

CHAPTER VI
RETURN AND PAYMENT OF TAX, ASSESSMENT ETC.

**Periodical return
and payment of tax
and interest.**

- 35.** (1) Tax payable under this Act shall be paid in the manner hereinafter provided at such intervals as may be prescribed
- (2) Every registered dealer shall, in the prescribed manner, furnish such returns by such dates and to such authority as may be prescribed.
- (3) Any dealer, other than a registered dealer referred to in sub section (2), shall, if so required by the Commissioner by a notice served in the prescribed manner, furnish returns in accordance with the provisions of sub-section (2).
- (4) Before any dealer furnishes a return required by sub-section (2) or sub-section (3), he shall, in the prescribed manner, pay into a Government Treasury or the State Bank of India the full amount of tax due from him under the Act according to such return, and shall furnish along with such return a receipt from the Treasury or Bank showing the payment of such amount:

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

Provided further that a dealer may furnish return within the prescribed date without making payment of tax either in full or in part subject to such terms and conditions as may be prescribed.

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

Return defaults.

- 36.** (1) If a dealer required to file return under sub-section (1) or subsection (2) of section 35 -
- (a) fails without sufficient cause to pay the amount of tax due as per the return for any tax period; or
- (b) furnishes a revised return under sub-section (3) of section 35 showing a higher amount of tax to be due than was shown by him in the original return; or
- (c) fails to furnish return;
- (d) fails to pay tax payable by him according to the return; or

- (e) fails to pay the difference of the amount of tax according to the revised return; or
 - (f) fails to pay tax payable for the period for which he has failed to furnish return;
such dealer shall be liable to pay interest in respect thereof at the rate of 2% per month from the date the tax payable had become due to the date of its payment or to the date of order of assessment, whichever is earlier.
- (2) 'Month' shall mean thirty days and the interest payable in respect of a period of less than one month shall be computed proportionately.
- (3) If a registered dealer, without sufficient cause, fails to pay the amount of tax due and interest along with return or revised return in accordance with the provisions of sub-section (1), the Commissioner may, after giving the dealer reasonable opportunity of being heard, direct him to pay in addition to the tax and the interest payable by him a penalty, at the rate of 2% per month on the tax and interest so payable from the date it had become due to the date of its payment or to the date of order of assessment, whichever is earlier.
- (4) If a registered dealer or any other dealer required to furnish return under sub-section (2) of section 35, without any sufficient cause, -
- (a) fails to comply with the requirements of the notice issued under sub-section (2) of section 35; or
 - (b) fails to furnish any return by the prescribed date as required under sub-section (2) of section 35; or
 - (c) being required to furnish revised return, fails to furnish the revised return by the date prescribed under sub-section (3) of section 35; or
 - (d) having paid the tax payable according to a return in time, fails to furnish along with the return proof of payment made in accordance with sub-section (4) of section 35;
the Commissioner may, after giving the dealer reasonable opportunity of being heard, direct him to pay in addition to any tax, interest and penalty under sub-section (3) payable or paid by him, a penalty of a sum of rupees one hundred per day of default subject to a maximum of rupees ten thousand.
- (5) Any penalty imposed under this section shall be without prejudice to any prosecution for any offence under this Act.
- (6) For the purposes of this Act, any return signed by a person who is not authorised as may prescribed shall be treated as if no return has been filed.

Collection of tax only by registered

- 37.** (1) No person who is not a registered dealer shall collect in respect of any sale of goods by him in the State of

