

THE MEGHALAYA VALUE ADDED TAX BILL, 2003.

**A
Bill**

(As passed by the Assembly)

To provide for and consolidate the Laws relating to levy of Value Added Tax on Sales or Purchases of goods in the State of Meghalaya.

Be it enacted by the Legislature of the State of Meghalaya in the Fifty fourth Year of Republic of India as follows:

**Short title, extent 1.
and
commencement: -**

- (1) This Act may be called the Meghalaya Value Added Tax Act, 2003.
- (2) It extends to the whole of Meghalaya.
- (3) It shall come into force on such date as the State Government may by Notification in the Official Gazette appoint and different dates may be appointed for different provisions.

Definitions: -

- In this Act, unless the context otherwise requires:
2. (i) "Act" means the Meghalaya Value Added Tax Act 2003.
 - (ii) "Appellate Authority" means the Authority authorized by the State Government under Section 27;
 - (iii) Appellate Tribunal means the Tribunal authorized by the State Government under section 29.
 - (iv) "Appointed Day" means the day on which the Act comes into force.
 - (v) "Assistant Commissioner" means Assistant Commissioner of Taxes appointed under sub-section (1) of Section 25 or deemed to have been appointed under Section 116.
 - (vi) "Assessee" means any 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.
 - (vii) "Assessing Authority" means any person not below the rank of Superintendent of Taxes authorised by the Government, or by any authority empowered by the Government to make any assessment under this Act.
 - (viii) "Board" means Meghalaya Board of Revenue constituted under the Meghalaya Board of Revenue Act or under any statutory modification or re-enactment thereof.
 - (ix) "Business" includes -
 - (i) any trade, commerce or manufacture or execution of work contract or any adventure or concern in the nature of trade, commerce, manufacture, whether or not Such trade,

commerce, manufacture or execution of works contract or adventure or concern is carried on with the motive to make gain or profit and whether or not any gain or profit accrues from such trade, commerce, manufacture, execution of works contract or adventure or concern; and,

- (ii) any transaction in connection with or incidental or ancillary to such trade, commerce, manufacture, execution of works contract, adventure or concern.

(x) "Business Premises" means any place where a dealer or a transporter purchases, sells, transports, books or delivers goods and include such place where he stores, processes, produces or manufactures goods or keeps books of accounts, any vehicles or vessel or any other carrier wherein the goods are stored as used for transporting the goods,

(xi) "Commissioner" means Commissioner of Taxes appointed under sub- section (1) of Section 25 or deemed to have been appointed under Section 116.

(xii) "Capital Goods" means plant, machinery and equipment used in the process of manufacturing excluding civil structures as may be prescribed.

(xiii) "Casual Trader" means a person who whether as principal, agent or in any other capacity, has occasional transactions involving buying, selling, supplying or distributing goods in the State, whether for cash or for deferred payment, or for commission, remuneration or other valuable consideration.

(xiv) "Declared Goods" means the goods declared to be of special importance in inter- State trade or commerce under section 14 of the Central Sales Tax Act 1956 (Central Act 74 of 1956)

(xiv) "Deputy Commissioner" means Deputy Commissioner of Taxes appointed under sub- section (1) of Section 25 or deemed to have been appointed under Section 116.

(xv) "Dealer" means any person who carries on (whether regularly or otherwise) for cash or for commission or for remuneration or for deferred payment or for other valuable consideration, within the State of Meghalaya, the business of: -

- (a) transferring property in goods otherwise than in pursuance of any contract; or
- (b) transferring property in goods (whether as goods or in some other form) involved in the

- execution of any works contract; or
- (c) delivering goods on hire-purchase or any system of payment in installment; or
- (d) transferring the right to use goods for any purpose (whether or not for any specified period); or supplying by way of or as part of any service or in any manner of goods being food or any other article for human consumption or any drink (whether or not intoxicating); or
- (e) being an association (whether incorporated or not) or body of persons, supplying to its members any goods; and Dealer also includes :-
 - (1) a local authority, a body corporate, a company, any co- operative society or other society or a club, a **firm**, a Hindu undivided family or other association of persons which carries on such business;
 - (2) a commission agent, a broker, a factor, a del credere agent, an auctioneer, a mercantile agent by whatever name called who carries on business within the State;
 - (3) an agent of a non-resident dealer or a local branch of a firm or a company or an association of persons, whether incorporated or not, situated outside the State carrying on such business within the State; and
 - (4) a department, or undertaking or enterprise of the Government of any State or Union Territory or of the Government of India;.

(xvii) "Goods" means all kinds of movable property other than newspapers, actionable claims, stocks, shares, or securities and includes livestock, all materials, articles, commodities involved in the execution of any works contract, lease or hire purchase or those to be used in fitting out, improvement or repair of movable property. "Government" means the State Government; "Input Tax" means tax payable by the purchasing dealer to the seller.

(xviii) "Manufacture" with all its grammatical variations and cognate expressions means producing, making, extracting, altering, ornamenting, finishing, assembling or otherwise processing, treating or adapting any goods, but does not include any such process or mode of manufacture as may be prescribed.

(xx) "Non-resident Dealer" means a dealer who effects purchases or sales of any goods in Meghalaya but

(xxi)

who has no fixed place of business or residence in Meghalaya.

- (xxii) "Official Gazette" means the Meghalaya Gazette.
- (xxiii) "Output Tax" in relation to any person means the tax charged or chargeable in respect of sale or supply of goods made by the person.
- (xxiv) "Persons" includes an individual, a joint family, a company, a firm, an association of persons or a body of individuals, whether incorporated or not ; the Central Government or the State Government or the Government of any other State or Union Territory in India and a local authority;
- (xxv) "Prescribed" means prescribed by rules made under this Act.
- (xxvi) "Purchase" means any transfer of property in goods to the person making the purchase for cash or deferred payment or other valuable consideration but does not include a transfer by way of mortgage, hypothecation, charge or pledge.
- (xxvii) "Purchase Price" means the amount of valuable consideration paid or payable by a person for the purchase of any goods, less any sum allowed as cash discount, commission or commercial rebates granted at the time of delivery of such goods but including cost of freight or cost of delivery or the cost of installation, insurance charges or any sum charged for anything done by the seller in respect of the goods at the time of, or before delivery thereof, other than interest, if separately charged.
- (xxviii) "Registered Dealer" means a dealer registered under this Act.
- (xxix) "Reverse Tax" means that portion of input tax of the goods for which credit has been availed but such goods are used subsequently for any purpose other than resale or manufacture of taxable goods or execution of work contract or used as containers or packing materials within the State,
- (xxx) "Resale" means a resale of purchased goods :-
 - (i) in the same form in which they were purchased; or
 - (ii) without using them in the manufacture of any goods; or
 - (iii) without doing anything to them, which amounts to, or results in a manufacture.
- (xxxi) "Rules" means the rules framed under this Act;
- (xxxii) "Sale" with all its grammatical variations and cognate expressions means every transfer of the

property in goods, other than by way of mortgage, hypothecation, charge or pledge, by one person to another in the course of trade or business for cash, deferred payment or other valuable consideration and includes : -

- (a) transfer, otherwise than in pursuance of a contract, of property in goods **for** cash, deferred payment or other valuable consideration.
- (b) transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract.
- (c) delivery of goods on hire purchase or any other system of payment by installments.
- (d) a transfer of the right to use any goods for any purpose, whether or not for specified period, for cash, deferred payment or any other valuable consideration.
- (e) a transfer of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or any other valuable consideration;
- (f) a supply, by way of or as part of any service or in any other manner whatsoever, of goods being food or any other article for human consumption or any drink (whether or not intoxicating) where such supply or service is for cash, deferred payment or other valuable consideration.
- (g) a transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration, and such transfer, delivery or supply of any goods shall be deemed to be a sale of those goods by the person making the transfer, delivery or supply and purchase of those goods by the person to whom such transfer, delivery or supply is made, but does not include a mortgage, hypothecation, charge or pledge.

Explanation-

- (a) in A sale or purchase of goods shall not be deemed to have taken place inside the State if the goods are sold:-
 - (i) the course of inter-State trade or commerce; or
 - (ii) outside the State of Meghalaya ;or
 - (iii) in the course of import or export of goods ;
- (b) Where there is a single contract of sale or purchase of goods situated at more places than one, the provisions of this Explanation shall apply as if

there were separate contract in respect of the goods at each of such places.

- (xxxiii) "Sale Price" means the amount of valuable consideration paid or payable to a dealer for the sale or supply of goods, less any sum allowed as cash discount according to ordinary trade practice, but including any amount charged for anything done by the dealer with or in respect of the goods at the time of or before delivery thereof other than:
- (i) the cost of freight or delivery where such cost is separately charged; or
 - (ii) the amount representing the cost of labour in the execution of any works contract, where such cost of labour shall be determined on the basis of specifications detailed to that effect in the deed of contract or in the absence of such specification on the basis of dealer's accounts produced to the Commissioner's satisfaction or in case the Commissioner is not satisfied with either of the aforesaid, in the manner as may be prescribed; or
 - (iii) amount of tax paid or payable by the purchaser provided that where the amount of tax is not separately indicated in the tax invoice, the amount of tax shall be calculated by multiplying the sale price inclusive of tax by the "tax fraction" which shall be calculated in accordance with formula,

$$\frac{r}{r+100}$$

Where r is the percentage rate of tax applicable to the sale.

