

# Rajasthan Sales Tax Act, 1994

February 23, 2013

## Preamble

[Act No. 22 OF 1995]

An Act to consolidate and amend the law relating to the levy of tax on sale or purchase of goods in the State of Rajasthan Be it enacted by the Rajasthan State Legislature in the Forty sixth Year of the Republic of India as follows :-

## Section 1. Short title, extent and commencement

- (1) This Act may be called the Rajasthan Sales Tax Act, 1994.
- (2) It extends to the whole of the State of Rajasthan.
- (3) It shall come into force on such date as the State Government may by notification in the Official Gazette appoint and the State Government may appoint different dates for the commencement of the different provisions of this Act.

## Section 2. Definitions

In this Act, unless the subject or context otherwise requires –

- (1) "Act" means the Rajasthan Sales Tax Act, 1994;
- (2) "appellate authority" means a person not below the rank of the Deputy Commissioner appointed as such by the State Government;
- (3) "assessing authority" in relation to a dealer means the Assistant Commissioner, Commercial Taxes or the Commercial Taxes Officer or the Assistant Commercial Taxes Officer having jurisdiction for the time being;
- (4) "assessment" means determination of liability under the Act and it includes provisional assessment, reassessment and best judgment assessment;
- (5) "assessment year" means the year for which tax under this Act is assessable;
- (6) "Assistant Commissioner" means a person appointed by the State Government to be the Assistant Commissioner of Commercial Taxes;
- (7) "awarder" means any person at whose instance or for whose benefit a works contract is executed;
- (8) "business" includes –
  - (i) any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture, whether or not such trade, commerce, manufacture, adventure or concern is carried on with a motive to make gain or profit, and whether or not any gain or profit accrues from such trade, commerce, manufacture, adventure or concern, but does not include activities of sale, supply or distribution of goods carried on without any profit motive by –

(a) a charitable or religious institution in the performance of its functions for achieving its avowed objects; and

(b) an educational institution, where such sale, supply or distribution is made to its students;

(ii) the execution of any works contract;

(iii) the transfer of the right to use any goods for any purpose under a lease; and

(iv) any transaction in connection with, or incidental or ancillary to, such trade, commerce, manufacture, adventure or concern;

(9) "casual trader" means a person who has, whether as principal, agent or in any other capacity, occasional transactions of a business nature involving buying, selling, supplying, or distribution of such goods as may be specified by the State Government by issuing a notification, whether for cash or deferred payment, or for commission or remuneration or other valuable consideration;

(10) "Commercial Taxes Officer", "Assistant Commercial Tax Officer" or "Inspector, Commercial Taxes Department" means the person holding office with the designation under the State Government;

(11) "Commissioner" means a person appointed by the State Government to be the Commissioner of Commercial Taxes Department and includes an Additional Commissioner of Commercial Taxes;

(12) "company", "director", and "share-holder" shall have the meanings respectively assigned to them in the Companies Act, 1956 (Central Act 1 of 1956);

(13) "contractor" means any person executing a works contract and includes a sub-contractor;

(14) "dealer" means any person, who carries on business in any capacity, of buying, selling, supplying or distributing goods directly or otherwise, or making purchases or sales as defined in clause (38) for himself or others, whether for cash or deferred payment, or for commission, remuneration or other valuable consideration;

Explanation I : Every person who conducts any business activity of buying, selling, supplying or distributing goods, as an agent of a non-resident dealer shall be deemed to be a dealer for the purpose of this Act.

Explanation II : The Central or any State Government or any of their departments or offices which, whether or not in the course of business, buy, sell, supply or distribute goods directly or otherwise, whether for cash or deferred payment, or for commission, remuneration or other valuable consideration shall be deemed to be a dealer for the purpose of this Act.

Explanation III : A person, who sells agricultural or horticultural produce, grown by himself or grown on any land on which he has an interest as owner or tenant as defined in the Rajasthan Tenancy Act, 1955 (State Act 3 of 1955) shall not be deemed to be a dealer within the meaning of this clause.

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

(16) "Deputy Commissioner (Administration) " means person appointed by the State Government to be Deputy Commissioner (Administration) and includes the Deputy Commissioner (Administration) Anti-Evasion;

(17) "Deputy Commissioner" means a person appointed by the State Government to be the Deputy Commissioner of Commercial Taxes;

(18) "exempted goods" means any goods excepted from tax in accordance with the provisions of this Act;

(19) "firm", "partner" and "partnership" shall have the meanings respectively assigned to them in the Indian Partnership Act, 1932 (Central Act 9 of 1932);

(20) "goods" means all kinds of movable property other than newspapers, money, actionable claims, stocks, shares and securities, and includes goods in some other form involved in the execution of works contracts;

(21) "government" or "the government" shall include both the Central Government and State Government;

(22) "importer of goods" means a dealer who brings or causes to be brought into the State any goods or to whom any goods are despatched from any place outside the State, for the purpose of process, manufacture or sale;

(23) "lease" means any agreement or arrangement whereby the right to use any goods for any purpose is transferred by one person to another whether or not for a specified period for cash, deferred payment or other valuable consideration without the transfer of ownership, and includes a sub-lease but does not include any transfer on hire purchase or any system of payment installments;

(24) "lessee" means any person to whom the right to use any goods for any purpose is transferred under a lease;

(25) "lessor" means any person by whom the right to use any goods for any purpose is transferred under a lease;

(26) "licence" means a licence granted under this Act;

(27) "manufacture" includes every processing of goods which bring into existence a commercially different and distinct commodity but shall not include such processing as may be notified by the State Government;

(28) "month" means the month according to the Gregorian calendar;

(29) "person" means any individual or association or body of individuals and includes a Hindu undivided family or joint family, a firm, a company whether incorporated or not, a co-operative society, a trust, a club, an institution, an agency, a corporation, a local authority and a department of the government;

(30) "place of business" means any place in the State of Rajasthan where a dealer purchases or sells goods and includes –

(a) any warehouse, godowns or other place where the dealer stores goods;

(b) any place where the dealer processes, produces or manufactures goods; and

(c) any place where the dealer keeps his accounts, registers and documents;

Explanation : The dealer shall declare on the places of business as his principal place of business, in the application for registration, and his final accounts, annual statements, registers and documents shall necessarily be kept at such place.

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

(32) "previous year" means a period of twelve months immediately preceeding the assessment year;

(33) "purchase price" for the purpose of levying tax under this Act, means the amount payable by a dealer as consideration for the purchase of goods including all statutory levies payable;

(34) "raw material" means goods used as an ingredient in the manufacture of other goods and includes preservative, fuel and lubricant required for the process of manufacture;

(35) "registered dealer" means a dealer registered under the provisions of this Act;

(36) "resale" means sale of goods without performing any operation on them which amounts to, or results in a manufacture;

(37) "rules" means the rules made under this Act;

(38) "sale" with all its grammatical variations and cognate expressions means every transfer of property in goods by one person to another for cash, deferred payment or other valuable consideration and includes-

(1) a transfer, otherwise than in pursuance of a contract, of property in goods for cash, deferred payment or other valuable consideration;

(2) a transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;

(3) any delivery of goods on hire purchase or other system of payment by instalments;

(4) a transfer of the right to use goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;

(5) a supply of goods by an unincorporated association or body of person to a member thereof for cash, deferred payment or other valuable consideration; and

(6) a supply, by way of or as part of any service or in any other manner whatsoever, of goods, being foods or any other article for human consumption or any drink (whether or not intoxicating), where such supply is for cash, deferred payment or other valuable consideration;

and such transfer, delivery or supply shall be deemed to be a sale and the word "purchase" or "buy" shall be construed accordingly.

Explanation I : Notwithstanding anything contained in this Act, where any goods are sold in packing, the packing material in such case shall be deemed to have been sold with the goods, unless otherwise proved by the dealer.

Explanation II : A sale or purchase shall be deemed to take place inside the State –

(a) in case falling under sub-clause (II), if the goods are in the State at the time of their use, application or incorporation in the execution of a works contract, notwithstanding that the agreement for the works contract has been wholly or in part entered into outside the State or that the goods have been wholly or in part moved from outside the State; and

(b) in case falling under sub-clause (4), if the goods are used by the lessee within the State, whether or not for a specified period, notwithstanding that the agreement for the lease has been outside the State or that the goods have been moved from outside the State or the goods have been delivered to the lessee outside the State.

Explanation III : Where there is a single contract of sale or purchase in respect of goods stored or ascertained the State as well as at places outside the State, the goods stored or ascertained in the State shall be deemed sold separately in or from the State.

Explanation IV : Where the work under a work contract is spread over in many States including the State of Rajasthan, the part of the work done, within this State shall be deemed to be the sale made in the State, irrespective of the place of agreement for works or the point of movement of goods involved in the execution of that works contract.