- dealers.** Meghalaya any amount by way of tax under this Act and no registered dealer shall make any such collection except in accordance with the provisions of this Act and the Rules made thereunder and not beyond the rate specified.
- (2) Notwithstanding anything contained in sub-section (1), a registered dealer who has been permitted by the Commissioner to pay presumptive tax under section 17 shall not collect any sum by way of tax on the sale of goods during the period to which such payment relates.
- Rounding off of the amount Of tax or penalty.** 38. The amount of tax or penalty payable or refundable for any period under the provisions of this Act shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee, then, if such part is fifty paise or more, it shall be increased to one rupee and, if such part is less than fifty paise, it shall be ignored.
- Scrutiny of Return** 39. (1) Each and every return in relation to any tax period furnished by a registered dealer to whom notice has been issued by the Commissioner under section 35 shall be subject to scrutiny by the Assessing Authority to verify the correctness of calculation, application of correct rate of tax and interest and input tax credit claimed therein; and full payment of tax and interest payable by the dealer during such period.
- (2) If any mistake is detected as a result of such scrutiny made as per the provisions of sub-section (1) the Assessing Authority shall serve a notice in the prescribed form on the dealer to make payment of the extra amount of tax along with the interest as per the provisions of this Act, if it is payable by a date specified in the said notice.
- (3) If the Commissioner-
- (a) discovers any error or omission in any return furnished by a dealer, or
- (b) has reasons to believe upon information or otherwise that a dealer has furnished incorrect statement of his turnover of sales or turnover of purchases or incorrect particulars of his sales or purchases in any return, he may require such dealer to produce any accounts, register, statements or documents or to furnish any information regarding purchases, sales, deliveries, stock of goods or payments made or received or any other related or incidental matter for the purpose of verification of such return.
- Interest payable by dealer** 40. (1) If any dealer does not pay the full amount of tax payable by him under this Act by the date on which it falls due as per provisions of the Act, simple interest at the rate of two per centum per month from the first day of the month next following the said date shall be payable by him on the amount by which the tax paid, if any, by the

aforesaid due date falls short of the tax payable. No interest under this section shall be payable if the amount of tax paid by the aforesaid due date is not less than ninety per centum of the tax payable.

- (2) Where any interest payable by any dealer under the foregoing provisions is not paid in full, the Assessing Officer shall determine the amount payable by an order in writing.
- (3) If as a result of any proceeding under this Act the amount of tax in respect of which interest is payable by the dealer under the foregoing provisions is varied, the Assessing Officer shall correspondingly reduce or enhance, as the case may be, the interest so payable.

Interest.

- 41.**
- (1) A registered dealer entitled to refund in pursuance of any order under this Act (including assessment under section 52, section 53 or section 54) or in pursuance of any order by any Court, shall be entitled to receive, in addition to the refund, simple interest at the rate of eight percent per annum for the period commencing after ninety days of the application claiming refund in pursuance to such order till the date on which the refund is granted.
 - (2) The interest shall be calculated on the amount of refund due after deducting therefrom any tax, interest, penalty or any other dues under this Act.
 - (3) If, as a result of any order passed under this Act, the amount of such refund is enhanced or reduced such interest shall be enhanced or reduced accordingly.
 - (4) When a dealer is in default or is deemed to be in default in making the payment under section 52, section 53 and section 54, he shall be liable to pay simple interest on such amount at the rate of two percent per month from the date of such default for so long as he continues to make default in the payment of the said tax.
 - (5) Where as a result of any final order, the amount of tax (including any penalty) due or in default is wholly reduced, the amount of interest, if any, paid shall be refunded, or if such amount is modified, the interest due shall be calculated accordingly.
 - (6) Where any amount of tax payable is enhanced by any such order, interest shall be payable on the amount by which the tax is enhanced after the expiry of a period of three months from the date of the order.
 - (7) Where the realisation of any amount remains stayed by the order of any court or authority and such order is subsequently vacated, interest shall be payable also for any period during which such order remained in operation.
 - (8) The interest payable under this Act shall be deemed to be tax due under this Act.

Power to withhold

- 42.**
- (1) Where an order giving to refund in the subject matter of

refund in certain cases.

an appeal or further proceeding the Commissioner or where any other proceeding under this Act is pending, and is of the opinion that the grant of such refund is likely to adversely affect the revenue and that it may not be possible to recover the amount later, the Commissioner may, withhold the refund till such time as he may determine.

- (2) Where a refund is withheld under sub-section (1), the dealer shall be entitled to interest as provided under sub-section (1) of section 41 if as a result of the appeal or further proceeding or any other proceeding he becomes entitled to the refund.

Exemption of certain sales and purchase.