- (xxxiv) "State" means the State of Meghalaya.
- (xxxv) "Tax" means tax payable under this Act.
- (xxxvi) "Tax Invoice" means a document listing the goods sold with the price, quantity, value and VAT due issued by a taxable person to another taxable person.
- (xxxvii) "Tax Point" means the date on which a taxable person is required to account for the tax on the sale made by him.
- (xxxviii) "Taxable Goods" means goods taxable under this Act.
- (xxxix) "Taxable Person" means a person who is registered or is liable to be registered for VAT and liable to pay tax under this Act.
- (xl) "Taxable Sale" means sale which is taxable under the provisions of this Act;
- (xli) "Transporter" means any person who for the purposes of or in connection with or incidental to or in the course of his business transports or

causes to transport goods, or holds goods in custody for delivery to any person after transportation and includes railway, shipping company, air cargo terminal and courier service.

(xlii) "Turnover of Purchases" means the aggregate of the amount of purchase price paid and payable by a dealer in respect of any purchase of goods made by him during a given period, after deducting the amount of :-

- (a) purchase price, if any, refunded to the dealer by the seller in respect of any goods purchased from the seller and returned to him within the prescribed period ; and
- (b) deposit, if any, refunded in the prescribed period to the dealer by the seller in respect of any goods purchased by the dealer.

(xliii) "Turnover of Sales" means the aggregate of the amount of sale price received and receivable by a dealer in respect of any sales of goods made during a given period after deducting the amount of: -

- (a) sale price, if any, refunded by the seller, to a purchaser, in respect of any goods purchased and returned by the purchaser within the prescribed period; and
- (b) deposit, if any, refunded in the prescribed manner by the seller to a purchaser in respect of any goods sold by the dealer.
- (c) and includes, where the Registration Certificate is cancelled, the amounts in respect of sale made before the date of the cancellation order received or receivable after such date, (xliv) "Value Added Tax" means a tax on sales or purchases levied under this Act.

(xliv) "Works Contract" means and includes any agreement for carrying out for cash or for deferred payment or for any other valuable consideration the building construction, manufacture, processing, fabrication, erection, installation, laying, tilting out, improvement, modification, repair or commissioning of any movable or immovable property'

"Year" means financial year; and

"Zero rating" means zero rate of tax is to be imposed on the commodities against which rebate should be given for input taxes paid.

CHAPTER II
INCIDENCE AND LEVY OF TAX

Incidence Tax

- 3** (1) **Liability:** - Subject to other provisions of this Act, every dealer -
- (a) whose turnover during the year immediately preceding the commencement of this Act:
 - (i) exceeded the taxable quantum; or who was
 - (ii) liable to pay tax under any of the laws repealed by this Act or the Central Sales Tax Act, 1956.
 - (b) to whom clause (a) does not apply and
 - (i) whose turnover calculated from the commencement of any year first exceeds within such year the taxable quantum; or
 - (ii) who has become liable to pay tax under the Central Sales Tax Act, 1956; or
 - (iii) who is registered as a dealer under the Central Sales Tax Act 1956 or under this Act at any time after the commencement of this Act; shall be liable to pay tax in accordance with the provisions of this Act.
- (2) **Date of liability:** - The dealer shall be liable to pay tax on all sales effected by him and
- (a) in case of clause (a) of sub-section (1) with effect from — the date of commencement of this Act.
 - (b) in case of sub-clause (i) of clause (b) of sub-section (1) with effect from the date immediately following the day on which his turnover calculated from the commencement of the year first exceeds the taxable quantum;
 - (c) in case of sub-clause (ii) or (iii) of clause (b) of sub-section (1) with effect from the date on which he becomes so liable or date of registration under this Act,' whichever is earlier.
- (3) **Continuation of liability:** - Every dealer who has become liable to pay tax under this Act, shall continue to be so liable until the expiry of three consecutive years during which his turnover has remained below the taxable quantum and on the expiry of such period his liability to pay tax shall cease. Provided that any dealer whose liability to pay tax under this Act, ceases, may apply for the cancellation of his certificate of registration, and on such cancellation, his liability shall cease.
- (4) **Re-commencement of liability:** - Every dealer whose liability to pay tax under this Act, has ceased under sub-section (3) or whose certificate of registration has been cancelled, shall, if his turnover calculated from the commencement of any year, including the year in which the registration has been cancelled, again exceeds the taxable quantum on any day within such year, be liable to pay such tax with effect from the date immediately following the day on which his

turnover again exceeds the taxable quantum, on all sales effected by him after that day.

(5) Taxable quantum: - For the purpose of this Act, "Taxable quantum" means in relation to any dealer who: -

(a) manufactures or imports for sale any goods into Meghalaya on his own behalf or on behalf of his principal ...Nil...

(b) is engaged in any other business other than clause (a) above.

Rs. 1(one) lakh,

Explanation: - For the purpose of computation of tax quantum, the turnover of sales effected by a sale dealer shall be taken into account irrespective of whether such sales are taxable under this Act or not.

(6) A dealer who deals exclusively in one or more classes of goods specified in the Schedule to be notified under this Act shall not be liable to pay any tax under this Act.

For the purpose of calculating the gross turnover to determine the liability to pay tax under the Act-

(a) except as otherwise expressly provided, the turnover of all sales or as the case may be, the turnover of all purchases shall be taken, whether such sales or purchases are taxable or not, and

(b) the turnover shall include all sales and purchases made by a dealer on his own account and also on behalf of principals whether disclosed or not.

Subject to the provision of this Act and to any rules or notification there shall be paid by every dealer or, as the case may be every person who is liable to pay tax under this Act, the tax or taxes leviable in accordance with the provisions of this Act.

Tax payable by a dealer or a person.

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(1) Subject to the provision of this Act, and Rules, there shall be levied a tax on the turnover of sales of goods specified in the Schedule to be notified in the Official Gazette at the rate set out against each of such goods in the schedule to be notified.

Levy of Value Added tax on goods specified in the Schedule appended to this Act

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(2) Taxable turnover of sales in relation to a dealer liable to pay tax on sale of goods under sub-section (1) of section 3 shall be part of the gross turnover of sales during any period which remains after deducting therefrom:

(a) sales of goods declared as exempt from tax in schedule to be notified;

(b) sales of goods which are shown to the satisfaction of the Commissioner to have taken place -

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

(ii) outside Meghalaya, or

(iii) in the course of the import of the goods into or export of the goods out of the territory of India.

Explanation - Section 3, 4 and 5 of the Central Sales Tax Act, 1956 shall apply for determining whether or not a particular sale or purchase has taken place in the manner indicated in

		sub-clause (i), sub-clause (ii) or sub-clause (iii).
		(c) in case of turnover of sales in relation to works contract, the charges towards labour, services and other like charges and subject to such conditions as may be prescribed : Provided that in the cases where the amount of charges towards labour, services and other like charges in such contract are not ascertainable from the terms and conditions of the contract, the amount of such charges shall be calculated at the prescribed percentage.
		(d) such other sales on such conditions and restrictions as may be prescribed.
Purchase tax payable on purchase of certain goods.	6	Subject to other provisions of this Act, every dealer liable to pay tax under the Meghalaya Purchase Tax Act repealed by this Act, shall, with effect from the appointed day for the purpose of this section, be liable to pay tax under this Act on all purchases of goods specified in the Schedule to be notified on the last point of purchase within the State at the rate set out against each of such goods in such Schedule: Provided that no tax shall be levied under this section if the goods purchased are used or consumed in the execution of works contract or in the manufacture of taxable goods which are in fact sold. Where any goods packed in any container or packing materials in which such goods are packed shall be deemed to have been sold or purchased along with the goods and the tax under section 5 or section 6 shall be levied on the sale or purchase of such container or packing material at the rate of tax, if any, applicable to the sale, or as the case may be, the purchase of the goods itself: Provided that no tax under section 5 or section 6 shall be levied where the container or packing material is sold or purchased along with the goods declared as exempted from tax under this Act.
Levy of tax on containers and packing materials.	7	Exemptions 8(1) (a) The sale of goods listed in the Schedule to be notified in the Official Gazette shall be exempt from tax subject to conditions and exceptions set out therein. (b) Supplies between Special Economic Zones. (2) The following shall be zero rated sales for the purpose of this Act and shall be eligible for input tax credit: (a) export from India; (b) sales to Special Economic Zones; (c) supplies from Domestic Tariff Area to Export Oriented Unit/Electronic Hardware Technology Park/Software Technology Park units for the purpose of export only.
Output tax.	9	(1) Output tax in relation to a registered dealer means the tax payable under this Act in respect of any sale of goods by that dealer in the course of his business. (2) Subject to the provisions of section 11, a dealer shall be liable to pay the output tax under this Act which shall be levied on the taxable turnover at the rates and subject to such conditions as may be prescribed from time to time.

