

**CHAPTER XI
MISCELLANEOUS**

**Power of taking
evidence on oath,
etc.**

- 98.** (1) The authorities specified in Chapter III of this Act shall, for the purposes of this Act, have the same power as are vested in a court under the Code of Civil Procedure 1908 (Act No. 5 of 1908) when trying a suit in respect of the following matters, namely;
- (a) discovery and inspection;
 - (b) enforcing the attendance of any person including any officer of a banking company and examining him on oath or affirmation,
 - (c) compelling the production of books of account or other documents;
 - (d) issuing commission.
- (2) subject to any rules made in this behalf, any authority referred to in sub-section (I) may impound or retain in his custody for such period as he may think fit any books of account or other documents produced before him in a proceeding under this Act.
- (3) Provided that a person appointed to assist the Commissioner under sub-section (1) of section 25 shall not -
- (a) impound any books of account or other documents without recording his reasons for doing so, or
 - (b) retain in his custody any such books or documents for a period exceeding thirty days (exclusive of holidays) without obtaining the approval of the Commissioner thereof.

**Returns etc. to be
confidential**

- 99** (1) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Act, or in any record of evidence given in the course of any proceedings under this Act, other than the proceedings before a criminal court, shall save as provided in sub-section (3) be treated as confidential and notwithstanding anything contained in the Indian Evidence Act. 1872 (1 of 1872), no court shall save as aforesaid be entitled to require any Government Servant to produce before it any such statement return, accounts, documents, or record or any part thereof or to give evidence before it in respect thereof.
- (2) If save as provided in sub-section (3) any Government Servant discloses any of the particulars referred to in sub-section (1) He shall be punishable with imprisonment which may

extend to six months, and shall also be liable to fine.

- (3) Nothing in this Section shall apply to the disclosure of any of the particulars referred to in sub-section (I)-
- (a) for the purposes of any prosecution under the Indian Penal Code (45 of 1860), the Prevention of Corruption Act, 1988 (49 of 1988) or this Act or any preliminary inquiry for ascertaining whether such prosecution lies,
 - (b) in connection with any suit or proceeding in a civil court to which the State Government or any person appointed under this Act is a party and which relates to any matter arising out of any proceeding under this Act,
 - (c) where it is necessary to make such disclosure for the purposed of this Act,
 - (d) to an officer of Government to levy or realize any tax or duty imposed by it,
 - (e) to an officer of Government for the audit of receipts and refunds of tax, penalty or interest under this Act.
 - (f) In connection with an inquiry concerning allegations of corruption or official misconduct against any Government for the audit of receipts and refund of tax, penalty or interest under this Act.
 - (g) In any inquiry into a charge of misconduct in connection with any proceeding under this Act against any legal practitioner, chartered accountant or other person entitled to appeal on behalf of a dealer or person before the taxing authorities under this Act, to the authority competent to take disciplinary action against such legal practitioner, chartered accountant or other person,
 - (h) To any officer of the State Government to enable such, officer to perform his executive functions in relation to the affairs of the State.
 - (i) To any person for purposes other than those referred to in clause (a) clause (b) clause (c) clause (d) clause (g) and clause (h), if the State Government considers such disclosure necessary in the public interest.

Disclosure of information required under section 79 and failure to furnish information or

- 100.** (1) No information of any individual return or part thereof, with respect to any matter given for the purposes of section 79 shall without the previous consent in writing of the owner for the time being or his authorised agent be published in such manner as to enable any particulars to be identified

return under that section.

as referring to a particular dealer and no such information shall be used for the purpose of any proceedings under the provisions of this Act.

- (2) Except for the purposes of prosecution under this Act or any other Act, no person who is not engaged in the collection of statistics under this Act or of compilation or computerization thereof for the purposes of administration of this Act, shall be permitted to see or have access to any information or any individual return referred to in that section.
- (3) If any person required to furnish any information or return under section 79:
 - (a) willfully refuses or without lawful excuse neglects to furnish such information or return as may be by that section required, or
 - (b) willfully furnishes or causes to be furnished any information or return which he knows to be incorrect or false.

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

- (4) If any person engaged in connection with the collection of statistics under section 79 or compilations or computerisations thereof willfully discloses any information or the contents of any return given or made under that section, otherwise than in execution of his duties under that section or for the purposes of the prosecution of an offence under this Act or under any other Act, shall on conviction be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both. Nothing in this section shall apply to publication of any information relating to a class of dealers or class of transactions, if in the opinion of the Commissioner, it is desirable in the public interest, to publish such information.

Publication and disclosure of, information respecting dealers and other persons in public interest.