(39) "sale price" means the amount paid or payable to a dealer as consideration for the sale less any sum allowed by way of any kind of discount or rebate according to the practice normally prevailing in the trade, but inclusive of any sum charged for anything done by the dealer in respect of the goods at the time of or before the delivery thereof;

Explanation I : In the case of a sale by hire purchase agreement, the prevailing market price of the goods on the date on which such goods are delivered to the buyer under such agreement, shall be deemed to be the sale price of such goods.

Explanation II : Where according to the terms of a contract the cost of freight and other expenses in respect of the transportation of goods are incurred by the dealer for or on behalf of the buyer, such cost of freight and other expenses shall not be included in the sale price but the burden of such proof shall lie on the dealer.

(40) "State" means the State of Rajasthan as formed by section 10 of the States Reorganization Act, 1956 (Central Act 37 of 1956);

(41) "tax" means any tax or other levy by any name, leviable under the provisions of this Act;

(42) "taxable turnover" means that part of turnover which remains after deduction therefrom the aggregate amount of the proceeds of sale of goods :-

(i) on which no tax is leviable under this Act;

(ii) which have been exempted from tax or which have suffered tax under this Act, subject to other provisions in the Act; and

(iii) which are taxable at a point of sale within the State subsequent to the sale by the dealer and such sale is covered by a declaration as may be required under any provisions of this Act or the rules made thereunder;

Explanation : Where a works contractor, at the time of assessment, fails to show or establish the value of the goods at the point of their incorporation or use in the execution of a works contract, for the purpose of determining his taxable turnover, the value of such contract, after deduction labour or service charges therefrom, shall be taken for being apportioned for the goods not liable to tax and the goods liable to tax, along with the proportionate respective amounts of profit thereon.

(43) "Tax Board" means Rajasthan Tax Board constituted under section 90;

(44) "turnover" means the aggregate amount received or receivable by a dealer for sales as referred to in clause (38) including the purchase price of the goods which are subject to purchase tax under section 11 of the Act;

Explanation : Tax charged or collected and shown separately in the sale bill/cash memorandum or in the accounts shall not form part of turnover.

(45) "works contract" means a contract for works and labour or services involving transfer of property in goods (whether as goods or in some other form) in its execution;

(46) "year" means the year commencing from 1st April and ending on 31st March.

## Section 3. Incidence of tax

(1) Subject to the provisions of this Act, if the turnover of a dealer in any year exceeds rupees fifty thousand in case he is an importer or a manufacturer and rupees one lac in other case, he shall be liable to get registration under the Act, and shall be liable to pay tax from the date from which the certificate of registration is granted to him.

(2) Notwithstanding anything contained in sub-section (1), a dealer –

(a) dealing exclusively in generally exempted goods, shall not be required to get registered;

(b) dealing exclusively in tax paid goods, or partly in tax paid goods and partly in generally exempted goods, shall be required to get registered if his turnover in a year exceeds rupees fifteen lacs.

Explanation : "Tax paid goods" for the purpose of this Act means the goods, the sale of which within the State have been subject to tax in accordance with the provisions of this Act.

(3) Where as a result of any amendment in sub-section (1), if a dealer ceases to be liable to be registered and to pay tax and opts for de-registration, he shall be liable to pay tax in respect of

any goods purchased by him at a concessional rate of tax or without paying any tax on strength of any declaration furnished by him as a registered dealer, on the purchase price of such goods at the full rate of tax applicable thereto after adjusting the tax, if already paid by him, in respect thereof.

Explanation : Full rate of tax for the purpose of this Act means the rate of tax notified under sub-section (1) of section 4.

(4) A casual trader who is not liable to get registration and pay tax under sub-section (1), shall nevertheless be liable to pay tax without registration in accordance with the provisions of section 31, whatever may be the amount or extent of this turnover.

(5)

(a) Any person, other than a casual trader, who carries on business temporarily for a period not exceeding one hundred twenty days in a year and if such person is not already registered and has not applied for registration, he may make an application on plain paper for composition of tax to the Assistant Commissioner or the Commercial Taxes Officer, as the case may be, having jurisdiction with reference to the place of business of such person.

(b) Notwithstanding anything contained in this Act, the officer mentioned in clause (a) may either order for composition of tax on the application filed under clause (a), or in the absence of the such application, suo motu determine tax payable by such person, having regard to the specific facts and circumstances of the case.

(c) The composition money ordered or tax determined under clause (b) shall be deemed to be a demand under the Act and shall be recoverable in the manner and time fixed by the officer mentioned in clause (a) and all provisions of recovery and interest, applicable to a demand of tax shall mutatis mutandis apply.

(6) A dealer registered under the Central Sales Tax Act 1956, (Central Act 74 of 1956) who is not liable to get registration and pay tax under sub-section (1), shall nevertheless be liable to get registration and pay tax in accordance with the provisions of this Act, whatever may be amount or extent of his turnover.

## Section 4. Levy of tax and its rate

(1) Subject to the other provisions of this Act and the provisions of the Central Sales Tax Act, 1956 (Central Act 74 of 1956), the tax payable by a dealer under this Act, shall be at single point in the series of sales by successive dealers, as may be prescribed and shall be levied at such rates not exceeding fifty per cent on the taxable turnover, as may be notified by the State Government in the Official Gazette.

(2) Where any goods are sold packed in some material, whether charged for separately or not, notwithstanding anything contained in sub-section (1), the tax liability of and the rate of tax on the packing material shall be according to the tax liability of and the rate of tax on the goods packed therein.

## Section 5. Payment of lump sum in lieu of tax

(1) Notwithstanding anything contrary contained in the Act, the State Government may direct payment of tax in a lump sum in respect of sales of such class of goods or by such class of dealers on such terms and conditions as may be notified in the Official Gazette.

(2) The tax in lump sum specified in sub-section (1) shall not exceed the amount of maximum tax liability provided in sub-section (1) of section 4.

## Section 6. Payment of tax based on purchase price

In case of dealer, other than a manufacturer, producer or processor, whose total taxable purchases in a year does not exceeds rupees ten lacs, at his option and in accordance with such terms and conditions as may be specified by the Commissioner, may be allowed by his assessing authority to pay tax for such year payable under the Act, on the aggregate of the amount of purchase price paid or payable by him in respect of the goods purchased by him for resale plus an amount equal to ten per cent of such purchase price

## Section 7. Payment of self-assessed tax

The Commissioner may, in public interest and with the approval of the State Government, introduce a general scheme of assessments for such class of dealers and with such terms and conditions as may be specified therein, in pursuance of which assessment order could be passed by assessing authorities on the basis of returns without calling for the accounts, registers and documents of the dealers in their office, and all such schemes of payment of self-assessed tax introduced in the past, duly approved by the State Government, shall be deemed always to have been validity introduced under this section.

## Section 8. Levy of tax on livestock

(1) Notwithstanding anything contained in sections 3, 4 and 11, tax on the sale or purchase of livestock at such rate not exceeding ten per cent of the sale or purchase price, as the case may be, of such live-stock and at such point of sale or purchase, as the State Government may in the Official Gazette notify in this behalf, shall be payable by every person, who sells or purchases livestock in the State and the provisions of section 31 shall mutatis mutandis apply to such person.

(2) Notwithstanding anything contained in sub-section (1), in respect of livestock of such class as may be specified by the State Government by notification in the Official Gazette, tax shall be payable at such rate per head not exceeding two hundred rupees, as may be specified in the notification.

(3) Different rate of percentage of price or different rate per head may be notified by the State Government under sub-sections (1) and (2) for different classes of livestock.

## Section 9. Levy of tax by weight, volume or measurement on certain commodities

(1) Notwithstanding anything contained in sections 3 and 4, the State Government may fix the amount of tax payable on the sale or purchase of certain commodities on the basis of weight, volume or measurement, as may be notified in the Official Gazette.

(2) The amount of tax payable under sub-section (1) may be fixed with reference to the types of vehicles or carriers transporting the said commodities, and also with reference to the qualities thereof.

(3) The amount of tax notified under sub-sections (1) and (2) shall not exceed the amount of maximum tax liability provided in sub-section (1) of section 4.



## Section 10. Levy of tax on raw material and processing articles

(1) Notwithstanding anything contained in section 4, but subject to such restrictions and conditions as may be prescribed, the rate of tax payable on the sale to or purchase by a registered dealer of any raw material for the manufacture in the State of goods for sale by him within the State or in the course of inter-State trade or commerce or in the course of export outside the territory of India shall be at such concessional rate as may be notified by the State Government.

(2) Where after affording reasonable opportunity of being heard it is determined that a registered dealer has paid tax at a concessional rate under sub-section (1) and the goods are not utilised by him for the purpose specified in the said sub-section, he shall be liable to pay the difference of the amount of tax which would have been liable at full rate and the amount of tax paid under sub-section (1) with interest at the rate of two per cent per month.