- Input tax.**
- 10** Input tax in relation to a registered dealer means the tax charged under this Act by the selling dealer to such dealer on the sale to him of any goods for resale or use in manufacturing or processing of goods for sale.
- Input tax credit**
- 11** (1) Subject to other provisions of this section, there shall be input tax credit of the amount of tax paid or payable by a registered **dealer** in respect of his purchase of taxable goods for resale **in** Meghalaya or for use by him directly in the manufacture of taxable goods in Meghalaya and containers and other materials for the packing of such goods or inputs thereof, in Meghalaya for sale in Meghalaya, against the amount of tax paid or payable by him under this Act on the sales of taxable goods in Meghalaya.
- Explanation: No input tax credit shall be available to a registered dealer for tax paid or payable at the time of purchase of goods if such goods are not sold because of any theft, loss or destruction for any reason, including natural calamity, and if a dealer has already taken any input tax credit against purchase of such goods there shall be a reverse tax credit at the end of the month in which such goods are stolen, lost or destroyed.
- (2) A registered dealer who intends to c l a i m input tax credit under sub- section (1) shall, for the purpose of determining the amount of input tax credit, maintain accounts, evidence and such other records as may be prescribed in respect of the purchases and sales made by him in Meghalaya.
- (3) Subject to other provisions of this sub-section, a registered dealer who has claimed input tax credit on his purchases and intends to sell goods in Meghalaya, will get his input tax credit reversed on the date of transfer of such goods to such other dealer and shall issue a certificate, as may be prescribed, in favour of such dealer certifying the amount of input tax credit against purchases of such goods or purchases of inputs thereof, as the case may be, in Meghalaya and the agent shall be entitled to get the credit of the same.
- (4) No input tax credit under this section shall be allowed to a registered dealer against his purchases, unless the amount of tax has been separately charged and shown in the tax invoice issued to **him** by a registered dealer from whom purchases of such goods have been made.
- (5) No input Tax credit under this Section shall be allowed to a registered dealer in respect of tax paid under Section 6.
- (6) Subject to sub- section (7), an input tax credit cannot be claimed by the registered dealer unless the registered dealer has **an** original tax invoice for the relevant supply

or purchases.

- (7) Where a registered dealer fails to produce the original tax invoice evidencing the input tax paid, the Commissioner may, subject to such restrictions and conditions as may be prescribed, allow an input tax credit for the period in which the credit arises if the Commissioner is satisfied:
- (a) that the failure to produce tax invoice is not due to any fault of the dealer, and
 - (b) that the amount of input tax claimed by the registered dealer is correct.
- (8) Subject to other sub - sections of this section, input tax credit referred to in sub - section (1) in relation to a period shall be determined as follows :- The input tax credit is the aggregate of input tax paid or payable by the dealer in relation to a period, less –
- (a) input tax paid or payable in respect of goods returned or rejected by him during such period;
 - (b) input tax paid or payable in respect of goods taxable under this Act or inputs used for manufacturing of such goods, as the case may be, disposed of otherwise than by way of sale.
- (9) Notwithstanding anything contained in any sub-section of the section –
- (a) the amount of input tax credit shall not include tax paid or payable in other States or Union Territories on goods brought into Meghalaya from outside the State.
 - (b) no input tax credit shall be allowed against tax paid or payable on goods remaining unsold at the time of stoppage or closure of business and if a dealer has already taken any input tax credit against purchase of such stock of goods, there shall be a reverse tax credit on the date of stoppage or closure of such business.
 - (c) no input tax credit on tax paid or payable in Meghalaya on purchase of goods or inputs used in manufacturing of goods in Meghalaya and subsequently sent to other States or Union Territories otherwise than by way of sale shall be available:
Provided that if a dealer has already taken input tax credit either in full or in part, there shall be a reverse credit against each such transfer in the manner as may be prescribed.
 - (d) no input tax credit shall be allowed against tax paid or payable on such purchases and under such terms and conditions as may be prescribed.
 - (e) for the purpose of determining the amount of input tax to be reversed under this section, any one of the methods as may be prescribed **will** be applied.

- Net tax credit.**
- 12 If goods are purchased intended for use specified in sub-section (1) of Section 11 and are subsequently used, fully or partly, for purpose other those specified under the said sub-section, the input tax credit availed at the time of such purchase, calculated in such manner as may be prescribed, shall be reduced from the tax credit for the period during which the said utilization otherwise has taken place.
The net tax credit to which a registered dealer is entitled shall
- 13 be determined by the following formula, namely,

$$\text{Net tax credit} = A + B - C$$
Where,
A = the amount of input tax credit the dealer is entitled to under sub- section (1) of section 11.
B = outstanding credit brought forward as determined under clause (1) of section 14 from the previous period or under sub-section (2) of section 19.
C = reverse tax credit as determined under section 12.
- Input tax credit exceeding tax liability.**
- 14 (1) If a registered dealer's (other than an exporter) input tax credit determined under section 11 for a period exceeds tax liability for that period, the excess may be set off against any outstanding tax under this Act.
(2) The excess input tax credit after adjustment under sub - section (1) of section If may be carried forward as an input tax credit to the following period or periods.
Where any purchaser, being a registered dealer, has been issued with a credit note or debit note in terms of sub-section (1) of section 20 or if he returns or rejects goods purchased, as a consequence of which, the input tax credit availed by him in any period in respect of which the purchase of goods relates, becomes less or excess, he shall compensate such less credit or excess credit by adjusting the amount of tax credit allowed to him in respect of the tax period in which the credit note or debit note has been issued or goods are returned subject to conditions as may be prescribed.
In respect of any sale or purchase effected by a dealer, the burden of proving that he is liable to pay tax under section 6, section 7 or that he is eligible to input tax credit under section 11 shall be on him.
- Adjustment of input tax credit**
- 15
- Burden of proof.**
- 16 All registered retailers, whose gross turnover of sales does not exceed rupees five lakhs, subject to such conditions and restrictions as may be prescribed, shall pay in lieu of the tax as specified under section 5 or section 6, a tax at such percentage of the entire taxable turnover of such sales and purchases as the Government may, by order, notify, subject to the condition that no input tax credit shall be available to such dealers :
- Levy of presumptive tax on registered retailers.**
- 17 Provided that payment of tax under this section shall not apply to a registered retail dealer who imports goods from outside the State for the purpose of carrying out his business :
Provided further that a registered retail dealer may, by

- exercising option in the prescribed manner, elect to pay tax as specified under section 5 or section 6 of this Act in lieu of the provisions of this section.
- Net tax payable by the dealer.** **18** (1) For the purpose of calculating net tax payable by a registered dealer for a period, the input tax credit as determined under sub - section (1) of section 11 shall be allowed set off against the tax payable by the registered dealer in respect of all taxable sales other than sales, as may be prescribed, made during that period.
- (2) Subject to provisions of section 11, the net tax payable by a registered dealer for a period is to be calculated according to the following formula namely :
- A- B
- Where 'A' is the aggregate of the tax payable by the registered dealer during the period and 'B' is the total input tax credit for the period.
- (3) Every registered dealer shall pay in full net tax payable by him for the period at the time of filing his return in accordance with Sub- section (4) of Section 35.
- Stock brought forward during transition.** **19** (1) Within a period of one month of commencement of this Act, all dealers whose registration has been continued under section 116, shall furnish a statement of their opening stock of raw materials, finished goods, goods for resale and capital goods held on the date of commencement of this Act in such format and to such authorities as may be prescribed.
- (2) If the said opening stock of goods –
- (a) has suffered tax under the Meghalaya Finance (Sales Tax) Act, and
- (b) is intended to be used for the purposes specified in sub-section (1) of Section 11,
- the amount of tax suffered under the Act mentioned in clause (a) on such opening stock, determined in such manner and subject to such conditions and restrictions and upto the extent as may be prescribed, shall be credited to the dealer and can be availed as outstanding credit brought forward in terms of Section 13 in the first tax period after the commencement of this Act:
- Provided that no tax credit under this section shall be allowed unless -
- (a) the dealer has in his possession, sale vouchers issued by a dealer registered under the Meghalaya Finance (Sales Tax) Act against the purchases of the said goods; and
- (b) the amount of tax the goods have suffered at the first point is indicated separately on the said vouchers.
- (3) No tax credit under Sub-section (2) can be availed for opening stock of finished goods, capital goods, and other

goods that were taxable at last point of sale under the Meghalaya Sales Tax Act held at the time of commencement of this Act.

- (4) If the Commissioner is satisfied that a dealer,
- (a) has claimed tax credit for such stock for which he is not entitled for claiming tax credit as per the provisions of sub-section (2) and sub-section (3): or
 - (b) has claimed excess tax credit than allowed under sub-section (2) the Commissioner may, after providing the dealer an opportunity of being heard direct him to pay a penalty equal to twice the amount of tax credit so claimed.
- (1) Where a tax invoice has been issued and the amount shown as tax charged in the tax invoice exceeds the tax chargeable under this Act in respect of that sale, the registered dealer making the sale shall provide the purchaser with a credit note containing the requisite particulars as prescribed.
- (2) Where tax invoice has been issued and the tax chargeable under this Act in respect of the sale exceeds the amount of tax charged in that tax invoice, the registered dealer making the sale shall provide the purchaser with a debit note containing the requisite particulars as prescribed.
- (3) In case of goods returned or rejected by the purchaser, a credit note shall be issued by the selling dealer to the purchaser and a debit note will be issued by the purchaser to the selling dealer containing particulars of the transaction as prescribed.

Credit and debit notes.

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CHAPTER III
LIABILITY IN SPECIAL CASES.