- 101.**
- (1) Notwithstanding anything contained in this Act, if the State Government is of the opinion that it is necessary or expedient in the public interest to publish or disclose the names of any dealers or other persons and any of the particulars relating to any proceedings under this Act or Act in respect of such dealers and persons, it may publish or cause to be published or disclosed such names and particulars in such manner as it thinks fit.
 - (2) No publication or disclosure under this section shall

be made in relation to any tax levied or penalty imposed or interest levied or any conviction for any offence connected with any proceeding under this Act, until the time for presenting an appeal to the appropriate appellate authority has expired without an appeal having been presented or the appeal, if presented has been disposed of.

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

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

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

Information to be furnished by dealers regarding changes of business.

103. If any dealer: -
(a) sells or otherwise disposes of his business or any part of his business or effect or comes to know of any change in the ownership of his business, or discontinues his business or changes his place of business or opens a new place of business, or
(b) discontinues or changes his warehouses or opens new warehouses, or changes the name or nature of his business or effects any change in the class or classes of goods in which he carries on his business and which is or are specified in his certificate of registration, or
(c) in the case of a company, effect any change in the constitution of its board of directors he shall, within the prescribed time and in the prescribed manner, inform the prescribed authority accordingly and if any such dealer dies, his legal representative shall, in the like manner, inform the said authority.

Statements, accounts or declarations to be furnished by dealers.

104. Every registered dealer shall, in the manner as may be prescribed, submit before the prescribed authority such statements, accounts or declarations within such time as may be prescribed and shall verify that such statements, accounts or declaration are true to the best of his knowledge and belief.

(2) If a registered dealer fails to submit statements,

accounts or declarations referred to in sub-section (1), he shall be liable to pay a penalty not exceeding Rupees twenty five thousand for each time of default, in the manner as may be prescribed.

Information to be furnished by dealers in respect of transfer of goods otherwise than by way of sale.

105. If, in the opinion of the State Government, it is necessary to obtain information relating to transfer of goods otherwise than by way of Sale in Meghalaya, it may by notification call upon dealers or such class or classes of dealers as may be specified in the notification to furnish such information relating to such goods, in such manner, at such intervals, for such period and to such authority as may be specified in the notification.

Special Provisions relating to deduction of tax at source.

106. Notwithstanding anything contained in any other provisions of this Act -

- (1) Every person (excluding an individual, Hindu undivided family, a firm or a company not under the control of the Government) responsible for making any payment or discharging any liability on account of any amount payable for the transfer of property in goods (whether as goods or in some other form) involved in a work contract for the transfer of the right to use any goods for any purpose, or
- (2) Every person responsible for paying sale price or consideration or any amount purporting to be the full or part payment of sale price or consideration in respect of any sale or supply of goods liable to tax under this Act to the Government or to a company, corporation, board, authority, undertaking or any other body by whatever name called, owned, financed or controlled wholly or substantially by the Government shall at the time of credit to the account of or payment to the payee of such amount in cash, by cheque, by adjustment or in any other manner whatsoever, deduct tax therefrom in the prescribed manner at the rate specified in the Schedule to the Act in respect of sale or supply of goods or transfer of the right to use any goods and at the rate of four per centum of such sum being paid in respect of works contract.

Provided that no deduction shall be made under this subsection where the amount paid or credited by such person in any financial year does not exceed the prescribed amount.

- (3) Any tax deducted under sub-section (1) shall be paid to the account of the State Government in such manner and within such time as may be prescribed.
- (4) The person making any deduction of tax under sub-

section (1) and paying it to the account of the State Government shall issue a certificate of tax deduction to the payee in such manner, in such form and within such time as may be prescribed.

(5) Any tax deducted under sub-section (1) and paid to the account of the State Government shall, on production of the certificate of tax deduction under sub-section (3) by the payee be deemed to be tax paid by the payee for the relevant period and shall be given credit in his assessment accordingly.

(6) No interest or penalty shall be imposed or no recovery proceedings against the dealer/payee shall be initiated in respect of tax deducted under sub-section (1).

Provided that the recovery proceeding under sub-section (2) of section 41 against the person concerned who has deducted the tax but not deposited into Government Treasury shall be drawn up by the Assessing Officer under whose jurisdiction the office of the person falls with prior approval of the Commissioner.

Application of the Meghalaya Land Revenue Regulation Act for recovery of tax recoverable as arrear of land, revenue

107. Where the amount of tax, interest, penalty or other sum payable under sub-section (1) of section 48 remains unpaid, it may be recovered as an arrear of land revenue and for this purpose the State Government may by notification in the Official Gazette empower the Commissioner or any person appointed to assist the Commissioner under Sub-section (1) of section 25 to exercise the power under the Meghalaya Land and Revenue Regulation (Assam Land and Revenue Regulation, 1886 as adapted) for the purpose of recovering the sums.

