayed under the orders of a civil court or other competent authority shall be excluded.

20. *Assessment of legal representatives.*—Where a dealer dies, his executor, administrator, or other legal representative shall be deemed to be the dealer for the purposes of this Act, and the provisions of this Act shall apply to him in respect of the business of the said deceased dealer,

provided that, in respect of any tax, fee or other amount assessed as payable by any such dealer or levied on him or any tax, fee or other amount which would have been payable by him under this Act if he had not died, the executor, administrator or other legal representative shall be liable only to the extent of the assets of the deceased in his hands.

21. *Liability of firms.*—(1) Where any firm is liable to pay any tax, fee or other amount under this Act, the firm and each of the partners of the firm shall be jointly and severally liable for such payment.

(2) Where a partner of a firm liable to pay any tax, fee or other amount under this Act retires, he shall, notwithstanding any contract to the contrary, be liable to pay the tax, fee or other amount remaining unpaid at the time of his retirement and any tax, fee or other amount due up to the date of retirement, though unassessed.

22. *Collection of tax by dealers.*—(1) No person who is not a registered dealer shall collect any amount by way of tax under this Act; nor shall a registered dealer make any such collection except in accordance with such conditions and restrictions, if any, as may be prescribed :

Provided that nothing contained in this sub-section shall apply to the Central Government, a State Government or a local authority.

(2) If any dealer or person who is not liable to tax under this Act collects any amount purporting to be by way of tax, such dealer or person shall, unless it is established to the satisfaction of the assessing authority that the amount so collected has been refunded to the person who had originally paid the amount, pay over to the Government within such time and in such manner as may be prescribed all amounts so collected.

(3) If any dealer or person collects tax on transactions not liable to tax under this Act or in excess of the tax leviable under this Act, such dealer or person shall, unless it is established to the satisfaction of the assessing authority that the tax so collected has been refunded to the person who had originally paid the tax, pay over to the Government, in addition to the tax payable, the amount so collected, within such time and in such manner as may be prescribed.

(4) A local authority which collects any amount by way of tax under this Act shall pay over to the Government the amount so collected, and if any such amount is not so paid the Collector of the district concerned shall, on requisition by the assessing authority, make an order directing the person having the custody of the funds of the local authority to pay it in priority to any other charge against such fund except charges for the service of authorised loans; and such person shall be bound to comply with such order.

23. *Payment and recovery of tax.*—(1) The tax assessed or any other amount demanded under this Act shall be paid in such manner and in such instalments, if any, and within such time, as may be specified in the notice of demand, not being less than twenty-one days from the date of service of the notice. If default is made in paying according to the notice of demand, the whole of the amount outstanding on the

date of the default shall become immediately due and shall be a charge on the properties of the person or persons liable to pay the tax or other amount under this Act :

Provided that the time-limit of twenty-one days for a notice under this sub-section shall not apply to casual traders.

(2) Any tax assessed or any other amount due under this Act from a dealer or other person may, without prejudice to any other mode of recovery, be recovered—

(a) as if it were an arrear of land revenue ;

(b) on application to any Magistrate, by such Magistrate as if it were a fine imposed by him :

Provided that no proceedings for such recovery shall be taken or continued as long as such dealer or other person has, in regard to the payment of such tax or other amount, as the case may be, complied with an order by any of the authorities to whom he has appealed or applied for revision, under the provisions of this Act.

(3) If the tax assessed or any other amount due under this Act or any instalment thereof is not paid by any dealer or other person within the time specified therefor in the notice of demand or in the order permitting payment in instalments or within the time allowed for its payment by the appellate or revising authority, the dealer or other person shall pay, by way of penalty, in the manner prescribed, in addition to the amount due a sum equal to—

(a) half per cent of such amount for each month or part thereof for the first three months after the date specified for its payment ,

(b) one per cent of such amount for each month or part thereof subsequent to the first three months aforesaid.

24. *Recovery of penalty.*—Penalty payable under this Act shall be deemed to be tax under this Act for the purpose of collection and recovery, and shall be recoverable without prejudice to the institution of any proceeding for an offence under this Act.

25. *Further mode of recovery.*—(1) The assessing authority may, at any time or from time to time, by notice in writing (a copy of which shall be forwarded to the dealer at his last address known to the assessing authority), require any officer of the Government or any local authority, company, firm, society or association of persons from whom money is due or may become due to the dealer, or any officer of the Government or any local authority, company, firm, society or association of persons who holds or may subsequently hold money for or on account of the dealer, to pay to the assessing authority, either forthwith if the money has become due or is so held, 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 by the dealer in respect of arrears of tax, fee or penalty or the whole of the money when it is equal to or less than the arrears of tax, fee or penalty.

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

(3) Any officer of the Government or any local authority, company, firm, society or association of persons making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the dealer, and the receipt of the assessing authority shall constitute a good and sufficient discharge of the liability of such officer of the Government or such local authority, company, firm, society or association of persons to the extent of the amount referred to in the receipt.

(4) Any local authority, company, firm, society or association of persons making any payment to the dealer after receipt of the notice referred to in this section shall be liable to the assessing authority to the extent of the payment made or to the extent of the liability of the dealer for the amount due under this Act, whichever is less.

(5) Where any local authority, company, firm, society or association of persons to which a notice under this section is sent objects to it on the ground that the sum demanded or any part thereof is not due by it to the dealer, or that it does not hold any money for or on account of the dealer, then, nothing contained in this section shall be deemed to require such local authority, company, firm, society or association of persons to pay the sum demanded or any part thereof of the assessing authority.

(6) Any amount which a local authority, company, firm, society or association of persons is required to pay to the assessing authority or for which it is liable to the assessing authority under this section shall, if it remains unpaid, be a charge on the properties of the said local authority, company, firm, society or association of persons, as the case may be, and may be recovered as if it were an arrear of land revenue.

Explanation.—For the purposes of this section, the amount due to a dealer or money held for or on account of a dealer by any officer of the Government or any local authority, company, firm, society or association of persons shall be computed after taking into account such claims, if any, as may have fallen due for payment by such dealer to such officer or such local authority, company, firm, society or association of persons, as the case may be, and as may be lawfully subsisting.

26. *Recovery of tax when business is transferred.*—Where the ownership of the business of a dealer liable to pay tax or other amount is transferred, any tax or other amount payable under this Act in respect of such business and remaining unpaid at the time of the transfer and any tax or other amount due up to the date of the transfer, though unassessed, may, without prejudice to any action that may be taken for its recovery from the transferor, be recovered from the transferee as if he were the dealer liable to pay such tax or other amount:

Provided that the recovery from the transferee of the arrears of tax due for the period prior to the date of the transfer shall be limited to the value of the assets he obtained by transfer.

CHAPTER VI

Inspection of business places and accounts and establishment of check posts

27. *Maintenance of true and correct accounts by dealers.*—Every person registered under this Act, every dealer liable to get himself registered under this Act and every other dealer who is required so to do by the prescribed authority by notice served in the prescribed manner, shall keep and maintain true and correct accounts and such other records as may be prescribed in Malayalam, Tamil, Kannada, Gujarathi or English, relating to his business, showing such particulars as may be prescribed. Different particulars may be prescribed for different classes of dealers.

28. *Powers to order production of accounts and powers of entry, inspection, etc.*—(1) Any officer empowered by the Government in this behalf may for the purposes of this Act, require any dealer carrying on business in any kind of goods to produce before him the accounts, registers and other documents and to furnish any other information relating to his business, and such dealer shall produce his accounts, registers and other documents and shall furnish any such information in accordance with such requisition.