(3) Notwithstanding anything contained in section 4, and subject to such conditions and restrictions as may be prescribed, sale to or purchase by a registered dealer of articles (other than raw material) specified in the certificate of registration of the registered dealer purchasing the articles and required by him for use in the manufacture or processing of goods for sale or in mining or in generation or distribution of electricity shall, unless the articles are taxable at the lower rate, be liable to tax at four per cent on the condition that the dealer selling the articles shall furnish to the assessing authority in the prescribed manner, a prescribed declaration duly filled and signed by the registered dealer to whom the articles are sold.

(4) Where after affording reasonable opportunity of being heard, it is decided that the articles purchased under sub-section (3) are utilised by the purchasing dealer for any purposes other than those specified in the said sub-section or while purchasing any articles he represents wrongly that such articles are covered by his certificate of registration as specified in sub-section (3), he shall be liable to pay the difference between the amount of tax which would have been liable on the purchase price of such articles at the full rate and the amount of tax paid under sub-section (3) of this section, with interest at the rate of two per cent per month.

## Section 11. Levy of purchase tax

(1) Every dealer who in the course of his business purchases any goods other than exempted goods, in the circumstances in which no tax under sections 4 and 12 is payable on the sale price of such goods, shall be liable to pay tax on the purchase price of such goods at the same rate at which it would have been leviable on the sale price of such goods under sections 4 and 12.

(2) Where any dealer has purchased any goods, otherwise than under the provisions of section 10, without paying any tax or after paying tax at concessional or reduced rate of tax on the strength of any declaration furnished by him under the Act, the purchase price of such goods shall be included in his taxable turnover and such dealer shall be liable to pay tax with interest at the same rate which would have been leviable on the sale price of such goods under sections 4 and 12, except in a case where such dealer satisfies the assessing authority that the said goods have been utilised for the purpose mentioned in the declaration form.

(3) Where tax is leviable under sub-section (1) at the time of purchase of any goods, no tax under section 4 shall be leviable at the time of sale of such goods.

(4) The dealer shall be entitled to claim set-off of the tax paid by him under sub-section (2) on the purchase price of the goods, against the tax payable by him on the sale of such goods.

## Section 12. Levy of tax at all points

(1) Notwithstanding anything contained in section 4, the State Government may, in respect of any class of goods which may be notified in the Official Gazette in this behalf, direct that tax under this Act shall be payable on the turnover in respect of such class of goods at each point of sale by every dealer with such terms and conditions and at such rate, as may be specified in the notification.

(2) Notwithstanding anything contained in section 4, every dealer, in case of the transfer of right to use any goods, shall pay tax on the turnover relating to each occasion of such transfer at such rates, as may be notified by the State Government in the Official Gazette, and different rates of tax may be notified for different classes of goods or different classes of dealers.

(3) Notwithstanding anything contained in this Act, the State Government may by issuing a notification in the Official Gazette, introduce the "Value Added Tax System from such date, in such form, for such class of dealers, at such points in the series of sales and with such terms and conditions, as may be specified in the notification.

Explanation : "Value Added Tax" shall mean a tax on sale of commodity at more than one point in the series of sales with the provision of set off of tax paid at the previous point of sale or purchase thereof.

## Section 13. Levy of surcharge

(1) Notwithstanding anything contrary contained in this Act, there shall be paid by a dealer a surcharge, from such date and at such rate not exceeding twenty five per cent, as notified by the State Government, on the amount of tax or any fee or sum in lieu of tax, payable by him, but the aggregate of tax, fee or sum and surcharge payable under this Act in respect of the goods declared by section 14 of the Central Sales Act, 1956 (Central Act 74 of 1956) to be of special importance in inter-State trade or commerce shall not exceed the tax calculated at the rate specified in clause (a) of section 15 of the aforesaid Central Act.

(2) The provisions as they are applicable to the tax payable under this Act, shall so far as may be, apply in relation to surcharge payable under sub-section (1).

## Section 14. Bar against collection of tax when not payable

(1) No person who is not a registered dealer or who is not liable to pay tax in respect of any sale or purchase shall collect on the sale of any goods any sum by way of tax from any other person, and no registered dealer shall collect any amount by way of tax in excess of the amount of tax payable by him under the provisions of this Act.

(2) No dealer shall collect, any sum by way of tax in respect of sale of any goods on which by virtue of section 15, no tax is payable.

(3) Dealers required under section 5 to pay lump in lieu of tax shall not collect tax or any sum in lieu of tax.

## Section 15. Exemption of tax

Notwithstanding anything contained in this Act, where the State Government is of the opinion that it is necessary or expedient in the public interest so to do, may, by notification in the Official Gazette, exempt fully or partially, whether prospectively or retrospectively from tax the

sale or purchase of any goods or class of goods or any person or class of persons, without any condition or with such condition as may be specified in the notification.

## Section 16. Burden of proof

The burden of proving that any sale or purchase effected by any person is not liable to tax for any reason under this Act shall be on such person.

## Section 17. Obligatory registration

(1) Every dealer liable to get registration and pay tax under this Act shall get himself registered in the prescribed manner.

(2) Every dealer required under sub-section (1) to be registered, shall make an application in this behalf in the prescribed manner and time to the authority competent to grant registration.

(3) Where the said authority is satisfied that the application for registration is complete in all respects it shall, in accordance with such rules as may be prescribed, after making an order for payment of fee of rupees one hundred, register the applicant and grant him a certificate of registration in the prescribed form.

(4) The certificate of registration so granted shall not be transferable and it shall remain in force unless it is cancelled in accordance with the provisions of this Act.

(5) Subject to the provisions of section 3, the certificate of registration shall be granted from the date of the commencement of the business as declared by the dealer in the application for registration, subject to the satisfaction of the authority competent to grant registration.

(6) When a dealer, who is liable to get registration, does not make application under sub-section (1) the authority competent to grant registration, after affording an opportunity of being heard to such dealer shall grant him a certificate of registration from such date as may be determined by such authority, and such registration shall take effect as if it has been granted under sub-section (3).

(7) The authority competent to grant registration or the assessing authority, as the case may be, after affording reasonable opportunity of being heard, may amend or cancel any certificate of registration.

## Section 18. Provisional registration

(1) Any person intending to establish a manufacturing unit may, notwithstanding that he is not liable to get registration under section 17, apply with a receipt of payment of fee of rupees one hundred to the authority competent to grant registration in the prescribed form for provisional registration.

(2) Where the said authority, after making such enquiry as it may consider necessary, is satisfied as to the bona fide intention of the person making the application, it may grant a provisional certificate of registration in the prescribed manner from the date of the receipt of the application upon furnishing by such person a security as is specified in section 23.

(3) Every person who has been granted a provisional certificate of registration under this section, shall, so long as such certificate is in force, be liable to pay tax under this Act irrespective of his turnover.

(4) The provisional certificate of registration granted under this section shall remain in force for such period as may be allowed initially or extended subsequently or until such provisional certificate is endorsed under sub-section (5); and the provisions of sub-section (7) of section 17 shall, so far as may be, apply to such provisional certificate.

(5) The authority competent to grant registration or the assessing authority, as the case may be, may on an application in the prescribed form made by a person holding a provisional certificate, and on being satisfied that such person has started selling goods manufactured by him, record on the provisional certificate an endorsement in the prescribed form and on such endorsement being recorded, such certificate shall be deemed to be a certificate granted under section 17.

(6) Where, after affording reasonable opportunity of being heard, it is determined that a person who has been granted a provisional certificate of registration under this section and has purchased any plant and machinery, processing articles or raw material or any other goods at a concessional or reduced rate of tax or without paying any tax on the strength of any declaration furnished by him, has failed to start selling goods manufactured by him within the period allowed initially or extended subsequently, he shall be liable to pay the difference of amount of tax which could have been leviable on the purchase price of such plant and machinery, processing articles, raw materials and any other goods at the full rate if purchased on concessional or reduced rate of tax and the whole amount of tax if purchased without paying any tax on the strength of declaration, with interest at the rate of two per cent per month.

## Section 19. Voluntary registration

(1) On the application of a dealer, if the authority competent to grant registration is satisfied that his turnover in a year is likely to exceed the limits provided in section 3, the said authority may register such dealer and grant him a certificate of registration in the prescribed manner from the date of commencement of the business as declared by him in the application for registration, on payment of a fee of rupees one hundred and thereupon the provisions of section 17 shall apply to him as they apply to a dealer registered under that section.

(2) Every dealer who has been registered under sub-section (1) shall, so long as his registration remains in force, be liable to pay tax under this Act, irrespective of his turnover.

## Section 20. Additional registration

(1) Where a dealer who is already registered and commences a new business at a place other than the existing place of business, he may, at his option, be granted a certificate of registration for such business under sections 17, 18 or 19, as the case may be, or a branch certificate under the certificate of registration already held by him.

Explanation : The provisions of sub-section (1) shall mutatis mutandis apply to a works contractor for different works at different places undertaken by him.