- 43.** (1) Subject to such conditions as it may impose the Government may, if it is necessary so to do in the public interest, by notification in the Official Gazette, exempt any sales or purchases made to or by a class of dealers or persons specified in the said notification from payment of the whole or any part of any tax payable under the provisions of this Act and any notification issued under this section may be issued so as to be retrospective to any date not earlier than the 1st April, 2003 and such exemption shall take effect from the date of the publication of the notification in the Official Gazette or such other earlier or later date as may be mentioned therein.
- (2) Where any dealer or person has purchased any goods under a declaration or certificate given by him under any notification issued under this section and –
- (a) any of the conditions subject to which such exemption was granted, or
- (b) any of the recitals or the conditions of the declaration, or certificate are not complied with for any reason whatsoever, then without prejudice to the other provisions of this Act, such dealer or person shall be liable to pay tax on the sale price of the goods at the rate set out against each of such goods in the Schedule notwithstanding that such dealer or person was not liable to pay tax under any other provisions of this Act and accordingly the dealer or the person who has become liable to pay tax under this sub-section shall file a return in the prescribed form to the prescribed authority within a prescribed time and shall include the sale price of such turnover in his return, and pay the tax in the prescribed manner. The tax due from any such dealer or person shall be assessed and recovered as if the person or dealer is a dealer liable to be proceeded against under the provisions of this Act.
- (3) If the Commissioner has reason to believe that any person or dealer is liable to pay tax under sub-section (2),

the Commissioner shall, after giving him a reasonable opportunity of being heard, assess the amount of tax so due.

Composition of tax.

- 44.** (1) The Government may by a notification published in the Official Gazette provide for a scheme of composition, subject to such conditions and restrictions as may be provided therein, of tax payable by those dealers who are engaged in the business of selling at retail any goods or merchandise.
- (2) For the purpose of this section, a dealer will be considered to be engaged in the business of selling at retail if 9/10' of his turnover of sales consists of sales made to persons who are not dealers and if any question arises as to whether any particular dealer is a retailer, then the officer in charge of the case shall refer the question to the Assistant Commissioner (Appeals) who shall, after hearing the dealer if necessary, decide the question.
- (3) Nothing in this section will apply to a dealer who is a manufacturer or who is an importer or who has purchased any goods from a registered dealer whose sales of the said goods are not liable to tax under the provisions of this Act.

Assessment.

- 45.** (1) If no returns are furnished by a registered dealer in respect of any period, by the prescribed date, or if the Commissioner is not satisfied that the returns furnished are correct and complete, the Commissioner shall proceed in such manner as may be prescribed to assess to the best of his judgement the amount of tax due from the dealer and, in making such assessment, shall give the dealer a reasonable opportunity of being heard; and in the case of failure by a registered dealer to furnish in respect of any period, a return accompanied by a receipt from a Government Treasury or the State Bank of India, as required under sub-section (4) of section 35 by the prescribed date, the Commissioner may, if he is satisfied that the default was made without reasonable cause, direct that the dealer shall pay by way of penalty, in addition to the amount of tax so assessed, a sum not exceeding one and a half times that amount:

Provided that where a registered dealer brings to the notice of the Commissioner in writing, within six months from the end of the year that, due to error in fact or in law, an amount of tax has been paid by him in excess of what was payable by him during any return period relating to such year, and request the Commissioner for making assessment under this sub-section in respect of such year, the Commissioner may, if he is satisfied on the grounds adduced by such registered dealer making such assessment, proceed to

make assessment in respect of such year immediately on receipt of notice by the dealer.

- (2) Where upon search or seizure of any accounts, registers or documents, or of any goods of a dealer registered under this Act, or upon enquiry or information received or upon verification of return under sub-section (1) of section 39 or where refund of any tax, interest or penalty arises or the Commissioner has reasons to believe that the dealer has not accounted for the turnover of sales of goods or purchases of goods as appearing from such accounts, registers or documents in the books of accounts referred to in section 84 or has not shown such turnover in his return furnished under section 35 in respect of any return period, or has furnished incorrect statement of his turnover of sales or turnover of purchases or incorrect particulars of his sales or purchases in any return, the Commissioner shall, notwithstanding anything contained in subsection (1) proceed in such manner as may be prescribed to assess to the best of his judgement the amount of tax payable by the dealer in respect of such return period after giving the dealer a reasonable opportunity of being heard and direct such dealer to pay the amount of tax so assessed in such manner and by such date as may be prescribed; the Commissioner may, if he is satisfied that the default was made without reasonable cause, direct that the dealer shall pay by way of penalty in addition to the amount of tax so assessed, a sum not exceeding one and half times that amount.
- (3) No penalty under sub-section (1) or sub-section (2) shall be imposed in respect of the same fact for which a prosecution under section 90 has been instituted and no prosecution would lie vice versa.
- (4) If interest is payable in terms of section 39 in respect of any period, penalty under sub-section (1) or sub-section (2) for failure to furnish a return by the prescribed date for such period shall not exceed fifty per centum of the amount of tax so assessed.
- (5) Subject to other provisions of this section assessment shall also be made in cases where business is closed by a dealer. Tax on goods that remain in stock at the time of cancellation of registration (including capital goods) on which input tax has already been given credit, shall be assessed and collected in the manner as may be prescribed.