(2) All accounts, registers and other documents maintained by a dealer the goods in his possession and his offices, shops, godowns, vessels or vehicles shall be open to inspection at all reasonable times by such officers as may be authorised by the Government in this behalf.

(3) (a) If any officer not below the rank of an assessing authority has reason to suspect that any dealer is attempting to evade payment of any tax or fee due from him under this Act, he may, for reasons to be recorded in writing, seize such accounts, registers and documents of the dealer as he may consider necessary and shall grant a receipt for the same. The officer who seizes such accounts, registers or documents shall return them within thirty days from the date of seizure unless they are required for a prosecution.

(b) (i) Any such officer shall have power to enter and search, for purposes referred to in sub-section (2) or clause (a), any office, shop, godown, vessel, receptacle, vehicle or any other place of business or any building or place where such officer has reason to believe that the dealer keeps, or is for the time being keeping, any accounts, registers or documents of his business:

Provided that no residential accommodation (not being a shop-cum-residence) shall be entered into and searched by such officer except on the authority of a search-warrant issued by a Magistrate having jurisdiction over that area, and all searches under this sub-section shall, so far as may be, be made in accordance with the provisions of the Code of Criminal Procedure, 1898 (Central Act 5 of 1898), subject to the rules, if any, made in this behalf.

(ii) The power conferred by sub-clause (i) shall include the power to break open any box or receptacle in which any accounts, registers, or other documents of the dealer

may be kept or any place where the accounts are reasonably suspected to be kept or to break open the door of any premises where any such accounts, registers or documents may be kept or reasonably suspected to be kept :

Provided that the power to break open the door shall be exercised only after the owner or any other person in occupation of the premises if he is present therein fails or refuses to open the door on being called upon to do so.

- (iii) The power conferred by sub-clause (i) shall also include the power to seal any box or receptacle, godown or building where accounts are suspected to be kept or goods are stored, if the owner or any other person in occupation leaves the premises or refuses to open any box or receptacle, godown or building or is not available, and then to break open such box, receptacle, godown or building on the authority of a warrant issued by a Magistrate having jurisdiction over that area.

(4) (a) Any officer authorised in this behalf by the Government shall have power to seize any goods the sale or purchase of which is liable to tax and which are found in any office, shop, godown, vehicle, vessel or in any other place of business or in any building of the dealer but not accounted for by the dealer in his accounts, registers and other documents maintained in the course of his business or in any other satisfactory manner :

Provided that a list of all things seized under this sub-section shall be prepared by such officer and signed by two respectable witnesses :

Provided further that no residential accommodation shall be entered into by such officer except on the authority of a search warrant issued by a Magistrate having jurisdiction over the area.

(b) Any goods seized under clause (a) shall be released on payment of a penalty not exceeding double the amount of the tax on the sale or purchase of such goods as may be fixed by such officer :

Provided that the officer may release the goods on cash security being furnished by the person concerned to the extent of the penalty leviable if, in the opinion of the officer, further time is required to arrive at a correct finding as to whether a penalty is to be imposed or not and that the security so furnished shall be adjusted towards the penalty in case if it is payable or returned to the party, if otherwise.

(c) The goods so seized under clause (a) and not released under clause (b) may, on the report of such officer, be confiscated by the Inspecting Assistant Commissioner, provided that before taking action for the confiscation of goods under this sub-section, the officer shall by notice give the person affected an opportunity of being heard and make an enquiry in the prescribed manner.

(5) A Magistrate of the first class may, on application from an officer empowered by sub-section (3) to search any place within the

jurisdiction of such Magistrate or to seize goods under sub-section (4) in any place within his jurisdiction and on being satisfied that any residential accommodation has to be entered into and searched or entered into, as the case may be, for the purpose of the aforesaid sub-section (3) or sub-section (4), issue a search warrant authorising such officer to enter and search or to enter such residential accommodation or on being satisfied that any box, receptacle, godown or building has to be broken open under sub-clause (iii) of clause (b) of sub-section (3), issue a warrant authorising the officer to break open such box, receptacle, godown or building.

(6) It shall be open to the Government to authorise different classes of officers for the purpose of taking action under sub-section (1), sub-section (2) and clause (a) of sub-section (4).

29. *Establishment of check posts and inspection of goods in transit.*—

(1) If the Government consider that with a view to prevent or check evasion of tax under this Act in any place or places in the State it is necessary so to do, they may, by notification in the Gazette, direct the setting up of check posts at such place or places, and define the boundaries of such check posts and notify the area of the check posts included within such boundaries, hereinafter referred to as the notified area, and demarcate such boundaries by means of barriers or otherwise for the purpose of regulating the passage of goods across the notified area.

(2) No person shall transport within the State across or beyond the notified area any consignment of goods exceeding such quantity or value as may be prescribed by any vehicle or vessel, unless he is in possession of—

(a) either a bill of sale or delivery note or way-bill or certificate of ownership containing such particulars as may be prescribed, and

(b) a declaration in such form and containing such particulars as may be prescribed, when the vehicle or vessel enters or leaves the State limits.

Explanation.—The term “goods” referred to in this sub-section shall not include luggage of persons who cross the notified area.

(3) At any place within the notified area or at any other place when so required by any officer empowered by the Government in this behalf, the driver or any other person in charge of any vehicle or vessel shall stop the vehicle or vessel and keep the vehicle or vessel, as the case may be, stationary as long as may be required by the officer in charge of the notified area or the officer empowered as aforesaid, and allow and enable such officer to inspect the goods under transport and to examine the bill of sale or delivery note or way-bill or certificate of ownership relating to the goods, which are in the possession of such driver or person in charge of the goods who shall, if so required, give his name and address, the name and address of the owner of the vehicle or vessel and the name and address of the owner of the goods and in the case of a vehicle or vessel entering or leaving the State limits the declaration also.

(4) Where the goods transported exceed the quantity or value prescribed under sub-section (2), the officer in charge of the notified area or the officer empowered in the preceding sub section shall have power to detain or seize and confiscate the goods—

(a) which are being transported by a vehicle or vessel and not covered by a bill of sale or delivery note or way-bill or certificate of ownership and where the vehicle or vessel enters or leaves the State limits, the declaration referred to in clause (b) of sub-section (2) also, or

(b) where the declaration is false or is reasonably suspected to be false in respect of the particulars furnished therein:

Provided that before taking action for the confiscation of goods under this section, the officer shall give the person in charge of the goods and the owner, if ascertainable, an opportunity of being heard and make an enquiry in the manner prescribed.

(5) Whenever confiscation is authorised by this section, the officer adjudging it shall give the owner or the person in charge of the goods an option to pay, in lieu of confiscation, a penalty not exceeding double the amount of tax calculated at the rates applicable to the goods liable to confiscation :

Provided that the officer may release the goods on cash security being furnished by the person concerned to the extent of the penalty leviable if, in the opinion of the officer, further time is required to arrive at a correct finding as to whether a penalty is to be imposed or not and that the security so furnished shall be adjusted towards the penalty in case it is payable or returned to the party, if otherwise.

(6) Nothing contained in sub-section (4) or sub-section (5) shall apply in the case of goods transported which are exempted from tax under any of the provisions of this Act without any condition or restriction.

30. *Regulation of transport of notified goods.*—(1) No person shall transport from or to any railway station or steamer station or any other place of similar nature notified in this behalf by the Government any consignment of such goods as may be notified by the Government in the Gazette exceeding such quantity or value as may be prescribed, except in accordance with such conditions as may be prescribed. Such conditions shall be prescribed with a view to ensure that there is no evasion of the tax imposed by this Act.