(2) Where a dealer who is already registered, expands or diversifies his business at the existing place of business, no additional certificate of registration shall be granted to him for such expansion or diversification

## Section 21. Authority competent to grant registration

(1) Every dealer liable to get registration shall declare his principal place of business in the application for registration filed by him and the Assistant Commissioner or the Commercial Taxes Officer, as the case may be, having territorial jurisdiction over such principal place of business,

or any other officer not below the rank of Assistant Commercial Taxes Officer, authorised especially or generally by the Commissioner, shall be the authority competent to grant registration to such dealer.

(2) In the case of a non resident dealer, the Assistant Commissioner or the Commercial Taxes Officer, as the case may be, having territorial jurisdiction over the place of business in the State of such non resident dealer, shall be the authority competent to grant registration and such authority, either on the application of such non-resident dealer or otherwise, shall grant him a certificate of registration from such date and with such terms and conditions, as may be specified therein.

(3) Where a dealer, after having been granted registration, changes his principal place of business outside the territorial jurisdiction of the present assessing authority, he shall seek the permission in writing for such change of the assessing authority from the Commissioner or any other officer authorised by the Commissioner in this behalf and unless such permission is accorded, the present assessing authority shall continue to be the assessing authority of such dealer.

## Section 22. Application for registration and authorisation for collection of tax

Where a dealer makes an application for obligatory registration or voluntary registration, or provisional registration, he may start collecting tax on his sales in accordance with the provisions of this Act from the date of such application and in the that case all the provisions of this Act, as are applicable to a registered dealer, shall mutatis mutandis apply to him.

## Section 23. Furnishing of security for registration

(1) Subject to any rules framed in this behalf, the authority competent to grant registration or the assessing authority shall, as a condition to the grant of registration to a dealer or at any time after such grant, require him to furnish in the prescribed manner and within the time specified by such authority, the initial security or such subsequent additional security as may be considered necessary –

(a) for the timely payment of the amount of any tax or other sum payable by him under this Act; and

(b) for the safe custody and the proper use of the declaration forms obtained by him under this Act and the rules made thereunder.

(2) Subject to provisions of sub-section (1), the obligatory registration certificate and the voluntary registration certificates may be granted before furnishing of security, but the furnishing of such security shall be a pre-condition for granting of the provisional registration certificate, but in no case declaration forms shall be issued to a dealer who has not furnished the security in accordance with the provisions of this section.

(3) At the time of grant of registration, the initial security shall be of the amount of –

(a) Rs. 10,000 in case of a dealer applying for obligatory registration or voluntary registration; and

(b) Rs. 10,000 in case of a small scale manufacturing unit, Rs. 15,000 in case of a medium scale manufacturing unit and Rs. 25,000 in case of a large scale manufacturing unit, applying for provisional registration.

Explanation : The small scale or medium scale or large scale manufacturing unit shall have the same meaning as assigned to them by the Government of India from time to time.

(4) The amount of security, in case of a dealer who is already registered under the Act, may be increased by the assessing authority, for reasons to be recorded in writing, to five per cent of the annual tax liability of the immediate preceding year, subject to a maximum limit of rupees one lac.

(5) Where the security furnished by a dealer under sub-sections (3) and (4) is in the form of a surety bond and the surety becomes insolvent or dies, the dealer shall within thirty days of the occurrence of any of the aforesaid events, inform the assessing authority and shall within ninety days of such occurrence, furnish a fresh surety bond or furnish in a prescribed manner other security for the amount of the surety bond.

(6) The assessing authority may, by order in writing, forfeit the whole or any part of the security furnished by a dealer –

(a) for realising any amount of tax, penalty, interest or any other sum payable by him under this Act; or

(b) for any loss caused to the government by negligence or wilful default on his part in ensuring the safe custody or the proper use of the declaration forms.

(7) Where by reason of an order of forfeiture under sub-section (6), the security furnished by any dealer is rendered insufficient, he shall make up the deficiency within a period of thirty days from the date of the communication of the order of the assessing authority.

(8) No dealer shall be required to furnish additional security under sub-section (4) and no order of forfeiture of the whole or any part of the security shall be passed against him under sub-section (6) unless he has been given an opportunity of being heard.

## Section 24. Amendment or cancellation of registration certificate

(1) Every registered dealer or his legal representative as the case may be, shall inform the assessing authority about every change or event as referred to in sub-sections (2) and (3), within thirty days of the occurrence of such change or event.

(2) Where any change or event does not alter the basic status of a dealer, such as change in the name of business or place of the business, opening of a new place of business or dropping of old place of business, addition, deletion or modification in the description of goods, acquisition of any business, sale or disposal of the business in part, change in the constitution of the firm without dissolution, the certificate of registration already granted to a dealer shall be amended accordingly from the date of the occurrence of the change or the event.

(3) Where any change or event alters the basic status of a dealer, such as, conversion of a proprietary concern into partnership firm or vice versa, dissolution of an existing firm and creation of new firm, formation of a firm into a company or vice versa, a fresh certificate of registration shall be required to be obtained by the dealer.

(4) Where –

(a) any business in respect of which a certificate of registration has been granted to a dealer under this Act, is discontinued permanently; or

(b) in the case of transfer of business by a dealer, the transferee already holds a certificate of registration under this Act; or

(c) a dealer has ceased to be required to be registered and to pay tax under this Act; or

(d) a dealer has obtained the certificate of registration by misrepresentation of facts or by fraud, or

(c) a dealer has obtained a certificate of registration against the provisions of this Act;

the assessing authority may, after affording such dealer an opportunity of being heard, cancel the certificate of registration prospectively or retrospectively.

## Section 25. Payment of tax

(1) Tax payable under this Act shall be deposited into a government treasury or a bank authorised to receive money on behalf of the State Government on the basis of the accounts of a dealer in such manner and at such intervals as may be prescribed for different categories of dealers.

(2) Notwithstanding anything contained in sub-section (1), the State Government may by notification in the Official Gazette require any dealer or class of dealers specified therein, to pay tax at intervals shorter than those prescribed under sub-section (1).

(3) Notwithstanding anything contained in sub-sections (1) and (2), where the State Government is of the opinion that it is necessary or expedient in the public interest so to do, it may, by notification in the Official Gazette, defer the payment of tax payable by any class of dealers, with or without interest, for any period on such conditions and under such circumstances as may be specified in the notification.

(4) Notwithstanding anything contained in this Act, in the case of a works contract, an amount in lieu of tax may be deducted by the awardee at such rate not exceeding three per cent of the total value of the contract, in such manner and under such circumstances as may be prescribed, from every bill of payment to a contractor and such sum shall be deposited or credited in the government account within the specified time and in the prescribed manner.

(5) Every deposit of tax or deduction of amount in lieu of tax made under this section shall be deemed to be provisional subject to adjustment against the tax liability determined in the assessment for any year made under section 29.

## Section 26. Filing of returns

(1) Every registered dealer, and such other dealer as may be required by notice to do so by the assessing authority shall furnish prescribed returns, for the prescribed period, in the prescribed form, in the prescribed manner and within the prescribed time to the assessing authority.

(2) The assessing authority may extend the date for submission of any return to be filed by any dealer or class of dealers under sub-section (1) by a period not exceeding fifteen days.

(3) Every return to be filed under sub-section (1) shall be accompanied by a treasury receipt of receipt of the bank authorised to receive money on behalf of the State Government showing the deposit of full amount of tax due on the basis of the return.

(4) Notwithstanding anything contained in sub-section (1), no return shall be required to be filed by a registered dealer who deals exclusively in generally exempted and/or tax paid goods and whose turnover in the previous year does not exceed such limit as may be prescribed with or without any condition.

(5) Where a dealer discovers any omission or error in any return furnished by him under sub-section (1), he may furnish a revised return within one hundred and eighty days after the close of the year to which it relates, and the burden of proving that the omission or the error was bona fide, shall be on such dealer.

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## Section 27. Provisional assessment on failure to deposit tax or submit return

(1) Where a dealer fails to deposit tax as required to be deposited under section 25 or fails to submit a return as per provisions of section 26 for any prescribed period within the prescribed time, the assessing authority, without prejudice to the penal provisions in the Act shall, after making such enquiry as it may consider necessary and after giving the dealer a reasonable opportunity of being heard, assess the tax for that period to the best of its judgment.

(2) The tax assessed in sub-section (1), after adjustment of any amount deposited in advance in this behalf, if any, shall be payable by the dealer within thirty days from the date of service of the notice, or within a period of less than thirty days as may be determined by the assessing authority in the special circumstances and for the reasons to be recorded in writing.

(3) The provisional assessment under sub-section (1) shall not be made after the expiry of a period of six months from the end of the period for which tax has not been deposited or return has not been filed or after the issue of notice for assessment under section 29, whichever is earlier

## Section 28. Provisional assessment in case of avoidance or evasion of tax

(1) Where the assessing authority has reason to believe that a dealer has avoided or evaded tax or has not paid tax according to law, he may after giving the dealer a reasonable opportunity of being heard, determine at any time and for any period that taxable turnover of such dealer on which tax has been avoided or evaded or has not been paid according to law and assess the tax to the best of its judgment.