Assessment of tax payable by dealer other than registered dealers.

46. If upon information which has come into his possession, the Commissioner is satisfied that any dealer, who has been liable to pay tax under this Act in respect of any period but has failed to get himself registered or has not been registered, the Commissioner shall proceed in such manner

as may be prescribed to assess to the best of his judgement the amount of tax due from the dealer in respect of such period and all subsequent periods and, in making such assessment, shall give the dealer a reasonable opportunity of being heard.

Assessment of dealer who fails to get himself registered.

- 47.** (1) If the Commissioner, upon information which has come into his possession, is satisfied that any dealer who has been liable to pay tax under this Act, in respect of any period, has failed to get himself registered, the Commissioner shall proceed in such manner as may be prescribed to assess to the best of his judgement the amount of tax due from the dealer in respect of such period and all subsequent periods and in making such assessment shall give the dealer reasonable opportunity of being heard.
- (2) The Commissioner may, if he is satisfied that the default was without reasonable cause, direct that the dealer shall pay, by way of penalty, in addition to the amount of tax so assessed, a sum equal to the amount of tax assessed or a sum of rupees ten thousand whichever is more.

Payment of tax and penalty.

- 48.** The amount of tax -
- (a) due from a dealer where the returns are furnished without receipt showing full payment of tax, or
- (b) assessed under section 45 for a period, less the sum, if any, already paid by a dealer in respect of the said period, together with any penalty that may be directed to be paid under section 35 if any, shall be paid by such dealer into a Government Treasury or the State Bank of India by such date as may be specified in a notice issued by the Commissioner in this behalf, and the date to be so specified shall be ordinarily not less than thirty days from the date of service of such notice.

Refund.

- 49.** (1) The Commissioner shall, in the prescribed manner, refund to a registered dealer, being an exporter of goods, the amount of tax paid or payable on the purchases of goods or inputs used directly by him in manufacture in Meghalaya, on being satisfied that goods so purchased or manufactured were sold outside the territory of India from Meghalaya
- (2) The Commissioner shall, in the prescribed manner, refund to consulates and specialized agencies of the United Nations, the amount of tax paid or payable on the purchases of goods in Meghalaya, on being satisfied that goods so purchased were for their personal or official use as may be prescribed.
- (3) Subject to other provisions of this Act, if it is found on assessment or re-assessment under section 45 or 46 of the Act, as the case may be, that a dealer has paid tax, interest or penalty in excess of what is due from him, the

Commissioner shall, in the prescribed manner, refund to such dealer the amount of tax, interest or penalty paid in excess by him:

Provided further that such refund shall be made after adjusting any tax, interest or penalty due from him under the Act for any period, on the date of passing of order for such refund.

- (4) The Commissioner shall, in the prescribed manner, refund to a certified dealer the amount of input tax paid or payable by him under this Act on his purchases of capital goods including plant and machinery, containers, packing materials and inputs required for direct use in the manufacture of taxable goods in Meghalaya for sale in Meghalaya.
 - (5) The Commissioner shall in the prescribed manner refund to a registered dealer, the amount of tax paid or payable by him on the purchases of goods or inputs used directly by him in manufacture in Meghalaya, on being satisfied that goods so purchased or manufactured were sold to Special Economic Zones.
 - (6) The Commissioner shall in the prescribed manner refund to a registered dealer the amount of tax paid or payable on the purchases of goods or inputs used directly by him in manufacture in Meghalaya on being satisfied that goods so purchased or manufactured were sold to Export Oriented Units /Electronic Hardware Technology Park/ Software Technology Park Units for the purpose of export only
- 50.** (1) If a registered dealer has filed any return as required under this Act and the return shows any amount to be refundable to the dealer on account of sales in course of export out of the territory of India, then the dealer may apply in the manner and form prescribed to the Commissioner for grant of provisional refund pending audit and investigation to establish the correctness of the claim and consequent assessment, if any.
- (2) Subject to the provisions of sub-section (3), the Commissioner may require the dealer to furnish a Bank Guarantee or other security as may be prescribed for an amount equal to the amount of refund and on receipt of such guarantee or other security, the Commissioner shall grant the dealer a provisional refund that may be determined as refundable.
- (3) The Commissioner may direct the assessment under section 57 of such dealer in respect of the year containing the period covered by the said return to be taken up as early as practicable and adjust the grant of provisional refund against tax due, if any, as a result of that assessment.
- (4) If, on assessment, the provisional refund granted