(2) Any officer authorised by the Government in this behalf shall have power, subject to such restrictions as may be prescribed, —

(a) to intercept and search any vehicle or vessel for the purpose of verifying whether any goods are being transported in contravention of sub-section (1) ;

(b) to seize and confiscate any goods which he has reason to believe are being transported in contravention of sub-section (1) :

Provided that before taking action for the confiscation of goods under this section the officer shall give the person in charge of the goods and the owner, if ascertainable, an opportunity of being heard and make an enquiry in the manner prescribed.

(3) Whenever confiscation is authorised by this section, the officer adjudging it shall give the owner or the person in charge of the goods an option to pay, in lieu of confiscation, a penalty not exceeding double the amount of tax calculated at the rates applicable to the goods liable to confiscation :

Provided that the officer may release the goods on cash security being furnished by the person concerned to the extent of the penalty leviable if, in the opinion of the officer, further time is required to arrive at a correct finding as to whether a penalty is to be imposed or not and that the security so furnished shall be adjusted towards the penalty in case it is payable or returned to the party, if otherwise.

(4) Nothing contained in sub-section (2) or sub-section (3) shall apply in the case of goods transported which are exempted from tax under any of the provisions of this Act without any condition or restriction.

31. *Possession and submission of certain records by owners, etc., of vehicles and vessels.*—The owner or other person in charge of a vehicle or vessel shall, while transporting any consignment of goods exceeding such quantity or value as may be prescribed under sub-section (2) of section 29, carry with him—

(i) a bill of sale, delivery note, way-bill or a certificate of ownership, and

(ii) such other documents as may be prescribed, relating to the goods under transport and containing such particulars as may be prescribed, and shall submit to the prescribed authority, having jurisdiction over the area in which the goods are delivered, the documents aforesaid or copies thereof within such time as may be prescribed.

32. *Forwarding agency, etc., to submit returns.*—Every clearing or forwarding house or agency, transporting agency, shipping agency, shipping out-agency or steamer agency in the State shall submit to the assessing authority of the area such returns as may be prescribed of all goods cleared, forwarded, transported, or shipped by it. The assessing authority concerned shall have the power to call for and examine the books of account or other documents in the possession of such agency with a view to verify the correctness of the returns submitted, and the agency shall be bound to furnish the books of account or other documents when so called for.

33. *Banks to submit returns.*—Every bank, including any branch of a bank or any banking institution in the State, shall submit every month to the assessing authority of the area a return in the prescribed form of all bills relating to goods discounted, cleared or negotiated by or through it during the preceding month, in such manner as may be prescribed.

CHAPTER VII

Appeals, Revisions and Refunds

34. *Appeals to the Appellate Assistant Commissioner.*—(1) Any person objecting to an order affecting him passed by an appropriate authority under sub-section (6) or sub-section (7) of section 14, sub-section (2)

or sub-section (3) of section 17, sub-section (1), sub-section (2) or sub-section (3) of section 18, sub-section (1) or sub-section (2) of section 19, section 26, section 29, section 30 or sub-section (2) of section 47 may, within a period of thirty days from the date on which the order was served on him, appeal against such order to the Appellate Assistant Commissioner:

Provided that the Appellate Assistant Commissioner may admit an appeal presented after the expiration of the said period if he is satisfied that the appellant had sufficient cause for not presenting the appeal within the said period:

Provided further that in the case of an order under sub-section (2) or sub-section (3) of section 17, sub-section (1), sub-section (2) or sub-section (3) of section 18 or sub-section (1) or sub-section (2) of section 19, no appeal shall be entertained under this sub-section unless it is accompanied by satisfactory proof of the payment of the tax or other amounts admitted by the appellant to be due or of such instalment thereof as might have become payable, as the case may be.

(2) The appeal shall be in the prescribed form and shall be verified in the prescribed manner.

(3) In disposing of an appeal, the Appellate Assistant Commissioner may, after giving the appellant a reasonable opportunity of being heard,—

(a) in the case of an order of assessment or penalty,—

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

(ii) set aside the assessment and direct the assessing authority to make a fresh assessment after such further enquiry as may be directed; or

(iii) pass such other orders as he may think fit, or

(b) in the case of any other order, confirm, cancel or vary such order:

Provided that, at the hearing of any appeal against an order of the assessing authority the assessing authority shall have the right to be heard either in person or by a representative.

(4) Where as a result of the appeal any change becomes necessary in the order appealed against, the Appellate Assistant Commissioner may direct the assessing authority to amend such order accordingly and, on such amendment being made, any amount overpaid by the appellant shall be refunded to him or the further amount of tax, if any, due from him shall be collected in accordance with the provisions of this Act, as the case may be.

(5) Notwithstanding that an appeal has been preferred under sub-section (1), the tax or other amounts shall be paid in accordance with the order against which the appeal has been preferred:

Provided that the Appellate Assistant Commissioner may, in his discretion, give such directions as he thinks fit in regard to the payment

of the tax before the disposal of the appeal, if the appellant furnishes sufficient security to his satisfaction in such form and in such manner as may be prescribed.

35. *Powers of revision of the Deputy Commissioner suo motu.*—(1) The Deputy Commissioner may, of his own motion, call for and examine any order passed or proceedings recorded under this Act by the Inspecting Assistant Commissioner or any officer or authority of rank below that of an Inspecting Assistant Commissioner and may make such enquiry or cause such enquiry to be made and, subject to the provisions of this Act, may pass such order thereon as he thinks fit.

(2) The Deputy Commissioner shall not pass any order under sub-section (1) if—

- (a) the time for appeal against the order has not expired;
- (b) the order has been made the subject of an appeal to the Appellate Assistant Commissioner or the Appellate Tribunal or of a revision in the High Court; or
- (c) More than four years have expired after the passing of the order referred to therein.

(3) No order under this section adversely affecting a person shall be passed unless that person has had a reasonable opportunity of being heard.

36. *Powers of revision of Deputy Commissioner on application.*—(1) Any person objecting to an order passed or proceeding recorded under this Act for which an appeal has not been provided for in section 34 or section 39 may, within a period of thirty days from the date on which a copy of the order or proceeding was served on him in the manner prescribed, file an application for revision of such order or proceeding to the Deputy Commissioner.

Provided that the Deputy Commissioner may admit an application for revision presented after the expiration of the said period, if he is satisfied that the applicant had sufficient cause for not presenting the application within the said period.

(2) An application for revision shall be in the prescribed form and shall be verified in the prescribed manner.

(3) On admitting an application for revision, the Deputy Commissioner may call for and examine the record of the order or proceeding against which the application has been preferred and may make such enquiry or cause such enquiry to be made and subject to the provisions of this Act pass such order thereon as he thinks fit.

(4) Notwithstanding that an application has been preferred under sub-section (1), the tax, fee or other amount shall be paid in accordance with the order or proceeding against which the application has been preferred :

Provided that the Deputy Commissioner may, in his discretion, give such directions as he thinks fit in regard to the payment of such tax, fee or other amount, if the applicant furnishes sufficient security to his satisfaction in such form and in such manner as may be prescribed.

(5) No order under this section adversely affecting a person shall be passed unless that person has had a reasonable opportunity of being heard.

37. *Powers of revision of the Board of Revenue suo motu.*—(1) The Board of Revenue may *suo motu* call for and examine any order passed or proceeding recorded under this Act by the Deputy Commissioner, Inspecting Assistant Commissioner or any officer or authority of rank below that of an Inspecting Assistant Commissioner and may make such enquiry or cause such enquiry to be made and subject to the provisions of this Act may pass such order thereon as it thinks fit.

(2) The Board of Revenue shall not pass any order under sub-section (1) if—

(a) the time for appeal against that order has not expired ;

(b) the order has been made the subject matter of an appeal to the Appellate Assistant Commissioner or the Appellate Tribunal or of a revision in the High Court ; or

(c) more than four years have expired after the passing of the order referred to therein.