(2) The amount assessed in sub-section (1), after the adjustment of any amount deposited in advance in this behalf, if any, shall be payable by the dealer within thirty days from the date of service of the notice, or within a period of less than thirty days as may be determined by the assessing authority in the special circumstances and for the reasons to be recorded in writing.

(3) The provisional assessment under sub-section (1) shall not be made after the expiry of a period of six months from the date of making out the case, but the Commissioner may, for reasons to be recorded in writing in any particular case extend this time limit by a further period not exceeding six months.

## Section 29. Assessment



(1) Assessment for a year shall be made after the returns of that year have become due, but a closed firm could be assessed immediately after its closure.

(2) In the case of a dealer whose turnover as determined in the last assessment order passed subsequent to the first assessment after his registration, does not exceed such limit as may be notified by the State Government in the Official Gazette in this behalf, the assessment of such dealer shall be made for two years at a time by one single order, after all the returns in respect of such period of two years have become due.

(3) In the case of works contract, the assessment of a contractor shall be made on the basis of the work done in a year and the amount paid or deducted at source in that year, if any, in lieu of tax, and in the case of a contractor opting for payment of exemption fee in lieu of tax, on the basis of amount of exemption fee paid or deducted at source in a year, and such year shall be deemed to be his accounting year.

(4) Where the assessing authority, on scrutiny is satisfied that the returns furnished by a dealer are correct and complete, it shall assess the tax on the basis of such returns.

(5) Where the assessing authority is not satisfied without requiring the presence of the dealer who has filed the returns or without production of accounts, registers and document including any other evidence, that the returns are complete and correct, it shall serve on such dealer a notice requiring him on a date and place to be specified there in –

(a) to appear in person, or by an agent duly authorised in writing; or

(b) to produce or cause to be produced such accounts, registers and documents as the assessing authority may require, or

(c) to produce or cause to be produced any evidence on which he may rely in support of the returns filed or the statements made, to the assessing authority.

(6) The assessing authority, after having examined the accounts, registers and documents produced or other evidence adduced before it and after issuing notice on specific points wherever necessary, shall, on the day specified in the notice issued under sub-section (5), or as soon as possible thereafter, assess the tax by an order in writing.

(7) The assessing authority after affording an opportunity of being heard, shall assess a dealer to the best of its judgment and determine the tax payable by him, if such dealer –

(a) has not filed all or any of the returns due for a year; or

(b) has filed any return or returns which appear to the assessing authority incomplete or incorrect; or

(c) has failed to comply with all the terms of a notice issued under sub-section (5); or

(d) has not regularly employed any method of accounting, or if the method employed is such that in the opinion of the assessing authority, assessment cannot properly be made on the basis thereof; or

(e) has with a view to avoid or evade tax, shown in this accounts, registers or documents, sale or purchase of any goods at a price which is lower than the prevailing market price of such goods; or

(f) has concealed any transaction of purchase or sale from his accounts, registers or documents or has avoided or evaded tax in any other manner.

(8)

(a) No assessment order under this section shall be passed after the expiry of two years from the end of the relevant assessment year or one year after coming into force of this Act, whichever is later; however, the Commissioner may for reasons to be recorded in particular case may extend such time limit by a period not exceeding six months.

(b) Notwithstanding anything contained in sub-clause (a), where an assessment order is passed in consequence of or to give effect to, any order of an appellate authority or the tax board or a competent court, it shall be completed within two years of the communication of such order to the assessing authority; however, the Commissioner may for reasons to be recorded in writing, extend in any particular case, such time limit by a period not exceeding six months.

## Section 30. Escaped assessment

(1) An assessment –

(a) of a person who is liable to get registration but has not got himself registered; or

(b) in which, for any reason, the levy of tax or any fee or sum payable under the Act has been escaped wholly or in part; or

(c) wherein tax has been wholly or in part unassessed or under-assessed in any way and under any circumstances,

shall be deemed an escaped assessment and the assessing authority shall on the basis of the material on record or after making such enquiry as it may consider necessary, complete such assessment within the limit provided in sub-section (3).

Explanation : The assessment under this section shall not include that part of business which has already been assessed under section 29.

(2) Where the Commissioner or a Deputy Commissioner (Administration) has reason to believe that a dealer has escaped assessment to tax in any manner provided in sub-section (1), he may at any time, subject to the time limit specified in sub-section (3), either direct the assessing authority to assess the tax or the fee or other sum or himself proceed to assess the same.

(3) No notice under sub-sections (1) and (2) shall be issued in respect of any escaped assessment for any year after the expiry of five years and no assessment under the said sub-section shall be completed after the expiry of eight years, from the end of the relevant assessment year, but this limitation shall not be applicable to any assessment to be made in consequence of, or to give effect to, any finding or direction contained in an order passed by an appellate authority or the Tax board or a competent court.

## Section 31. Assessment in case of a casual trader

(1) A casual trader who is registered under the Act, shall be assessed like any other registered dealer.

(2) A casual trader who is not registered shall, immediately on completion, of a transaction of sale or purchase, for which he is liable to pay tax, report to the assessing authority having

jurisdiction with reference to the place of such transaction or to the incharge of the nearest checkpost, the amount of sale or purchase price and the tax payable thereon and shall deposit the amount of tax with such assessing authority or in charge of the checkpost within such time and in such manner as such authority or in charge may direct.

(3) Where a casual trader fails to make a report as required by sub-section (2), the assessing authority having jurisdiction or the in charge of the nearest checkpost may require such casual trader to make a report of the sale or purchase price and the tax due, failing which such assessing authority or in charge of the checkpost may assess to the best of its judgment the amount of tax due and direct the casual trader to pay the amount of tax within such time and in such manner as it may direct.

(4) Where the casual trader fails to pay the tax as directed by the assessing authority or the in charge of the checkpost under sub-sections (2) and (3), the goods belonging to such casual trader shall be detained until the tax is paid or adequate security for payment of tax is furnished.

(5) No order under sub-section (2) shall be passed after the expiry of one year from the date of making the report, and under sub-section (3) after the expiry of two years from the date of completion of the transaction.

(6) The amount of tax payable by a casual trader under sub-section (2) or (3) shall be deemed to be a demand payable by registered dealer and all the provisions of recovery under the Act shall apply accordingly to such demand.

(7) The assessing authority may in writing authorise any office subordinate to it to perform all or any of its functions to be performed under this section.

(8) The assessing authority may suo motu or on application of a casual trader, filed within 30 days of the date of deposition or realisation of tax, review or revise any order passed or action taken by the subordinate official, authorised under sub-section (7).

#### Section 32. Assessment in special cases

(1) Minor and incapacitated person : In the case of any guardian, trustee or agent of any minor or other incapacitated person carrying on business on behalf of and for the benefit of such minor or other incapacitated person, the tax shall be levied upon and recoverable from such guardian, trustee or agent, as the case may be, in the like manner and to the same extent as it would be leviable upon and recoverable from any other person, and all the provisions of the Act and the rules made thereunder shall apply accordingly.

(2) Estate under Court of Wards of business managed by other agencies : Where the estate of a dealer, whether complete or part thereof, is under the control of a Court of Wards, or where the business of a dealer is managed by the Administrator, the Official Trustee, the Official Liquidator or Receiver or any Manager or Controller, appointed by him or under the orders of a court, the tax shall be levied upon and recoverable from such court of wards, Administrator, Official Trustee, Official Liquidator or Receiver or Manager or Controller in the like manner and to the same extent as it would be leviable upon and the rules made thereunder shall apply accordingly.

### Section 33. Assessment of a dissolved firm

In the case of a dissolved partnership firm, assessment thereof under this Act shall be made in the same manner as if the firm had not been dissolved.

## Section 34. Assessment deemed to be made in certain cases

Where returns have been furnished by a dealer for any period and no assessment has been made under any of the provisions of this Act, within the specified time limit or where in a case provisional assessment has been made but no assessment has been made under section 29, the assessment of such period under section 29 shall be deemed to have been completed on the basis of the returns filed or in accordance with the provisional assessment made, as the case may be, and all the provisions of this Act shall, so far as may be apply accordingly.

## Section 35. Rounding off of tax, interest and penalty

(1) The amount of tax, interest, penalty or any other sum payable and the amount of refund due, under the provisions of this Act, shall be rounded off to the nearest multiple of ten rupees and, for this purpose, where such amount contains a part of ten rupees, if such part is five rupees or more, it shall be increased to ten rupees and if such part is less than five rupees, it shall be ignored.

(2) Nothing contained in sub-section (1) shall apply to any collection by a dealer of any amount by way of tax in respect of any sale or purchase made by him of goods under this Act.

## Section 36. Want of form not to affect proceedings

Any notice, summons, assessment order, demand notice, order of attachment or any other order passed under this Act, which purports to be made in pursuance of any provision of this Act or the rules, shall not be deemed to be void or voidable and shall not be quashed for want of the prescribed form, or be affected by reason of a mistake, defect or omission therein, if the same is in substance and effect in conformity with or according to the intent and meaning of the Act and the rules.