Bar to Proceeding in Civil courts.

108. No suit shall be brought in any civil court to set aside or modify any assessment made or any order passed under this Act or the rules made thereunder and no prosecution, suit or other proceeding shall lie against the Government or any officer of the Government for anything in good faith done or intended to be done under this Act or the rules made thereunder.

Power of State Government to prescribed rates of fees.

109. (1) Fees payable upon a memorandum of appeal or application for review or revision, or upon any other miscellaneous application or petition for relief shall be such as may be prescribed.

Provided that any fees prescribed under this section shall not exceed one thousand rupees.

(2) The fees as aforesaid shall be paid in court-fee stamps to be affixed to the memorandum of appeal, application for review or revision or other miscellaneous application or petition, as the case

**Application of sections 4 and 12 of Limitation Act.
Appearance before any authority in proceedings.**

- may be, referred to in sub-section (1)
- 110.** In computing the period of limitation under Chapter X, the provisions of sections 4 and 12 of the Limitation Act, 1963 shall, so far as may be, apply
- 111.** (1) Any person who is entitled or required to attend before any authority including the Appellate Tribunal in connection with any proceeding under this Act, otherwise than when required to attend personally for examination on oath or affirmation, may attend-
- by a relative or a person regularly employed by him, or
 - by a legal practitioner, or Chartered Accountant who is not disqualified by or under sub-section (2), or
 - by a sales tax practitioner who possesses the prescribed qualifications and is entered in the list which the Commissioner shall maintain in that behalf, and who is not disqualified by or under sub-section (2).
- Any person who, immediately before the commencement of this Act was a sales tax practitioner under any earlier law only if such relative, person employed, legal practitioner, Chartered Accountant or sales tax practitioner is authorized by such person in the prescribed form, and such authorization may include the authority to act on behalf of such person in such proceedings.
- (2) The Commissioner may by order in writing and for reasons to be recorded therein disqualify for such period as is stated in the order from attending before any such authority, any legal practitioner, Chartered Accountant, or sales tax practitioner-
 - (i) who has been removed or dismissed from Government service or
 - (ii) who being a sales tax practitioner, a legal practitioner or a Chartered Accountant is found guilty of misconduct in connection with any proceedings under this Act by the Commissioner or by an authority, if any, empowered to take disciplinary action against the member of the profession to which he belongs
 - (3) No order of disqualification shall be made in respect of any particular person unless he is given a reasonable opportunity of being heard.
 - (4) Any person against whom any order of disqualification is made under this section may within one month of the date of communication of

such order appeal to the Tribunal to have the order cancelled or modified. The order of the Commissioner shall not take effect until one month of the making thereof or when an appeal is preferred until the appeal is decided.

(5) The Commissioner may, at any time **suo** moto or on application made to him in this behalf, revoke or modify any order made against a person under sub-section (2) and thereupon such person shall cease to be disqualified subject to such conditions or restrictions that may be contained in such order.

Power of State Government to amend schedules.

112. (1) If the State Government is of the opinion that it is expedient in the interest of general public so to do, it may, by notification in the Official Gazette, add to, or omit from, or otherwise amend, the First, the Second, the Third, the Fourth, the Fifth, or the Sixth schedule retrospectively and thereupon the said schedule shall be deemed to have been amended accordingly

(2) The State Government may amend the said schedules retrospectively if such amendment does not prejudicially affect the interest of any dealer and it does not violate the principles of equity.

Power of State Government to make rules.

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

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

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

Power of State Government to remove difficulties.

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

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

Clearance Certificate.

115. (1) Notwithstanding anything contained in any other law for the time being in force no Government, local authority, educational institution, or corporation or body corporate established by or under a Central or State Act shall enter into any

works contract or place order with, or make purchases of any goods from, any dealer or make any payment to such dealer for such purchases, unless the Commissioner certifies in the prescribed manner that such dealer –

- (i) has no liability to pay tax; or has not defaulted in furnishing any return or returns together with the receipted challan or challans showing payment of all taxes payable under this Act or the Central Sales Tax Act, 1956 (74 of 1956).
 - (ii) has not defaulted in making payment of tax otherwise payable by, or due from, him under this Act or the Central Sales Tax Act, 1956 (74 of 1956), or
 - (iii) has made satisfactory provision for securing the payment of tax by furnishing bank guarantee in favour of the Commissioner or otherwise, as the case may be.
- (2) The application for the certificate required under sub-section (1) shall be made by the dealer referred to in that sub-section to the Commissioner and shall be in such form and shall contain such particulars as may be prescribed.