(3) No order under this section adversely affecting a person shall be passed unless that person has had a reasonable opportunity of being heard.

38. *Powers of revision of the Board of Revenue on application.*—(1) Any person objecting to an order passed by the Deputy Commissioner under sub-section (1) of section 35 or sub-section (3) of section 36 may, within a period of thirty days from the date on which a copy of the order was served on him in the manner prescribed, file an application for revision of such order to the Board of Revenue :

Provided that the Board of Revenue may admit an application presented after the expiry of the said period, if it is satisfied that the applicant had sufficient cause for not presenting the application within the said period.

(2) Such application for revision shall be in the prescribed form and shall be verified in the prescribed manner.

(3) On admitting an application for revision, the Board of Revenue may call for and examine the record of the order against which the application has been preferred and may make such enquiry or cause such enquiry to be made and subject to the provisions of this Act pass such order thereon as it thinks fit.

(4) Notwithstanding that an application has been preferred under sub-section (1), the tax, fee or other amount shall be paid in accordance with the order against which the application has been preferred .

Provided that the Board of Revenue may, in its discretion, give such directions as it thinks fit in regard to the payment of such tax, fee or other amount, if the applicant furnishes sufficient security to its satisfaction in such manner as may be prescribed.

(5) No order under this section adversely affecting a person shall be passed unless that person has had a reasonable opportunity of being heard.

39. *Appeal to the Appellate Tribunal.*—(1) Any officer empowered by the Government in this behalf or any other person objecting to an order passed by the Appellate Assistant Commissioner under sub-section (3) of section 34 and any person objecting to an order passed by the Deputy Commissioner under sub-section (1) of section 35 and any person objecting to an order passed by the Inspecting Assistant Commissioner under clause (c) of sub-section (4) of section 28 may, within a period of sixty days from the date on which the order was served on him in the manner prescribed, appeal against such order to the Appellate Tribunal :

Provided that the Appellate Tribunal may admit an appeal presented after the expiration of the said period if it is satisfied that the appellant had sufficient cause for not presenting the appeal within the said period.

(2) The officer authorised under sub-section (1) or the person against whom an appeal has been preferred, as the case may be, on receipt of notice that an appeal against the order of the Appellate Assistant Commissioner has been preferred under sub-section (1) by the other party, may, notwithstanding that he has not appealed against such order or any part thereof, file, within thirty days of the receipt of the notice, a memorandum of cross-objections, verified, in the prescribed manner, against any part of the order of the Appellate Assistant Commissioner, and such memorandum shall be disposed of by the Appellate Tribunal as if it were an appeal presented within the time specified in sub-section (1).

(3) The appeal or the memorandum of cross-objections shall be in the prescribed form and shall be verified in the prescribed manner and, in the case of an appeal preferred by any person other than an officer empowered by the Government under sub-section (1), it shall be accompanied by such fee not exceeding one hundred rupees as may be prescribed.

(4) In disposing of an appeal, the Appellate Tribunal may, after giving the parties a reasonable opportunity of being heard either in person or by a representative,—

(a) in the case of an order of assessment or penalty,—

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

(ii) set aside the assessment and direct the assessing authority to make a fresh assessment after such further enquiry as may be directed ; or

(iii) pass such other orders as it may think fit ; or

(b) in the case of any other order, confirm, cancel or vary such order .

Provided that, if the appeal involves a question of law on which the Appellate Tribunal has previously given its decision in another appeal and either a revision petition in the High Court against such decision or an appeal in the Supreme Court against the order of the High Court thereon is pending, the Appellate Tribunal may defer the hearing of the appeal before it, till such revision petition in the High Court or the appeal in the Supreme Court is disposed of.

(5) Where as a result of the appeal any change becomes necessary in the order appealed against, the Appellate Tribunal may authorise the assessing authority to amend such order accordingly and on such amendment being made any amount overpaid by the appellant shall be refunded to him or the further amount of tax, if any, due from him shall be collected in accordance with the provisions of this Act.

(6) Notwithstanding that an appeal has been preferred under sub-section (1), the tax shall be paid in accordance with the order of assessment against which the appeal has been preferred :

Provided that the Appellate Tribunal may, in its discretion, give such directions as it thinks fit in regard to the payment of the tax before the disposal of the appeal, if the appellant furnishes sufficient security to its satisfaction in such form and in such manner as may be prescribed.

(7) (a) The appellant or the respondent may apply for review of any order passed by the Appellate Tribunal under sub-section (4) on the basis of the discovery of new and important facts which after the exercise of due diligence were not within his knowledge or could not be produced by him when the order was made :

Provided that no such application shall be preferred more than once in respect of the same order.

(b) The application for review shall be preferred in the prescribed manner and within one year from the date on which a copy of the order to which the application relates was served on the applicant in the manner prescribed, and, where the application is preferred by any person other than an officer empowered by the Government under sub-section (1), it shall be accompanied by such fee not exceeding one hundred rupees as may be prescribed.

(8) Every order passed by the Appellate Tribunal under sub-section (4) or sub-section (7) shall be communicated in the manner prescribed to the appellant, the respondent, the authority from whose order the appeal was preferred, the Deputy Commissioner concerned if he is not such authority and the Board of Revenue.

40. *Appeal to the High Court.*—(1) Any person objecting to an order affecting him passed by the Board of Revenue under section 37 may, within a period of ninety days from the date on which a copy of the order was served on him in the manner prescribed, appeal against such order to the High Court :

Provided that the High Court may admit an appeal preferred after the period of ninety days aforesaid if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period.

(2) The appeal shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a fee of one hundred rupees.

(3) In disposing of an appeal, the High Court may, after giving the parties a reasonable opportunity of being heard either in person or by a representative,—

(a) in the case of an order of assessment or penalty,—

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

(ii) set aside the assessment and direct that a fresh assessment may be made after such further enquiry as may be directed ; or

(iii) pass such other orders as it may think fit ; or

(b) in the case of any other order, confirm, cancel or vary such order.

(4) Where as a result of the appeal any change becomes necessary in the order appealed against, the High Court may authorise the Board of Revenue to amend such order accordingly and, on such amendment being made, any amount overpaid by the appellant shall be refunded to him or the further amount of tax, if any, due from him, shall be collected in accordance with the provisions of this Act, as the case may be.

(5) Every order passed in appeal under this section shall be final.

(6) Notwithstanding that an appeal has been preferred under sub-section (1), the tax shall be paid in accordance with the order of assessment against which the appeal has been preferred :

Provided that the High Court may, in its discretion, give such directions as it thinks fit in regard to the payment of the tax before the disposal of the appeal, if the appellant furnishes sufficient security to its satisfaction in such form and in such manner as may be prescribed.

(7) (a) The High Court may, on the application of the appellant or the Board of Revenue, review any order passed by it under sub-section (3) on the basis of the discovery of new and important facts which after the exercise of due diligence were not within the knowledge of the appellant or the Board of Revenue or could not be produced by him or it when the order was made.

(b) The application for review shall be preferred in the prescribed manner and within one year from the date on which a copy of the order to which the application relates was served on the applicant in the manner prescribed and shall, where it is preferred by any person other than the Board of Revenue, be accompanied by a fee of one hundred rupees.

(8) The cost of an appeal under sub-section (1) or of a review under sub-section (7) shall be in the discretion of the High Court.