## Section 37. Rectification of a mistake

(1) With a view to rectifying any mistake apart from the record, any officer appointed or any authority constituted under the Act may rectify suo motu or otherwise any order passed by him.

Explanation : A mistake apparent from the record shall include an order which was valid when it was made and is subsequently rendered invalid by an amendment of the law having retrospective operation or by a judgment of the Supreme Court, the Rajasthan High Court or the Rajasthan Tax Board.

(2) No application for rectification shall be filed under sub-section (1) after the expiry of a period of three years from the date of the order sought to be rectified.

(3) Where an application under sub-section (1) is presented to the assessing authority, appellate authority or Tax Board and a receipt there of is obtained, it shall be disposed of within a period of one year from date of presentation and where such application is not disposed of within the said period, the same shall be deemed to have been accepted.

(4) No rectification under this section shall be made after the expiry of four years from the date of the order sought to be rectified.

(5) An order of rectification which has the effect of increasing the liability of a dealer in any way, shall not be made without affording him an opportunity of being heard.

## Section 38. Reopening of ex parte assessment

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1. Ommitted by Rajasthan Finance ACT, 1999, dt. 14-5-1999]

Prior to ommission the section stood as follows:

### SECTION 38 REOPENING OF EX PARTE ASSESSMENT.

SUB\_SECTION (1) Where an assessment has been made ex parte to the best judgment of the assessing authority under sections 27, 28, 29 or 30, the assessing authority may, on the application of the dealer made within thirty days from the date of service of the notice of demand in consequence of such assessment, cancel the assessment and proceed to make a fresh assessment in accordance with the provisions of law, if it is satisfied, –

CLAUSES (a) that the dealer did not receive notice or summons issued to him under sections 27, 28, 29 or 30; or

CLAUSES (b) that he was prevented by sufficient and reasonable cause from complying with any notice or summon referred to in clause (a) above.

SUB\_SECTION (2) An application under sub-section (1) shall be presented to the assessing authority himself and a receipt thereof shall be obtained. The said application shall be disposed of within a period of six months from the date of presentation. Where such-application is not disposed of within the said period it shall be deemed to have been accepted.

SUB\_SECTION (3) Where the application has been accepted or is deemed to have been accepted under sub-section (2) , the fresh assessment shall be made within a period of one year from the date of presentation of application.

SUB\_SECTION (4) Where an application made under sub-section (1) is rejected, the period from the date of filing of the application up to the date of rejection thereof shall be excluded for the purpose of limitation specified in sub-section (2) of section 84.

## Section 39. Stay of proceeding

No civil court or any other authority shall stay assessment proceedings purported to be initiated or already initiated under the Act by an assessing authority.

## Section 40. Determination of disputed questions

(1) Where any question arises otherwise than in any proceeding before a court or in any proceeding under sections 27, 28, 29 or 30, whether for the purpose of this Act, –

(a) any person is a dealer; or

(b) any particular dealer is required to be registered; or

(c) any transaction is a sale, and if so, the sale price thereof; or

(d) any tax is payable in respect of any particular sale or purchase, or if tax is payable, the point and the rate thereof; or

(e) any particular thing done to any goods amounts to or results in the manufacture of goods;

the Commissioner shall make an order determining such question.

(2) Where any such question arises from any order already passed under the Act, no such question shall be entertained for determination under this section, but such question may be raised by the party concerned in appeal against, or by way of revision of such order.

(3) The Commissioner under sub-section (1) may direct that the determination shall not affect the liability of any person under this Act, in respect of any sale or purchase effected prior to the determination.

(4) Where an order of the Commissioner passed in sub-section (1) is modified in any way in appeal or revision, the modified order shall be effective from the date of order passed in such appeal or revision.

## Section 41. Transfer of cases

(1) A dealer may make an application on plain paper to the Commissioner to transfer any case under this Act from one officer or authority to other officer or authority on the following grounds –

(a) dispute of jurisdiction; or

(b) apprehension of miscarriage of justice; or

(c) business convenience.

(2) In the face of cogent reasons adduced by a dealer in his application filed under sub-section (1), notwithstanding anything contained in section 39, the Commissioner may stay the proceedings of the case ex parte for a period not exceeding one month and in no case beyond a period exceeding three months and such period of stay shall be excluded from the period of the time limit specified in respect of the disposal of such case.

(3) The Commissioner may after due notice to the dealer, by order in writing transfer a case from one officer or authority to other officer or authority; however no notice to the dealer shall be necessary where the transfer is from one officer or authority to other officer or authority, whose offices are situated in the same city, town or village.

(4) Notwithstanding anything contained in sub-sections (1), (2) and (3), the Commissioner may, at any time, for administrative reasons, transfer any case or cases from one officer or authority to other officer or authority, without issuing any notice to the dealer or dealers concerned.

Explanation : The word “case” in relation to any dealer under this section shall mean any proceeding pending under the Act on the date of the order made under sub-section (2) or which may have been completed on or before such date or which may commence after such date.

## Section 42. Liability for payment of tax or demand

(1) The tax or the demand shall be payable by a dealer or a person on the basis of an assessment made or an order passed, under the Act.

Explanation I : The interest, penalty, composition money or any fee payable under this Act shall be deemed to be tax for the purpose of collection and recovery and for all matters ancillary or incidental thereto.

Explanation II : The demand shall include any amount payable by a person or a dealer under the Act or the rules.

(2) The tax paid by a dealer or a person shall be adjusted against the tax determined as a result of an assessment made or the amount held payable in pursuance of an order passed, under this Act and the balance of the amount shall be payable by such dealer or person within thirty days from the date of service of the notice, or less than thirty days as may be determined by the assessing authority in the special circumstances and for reasons to be recorded in writing.

(3) In default of the payment of tax or demand payable under sub-section (1) or sub-section (2), the amount of tax or demand shall be recoverable in accordance with the provisions of this Act including the provisions of the Rajasthan Land Revenue Act, 1956 (State Act 15 of 1956) and the Revenue Recovery Act, 1890 (Central Act 1 of 1890).

(4) Where an assessee or a person has presented an appeal to the appellate authority against an order passed by an assessing authority or any other officer, the said appellate authority, after registering such appeal and after having heard the appellant and the assessing authority or officer or any representative thereof, may stay the recovery or the disputed amount of tax or demand or any part thereof till the disposal of the appeal by him, on the condition that the said assessee or the person furnishes sufficient security to the satisfaction of the assessing authority or the officer, as the case may be, in such form and in such manner as may be prescribed.

(5) The assessing authority may, subject to such conditions and restriction as may be prescribed, in respect of any particular dealer or person and for reason to be recorded in writing, extend the date of such payment and allow such dealer or person to pay any demand in instalments.

(6) (a) Where the recovery of tax or demand or any part thereof is stayed under sub-section (4), the amount of such tax or demand ultimately found due shall be recoverable with interest as per provisions of the Act, and such interest shall be payable on such amount from the date the tax or demand first became due.

(b) Where the payment of tax or demand is postponed by instalments under sub-section (5), the dealer or the person shall be required to pay interest for the amount postponed and the period extended in accordance with the provisions of this Act.

(7) Notwithstanding anything contained in this Act, the Commissioner may, on the recommendation of the State Government defer the recovery of demand payable by an industrial unit declared as sick by the Board of Industrial and Financial Reconstruction constituted under the Sick Industrial Companies (Special Provisions) Act, 1985 (Central Act No. 1 of 1986) to such extent, for such period and on such conditions with regard to the payment or rate of interest as may be deemed proper.

## Section 43. Liability of a surety

The liability of a surety under this Act shall be coextensive to the extent of the amount of security with that of the defaulting dealer and all the modes of recovery enforceable against the dealer shall be simultaneously enforceable against the surety.

## Section 44. Liability of the representative of a deceased person

(1) Where a person dies and his business devolves by virtue of his death upon any other person, such other person shall be liable to all obligations and liabilities in respect of such business under the Act and he shall within thirty days of the devolvement of such business apply for registration unless he already holds a certificate of registration.

(2) Where a person dies and his executor, administrator or other legal representative does not continue his business except for the purpose of winding it up, such executor administrator or legal representative shall be assessed as if he were the assessee and shall liable to pay out of the estate of the deceased person, to the extent to which the estate is capable of meeting the charge, the tax assessed or other demand payable under the Act.