**Liability to pay tax
in case of death**

21. (1) Where a dealer, liable to pay tax under this Act, dies then:-
- (a) if the business carried on by the dealer is continued after his death by his legal representative or any other person, such legal representative or other person shall be liable to pay tax including any penalty, sum forfeited and interest due from such dealer under this Act or under any earlier law, in the like manner and to the same extent as the deceased dealer, and
 - (b) if the business carried on by the dealer is discontinued whether before or after his death, his legal representative shall be liable to pay out of the estate of the deceased, in the like manner and to the same extent as the deceased dealer would have been liable to pay if he had died, the tax including any penalty, sum forfeited and interest due from such dealer under this Act, or under any earlier law, whether such tax including any penalty, sum forfeited and interest has been assessed before his death but has remained unpaid, or is assessed after his death.
- (2) Where a dealer, liable to pay tax under this Act, is a Hindu Undivided family and the joint family property is partitioned amongst the various members or group of members, then each member or group of members shall be jointly and severally liable to pay the tax including any penalty, sum forfeited and interest due from the dealer under this Act or under any earlier law, up to the time of the partition, whether such tax including any penalty, sum forfeited and interest has been assessed before partition but has remained unpaid, or is assessed after partition.
- (3) Where a dealer liable to pay tax under this Act, is a firm, and the firm is dissolved, then every person who is a partner shall be jointly and severally liable to pay to the extent to which he is liable under section 23, the tax including any penalty, sum forfeited and interest due from the firm under this Act or under any earlier law, up to the time of dissolution, whether such tax including any penalty, sum forfeited and interest has been assessed before such dissolution but has remained unpaid or is assessed after dissolution.
- (4) Where a dealer, liable to pay tax under this Act, transfers or otherwise disposes of his business in whole or in part, or effects any change in the ownership thereof, in consequence of which he is succeeded in the business or part thereof by any other person, the dealer and the

person succeeding shall jointly and severally be liable to pay the tax including any penalty, sum forfeited and interest due from the dealer under this Act or under any earlier law, up to the time of such transfer, disposal or change, whether such tax including any penalty, sum forfeited and interest has been assessed before such transfer, disposal or change but has remain unpaid, or is assessed thereafter.

- Where the dealer, liable to pay tax under this Act, - is the
- (5) guardian of a ward on whose behalf the business is carried out by the guardian, or is trustee who carry on the business under a trust for the beneficiary, then, if the guardianship or the trust is terminated, the ward or, as the case may be, the beneficiary shall be liable to pay the tax including any penalty, sum forfeited and interest due from the dealer up to the time of the termination of the guardianship or trust, whether such tax including any penalty, sum forfeited and interest has been assessed before the termination of the guardianship or trust, but has remain unpaid, or is assessed thereafter.

- Where a dealer is liable to pay tax under this Act, is succeeded in the business by any person in the manner described in clause (a) of sub- section(1) or in sub- section (4) then such person shall be liable to pay tax on the sales or purchases of goods made by him on and after the date of such succession and shall (unless he already holds a certificate of registration) within sixty days thereof apply for registration.

Where any person sells or purchases any taxable goods on behalf of his principal then such person and his principal shall both be jointly and severally liable to pay taxes on the turnover of such sales or purchases.

Certain agents liable to tax for sales on behalf of principal.

22. (1) If the principal, on whose behalf the commission agents have sold or purchased any goods, shows to the satisfaction of the Commissioner that the tax has been paid by the commission agents on such goods under sub- section (1), the principal shall not be liable to pay the tax again in respect of the same transaction.

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

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

Liability of partners

23. (1) Notwithstanding anything contained in the Indian Partnership Act, 1932 or any contract to the contrary, where any firm is liable to pay tax under this Act, the firm and each of the partners of the firm shall be jointly and severally liable for such payments and accordingly any notice or order under this Act may be served on any person who was a partner during the relevant time whether or not the firm has been dissolved and all the provisions of this Act shall apply accordingly.
- (2) Where any such partner retires from the firm, he shall be liable to pay the tax, penalty, sum forfeited and interest remaining unpaid at the time of his retirement and any such amount due up to the date of retirement though un- assessed at that date.

Amalgamation of companies

24. (1) When two or more companies are to be amalgamated by the order of a Court or the Central Government and the order is to take effect from a date earlier to the date of the order and any two or more such companies have sold or purchased any goods to or from each other in the period commencing on the date from which the order is to take effect and ending on the date of the order, then such transaction of sale and purchase will be included in the turnover of sales or of purchases of the respective companies and will be assessed to tax accordingly.
- (2) Notwithstanding anything contained in the said order, for all of the purposes of this Act, the said two or more companies will be treated as distinct companies and will be treated as such for all periods up to the date of the said order and the registration certificates of the said companies will be cancelled, where necessary, with effect from the date of the said order.
- (3) Words and expressions used in this section, but not defined, will have the respective meanings to those in the Companies Act, 1956.

**CHAPTER IV
TAXING, APPELLATE AND REVISIONAL AUTHORITIES AND
ENFORCEMENT BRANCH**

- | | | |
|--|------------|--|
| Sales tax authorities | 25 | <p>(1) For carrying out the purpose of this Act, the State Government may by notification appoint a person to be the Commissioner of Taxes, together with such other persons to assist him as it thinks fit and may specify the area or areas over which they shall exercise jurisdiction.</p> <p>(2) Persons appointed under sub- section (1) shall exercise such powers as may be conferred and perform such duties as may be required by or under this Act.</p> |
| Delegation of 26 Commissioner's powers. | | <p>(1) Subject to such restrictions and conditions as may be prescribed, the Commissioner may, by order in writing, delegate any of his powers under this Act to any person appointed to assist him under sub- section (1-) of section 25.</p> <p>(2) Notwithstanding anything contained in sub-section (1), the Commissioner may transfer any case or matter from any person appointed under sub-section {1) to assist him to any other person so appointed whether such other person has jurisdiction over the area to which the case or matter relates or not, provided he is otherwise competent to deal with such case or matter in exercise or performance of the powers or duties referred to under this sub section.</p> <p>The State Government may authorize an officer, not below the rank of an Assistant Commissioner of Taxes appointed under sub-section (I) of Section 25 to exercise the powers and perform the functions of the Appellate Authority under section 65.</p> |
| Appellate authority | 27. | <p>The Commissioner of Taxes appointed under sub-section (1) of Section 25 shall also exercise the powers and perform the functions of the Revisional Authority under section 66 and section 67.</p> |
| Revisional authority | 28. | <p>The Meghalaya Board of Revenue shall function as Appellate Tribunal.</p> |
| Appellate Tribunal Enforcement Branch | 29. | <p>(1) with effect from the appointed day, the Enforcement Branch constituted under the Meghalaya Sales Tax Act shall be deemed to have been constituted under this Act for discharging the functions referred to in sub-section (3) of this section.</p> |
| | 30. | <p>(2) The officers of the Enforcement Branch shall work under the direction of the Assistant Commissioner of Taxes subject to overall control of the Commissioner of Taxes.</p> <p>(3) The Enforcement Branch on information or of its own motion or where the Commissioner so directs, carry out investigation or hold inquiry into any case of alleged or suspected evasion of tax as well as malpractice connected therewith and send a report in respect thereof to the Commissioner.</p> |

CHAPTER V
REGISTRATION OF DEALER AND DEMAND OF SECURITY ETC.

**Compulsory
registration of
dealers.**

- 31.** (1) Subject to the other provisions of this chapter, no dealer shall, while being liable to pay tax under section 3, carry on business as a dealer unless he has been registered and possesses a certificate of registration:
Provided that a dealer liable to pay tax under section 3 shall be allowed thirty days' time from the date from which he is first liable to pay such tax to get himself registered.
- (2) Every dealer required by sub-section (1) to be registered shall make application in this behalf in the prescribed manner to the prescribed authority and such application shall be accompanied by a declaration in the prescribed form duly filled up and signed by the dealer specifying therein the class or classes of goods dealt in or manufactured by him.
- (3) If the said authority is satisfied that an application for registration is in order, he shall, in accordance with such manner, grant registration to the applicant and issue a certificate of registration in the prescribed form which shall specify the class or classes of goods dealt in or manufactured by him.
- (4) Where the application for registration is made under this section, the prescribed authority shall grant him the certificate of registration from the date of filing such application :
Provided that the prescribed authority shall grant to such dealer the certificate of registration from the date of commencement of his liability to pay tax where the application for registration is made within thirty days of such date.
- (5) For the purpose of identification of taxable person the prescribed authority shall issue a VAT registration identification number known as Tax Payer Identification Number (TIN).
- (6) The prescribed authority may from time to time amend any certificate of registration in accordance with information furnished under section 103 or otherwise received, and such amendment will be made with effect from the date of passing of such order and subject to such restrictions and conditions as may be prescribed.
- (7) When any dealer has been convicted or has paid composition money under section 91 or section 96 as the case may be, in respect of any contravention of the provisions of sub-section (1) of this section, the prescribed authority shall register such dealer and grant him a certificate of registration, and such registration

shall take effect from the date of order as if it had been made under sub-section (3) of this section of the dealer's application.

(8) W h e n-

- (a) any business in respect of which a certificate of registration has been granted to a dealer on an application made, has been discontinued, or
- (b) a dealer has ceased to be liable to pay tax under section 3; or
- (c) an incorporated body is closed down or if it otherwise ceased to exist; or
- (d) the owner of an ownership business dies leaving no successor to carry on business; or
- (e) in case of a firm or association of persons, if it is dissolved; or
- (f) a person or dealer is registered by mistake: or
- (g) a dealer fails to furnish return and pay tax and interest according to such return or returns within the time extended by the Commissioner upon an application filed for such purpose under sub-section (4) of this section 35;

The prescribed authority shall cancel the registration of such dealer. The cancellation of registration will take effect from the end of the period in which it is cancelled unless it is to take effect from a different date as ordered by the prescribed authority.