**Provisional
refund.**

under sub-section (2) is found to be in excess, then the excess shall be recovered as if it is tax free from the dealer under this Act.

(5) Interest will be charged on such excess amount at the rate of two percent per month from the date of grant of provisional refund till the date of assessment.

Rectification of assessments.

51. (1) The authority, which made an assessment or passed an order on appeal or revision in respect thereof may, at any time within three years from the date of such assessment or order and of its own motion, rectify any mistake apparent from the record of the case, and shall, within the like period, rectify any such mistake as has been brought to its notice by a dealer:

Provided that no such rectification shall be made having the effect of enhancing the assessment unless the authority concerned has given notice to the dealer of its intention so to do and has allowed him a reasonable opportunity of being heard.

(2) Where any such rectification has the effect of reducing the assessment, a refund shall be due to the dealer;

(3) Where any such rectification has the effect of enhancing the assessment, a notice of demand shall be issued for the sum payable.

Tax audit.

52. (1) The Commissioner or any other tax officer as directed by him shall undertake tax audit of the records, stock in trade and the related documents of the dealer, who are selected by the Commissioner in the manner as may be prescribed for the purpose.

(2) The tax audit shall be generally taken up in the office, business premises or warehouse of the dealer.

(3) For the purpose of tax audit under sub-section (1) the Commissioner or any other tax officer directed by him shall examine the correctness of return or returns filed and admissibility of various claims including input tax credit.

Self assessment.

53. (1) Subject to provisions of sub-section (2), the amount of tax due from a registered dealer or a dealer liable to be registered under this Act shall be assessed in the manner hereinafter provided, for each tax period or tax periods during which the dealer is so liable.

(2) Notwithstanding anything contained in this section, if a registered dealer has failed to furnish return or returns under sub-section (1) of section 35 in respect of any tax period or periods, the Commissioner shall proceed to make provisional assessment under section 54.

(3) If a registered dealer has filed the return in respect of any tax period within the prescribed time and the return so filed is found to be in order, it shall be accepted as self assessment subject to adjustment of any arithmetical error apparent on the face of the said return.

Provisional assessment.

- 54.** (1) Where a registered dealer fails to furnish the return in respect of any tax period within the prescribed time, the Commissioner shall, notwithstanding anything contained in section 55, proceed to assess the dealer provisionally for the period for such default.
- (2) The provisional assessment under sub-section (1) shall be made on the basis of past returns, or past records where no such returns are available, or on the basis of information received by the Commissioner and the Commissioner shall direct the dealer to pay the amount of tax assessed in such manner and by such date as may be prescribed.
- (3) If the dealer furnishes return along with evidence showing full payment of tax, interest and penalty, if any, on or before the date of payment specified under sub-section (2), the provisional assessment made under sub-section (1) shall stand revoked to the extent of the tax demanded, interest levied and penalty imposed, on the date on which such return is filed by the dealer.
- (4) Nothing contained in this section shall prevent the Commissioner from making assessment under section 55 and any tax, interest or penalty paid against provisional assessment shall be adjusted against tax, interest and penalty payable on final assessment under that section.

Audit assessment.