41. *Revision by the High Court.*—(1) Any officer empowered by the Government in this behalf or any other person who objects to an order passed by the Appellate Tribunal under sub-section (4) or sub-section (7) of section 39 may, within ninety days from the date on which a copy of such order is served on him in the manner prescribed, prefer a petition to the High Court on the ground that the Appellate Tribunal has either decided erroneously or failed to decide any question of law :

Provided that the High Court may admit a petition preferred after the period of ninety days aforesaid if it is satisfied that the petitioner had sufficient cause for not preferring the petition within the said period.

(2) The petition shall be in the prescribed form and shall be verified in the prescribed manner and, where it is preferred by a person other than an officer empowered by the Government under sub-section (1), it shall be accompanied by a fee of one hundred rupees.

(3) If the High Court, on perusing the petition, considers that there is no sufficient ground for interfering, it may dismiss the petition summarily :

Provided that no petition shall be dismissed unless the petitioner has had a reasonable opportunity of being heard.

(4) (a) If the High Court does not dismiss the petition summarily, it shall, after giving both the parties to the petition a reasonable opportunity of being heard, determine the question of law raised and either reverse, affirm or amend the order against which the petition was preferred or remit the matter to the Appellate Tribunal with the opinion of the High Court on the question of law raised, or pass such order in relation to the matter as the High Court thinks fit.

(b) Where the High Court remits the matter under clause (a) with its opinion on the question of law raised, the Appellate Tribunal shall amend the order passed by it in conformity with such opinion.

(5) Before passing an order under sub-section (4), the High Court may, if it considers it necessary so to do, remit the petition to the Appellate Tribunal, and direct it to return the petition with its finding on any specific question or issue.

(6) Notwithstanding that a petition has been preferred under sub-section (1), the tax shall be paid in accordance with the order against which the revision has been preferred :

Provided that the High Court may, in its discretion, give such directions as it thinks fit in regard to the payment of the tax before the disposal of the petition, if the petitioner furnishes sufficient security to its satisfaction in such form and in such manner as may be prescribed.

(7) (a) The High Court may, on the application of any party to a revision under this section, review any order passed by it on the basis of the discovery of new and important facts which after the exercise of due diligence were not within the knowledge of the applicant or could not be produced by him when the order was made.

(b) The application for review shall be preferred in the prescribed manner and within one year from the date on which a copy of the order to which the application relates was served on the applicant in the manner prescribed and, where it is preferred by a person other than an officer empowered by the Government under sub-section (1), it shall be accompanied by a fee of one hundred rupees.

(8) If, as a result of the revision or review, any change becomes necessary in any assessment, the High Court may direct the assessing

authority to amend the assessment accordingly, and, on such amendment being made, any amount overpaid by any person shall be refunded to him, or the further amount of tax due from him shall be collected in accordance with the provisions of this Act, as the case may be.

(9) The cost of a revision under sub-section (1) or of a review under sub-section (7) shall be in the discretion of the High Court.

42. *Appeals, petitions and applications to the High Court to be heard by a Bench of not less than two Judges.*—Every appeal preferred to the High Court under section 40, every petition under section 41 and every application under section 40 or section 41 shall be heard by a Bench of not less than two Judges, and in respect of such appeal, petition or application, the provisions of section 98 of the Code of Civil Procedure, 1908 (Central Act 5 of 1908), shall, so far as may be, apply.

43. *Power to rectify any error apparent on the face of the record.*—(1) An assessing authority or an appellate or revising authority (including the Appellate Tribunal) may, on application or otherwise, at any time within three years from the date of any order passed by it, rectify any error apparent on the face of the record :

Provided that no such rectification which has the effect of enhancing an assessment or any penalty shall be made unless such authority has given notice to the person affected and has allowed him a reasonable opportunity of being heard.

(2) Where such rectification has the effect of reducing an assessment or penalty, the assessing authority shall make any refund to the person entitled thereto.

(3) Where any such rectification has the effect of enhancing an assessment or penalty, the assessing authority shall give the dealer or other person a revised notice of assessment or penalty, and thereupon the provisions of this Act and the rules made thereunder shall apply as if such notice had been given in the first instance.

Explanation.—The liability to pay the tax or other amount will arise only from the date specified in the revised notice.

44. *Refunds.*—(1) When an assessing authority finds, at the time of final assessment, that the dealer has paid tax in excess of what is due from him, it shall refund the excess to the dealer.

(2) When the assessing authority receives an order from any appellate or revisional authority to make refund of tax or penalty paid by a dealer, it shall effect the refund.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the assessing authority shall have power to adjust the amount due to be refunded under sub-section (1) or sub-section (2) towards the recovery of any amount due, on the date of adjustment, from the dealer.

(4) In case refund under sub-section (1) or sub-section (2) or adjustment under sub-section (3) is not made within ninety days of the date of final assessment or, as the case may be, within ninety days of the date of receipt of the order in appeal or revision or the date of expiry of the time for preferring appeal or revision, the dealer shall be entitled

to claim interest at the rate of six per cent per annum on the amount due to him from the date of expiry of the said period up to the date of payment or adjustment.

45. *Refund or adjustment in certain cases.*—Where a dealer proves to the satisfaction of the assessing authority—

(i) that he has been assessed to tax under the General Sales Tax Act, 1125 (Act XI of 1125) or under this Act, as the case may be, in respect of the turnover of the goods in his possession on the last day of the financial year ending on the 31st day of March, 1960, or on the last day of any subsequent financial year, which is taxable only at the point of last purchase in the State ;

(ii) that he has paid the tax so assessed ; and

(iii) that—

(a) he has sold such goods to a dealer in the State who is liable to tax under section 3 of the General Sales Tax Act, 1125 or under section 5 of this Act, as the case may be, in respect of such goods, before the expiry of the subsequent financial year, or

(b) in the case of coir or aloe yarn such goods were used by him in the manufacture within the State of coir products or aloe yarn products, as the case may be, in the subsequent year,

he shall be entitled to the refund of the tax paid by him or to its adjustment in such manner and subject to such conditions as may be prescribed :

Provided that the provisions of this section shall apply to the refund of the tax paid on the turnover relating to the purchase of aloe yarn used in the manufacture of aloe yarn products under sub-clause (b) of clause (iii) only where the purchase took place in the year 1961-62 or any subsequent year.

CHAPTER VIII

Offences and penalties

46. *Penalty for submitting untrue return, etc.*—(1) Any person who—

(a) knowingly submits an untrue return or fails to submit a return as required by the provisions of this Act or the rules made thereunder, or

(b) collects any amount by way of tax in contravention of sub-section (1) of section 22, or

(c) fails to keep true and complete accounts, or

(d) dishonestly objects to or fails to comply with the terms of a notice issued to him under sub-section (1) of section 25, or

(e) being a person obliged to register himself as a dealer under this Act does not get himself registered, or

(f) wilfully acts in contravention of any of the provisions of this Act or the rules made thereunder, for the contravention of which no express provision for punishment is made by this Act,

shall, on conviction by a Magistrate not below the rank of a Magistrate of the First Class, be liable to fine which may extend to one thousand rupees.

(2) Any person who—

(a) prevents or obstructs inspection, entry, search or seizure by an officer empowered under this Act, or

(b) prevents or obstructs inspection of any vehicle or vessel or goods transported otherwise or seizure of goods by an officer in charge of a check post or barrier or any officer empowered under this Act, or

(c) fraudulently evades the payment of tax, fee or other amount due from him under this Act, or

(d) after purchasing any goods in respect of which he has made a declaration under the proviso to sub-section (3) of section 5 fails without reasonable excuse to make use of the goods for the declared purpose, or

(e) carries on business as a dealer without furnishing the security demanded under sub-section (4) of section 14,

shall, on conviction by a Magistrate not below the rank of a Magistrate of the First Class, be liable to simple imprisonment which may extend to six months or to fine not less than the tax or other amounts due but not exceeding two thousand rupees, or to both.