- (9) The cancellation of registration will take effect from the end of the period in which it is cancelled unless it is to take effect from a different date as ordered by the prescribed authority.
- (10) When any dealer to whom a certificate of registration is granted, has failed to pay any tax, penalty or interest payable under this Act or has failed to furnish return, the certificate of registration of such dealer may be suspended by the appropriate Assessing Authority in the manner as may be prescribed:

Provided that the certificate of registration of a dealer shall not be suspended if he has furnished return or returns within the date prescribed in the notice and has paid tax, penalty or interest payable under this Act by such date, as the Commissioner may extend upon an application filed by the dealer within 15 days from the date by which he is required to file such return or returns or make payments of tax, interest or penalty, as the case may be.

- (11) Suspension of certificate of registration will be withdrawn and registration certificate shall be restored on an application made by the dealer on furnishing evidence of

payment of all taxes and on furnishing of overdue return or returns within 45 days from the date of suspension.

(12) If certificate of registration of a dealer is suspended or if the suspension is withdrawn, the information will be made public through publication in Official Gazette and insertion of notice in Newspaper

**Voluntary
registration of
dealers.**

- 32.** (1) Any dealer, whose gross turnover of sales during a year thousand rupees, may, notwithstanding that he is not liable to pay tax, apply in the prescribed manner to the prescribed authority for registration under this Act.
- (2) Every dealer who has been registered on application made under this section shall, for so long as his registration remains in force, be liable to pay tax under this Act.
- (3) The registration of a dealer on application made under this section shall be in force for a period of not less than three complete years and shall remain in force thereafter unless cancelled under the provisions of this Act.
- (4) Subject to the provisions of sub-section (3), a dealer registered on application made under this section may apply in the prescribed manner, not less than six months before the end of a year, to the authority which granted him his certificate of registration for the cancellation of such registration to take effect at the end of the year in which the application for such cancellation is made, and the said authority shall, unless the dealer is liable to pay tax under this Act, cancel the registration accordingly.
- (5) When the gross turnover of sales of any dealer registered on application made under this section has, for three successive years after the period of three years referred to in sub-section (3), failed to exceed the taxable quantum, the prescribed authority may, after giving the dealer a reasonable opportunity of being heard, cancel registration of such dealer.

**Security to be
furnished**

- 33.** (1) The Commissioner may, at the time of granting of certificate of registration to a dealer under section 31 or at any time thereafter, for good and sufficient reasons to be recorded in writing, require the dealer to furnish in the prescribed manner such security or such additional security as may be specified by him for securing proper and timely payment of tax or any other sum payable by him under this Act.
- (2) The Commissioner may, by order in writing and for good or sufficient reason to be recorded therein, demand from any person other than a registered dealer, who imports into Meghalaya any consignment of goods, a reasonable security for ensuring that there is no evasion of tax.
- (3) The Commissioner may, by an order in writing and for good and sufficient reason, demand from any person or a dealer a reasonable security for proper use

and safe custody of the form referred to in sub-section (2) of section 75 and obtained from the prescribed authority.

- (4) The Commissioner may, by order in writing and for good or sufficient reasons to be recorded therein, forfeit the whole or any part of the security or additional security referred to in sub-section (1), sub-section (2), or sub-section (3), as the case may be, furnished by a dealer, registered dealer, undertaking or person as required by sub-section (1) or demanded under sub-section (2), or sub-section (3), **for-**
- (a) realizing or recovery of tax or any other sum due, or
 - (b) recovery of any financial loss caused to the State Government due to negligence or default in not making proper use of, or not keeping in safe custody, blank or unused forms of way bill.

- Where, the Commissioner may by reason of any order under sub-section (4), the security as required by a dealer, registered dealer, undertaking or person is forfeited in whole or is rendered insufficient, such dealer, registered dealer, undertaking or person shall, on demand by order of the Commissioner, furnish fresh or further security of the requisite amount or shall make up the deficiency, as the case may be, in such manner and within such period as may be specified in such order.

- The Commissioner may, on application by a dealer, registered dealer, undertaking or person, who has furnished security as required by sub-section (1) or demanded under sub-section (2), or sub-section (3),
- (6) refund in the prescribed manner any amount of security or part thereof if such security is not required for the purposes for which it was furnished. Security as required by sub-section (1) or demanded under sub-section (2) sub-section (3) or sub-section (5) shall be furnished by a dealer, registered dealer, undertaking or person in such manner and by such time as may be specified in the order requiring to furnish, or demanding, such security.

- (7) No order shall be passed under this section without giving the dealer, registered dealer, undertaking or person an opportunity of being heard.
- If a dealer, who is required to get himself registered within two months from the date from which he is first liable to pay tax, fails to get himself so registered, the prescribe authority may, after giving the dealer an opportunity of being heard, by order impose by way of penalty a sum, not less than five thousand rupees and not exceeding ten thousand rupees, for each month of default:
- (8)

Imposition of penalty for failure to get registered.

34. (1)

Provided that no penalty shall be imposed under this subsection in respect of the same fact for which a prosecution has been instituted and no such prosecution shall lie in respect of a fact for which a penalty has been imposed under this section.

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

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

CHAPTER VI
RETURN AND PAYMENT OF TAX, ASSESSMENT ETC.

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

- (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.

'Month' shall mean thirty days and the interest payable in respect of a period of less than one month shall be computed proportionately.

- 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.
- (3)

If a registered dealer or any other dealer required to furnish return under sub-section (2) of section 35, without any sufficient cause, -

- (4) (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.

Any penalty imposed under this section shall be without prejudice to any prosecution for any offence under this Act.

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.

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

(6)

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.

(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

Interest payable by 40. dealer

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

Power to withhold

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),

Composition of tax.

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

- 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 9/10th 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 percentum 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.

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.

The amount of tax -

Payment of tax and penalty.

- (a) due from a dealer where the returns are furnished without receipt showing full payment of tax, or
48. (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.

- (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
49. (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.

Rectification of assessments.

51.

- (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.
- (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.

(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.

Self assessment.

53.

- (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.

- (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.
- 55.** (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.
- (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

**Assessment of 56.
dealers who fails to
get himself
registered.**

No assessment After five year.	57.	<p>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.</p> <p>(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 :</p> <p>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.</p> <p>Any assessment made or penalty imposed under this Chapter shall be without prejudice to prosecution for any offence under this Act.</p>
Turnover escaping Assessment.	58.	<p>(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,</p> <p>(a) escaped assessment; or</p> <p>(b) been under - assessed; or</p> <p>(c) been assessed at a rate lower than the rate of which it is assessable, or</p> <p>(d) been wrongly allowed any deduction therefrom; or</p> <p>(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.</p> <p>(2) No order of assessment and reassessment shall be made under sub-section (1) after the expiry of five ye ars from the end of the year in respect of which or part of which the tax is assessable.</p> <p>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.</p>
Exclusion of time period for assessment.	59.	<p>(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</p>
Special mode of recovery.	60.	<p>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</p>

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 sub-section (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.

- (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

**Collection of tax
by dealer.**

61.

Sales not liable to tax.	62.	<p>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.</p> <p>(1) Notwithstanding anything contained in this Act, a value added tax shall not be imposed under this Act</p> <p>(a) where such sales or purchase takes place outside the State of Meghalaya,</p> <p>(b) where such sale or purchase takes place in the course of interstate trade and commerce; or</p> <p>(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.</p> <p>(2) For the purpose of this section whether a sale or purchase takes place</p> <p>(a) outside the State of Meghalaya; or</p> <p>(b) in the course of interstate trade or commerce; or</p> <p>(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.</p>
Tax to be first charge on property.	63.	<p>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.</p> <p>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:</p>
Period of limitation for recovery of tax.	64.	<p>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.</p>

CHAPTER VII
APPEAL, REVISION AND REVIEW.

**Appeal against
assessment.**

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

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

- (2) Subject to such rules of procedure as may be prescribed, the appellate authority, in disposing of any appeal under sub section (1) , may-
- (a) confirm, reduce, enhance or annul the assessment; or
- (b) when such authority is satisfied, for reasons to be recorded in writing, that it is not practicable or desirable to act in accordance with the provisions of clause (a) set aside the assessment and direct the assessing authority to make a fresh assessment after such further inquiry as may be directed.
- (3) While acting in accordance with the provisions of clause (b) of sub-section (2), the appellate authority may set aside any part or parts of an assessment and, if he does so, the assessing authority shall make a fresh assessment in respect of such part or parts only, and the remaining part or parts of the previous assessment shall remain unaltered and valid.
- (4) Pending disposal of an appeal referred to in sub-section (2), the appellate authority may, on application, at his discretion and subject to such conditions and restrictions as may be prescribed, stay realization of the amount of tax, penalty or interest in dispute wholly or in part.

Explanation - For the purposes of this section

- (a) "assessment" includes –

(i) assessment of tax and imposition of penalty under section 45,

(ii) assessment of tax under section 46,

— (iii) ~~determination~~ of interest under section 40.

- (b) "notice of demand" means any notice served in accordance with the provisions of this Act for realization of the tax, penalty or interest referred to in clause (a).

- (1) Subject to such rules as may be made and for reasons to be recorded in writing, the Commissioner, may on his

**Commissioner
upon application**

own motion, revise any assessment made or order passed by a person appointed under sub-section (1) of section 25 to assist him.