## Section 45. Liability on dissolution, discontinuance or partition of business

Where any business carried on by a firm, an association of persons or a Hindu undivided family liable to pay tax, is dissolved or discontinued permanently or where such Hindu undivided family is partitioned –

(a) such firm, association or family shall be liable to pay tax in respect of the turnover of the goods and other articles including plant and machinery of such firm, association or family as if there was no such dissolution, discontinuance or partition and all the provisions of this Act, shall apply accordingly;

(b) such firm, association or family as the case may be, shall be liable to pay tax on the goods and other articles including plant and machinery allotted to any partner or member thereof as if the goods or other articles including plant and machinery had been sold to such partner or member unless he holds a certificate of registration or obtains it within a period of three months from the date of such allotment;

(c) every person who was at time of such dissolution, discontinuance or partition, partner or member of such firm, association, or family and the legal representative of any such person who is deceased, shall, in respect of the turnover of such firm, association or family, be jointly and severally liable to assessment and payment of tax or other sum, and all the provisions of this Act, so far as may be, shall apply to such assessment in the liability for payment of tax or other sum;

(d) every person who obtains the whole or any part of the stock relating to the business of such firm, association of persons or Hindu undivided family, and gets himself registered within a period of three months from the date he obtains such stock, shall be liable to pay tax on the sale or purchase of the goods made by him with effect from the date of such dissolution, discontinuance or partition, as the case may be.

## Section 46. Liability on transfer of business

(1) When the ownership of the business of a dealer liable to pay tax is entirely transferred in any manner, any tax or other sum payable in respect of such business and remaining unpaid at the time of the transfer, shall be payable by the transferee, as if he were the dealer liable to pay tax or other sum; and for the liability to tax accruing from the date of such transfer, he shall within thirty days of the transfer apply for registration, unless he already holds a certificate of registration.



Explanation : Transfer of entire ownership of business means –

- (a) transfer of business assets, debits and credits and stocks in trade, if any; or
- (b) transfer of land, building and plant and machinery.

(2) When a dealer liable to pay tax transfers the ownership of a part of his business, the transferor shall be liable to pay tax in respect of the stock of goods and other articles including plant and machinery transferred along with the part of his business which is not transferred, as if the goods and other articles including plant and machinery have been sold by him, unless the transferee holds a certificate of registration or obtains it within a period of three months from the date such transfer.

## Section 47. Liability of principal and agent

(1) When an agent sells any taxable goods on behalf of his principal, such agent and his principal shall both be jointly and severally liable to pay tax on such sales.

(2) Notwithstanding that a principal may not be liable to tax on the sale or purchase of any goods made within the State for any reason nevertheless his agent shall be liable to pay tax on the sale or purchase of goods in accordance with the provisions of this Act.

(3) If the principal, on whose behalf the agent has sold goods, shows to the satisfaction of the assessing authority that the tax has been paid by his agent on such goods under sub-section (1), the principal shall not be liable to pay tax again in respect of the same goods

## Section 48. Liability of firms and partners

(1) Notwithstanding anything contained in this Act, when any firm, existing or dissolved is liable to pay tax under this Act, such firm as well as each of the partners of such firm shall be jointly and severally liable to pay such tax.

(2) When any partner retires from a firm before it is dissolved, he shall be liable to pay the tax, if any, remaining unpaid at the time of his retirement and also the tax, leviable up to the date of his retirement though it may be unassessed on that date.

## Section 49. Liability of directors of a private company

Subject to the provisions of the Companies Act, 1956 (Central Act 1 of 1956) where any tax and other sums recoverable under the Act from any private company, whether existing or wound up or under liquidation, cannot be recovered for any reason whatsoever, every person who was a director at any time during the period for which the tax or other sums are due shall be jointly and severally liable for the payment of such tax and other sums unless he proves to the satisfaction of the assessing authority that the non payment of tax or other sums cannot be attributed to any gross neglect, misfeasance or breach of duty on his part.

## Section 50. Liability under this act to be the first charge

Notwithstanding anything to the contrary contained in any law for the time being in force, any amount of tax and any other sum payable by a dealer or any other person under this Act, shall be the first charge on the property of such dealer or person.

## Section 51. Certain transfers to be void

Where during the pendency of any proceeding for the determination of any liability to tax, interest, penalty or other sum under this Act, if any dealer or a person against whom such proceeding is pending, creates a charge on, or parts with the possession by way of sale, mortgage, exchange, gift or any other mode of alienation whatsoever, of any of his assets in favour of any other person, such charge, transfer, gift or alienation shall be void as against any claim in respect of any tax, interest, penalty or other sum payable by such dealer or person, which arises as a result of the said proceeding, except when –

(1) such dealer or person has no notice of such proceeding pending against him; and

(2) such transfer is made for adequate valuable consideration.

## Section 52. General modes of recovery

Without prejudice to other provisions in the Act, where any tax or other sum payable by a dealer or a person under this Act is not paid in accordance with the provisions of this Act or the rules made or notification issued thereunder, it shall be recoverable as an arrear of land revenue and the assessing authority or any other officer having jurisdiction for the time being over such dealer or person shall be empowered to recover such tax or other sum by attachment and sale of the movable or immovable property of such dealer or person and all the provisions of the Rajasthan Land Revenue Act, 1956 (Rajasthan Act No. 15 of 1956) read with the Rajasthan Land Revenue (Payments, Credits, Refunds and Recovery) Rules, 1958 shall mutatis mutandis apply.

## Section 53. Special mode of recovery

(1) Notwithstanding anything contained in section 52 or any law or contract to the contrary, the assessing authority may, at any time or from time to time by notice in writing, a copy of which shall be sent to the dealer at his last address known to the assessing authority, require –

(a) any person from whom any amount is due or may become due to a dealer who has failed to pay due tax or other sum on demand by the assessing authority, or

(b) any person who holds or may subsequently hold any money for or on account of such dealer,

to pay into the government treasury or the bank authorised to receive money on behalf of the State Government, in the manner specified in the notice issued under this section either forthwith or upon the money becoming due from him or being held by him, within the time specified in the notice (not being before the money becomes due or it is held ), so much of money as is sufficient to pay the amount due from the dealer in respect of the demand of tax and other sum under this Act, or the whole of the money when it is equal to or less than that demand.

Explanation : For the purpose of this sub-section, the amount due to a dealer or money held for or on account of a dealer by any person shall be computed after taking into account such claims, if any, as may have fallen legally due for payment by such dealer to such person.

(2) The authority issuing a notice under sub-section (1) may at any time, or from time to time, amend or revoke any such notice or extend the time for making any payment in pursuance of this 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 treasury receipt or the challan of the bank for such payment shall constitute a good and sufficient proof of discharge of the liability of such person to the extent of the amount specified in the receipt or the challan.

(4) Any person, who discharges any liability by making payment to the dealer or otherwise, after service on him of the notice issued under sub-section (1), shall be personally liable to the State Government to the extent of the liability discharged or the amount of demand, whichever is less.

(5) Any amount or money which a person is required to pay under sub-section (1) or for which he is personally liable to the State Government under sub-section (4) shall, if it remains unpaid, be recoverable in accordance with the provisions of this Act.

(6) The provisions of this section shall be without prejudice to any action that may be taken for the recovery of the arrears of tax and other sum if any, due from a dealer.

## Section 54. Power to reduce or waive interest and penalty in certain cases

(1) Notwithstanding anything contained in this Act, the Commissioner may, on an application made in this behalf by a dealer and after having got conducted such enquiry as he deems necessary and after recording his reasons for so doing, reduce or waive, the amount of interest or penalty or both payable by such dealer under this Act, if he is satisfied that –

(a) the dealer is under financial hardship and is not in a position to make full payment of the demand; or

(b) to do otherwise would cause genuine hardship to the dealer.

(2) Every order made under this section shall be final and shall not be called into question by any civil court or any other authority.

## Section 55. Power to write off demand

Where a demand against a dealer for a year or years payable under this Act including the Central Sales Tax Act, 1956 (Central Act 74 of 1956) has been outstanding for more than ten years from the year during which such demand is created, and such demand has been rendered irrecoverable for want of any kind of property for being attached and sold, without prejudice to the provisions of other law or rules providing for writing off of demands, such demand may be written off through an order in writing.

(a) by the Assistant Commissioner or the Commercial Taxes Officer, as the case may be, if it does not exceed rupees five thousand;

(b) by the Deputy Commissioner (Administration), if it does not exceed rupees twenty thousand;

(c) by the Commissioner, if it exceeds rupees twenty thousand but does not exceed rupees one lac; and

(d) by the State Government, if it exceeds rupees one lac.

## Section 56. Refund

(1) Where any amount is refundable to a dealer under the provisions of this Act, after having duly verified the fact of deposit of such amount, the assessing authority shall in the prescribed manner refund to such dealer the amount to be refunded either by cash payment or by adjustment against the tax or other sum due in respect of any other period and such refundable

amount shall carry interest at the rate of fifteen percent per annum with effect from the date of its deposit.

(2) Where an amount or tax is collected at any checkpost from any person who is not registered under the Act and such amount or tax is not found payable by him, or where an amount in lieu of tax for any work is deducted in any manner by an awardee from any bill of payment to a contractor, who is not liable to get registration under the Act, the amount so collected or deducted shall be refunded in the prescribed manner by the Assistant Commissioner or the Commercial Taxes Officer, as the case may be, in whose territorial jurisdiction such person or contractor ordinarily resides; and where such person or contractor does not reside in the State, then such refund shall be made by such officer who may be directed by the Commissioner.