47. *Composition of offences.*—The assessing authority or other officer or authority authorised by the Government in this behalf may accept from any person who has committed or is reasonably suspected of having committed an offence against this Act, by way of composition of such offence.—

(a) where the offence consists of the evasion of any tax recoverable under this Act, in addition to the tax so recoverable, a sum of money not exceeding one thousand rupees or double the amount of the tax recoverable whichever is greater, and

(b) in other cases, a sum of money not exceeding one thousand rupees.

(2) If any person purchasing goods is guilty of an offence under clause (d) of sub-section (2) of section 46, the assessing authority may, after giving him a reasonable opportunity of being heard, by order in writing, impose upon him by way of penalty a sum not exceeding one and a half times the tax payable on the turnover relating to the sale of such goods at a rate which is equal to the rate prescribed in the First Schedule less one per cent:

Provided that no prosecution for an offence under section 46 shall be instituted in respect of the same facts on which a penalty has been imposed under this sub-section.

48. *Offences by companies.*—(1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty

of the offence and shall be liable to be proceeded against and punished accordingly:

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

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

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b). “director” in relation to a firm, means a partner in the firm.

CHAPTER IX

Miscellaneous

49. *Courts not to set aside or modify assessments except as provided in this Act.*—No suit or other proceeding shall, except as expressly provided in this Act, be instituted in any court to set aside or modify any assessment made under this Act.

50. *Assessment, etc., not to be questioned in prosecution.*—(1) Any order of assessment made under this Act shall be conclusive evidence in any prosecution or other proceeding.

(2) The validity of the assessment of any tax, or of the levy of any fee or other amount, made under this Act, or the liability of any person to pay any tax, fee or other amount so assessed or levied, shall not be questioned in any criminal court in any prosecution or other proceeding, whether under this Act or otherwise.

51. *Bar of certain proceedings.*—(1) No suit, prosecution or other proceeding shall lie against any officer or servant of the Government for any act done or purporting to be done under this Act, without the previous sanction of the Government.

(2) No officer or servant of the Government shall be liable in respect of any such act in any civil or criminal proceeding, if the act was done in good faith in the course of the execution of duties or the discharge of functions imposed by or under this Act.

52. *Limitation for certain suits and prosecutions.*—No suit shall be instituted against the Government and no suit, prosecution or other proceeding shall be instituted against any officer or servant of the Government in respect of any act done or purporting to be done under this

Act, unless the suit, prosecution or other proceeding is instituted within six months from the date of the act complained of:

Provided that, in computing the period of limitation under this section, the time taken for obtaining sanction under sub-section (1) of section 51 shall be excluded.

53. *Power to summon witnesses and cause production of documents.*—An assessing authority or an appellate or revising authority (including the Appellate Tribunal) shall, for the purposes of this Act, have all the powers conferred on a court by the Code of Civil Procedure, 1908 (Central Act 5 of 1908), in respect of the following matters, namely,—

(a) summoning and enforcing the attendance of any person and examining him on oath or affirmation; and

(b) compelling the production of any document.

54. *Prohibition of disclosure of particulars produced before sales-tax authorities.*—(1) All particulars contained in any statement made, return furnished or accounts, registers or documents produced under the provisions of this Act or in the evidence given or affidavit or deposition made in the course of any proceeding under this Act or in any record of any proceeding relating to the recovery of a demand, prepared for the purposes of this Act, shall be treated as confidential and shall not be disclosed.

(2) Nothing contained in sub-section (1) shall apply to the disclosure of any such particulars—

(i) to any officer of the Sales Tax Department of the State ;

(ii) for the purpose of prosecution under the Indian Penal Code (Central Act 45 of 1860), or under this Act in respect of any such statement, return, accounts, registers, documents, evidence, affidavit or deposition ;

(iii) to any person enforcing the provisions of this Act where it is necessary to disclose the same to him for the purposes of this Act ;

(iv) occasioned by the lawful employment under this Act of any process for the recovery of any demand ;

(v) to a civil court in any suit to which the Government are party and which relates to any matter arising out of any proceeding under this Act ;

(vi) occasioned by the lawful exercise by a public servant of his powers under the Kerala Stamp Act, 1959 (Act 17 of 1959), or the Indian Stamp Act, 1899 (Central Act 2 of 1899), to impound an insufficiently stamped document ;

(vii) to an officer of the Government of India or the Government of any State or Union Territory in India, if an agreement for disclosure on a reciprocal basis has been entered into between the Government and the Government of India or the Government of the State or Union Territory, as the case may be ;

(viii) to the Director of Statistics or any officer serving under him and authorised by him in this behalf, as may be necessary for conducting statistical survey ;

(ix) to an officer of any Department of the Government after obtaining—

- (a) the permission of the Inspecting Assistant Commissioner of the district, where such particulars are to be furnished by an officer subordinate to the Inspecting Assistant Commissioner; and
- (b) the permission of the Board of Revenue, where such particulars are to be furnished by an Inspecting Assistant Commissioner or an Appellate Assistant Commissioner or a Deputy Commissioner :

Provided that such particulars shall be furnished under clause (ix) only in exceptional cases and that any officer obtaining such particulars shall keep them as confidential and use them only in the lawful exercise of the powers conferred by or under any enactment.

55. *Persons entitled to appear before authority.*—Any person who is entitled or required to appear before any authority other than the High Court in connection with any proceedings under this Act may be represented before such authority—

- (a) by his relative or a person employed by him, if such relative or person is duly authorised by him in writing in this behalf; or
- (b) by a legal practitioner; or
- (c) by a chartered accountant duly authorised by him in writing in this behalf; or
- (d) by a sales-tax practitioner possessing the prescribed qualifications and duly authorised by him in writing in this behalf.

56. *Sale or purchase deemed to have taken place inside the State in certain cases.*—(1) Notwithstanding anything contained in this Act, any sale or purchase which took place on or before the 6th day of September, 1955, shall be deemed to have taken place inside the State if the goods have actually been delivered as a direct result of such sale or purchase for the purpose of consumption in the State, notwithstanding the fact that under the general law relating to sale of goods the property in the goods has by reason of such sale or purchase passed in another State, and be subject to tax under this Act accordingly.

(2) The provisions of this section shall not affect the liability to tax of any sale or purchase under any other provision of this Act.

57. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) all matters expressly required or allowed by this Act to be prescribed;
- (b) determining the total turnover, taxable turnover or turnover of a dealer for the purposes of this Act;
- (c) the assessment to tax under this Act of business which is discontinued or the ownership of which has changed;

(d) the assessment to tax under this Act of business owned by minors and other incapacitated persons or by persons residing outside the State ;

(e) the assessment of a business owned by any person whose estate or any portion of whose estate is under the control of the Court of Wards, the Administrator-General, the Official Trustee, or any receiver or manager appointed by or under any order of a court ;

(f) the administration of the notified areas and the barriers erected and the check posts set up under this Act and the regulation of the work therein ;

(g) the disposal of goods confiscated under this Act and the proceeds thereof ;

(h) requiring the submission of returns ;

(i) the form in which and the particulars to be contained in any declaration to be given under this Act, the authority from whom, the conditions subject to which and the fees subject to payment of which such form of declaration may be obtained, the manner in which such form shall be kept in custody and records relating thereto maintained, the manner in which any such form may be used and any such declaration may be furnished ;

(j) the duties and powers of officers appointed for the purpose of enforcing the provisions of this Act ;

(k) the term of office, and conditions of service, of the members of the Appellate Tribunal ;

(l) the circumstances in which, and the extent to which, fees paid in pursuance of section 39 may be refunded ;

(m) the issue of bills or cash memoranda, the class or classes of dealers who should maintain counterfoils for the same and the particulars to be shown in and the manner of maintenance of such counterfoils and the time for which they should be preserved ;

(n) the maintenance of purchase-bills or accounts of purchases and sales by dealers and the time for which they should be preserved ;

(o) the issue of delivery notes or way-bills in respect of goods delivered or transferred to retail dealers in pursuance of sales effected to them, the form and manner of their issue and the time for which they should be preserved ;

(p) the extent of liability of commission agent, broker, *del credere* agent, auctioneer or any other mercantile agent, who carries on the business of buying, selling, supplying or distributing goods on behalf of any principal ;

(q) generally regulating the procedure to be followed and the forms to be adopted in proceedings under this Act ;

(r) any other matter for which there is no provision or no sufficient provision in this Act and for which provision is, in the opinion of the Government, necessary for giving effect to the purposes of this Act.