- (2) Subject to such rules as may be prescribed and for reasons to be recorded in writing, the Commissioner may, upon application, revise any order, passed by a person appointed under sub-section (1) of section 25 to assist him.

Review of order.

67

Subject to such rules as may be made, any assessment made or order passed under this Act or the rules made there under by any person appointed under sub-section (1) of section 25, may be reviewed by the person passing it, upon application or on his own motion, and, subject to the rules as aforesaid, the Appellate and Revisional Authority may, in the like manner and for reasons to be recorded in writing, review any order passed by it, either on its own motion or upon an application.

**Appeal to the High
Court**

68.

- (a) Any assessee objecting to an order passed by the Commissioner under section 66 or 67 may appeal to the High Court within sixty days from the date on which the order was communicated to him.
- (b) The High Court may admit an appeal preferred after the period of sixty days aforesaid if it is satisfied that the assessee had sufficient cause for not preferring the appeal within that period.
- (c) The appeal shall be in the prescribed term, shall be verified in the prescribed manner, and shall be accompanied by a fee of five hundred rupees.
- (d) The High Court shall, after giving both the parties to the appeal a reasonable opportunity of being heard, pass such order thereon as it thinks fit.

**Appeal to the
Appellate
Tribunal.**

69.

- (1) A person dissatisfied with the decision of the Appellate Authority and Revisional Authority may, within sixty days after being served with notice of the decision-
- (a) file a second appeal before the Appellate Tribunal; and
- (b) serve a copy of the notice of appeal on the Commissioner as well as the authority whose original order is under second appeal before the Appellate Tribunal.
- (2) The Appellate Tribunal may admit an appeal after expiry of sixty days if it is satisfied that the appellant had sufficient reason for not filing the appeal within the time specified in sub-section (1), provided it is within one year.
- (3) In deciding an appeal, the Appellate Tribunal shall make an order after affording an opportunity to the dealer or other person and the Commissioner –
- (a) affirming, reducing, increasing, or varying the assessment or other order under appeal;

CHAPTER III
MEASURES TO REGULATE THE TRANSPORT AUTHORITY

Restriction on movement of goods.

75. (1) To ensure that there is no evasion of tax, no person shall transport from any railway station, steamer station, airport, port, post office or any check post set up under section 70 or from any other place any consignment of goods, except in accordance with such restrictions and conditions as may be prescribed.
- (2) Subject to the restrictions and conditions prescribed under sub-section (1) or sub-section (2), any consignment of goods may be transported by any person after he furnishes in the prescribed manner such particulars in such form obtainable from such authority or in such other form as may be prescribed.

Revision to High Court.

- (3) Subject to such restrictions and conditions as may be prescribed, nothing in sub-section (1) shall apply to—
- (a) duly accredited diplomatic personnel attached to foreign consulates or other diplomatic offices,
- (b) organisations and specialised agencies of the United Nations,
- (c) such other persons, organisations or institutions as may be prescribed.

Erection of check posts.

76. (1) The Government may, with a view to prevent or check avoidance or evasion of tax, by notification in the official gazette, direct the establishment of the check post or barrier at such places as may be specified in the notification and every officer who exercises powers and discharges his duties at such check post by way of inspection of documents produced and goods being moved, shall be in charge—
- (2) The driver or person in charge of vehicle or carrier of goods in movement shall—
- (a) carry with him the records of the goods including "Challan", bills of sale or dispatch memos and prescribed declaration form or way bill duly filled in and signed by the consignor of goods carried,

Hearing of revision and Review by the High Court. Burden of proof.

71. (b) stop the vehicle or carrier at every check post set up under sub-section (1) or at any other place by an officer authorised by the Commissioner in this behalf;
72. (c) produce all the documents including the prescribed way bill relating to the goods before the officer in charge of the check post or the authorised person inspecting.

Persons appointed under section 25 and members of Appellate Tribunal to be public servants. Indemnity of Govt. Servant.

- (d) give the information and all his responsibilities relating to the goods and the members of the Appellate Tribunal shall have the inspection of the goods for the purpose of the vehicle by the officer in charge of the check post or any authorised officer
- (3) Where any goods are in movement within the territory of the State of Meghalaya, an officer empowered by the state government in this behalf may stop the vehicle or the carrier or the person carrying such goods, for inspection, at any place, within his jurisdiction and provisions of sub-section (2) shall mutatis mutandis apply.
74. No suit, prosecution or other legal proceedings shall lie against any Government servant for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

- (4) Where any goods in movement are without documents, or are not supported by documents as referred to in sub section (2), or documents produced appear to be false or forged, the officer in charge of the check post or the officer empowered under sub section (3) may –
 - (a) direct the driver or the person in- charge of the vehicle or carrier or of the goods not to part with the goods in any manner including by transporting or re-booking, till a verification is done or an enquiry is made, which shall not take more than seven days; and
 - (b) seize the goods for reasons to be recorded in writing and shall give receipt of the goods to the person from whose possession of control they are seized.
- (5) The officer in charge of the check post or the officer empowered under sub section (3), after having given the person in charge of the goods a reasonable opportunity of being heard and after having held such enquiry as he may deem fit, shall impose for possession or movement of goods, whether seized or not, in violation of the provisions of clause (a) of sub- section (2) or for submission of false or forged documents or way bill, a penalty equal to the amount of five times of the tax leviable on such goods, or twenty percent of the value of goods, whichever is higher.
- (6) During the pendency of the proceeding under sub section (5) if any one prays for being impleaded as a party to the case on the ground of involvement of his interest therein, the said officer in charge or the empowered officer on being satisfied may permit him to be included as a party to the case; and thereafter, all provisions of this section shall mutatis mutandis apply to him.
- (7) The officer in charge of the check post or the officer empowered under sub section (3) may release the goods to the owner of the goods or to any person duly authorised by such owner on payment of the penalty imposed under sub section (5).
- (8) Where the driver or person in charge of the vehicle or the carrier is found guilty for violation of the provisions of sub section (2), subject to the provisions of sub section (4), the officer in charge of the check post or the officer empowered under sub section (3) may detain such vehicle or carrier and affording an opportunity of being heard to such driver or person in charge of the vehicle or the carrier, may impose a penalty on him as provided under sub section (5).
- (9) Where a transporter, while transporting goods, is found to be in collusion with a dealer to avoid or evade tax, the officer in charge of the check post or the officer empowered under sub section (3) shall detain the vehicle or carrier of such transporter and after affording him an opportunity of being heard with prior approval in writing of the Commissioner may confiscate such vehicle or carrier.

Transit of goods by road through the State and issue of transit pass.

77. When a motor vehicle coming from any place outside the State and bound for any other place outside the State, and carrying any taxable goods passes through the State, the driver or other person in charge of such vehicle shall obtain in the prescribed manner a transit pass from the officer in charge of the first check-post or barrier after his entry into the State and deliver it to the officer in Charge of the last checkpost of barrier before his exit from the State failing which it shall be presumed that the goods carried thereby have been sold within the State by the owner or person in charge of the vehicle:

Provided that where the goods carried by such vehicle are, after their entry into the State, transported outside the State by any other vehicles or conveyance, the onus of proving that the goods have actually moved out of the State shall be on the owner or person in charge of the vehicle.

Explanation - In a case where a vehicle owned by a person is hired for transportation of goods by some other person, the hirer of the vehicle shall, for the purposes of this section, be also deemed to be the owner of the vehicle.

Automation.

78. (1) The Government shall endeavor to introduce and establish an automated data processing system for complementing the purposes of the Act and for incidental and allied matters.
(2) In order to make effective the said system, the State Government may from time to time make Resolutions for regulating the interactions between the dealers, authorities appointed or constituted under the Act and the Government Treasury.
(3) The Regulations shall be published in the Official Gazette and may be made retrospective to any date not earlier than 1st April 2003.

Power to collect statistics.

79. (1) If the Commissioner considers that for the purposes of better administration of this Act it is necessary so to do, he may by notification in the Official Gazette, direct that statistics be collected relating to any matter dealt with, by or in connection to this Act.
(2) Upon such direction being made, the Commissioner or any person or persons authorised by him in this behalf may by notification in the Official Gazette; and if found necessary by notice in any newspaper or in such other manner as in the opinion of the Commissioner or the said person, is best calculated to bring the notice to the attention of dealers and other person or persons, call upon all dealers or any class of dealers or persons to furnish such information or returns as may be stated therein relating to any matter in respect of which statistics are to be collected. The form in which, the persons to whom or, the authorities to which, such information or returns should be furnished, the particulars which they should contain, and the intervals in which such information or returns should be furnished, shall be such as may be prescribed.

- (3) Without prejudice to the generality of the foregoing provisions, the Government may by rules provide that every registered dealer or, as the case may be, any class of registered dealer shall furnish, in addition to any other returns provided for elsewhere, an annual return in such form, by such date and to such authority as may be prescribed and different provisions may be made for different classes of registered dealers.

Registration of transporters

80. For carrying out the purpose of section 75 and 76 every transporter, carrier or transporting agent, operating it's transport business relating to taxable goods in Meghalaya, shall be required to obtain a Certificate of Registration in the prescribed manner from the Commissioner or any officer appointed under section 25 to assist him, on payment of such fees as may be prescribed.

Maintenance of accounts by transporter, carrier or transporting agent.