- 55.** (1) Where –
- (a) a registered dealer has failed to furnish any return under sub-section (1) of section 35 in respect of any period; or
- (b) a registered dealer is selected for audit assessment by the Commissioner on the basis of any criteria or on random basis; or
- (c) the Commissioner is not satisfied with the correctness of any return filed under section 35; or bona fides of any claim of exemption, deduction, concession, input tax credit or genuineness of any declaration, evidence furnished by a registered dealer in support thereof; or
- (d) the Commissioner has reasons to believe that detailed scrutiny of the case is necessary, the Commissioner may, notwithstanding the fact that the dealer may already have been assessed under section 54, serve on such dealer in the prescribed manner a notice requiring him to appear on a date and place specified therein, which may be in the business premises or at a place specified in the notice, to either attend and produce or cause to be produced the books of account and all evidence on which the dealer relies in support of his returns including tax invoice, if any, or to produce such evidence as specified in the notice.
- (2) The dealer shall provide full cooperation and assistance to the Commissioner to conduct the proceedings under this

section at his business premises.

- (3) If proceedings under this section are to be conducted at the business premises of the dealer and it is found that the dealer or his authorised representative is not available or not functioning from such premises, the Commissioner shall assess to the best of his judgement the amount of tax due from him:
- (4) If the Commissioner is prevented from conducting the proceedings under this section, the Commissioner may demand, a sum equal to the amount of tax so assessed, by way of penalty after considering all the evidence produced in course of the proceedings or collected by him.
- (5) If any dealer-
 - (a) has not furnished returns in respect of any period by the prescribed date; or
 - (b) has furnished incomplete and incorrect returns for any period; or
 - (c) has failed to comply with any notice under sub-section (1) or sub-section (3); or
 - (d) has failed to maintain accounts in accordance with the provisions of this Act or has not regularly employed any method of accounting;
the Commissioner shall assess to the best of his judgement the amount of tax due from such dealer.
- (6) If the commissioner is satisfied that the dealer, in order to evade or avoid payment of tax,
 - (a) has failed to furnish without reasonable cause, returns in respect of any period by the prescribed date; or
 - (b) has furnished incomplete and incorrect returns for any period; or
 - (c) has availed tax credit to which he is not entitled to; or
 - (d) has employed such method of accounting which does not enable the Commissioner to assess the tax due from him;
he shall, after giving the dealer reasonable opportunity of being heard, direct that the dealer shall pay, by way of penalty, a sum equal to twice the amount of additional tax assessed on account of the said reasons under this section.

Assessment of dealers who fails to get himself registered.

- 56.** (1) If the Commissioner, upon information which has come into his possession, is satisfied that any dealer who has been liable to pay tax under this Act, in respect of any period, has failed to get himself registered, the Commissioner shall proceed in such manner as may be prescribed to assess to the best of his judgement the amount of tax due from the dealer in respect of such period and all subsequent periods and in making such assessment shall give the dealer reasonable opportunity of being heard.
- (2) The Commissioner may, if he is satisfied that the

default was without reasonable cause, direct that the dealer shall pay, by way of penalty, in addition to the amount of tax so assessed, a sum equal to the amount of tax assessed or a sum of rupees ten thousand whichever is more.

**No assessment
After five year.**

- 57.** (1) No assessment under section 55 or 56 shall made after the expiry of five years from the end of the tax period to which the assessment relates :

Provided that in case of offence under this Act for which proceeding for prosecution has been initiated, the limitation as specified in this sub-section shall not apply.

Any assessment made or penalty imposed under this Chapter shall be without prejudice to prosecution for any offence under this Act.

**Turnover escaping
Assessment.**

- 58.** (1) Where after a dealer is assessed under section 53 or section 54 for any year or part thereof, the Commissioner has reason to believe that the whole or any part of the turnover of the dealer in respect of any period has,
- (a) escaped assessment; or
 - (b) been under - assessed; or
 - (c) been assessed at a rate lower than the rate of which it is assessable, or
 - (d) been wrongly allowed any deduction therefrom; or
 - (e) been wrongly allowed any credit therein, the Commissioner may, serve a notice on the dealer and after giving the dealer reasonable opportunity of being heard and making such enquiries as he considers necessary, proceed to assess to the best of his judgement, the amount of tax due from the dealer in respect of such turnover, and the provisions of this Act shall, so far as may be, apply accordingly.
- (2) No order of assessment and reassessment shall be made under sub-section (1) after the expiry of five years from the end of the year in respect of which or part of which the tax is assessable.

**Exclusion of time
period for
assessment.**

- 59.** In computing the period of limitation specified for assessment or reassessment, as the case may be the time during which any assessment or reassessment proceeding remained stayed under the order of a competent Court shall be excluded.