(3) Every rule made under this Act shall be laid as soon as may be after it is made before the Legislative Assembly while it is in session

for a total period of fourteen days which may be comprised in one session or in two successive sessions and, if before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly agrees that the rule should be either modified or annulled, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

58. *Power to amend Schedules.*—(1) The Government may, by notification in the Gazette,—

(a) add, omit or amend any entry in the First Schedule or the Second Schedule, but not so as to enhance the rate of tax in any case ;

(b) transpose any entry by deleting it from the First Schedule or the Second Schedule and inserting it in or adding it to the other Schedule.

(2) Where a notification has been issued under sub-section (1), there shall, unless the notification is in meantime rescinded, be introduced in the Legislative Assembly, as soon as may be, but in any case during the next session of the Assembly following the date of the issue of the notification, a Bill on behalf of the Government, to give effect to the addition, omission, amendment or transposition, as the case may be, of the entries in the Schedules specified in the notification, and the notification shall cease to have effect when such Bill becomes law, whether with or without modifications, but without prejudice to the validity of anything previously done thereunder :

Provided that, if the notification under sub-section (1) is issued when the Legislative Assembly is in session, such a Bill shall be introduced in the Assembly during that session :

Provided further that where for any reason a Bill as aforesaid does not become law within six months from the date of its introduction in the Legislative Assembly, the notification shall cease to have effect on the expiration of the said period of six months.

(3) All references made in this Act to the First Schedule or the Second Schedule shall be construed as references to that Schedule as for the time being amended in exercise of the powers conferred by this section.

59. *Certain transactions deemed to be first sale.*—Notwithstanding anything contained in this Act, the first sale of such of those goods—

(i) as were not liable to tax only at the point of first sale before the commencement of this Act ; and

(ii) as are liable to tax only at the point of first sale under sub-section (1) or sub-section (2) of section 5 of this Act,

effected within the State after the commencement of this Act shall be deemed to be the first sale for the purposes of this Act, although any sale of such goods has taken place within the State before such commencement.

60. *Power to remove difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, by order, do anything which appears to them necessary for the purpose of removing the difficulty.

(2) All orders made under sub-section (1) shall, as soon as may be after they are made, be laid before the Legislative Assembly for a period of not less than fourteen days, and shall be subject to such modifications as the Legislative Assembly may make during the session in which they are so laid or the session immediately following.

61. *Repeal.*—(1) The General Sales Tax Act, 1125 (Act XI of 1125), is hereby repealed.

Provided that such repeal shall not affect the previous operation of the said Act or any right, title, obligation or liability already acquired, accrued or incurred thereunder, and subject thereto, anything done or any action taken, including any appointment, notification, notice, order, rule, form, regulation, certificate, licence or permit, in the exercise of any power conferred by or under the said Act, shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the date on which such thing was done or action was taken, and all arrears of tax and other amounts due at the commencement of this Act may be recovered as if they had accrued under this Act.

(2) Notwithstanding anything contained in sub-section (1), any application, appeal, revision or other proceeding made or preferred to any officer or authority under the said Act and pending at the commencement of this Act, shall, after such commencement, be transferred to and disposed of by the officer or authority who would have had jurisdiction to entertain such application, appeal, revision or other proceeding under this Act if it had been in force on the date on which such application, appeal, revision or other proceeding was made or preferred.

THE FIRST SCHEDULE

Goods in respect of which single point tax is leviable under sub-section (1) or sub-section (2) of section 5

<i>Sl. No.</i>	<i>Description of the goods</i>	<i>Point of levy</i>	<i>Rate of tax (Per cent)</i>
(1)	(2)	(3)	(4)
1.	Liquors other than toddy	At the point of first sale in the State by a dealer who is liable to tax under section 5	50

Explanation.—"Liquor" means and includes wine, brandy, Champagne, sherry, rum, gin, whisky, beer, cider, coco-brandy, arrack and all other distilled or spirituous or fermented beverages brought into or produced or manufactured in the State.

2.	Motor spirit other than petrol	do.	20
3.	Petrol	do.	15
4.	Fire works including coloured matches	do.	7
5.	Rubber products other than cycle tyres and tubes and rubber accessories of cycles	do. do.	7 7
6.	Foamed rubber sheets, cushions, pillows and other articles of foamed rubber	do.	7
7.	All varieties of tractors and bulldozers	do.	7
8.	Motor vehicles including chassis of motor vehicles, motor tyres and tubes and spare parts of motor vehicles including batteries, motor cycles and cycle combinations, motor scooters, motorettes and tyres, tubes and spare parts of motor cycles, motor scooters and motorettes	do.	7
9.	Refrigerators and air conditioning plants and component parts thereof	do.	7
10.	Gramophones and component parts thereof and records	do.	7
11.	Clocks, time-pieces and watches and parts thereof	do.	7
12.	Wireless reception instruments and apparatus, radios and radio gramophones, electrical valves, accumulators, amplifiers and loudspeakers and spare parts and accessories thereof	do.	7

SCHEDULE—(cont.)

<i>Sl. No.</i>	<i>Description of the goods</i>	<i>Point of levy</i>	<i>Rate of tax (Per cent)</i>
(1)	(2)	(3)	(4)
13.	Sound transmitting equipments including telephones and loud-speakers and spare parts thereof	At the point of first sale in the State by a dealer who is liable to tax under section 5	7
14.	Cinematographic equipments including cameras, projectors and sound recording and reproducing equipments, lenses, films and parts and accessories required for use therewith	do.	7
15.	Photographic and other cameras and enlargers, lenses, films and plates, paper and cloth and other parts and accessories required for use therewith	do.	7
16.	Binoculars, telescopes and opera glasses	do.	7
17.	Safes, almirahs and furniture made of iron and steel	do.	7
18.	All arms including rifles, revolvers, pistols and ammunitions for the same	do.	7
19.	Cigarette cases and lighters	do.	7
20.	Dictaphone and similar apparatus for recording sound and spare parts thereof	do.	7
21.	Typewriters, tabulating machines, calculating machines and duplicating machines and parts thereof	do.	7
22.	Vacuum flasks of all kinds	do.	7
23.	Glassware, bottles and phials, funnels, globes, glass parts of lamps, sheets and plates and photo and other frames and mirrors	do.	7
24.	Crockery and cutlery, including knives, forks and spoons, other than stainless steel products, articles made of glass, china porcelain or glazed earthenware adopted for domestic use	do.	7
25.	Cement	do.	7

SCHEDULE—(cont.)