81. Notwithstanding anything contained in any other law for the time being in force, any transporter, carrier or transporting agent shall maintain, in the prescribed form, proper accounts of taxable goods transported by him into, or outside, or within, Meghalaya on account of any person or dealer, being a consignee or consignor, as the case may be, and shall, on demand by the Commissioner furnish such information as may be required by him in relation to transport of such goods by such transporter, carrier or transporting agent.

Inspection, search and seizure of records or documents.

82. (1) The accounts referred to in section 81, and goods referred to in that section and stored in a godown or warehouse in Meghalaya, shall be open to inspection by the Commissioner at all reasonable times.
- (2) Where any transporter, carrier or transporting agent fails to maintain proper account in the prescribed form or fails to furnish information to the Commissioner as required by sub-section (1), the Commissioner may enter and search any place of transporting business or any other place where such transporter, carrier or transporting agent for the time being keeps any records or documents in relation to transport of goods, and the Commissioner may, for reasons to be recorded in writing seize such records or documents.
- (3) Where any transporter, carrier or transporting agent has –
- (a) received any consignment of taxable goods from any person or dealer in Meghalaya for transport of such consignment to any place outside, or within Meghalaya, or
 - (b) transported into Meghalaya any consignment of taxable goods on account of any person or dealer, and the Commissioner has information that such person or dealer is not in existence at the address given in the way bill, tax invoice, consignment note or any document of like nature in respect of any consignment of goods referred to in clause (a), or clause (b), the Commissioner may direct the transporter, carrier or transporting agent, by order in writing, that –
 - (i) the consignment of goods referred to in clause (a) shall

not be transported outside, or within, Meghalaya, or
(ii) the consignment of goods referred to in clause (b) shall not be delivered, till the matter is investigated into by the Commissioner or till a period of fifteen days (excluding Sunday or a public holiday declared under the Negotiable Instruments Act, 1881 (26 of 1881) expires from the date of communication of such direction to the transporter, carrier or transporting agent, whichever is earlier.

- Where the Commissioner, after giving the person or dealer referred to in clause (a), or clause (b), as the case may be, of subsection 4, a reasonable opportunity of being heard or after causing an enquiry about the existence of such person, or dealer, is satisfied that such person or dealer -
- (a) is in existence at the address given in the way bill, tax invoice, invoice, consignment note or any document of like nature, the Commissioner shall forthwith withdraw, by an order in writing, his direction issued under this sub-section (4) to the transporter, carrier or transporting agent, or
 - (b) (b) is not in existence at the address given in the way bill, tax invoice, invoice, consignment note or any document of like nature, the transport of the consignment of taxable goods by such person or dealer to any place outside, or within, or into, Meghalaya, shall be deemed to be in contravention of the provisions of section 76 as the case may be, and the Commissioner shall seize such consignment of goods under sub section (1) (c) of Section 84.

With a view to identify dealers who are liable to pay tax under the Act, but have remained unregistered, the Commissioner shall from time to time cause a survey of unregistered dealers to be taken.

Survey.

- 83.**
- (1) For the purpose of the survey, the Commissioner may by general or special notice require any dealer or class of dealers to furnish the names, addresses and such other particulars as he may find necessary relating to the persons and dealers who have
 - (2) purchased any goods from or sold any goods to such dealer or class of dealers during any given period.
For the purposes of survey, the Commissioner may call for details and particulars regarding the services provided by public utilities and financial institutions including banking companies which he is of the opinion will be relevant and useful for the purposes of the survey. He may from time to time cause the results
 - (3) of the survey to be published in any manner that he thinks fit so however as not to disclose or indicate the identity of any particular unregistered dealer identified during the survey.
The Commissioner may for the purposes of the survey enter any place where a person is engaged in business but is unregistered or has not applied for grant of the certificate of registration, whether such place will be principal place of business or not of such business and require any proprietor, employee or any other person who may at that time and place be attending in any manner to, or
 - (4)

helping in, the business,-

- (a) to afford him the necessary facility to inspect such books of accounts or other documents as he may require and which may be available at such place,
- (b) to afford him the necessary facility to check or verify the cash, stock or other valuable article or things which may be found there in, and
- (c) to furnish such information as he may require as to any matter which may be useful for, or relevant to any proceedings under this Act.

Explanation - For the purposes of this sub section, a place where the person is engaged in business will also include any other place in which the person engaged in business or the said employee or other person attending or helping in business states that any of the books of accounts or other documents or any part of the cash, stock or other valuable article or things relating to the business are or is kept,

- (5) The Commissioner shall enter the place where the person is carrying on business only during the hours at which such place is open for business and in case of the said or any other place only after sunrise and before sunset. The Commissioner may make or cause to be made extracts or copies from books of accounts and other documents inspected by him, make an inventory of any cash, stock or other valuable article or thing checked or verified by him, and record the statement of any person which may be useful for, or relevant to, any proceeding under this Act.
- (6) The Commissioner, in exercise of the powers under this section shall on no account, remove or cause to be removed from the place where he has entered any books of accounts other documents or any cash, stock or other valuable article or thing.

CHAPTER IX

Accounts, Inspection, search and seizure and power to call for information.

Inspection, Search and Seizure.

84. (1) In order to enforce provisions of this Act, the Commissioner or any officer authorized by the Commissioner-
- (a) shall have, at all times during normal working hours and at all reasonable times without any prior notice to any person full and free access to any premises, place, goods, books, record, computer or any electronically stored data.
 - (b) may make an extract or copy from any book, record or computer- stored information to which access is obtained under clause (a)
 - (c) may seize and confiscate any goods not accounted for and seize any books or records that, in his opinion, affords evidence that may be material in determining the liability of any person under this Act.
 - (d) may retain any such book or record for a period of one month for determining a person's liability or for any proceeding under this Act; in the event this period needs to be extended the permission of the next higher authority must be obtained for each additional month the book or record is retained; and
 - (e) may, where a hard copy or computer disk of information stored on a computer is not provided, seize and retain the computer for a period of one month to copy the information required; in the event this period needs to be extended the permission of the next higher authority must be obtained for each additional month such record is retained.
- (2) No officer shall exercise the power under sub - section (1) of this section of this Act in respect of residential premises not being shop or business premises without authorization in writing from the Deputy Commissioner.
- (3) The owner, manager, or any other person on the premises or at the place entered or proposed to be entered under this section shall provide all reasonable facilities and assistance for the effective exercise by the Commissioner or any Officer of the powers under this section of this Act.
- (4) A person whose books, records, or computer have been removed and retained under sub- section (1) of this Section of this Act may examine them and make copies or extracts from them during regular office hours under such supervision as the Commissioner or authorized officer may determine.
- (5) The Commissioner or any officer authorized by the Commissioner may, by notice in writing require any person,

whether or not liable to pay tax under this Act:-

- (a) to furnish any information that may be required by the notice; or
- (b) to attend at the time and place designated in the notice for the purpose of being examined on oath by the Commissioner or by any officer authorized by the Commissioner, concerning the tax affairs of that person or any other person, and for that purpose the Commissioner or any authorized officer may require the person examined to produce any book, record, or computer-stored information in the control of the person.

(6) Where the notice requires the production of a book of record, it is sufficient if that book or record is described in the notice with reasonable certainty.

A notice duly signed and issued under this section shall be sent to the person to whom it is directed, or left at the person's last and usual place of business or abode.

(7) All books of account and documents referred to in sub-section (1) and all declarations and other relevant documents shall be preserved by the dealer for a period of not less than eight years from the end of the year to which they relate;

(8) Provided that where an assessment, reassessment, appeal, revision for any period is pending at the end of the aforesaid period of eight years such books of account, documents and declarations shall be preserved till such pending proceedings are finally disposed of.

If any goods are seized under section 82 or 84, the Commissioner or any officer authorised by the Commissioner, by an order in writing impose upon the person from whom such goods are seized, or the owner of such goods, where the particulars of the owner of such goods are available, or possession, after giving reasonable opportunity of being heard, a penalty not exceeding fifty per centum of the value of such goods as may be determined by him in accordance with rules made under this Act.

Disposal of seized goods.

85. (1)

If the penalty is not paid by the date specified in the notice issued under sub-section (1) the Commissioner or the officer authorised by him, may in such manner and subject to such restrictions and conditions as may be prescribed, sell the goods so seized in open auction and remit the sale

(2) proceeds thereof to a State Govt. Treasury.

Notwithstanding anything contained in sub-section (2), the Commissioner may, subject to such rules as may be made under this Act, where the goods seized are :-

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

(3) sell such goods in open auction before the occurrence of, or expiry of such period as he may consider fit and proper or, if he is of the opinion that such may become unusable or unsaleable on detention, destroy such goods, if the

said goods become unsaleable before the sale in open auction actually takes place.

- (4) The proceeds of sale of the goods under sub-section (2) and (3) shall be applied in the prescribed manner for payment in the following order of priority,
 - (a) first for incidental charges, if any, relating to auction sale of such goods;
 - (b) secondly, for expenses, if any, for storage of such goods;
 - (c) thirdly, for penalty imposed under sub-section (1); and
 - (d) the balance of the proceeds of the sale, if any, shall be paid to the owner of the goods or, if his particulars are not available, to the person from whom such goods were seized upon application within one year from the date of sale or within such further period as may be allowed by the Commissioner for cause shown to his satisfaction.
- (5) Notwithstanding anything contained under sub-sections (1), (2) or (3), the Commissioner or any officer authorised by him may, for reason to be recorded in writing, direct release of the goods seized on such terms and conditions as he may deem fit.