**Special mode of
recovery.**

- 60.** (1) Notwithstanding anything contained in any law or contract to the contrary, the Commissioner may at any time or from time to time, by notice in writing (a copy of which shall be forwarded **to the** dealer at his last known address) required any person who holds or may subsequently hold any money for, or on account of such dealer, to pay into Government Treasury in the manner specified in the notice, either forthwith or upon the money becoming due or being held, or at or within the time specified in the notice not being before money

becomes due or is held, so much of the money as is sufficient to pay the amount of tax due from the dealer or penalty or both, as the case may be, under this Act, or the whole of the money when it is less than that amount.

- (2) The notice under sub-section (1) may, from time to time, amend or revoke any such notice or extend the time for making such payment in pursuance of the notice.
- (3) Any person making any payment in compliance with a notice issued under sub-section (1) shall be deemed to have made the payment under the authority of the dealer and the receipt from the Government Treasury shall construe a good and sufficient discharge of the liability of such person to the dealer to the extent of the amount specified in the receipt.
- (4) Any person discharging liability to the dealer, after service on him of the notice issued under sub-section (1) shall, if the liability is discharged in any manner other than that required under the said notice, be personally liable to the State Government to the extent of the liability discharged or to the extent of the liability of the dealer for tax or penalty, or both, whichever is less.
- (5) Where a person on whom a notice is served under sub-section (1) proves to the satisfaction of the Commissioner that the money demanded or any part thereof were not due to the dealer, or that he did not hold any money for or on account of the dealer, at the time the notice was served on him, nor is the money demanded or any part thereof is likely to become due to the dealer or be held for or on account of the dealer, then such person shall not be liable to pay into Government treasury any such money or part thereof.
- (6) Any amount of money, which a person is required to pay under sub-section (1) or for which he is personally liable under subsection (4), shall, if it remains unpaid, be recoverable in the same manner as provided under section 107:

Provided that nothing in this section shall operate to affect any action taken or prevent any action that may be or is being taken under section 48 for recovery from the dealer the amount due from him.

**Collection of tax
by dealer.**

- 61.** (1) If any person,-
- (a) not being a dealer liable to pay tax under this Act, collects any sum by way of tax; or
 - (b) being a registered dealer, collects any amount by way of tax in excess of the tax payable by him, shall be liable, in addition to the tax for which he may be liable, to a penalty of an amount equal to twice the sum so collected by way of tax.
- (2) If the Commissioner in the course of any proceeding

under this Act or otherwise has reason to believe that any person has become liable to a penalty, or forfeiture, or both, under sub-section (1), he shall serve on such person a notice in the prescribed form requiring him to appear and show cause as to why a penalty or forfeiture or both of any sum as provided under sub-section (1) should not be imposed on him. The Commissioner shall thereupon hold an inquiry as he deems necessary and shall make such order as he deems fit.

- Sales not liable to tax.**
- 62.** (1) Notwithstanding anything contained in this Act, a value added tax shall not be imposed under this Act
- (a) where such sales or purchase takes place outside the State of Meghalaya,
 - (b) where such sale or purchase takes place in the course of interstate trade and commerce; or
 - (c) (iii) where such sale or purchase takes place in the course of import of goods into the territory of India or export of goods out of the territory of India.
- (2) For the purpose of this section whether a sale or purchase takes place
- (a) outside the State of Meghalaya; or
 - (b) in the course of interstate trade or commerce; or
 - (c) in the course of import of goods into the territory of India or export of goods out of the territory of India; shall be determined in accordance with the provisions of section 3, section 4, and section 5 of the Central Sales Tax Act, 1956.
- Tax to be first charge on property.**
- 63.** Notwithstanding anything to the contrary contained in any law for the time being in force, any amount payable by a dealer under this Act on account of tax penalty or interest or any amount which a person is required to pay under this Act shall be a first charge on the property of the dealer or such person.
- Period of limitation for recovery of tax.**
- 64.** Notwithstanding anything contained in any law for the time being in force, no proceeding for recovery of any amount under sub-section (1) (b) of section 61 shall be initiated after the expiry of five years from the date of the relevant assessment:
- Provided that when an appeal or revision has been filed, the period of limitation shall run from the date on which the amount due is finally determined.