<i>Sl. No.</i>	<i>Description of the goods</i>	<i>Point of levy</i>	<i>Rate of tax (Per cent)</i>
(1)	(2)	(3)	(4)
26.	All electrical goods, instruments, apparatus, appliances and all such articles the use of which cannot be had except with the application of electrical energy, including fans and lighting bulbs, electrical earthenwares and porcelain and all other accessories and component parts either sold as a whole or in parts	At the point of first sale in the State by a dealer who is liable to tax under section 5	7
27.	Paints, colours, lacquers and varnishes	do.	7
28.	Cosmetics including scents and perfumes, powders, snows, scented hair oils, scented sticks, and toilet requisites except soaps	do.	7
29.	Lubricating oils and greases	do.	7
30.	Folding umbrellas	do.	5
31.	Soaps	do.	5
32.	Leather goods of all kinds (other than hand-made foot-wear when sold at a price not exceeding Rs. 5)	do.	5
33.	Plywood and hard board	do.	5
34.	Beedi leaves	do.	5
35.	Water supply and sanitary fittings	do.	5
36.	Manufactured tea	do.	5
37.	Coffee	do.	5
38.	Chicory	do.	5
39.	Bicycles, tandem cycles and cycle combinations and tyres, tubes and accessories and parts thereof	do.	5
40.	Upholstered furniture, sofa sets, dressing tables and furniture of all types made of timber	do.	5
41.	Bricks and tiles (kiln burnt)	do.	5
42.	Paper (other than newsprint), card boards, straw boards and their products	do.	5
43.	Food stuffs sold in sealed containers	do.	5
44.	Vegetable products, that is to say, vegetable oil or fat, which whether by itself or in admixture with any other substances, has by hydrogenation or by any other process been hardened for human consumption	do.	5

SCHEDULE.—(cont.)

<i>Sl. No.</i>	<i>Description of the goods</i>	<i>Point of levy</i>	<i>Rate of tax (Per cent)</i>
(1)	(2)	(3)	(4)
45.	Any pen, pencil, or pen and pencil set sold for ten rupees or more	At the point of first sale in the State by a dealer who is liable to tax under section 5	5
46.	Precious stones, namely, diamonds, emeralds, rubies, real pearls and sapphires, synthetic or artificial precious stones, pearls artificial or cultured	do.	5
47.	Stainless steel products	do.	5
48.	Dried or canned fruits	do.	5
49.	Sewing machines	do.	5
50.	Kerosene	do.	4
51.	Confectionery (tinned, packed or otherwise)	do.	2
52.	Biscuits and cakes (packed, tinned or otherwise)	do.	2
53.	Matches	do.	2
54.	Chemical fertilisers including bone-meal	do.	2
55.	Firewood	do.	1
56.	Bullion and specie	do.	1
57.	Foodgrains	do.	1
58.	Pepper	At the point of last purchase in the State by a dealer who is liable to tax under section 5	5
59.	Dried ginger	do.	5
60.	Lemongrass oil	do.	5
61.	Turmeric	do.	5
62.	Arecanut	do.	5
63.	Nuxvomica	do.	5
64.	Laurel oil	do.	5
65.	Kacholam	do.	5
66.	Cashewnut with or without shells	do.	4

Explanation.—Where a tax has been levied in respect of cashewnut without shell (cashewnut kernel), the tax, if any, levied and collected in respect of the cashewnut with shell from which such kernel is produced shall be refunded.

SCHEDULE—(cont.)

Sl. No.	Description of the goods	Point of levy	Rate of tax (Per cent)
(1)	(2)	(3)	(4)
67.	Coconut fibre, coir yarn and their products	At the point of last purchase in the State by a dealer who is liable to tax under section 5	2
68.	Aloe yarn and its products	do.	2
69.	Prawns and lobsters	do.	2
70.	Sugar cane	do.	2
71.	Rubber	do.	2
72.	Dried fish	do.	1

THE SECOND SCHEDULE

Declared goods in respect of which a single point tax only is leviable under sub-section (1) or sub-section (2) of section 5

Sl. No.	Description of the goods	Point of levy	Rate of tax (Per cent)
(1)	(2)	(3)	(4)
1.	Cardamom	At the point of first sale in the State by a dealer who is liable to tax under section 5	2
2.	Oil seeds as defined in section 14 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956), other than coconut and copra, groundnut and cardamom	do.	2
3.	(i) Coal, including coke in all its forms	do.	2
	(ii) Iron and steel, that is to say—		
	(a) Pig iron and iron scrap ;		
	(b) Iron plates sold in the same form in which they are directly produced by the rolling mill ;		
	(c) Steel scrap, steel-ingots, steel billets, steel bars and rods ;		
	(d) (i) Steel plates, (ii) Steel sheets, (iii) Sheet bars and tin bars, (iv) Rolled steel sections, (v) Tool alloy steel	Sold in the same form in which they are directly produced by the rolling mill	do 2

SCHEDULE—(cont.)

Sl. No.	Description of the goods	Point of levy	Rate of tax (Per cent)
(1)	(2)	(3)	(4)
(iii)	Jute, that is to say, the fibre extracted from plants belonging to the species <i>corchorus capsularis</i> and <i>corchorus olitorius</i> and the fibre known as <i>mesta</i> or <i>bimli</i> extracted from plants of the species <i>hibiscus cannabinus</i> and <i>hibiscus sabdariffavar altissima</i> , whether baled or otherwise	At the point of first sale in the State by a dealer who is liable to tax under section 5	2
4. (i)	Cotton, that is to say, all kinds of cotton (indigenous or imported) in its unmanufactured state, whether ginned or unginned, baled, pressed or otherwise, but not including cotton waste	do.	1
(ii)	Cotton yarn, other than handspun—yarn, but not including cotton yarn waste	do.	1
5.	Hides and skins whether in a raw or dressed state	At the point of last purchase in the State by a dealer who is liable to tax under section 5	2
6.	Coconut and copra	do.	2
<p><i>Explanation.</i>—Where a tax has been levied in respect of copra, the tax, if any, levied and collected in respect of the coconut from which such copra is produced shall be refunded.</p>			
7.	Groundnut	do.	2

THE THIRD SCHEDULE

Goods exempted from tax under section 9

1. Salt.
2. Handspun yarn and any cloth woven on handloom wholly with handspun yarn.
3. Cloth woven on handlooms wholly or partly with mill yarn, whether fringed or hemmed.
4. Rice issued from Central or State Government depots for sale through fair price shops declared as such by the Government by notification in the Gazette.
5. Sugar as defined in item No. 1 of the First Schedule to the Central Excises and Salt Act, 1944.

SCHEDULE—(cont.)

6. Tobacco as defined in item No. 4 of the First Schedule to the Central Excises and Salt Act, 1944.
7. Cotton fabrics, silk fabrics, woollen fabrics and rayon or artificial silk fabrics as defined in items Nos. 19, 20, 21 and 22 respectively of the First Schedule to the Central Excises and Salt Act, 1944.
8. Green tea leaves.
9. Plantain fruits, bananas, mangoes, jack fruits, and oranges.
10. Vegetables (other than green ginger), whether roots, green fruits or leaves, used for human consumption including tapioca, yam, potatoes, lime, sabola and tomatoes, except their manufactured products.

Explanation.—The term “vegetables” shall not include any goods of the description specified in the First or Second Schedule.

11. Toddy.

Explanation.—“Toddy” means the fermented or unfermented juice drawn from coconut, palmyra, date or any other kind of palm tree, but shall not include juice drawn into receptacles freshly coated internally with lime or otherwise treated so as to prevent any fermentation.

12. Cooked food including coffee, tea and like articles served in a hotel, restaurant or any other place by a dealer whose total turnover in respect of such food is less than twenty thousand rupees in a year.
 13. Cloth woven on power loom.
 14. Lime and limeshell.
 15. Eggs.
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