- Audit of accounts. 86.** (1) Where in any particular year, the gross turnover of a dealer exceeds such other amount as the Commissioner may, by a notification in the official Gazette specify, then such dealer shall get his accounts, in respect of that year audited by an accountant within six months from the end of that year and obtain a report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed.
- (2) A true copy of such report shall be furnished by such dealer to the Commissioner by the end of the month after expiry of the period of six months during which the audit would have been completed.
 - (3) If any dealer liable to get his accounts audited under sub-section (1) fails to get his accounts audited and furnish a true copy of the audit report within the time specified in sub-section (2), the Commissioner shall, after giving the dealer a reasonable opportunity of being heard, impose on him, in addition to any tax payable, a sum by way of penalty equal to 0.1% of the turnover as he may determine to the best of his judgement in his case in respect of the said period.

Explanation: - For the purpose of this section, "Accountant" means a Chartered Accountant within the meaning of the Chartered Accountant' Act, 1949 and includes a person who by virtue of the provisions of sub-section (2) of section 226 of the Companies Act, 1956, is entitled to be appointed to act as an auditor of Companies registered under the said Act.

- Dealer to declare the 87.** (1) Every dealer, who is liable to pay tax, and who is a Hindu

name of his business manager.

Undivided Family or an association of persons, club or society, firm or company, or who is engaged in business as the guardian or trustee or otherwise on behalf of another person, shall within the period prescribed, furnish a declaration in the manner prescribed stating the name of the person or persons who shall be deemed to be manager or managers of such dealer's business for the purposes of this Act.

- (2) Such declaration shall be furnished at the time of registration, wherever applicable and shall be revised from time to time.
- (3) The statement furnished under this sub-section shall also contain the name and address with designation in relation to the business of such persons who are authorised to receive notice and other documents under this Act and such service on whom shall be binding on the dealer

Compulsory issue of tax invoice, cash memo or bill.

- 88.** (1) If a registered dealer sell any goods to any person, he shall issue to the purchaser a serially numbered tax invoice in the prescribed form, signed and dated by him or his regular employee, showing such particulars as may be prescribed, and he shall also keep a counterfoil or duplicate of such cash memorandum or bill, duly signed and dated; or
- (2) A dealer, not being a registered dealer, whose turnover of sales has exceeded in any year fifty per centum of the taxable quantum referred to in sub - section 5 of section 3. Sells any goods to any person, he shall issue to the purchaser a serially numbered invoice or cash memorandum or bill, signed and dated by him or his regular employee, showing such particulars as may be prescribed, and he shall also keep a counterfoil or duplicate of such cash memorandum or bill, duly signed and dated:

Provided that if the State Government is of the opinion that the requirement under this section shall cause hardship to a certain class or classes of dealers included in sub section (2) and that such requirement should, subject to fulfillment by any class or classes of dealers of certain conditions and restrictions to be imposed to ensure that there is no evasion o f tax, be dispensed with, it may prescribe by rules such class or classes of dealers and such conditions and restriction subject to which the requirement of sub section (2) in respect of such class or classes of dealers shall be dispensed with.

- 89.** Every dealer who maintains the records electronically shall retain them in electronically readable format for the period specified in section 84.

Electronic record.

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.

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.

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.

(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 the Meghalaya Land Revenue Regulation Act for recovery of tax arrear of land, revenue

107.

Bar to Proceeding in Civil courts.

108.

Power of State Government to prescribed rates of fees.

109.

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.

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

Power of State Government to make rules.

113.

- (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.

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.

Power of State Government to remove difficulties.

114.

- (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

Clearance Certificate.

115.

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.

CHAPTER XII
Transition, repeal and savings

Transition.

- 116.** (1) Any registration certificate issued under the Meghalaya (Sales Tax) Act, the Meghalaya Purchase Tax Act, being a registration certificate in force immediately before the appointed day shall in so far as the liability to tax under sub-section (1) of Section 3 of this Act exists, be deemed on the appointed day to be the certificate or registration issued under the Act, and accordingly the dealer holding such registration certificate immediately before the appointment day, shall until the certificate is duly cancelled, be deemed to be a dealer liable to pay tax under this Act and to be a registered dealer under this Act and all the provisions of this Act shall apply to him as they apply to a dealer liable to pay tax under this Act.
- (2) Notwithstanding anything contained elsewhere in this Act –
- (a) Any person appointed as the Commissioner, Deputy Commissioner or Assistant Commissioner, or any person appointed to assist the Commissioner, under the repealed Act and continuing in the office immediately before the appointed day, shall, on and from the appointed day, be deemed to have been appointed under this Act and shall continue in office as such till such person ceases to be the Commissioner, Joint Commissioner or Assistant Commissioner or ceases to be the person appointed to assist the Commissioner
- (b) Any dealer liable to furnish return under the repealed Acts immediately before the appointed day shall notwithstanding that a period, in respect of which he is so liable to furnish return, commences on and day before such appointed day and ends on any day after such appointed day, furnish such return in respect of tax payable for sales or purchases made up to the day immediately before such appointed day and pay tax in accordance with the provisions of repealed Act and shall furnish a separate return in respect of the remaining part of the period which commences on such appointed day and pay tax due on such return for sales or purchases made on and from such appointed day in accordance with the provisions of this Act;
- (c) Any order delegating any power under any Act or the rules made thereunder by the Commissioner to any person appointed, by any designation, to assist him before the appointed day shall, on and from such appointed day, continue in force on the day

immediately before such appointed day, on and from such appointed day, continue in force until the Commissioner amends, varies or rescinds such order after such appointed day under this Act;

- (d) Any dealer, who is no longer liable to pay tax under the repealed Act and whose account, registers or documents has been seized under that Act, shall continue to be retained in accordance with provision of that Act on or after appointed day ;

All forms of waybill under the repealed Act or the

- (e) Rules made thereunder and continuing in the force on the day immediately before the appointed day shall, with effect from such appointed day, continue in force and shall be used mutatis mutandis for the purpose for which they were being used before such appointed day until the State Government directs, by notification, the discontinuance of the use of such forms till such time as the State Government may, by notification, specify in this behalf;

All rules, regulations, notifications or orders made or issued under any of the repealed Act and continuing in force on the day immediately before

- (f) the appointed day shall continue to be in force on or after such appointed day in so far as they are not inconsistent with the provisions of this Act or the rules made thereunder until they are repealed or amended;

Where a tax has been levied under any of the provisions of the repealed Act in respect of the sale or purchase of declared goods within the meaning of the section 14 of the Central Sales Tax Act, 1956

- (g) (74 of 1956), or any goods specified in Schedule IV before the appointed day, no tax shall be levied under this Act on sale or purchase of such goods on or after appointed day;

Any waybill obtained or obtainable by the dealer from any prescribed authority or any declaration furnished or to be furnished by or to the dealer under any of the Acts so repealed or the rules made thereunder in respect of any sale of goods

- (h) before the appointed day shall be valid where such waybill is obtained or such waybill is furnished on or after such appointed day;

Any application for revision, review or reference arising from any order passed before the appointed day or any appeal arising from any assessment of tax or determination of interest made before such appointed day or any application for refund, or for waybill, in respect of any period before such

- (i)

appointed day, under the repealed Act if made before such appointed day and pending on such appointed day or if made on or such appointed day, shall be disposed of in accordance with the provisions of the repealed Act.

- (j) The Commissioner or any other authority to whom power in this behalf has been delegated by the Commissioner under the repealed Act may on its or his own motion, review or revise any order passed before the appointed day in accordance with the provision of that Act;
 - (k) Any application for the waybill, for the transport of the goods into the state, pending on the day immediately before the appointed day, shall be deemed to have been made under this Act and shall be disposed of in accordance with the provisions of this Act;
 - (l) Any tax assessed, interest determined or penalty imposed under the repealed Act in respect of sales or purchase made, or the repealed Act before the appointed day, shall be payable or recoverable in accordance with the provisions of the repealed Act ;
- (3) Where a registered dealer was enjoying the benefit of tax exemption under the Meghalaya Industries (Sales Tax Exemption) Schemes, 2001 notified under the provisions of the repealed Acts, for a specified period immediately before the appointed day and who would have continued to be so eligible on such appointed day under the Schemes had this Act not come into force, may be allowed any other benefit payable by him under this Act by the Commissioner for the balance un-expired period in a manner to be prescribed by Govt.
- (4) Where an industrial unit is already in the pipe- line and which would have enjoyed the benefit of tax exemption under the Meghalaya Industries (Sales Tax Exemption) Schemes, 2001, notified under the provisions of the repealed Acts for a specified period had the Act not come into force may be allowed any other benefit payable under this Act for the period of entitlement in a manner to be prescribed by Govt.

Explanation :- Industries in the pipe- line would only include those granted exemptions prior to 31st March, 2003.

The Meghalaya Sales Tax Act, the Meghalaya Finance (Sales Tax) Act, the Meghalaya Purchase Tax Act **will** stand repealed from the date of Notification of this Act.

~~Provided that such~~ repeal shall not affect the previous operation of the said Acts, 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 or certificate in the exercise of any powers conferred by or under the said Acts 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.

The limitations provided in this Act shall apply prospectively, and all events occurred and all issues arose prior to the date of commencement of this Act, shall be governed by the limitations provided or the provisions contained in the repealed Acts.