(3) Any tax levied and collected under this Act, in respect of the sale or purchase inside the State of any declared goods which are subsequently sold in the course of inter-State trade or commerce and on which tax has been paid under the Central Sales Tax Act, 1956 (Central Act 74 of 1956), shall be refunded to the person making such sale or purchase in the course of inter-State trade or commerce, in such manner and subject to such conditions as may be prescribed.

(4) Notwithstanding anything contained in this section or in any other law for the time being in force, a refund can be claimed only by the dealer or the person, who has actually suffered the incidence of tax and the burden of proving the incidence of tax so suffered shall be on the dealer or the person claiming the refund.

## Section 57. Power to obtain security or withhold refund in certain cases

Where an order giving rise to refund is subject matter of an appeal, revision or other proceeding and such appeal, revision or other proceeding is contemplated or pending, and the officer concerned or the assessing authority for reasons to be recorded in writing is of the opinion that the grant of the refund is likely to adversely affect the state revenue, the said officer or the assessing authority may, with previous approval of the Commissioner, either obtain the security equal to the amount to be refunded to the dealer or the person or withhold the refund till such time as the Commissioner may determine.

## Section 58. Interest on failure to pay tax or other sum payable

(1) Where a dealer or a person commits default in making the payment of any amount of tax leviable or payable or of any amount of tax leviable or payable or of any amount of tax, fee, interest or penalty assessed or determined or of any amount or demand otherwise payable, within the specified time under the provision of this Act or the rules made or notification issued thereunder, such dealer or person shall be liable to pay interest on such amount at the rate of two per cent per month, for the period starting from the day immediately succeeding the date specified for such payment and ending with the day on which such payment is made.

(2) Subject to the provisions of sub-section (2) of section 70, interest under sub-section (1) shall be calculated –

(a) at the time of assessment under any section or in continuation of such assessment; and

(b) on payment including adjustment of a demand in full.

(3) The liability to pay interest under the provisions of this section shall also arise for a period which is less than a month.

## Section 59. Penalty for not making application for registration

Where any person has without reasonable cause failed to make an application to get himself registered as required under the provisions of this Act, within the time specified in the Act or prescribed in the rules, the Assistant Commissioner, the Commercial Taxes Officer or any other officer having jurisdiction, as the case may be, may direct that such person shall pay by way of penalty in addition to the fee payable him, a sum not exceeding once thousand rupees.

## Section 60. Penalty for not furnishing security or additional security

Where a dealer carries on business without furnishing the security or the additional security as directed to be furnished under section 23, the authority competent to grant registration or the assessing authority, as the case may be, may direct that such person shall pay by way of penalty, a sum not exceeding Rs. 2000 and in the case of a continuing default, a further penalty of Rs. 25 for every day of such continuance.

## Section 61. Penalty for failure to furnish return

Where the assessing authority is satisfied that any dealer has without reasonable cause failed to furnish a return under section 26 within the time allowed, he may direct that such dealer shall

pay, in addition to the amount of tax payable by him, –

(a) where tax is required to be paid every month under section 25, a penalty of rupees ten per day for the period during which the default in furnishing of such return continues, but not exceeding in the aggregate twenty per cent of the tax so assessed; and

(b) in all other cases, a penalty of rupees five per day subject to a maximum limit of rupees five hundred, for the period during which the default in furnishing of such return continues.

## Section 62. Penalty for not maintaining or keeping accounts

Where any dealer does not maintain accounts, registers and documents as required under the provision of sub-sections (1) and (2) of section 75, or does not keep his accounts, registers and documents at a place in accordance with the provisions of sub-sections (3) and (4) of section 75, the assessing authority or any other officer not below the rank of Assistant Commercial Taxes Officer as authorised by the Commissioner may direct that such person shall pay by way of penalty a sum not exceeding Rs. 5000 and in case of continuing default, a further penalty of fifty rupees for every day of such continuance.

## Section 63. Penalty for unauthorised collection of tax

Where any person –

(a) not being a dealer liable to pay tax under this Act, collects any amount by way of tax; or

(b) being a registered dealer, collects any amounts by way of tax in excess of the tax payable by him; or

(c) otherwise collects tax in contravention of any of the provisions of the Act including section 14,

the Assistant Commissioner or the Commercial Taxes Officer having jurisdiction or the assessing authority as the case may be, shall forfeit the amount collected as tax or by way of tax, and may direct that such person shall pay by way of penalty a sum equal to double of such amount.

## Section 64. Penalty for violation of declaration

Where any dealer uses any declaration form against the provisions of the Act or the rules made thereunder, or after having purchased any goods, other than the goods purchased under section 10, in respect of which he has made declaration under the provisions of this Act or the rules made thereunder, fails without reasonable cause to use or dispose of the goods in accordance with the declared purpose, the assessing authority may direct that such person shall pay by way of penalty in addition to the tax payable under sub-section (2) of section 11, a sum equal to double the amount of tax to the extent to which it was not required to be paid by such dealer on the strength of the declaration forms furnished by him.

## Section 65. Penalty for avoidance or evasion of tax

Where any dealer, whether or not registered, has concealed any particulars from any return furnished by him or has deliberately furnished inaccurate particulars therein or has concealed any transaction of sale or purchase from his accounts, registers and documents required to be maintained under this Act or has avoided or evaded tax in any other manner, the assessing authority may direct that such dealer shall pay by way of penalty, in addition to the tax payable by him under law, a sum equal to double the amount of tax avoided or evaded.

## Section 66. Penalty for not furnishing statistics

Where any dealer or a person, has without reasonable cause failed to furnish within the time allowed, statistics or other information required to be furnished in pursuance of any direction given by any officer or authority appointed or constituted under this Act, the Assistant Commissioner or the Commercial Taxes Officer having jurisdiction or the assessing authority, as the case may be, may direct that such person or dealer shall pay by way of penalty, a sum not exceeding one thousand rupees.

## Section 67. Penalty on awarders

(1) Where an awarder of a works contract fails to deduct the amount in lieu of tax from the bill of a contractor as prescribed, or after having deducted such amount from such bill does not deposit the same in the prescribed manner and time, he shall be liable to pay tax deducted by him and a penalty for each violation, which may extend up to Rs. 1000 in the case of non-deduction, and a penalty at the rate of two per cent per month on the amount so deducted but not deposited for the period during which such default continues.

(2) The assessing authority of the contractor concerned shall be empowered to recover tax and to impose penalty under sub-section (1).

## Section 68. Penalty for other violations

Where any dealer or a person fails to comply with a direction given by any officer or authority appointed or constituted under this Act, or violates any of the provisions of this Act or the rules, for which no specific penalty has been provided elsewhere under the Act or the rules, the

assessing authority or any other officer not below the rank of Assistant Commercial Taxes Officer as authorised by the Commissioner, may direct that such person shall pay by way of penalty, a sum not exceeding Rs. 2000 and in the case of continuing default, a further penalty of Rs. 25 for every day of such continuance.

## Section 69. Opportunity before imposition of penalty

No penalty under this Act shall be imposed unless a reasonable opportunity of being heard is afforded to the dealer or the person concerned.

## Section 70. The limit for imposition of penalty or levy of interest

(1) No order for imposing penalty shall be passed –

(a) after expiry of two years from the end of the year in which the relevant assessment, reassessment or rectification order is passed; and

(b) if the assessment, reassessment or rectification order is the subject-matter of appeal, revision or other proceeding, after expiry of two years, from the end of the years in which the order in appeal, revision or other proceeding is passed.

(2)

(a) Subject to the provisions in clause (b) of this sub-section, no order for levy of interest shall be passed –

(i) after expiry of two years from the end of the year in which relevant assessment, reassessment or rectification order is passed; and

(ii) if the assessment, reassessment or rectification order is the subject matter of appeal, revision or other proceeding, after expiry of two years from the end of the year in which the order in appeal, revision or other proceeding is passed.

(b) No order for levy of interest in the case of recovery of a demand shall be passed after expiry of two years from the end of the year in which such demand in full is recovered or adjusted or partly recovered and partly adjusted.

Explanation : In computing the period of limitation under this section, the period during which the proceeding for imposition of penalty or levy of interest remains stayed or restrained under the orders of any competent authority or court, shall be excluded.

## Section 71. Prosecution under the act

(1) Where any person –

(a) though not registered under the Act, yet falsely represents that he is registered dealer at the time of any sale or purchase made by him or at the time of making any statement or declaration before any officer or authority appointed or constituted under the Act; or

(b) knowingly prepares or produced false accounts, registers or documents, or knowingly furnishes false returns in relation to his business, or makes a false disclosure or averment in any

statement required to be recorded or in any declaration required to be filled under this Act or the rules, or

(c) fraudulently avoids or evades tax or deliberately conceals his tax liability in any manner, or

(d) fails to pay the amount of any demand notice and a period of not less than six months has elapsed since the receipt of the demand notice by him; or

Explanation : An offence under this clause shall be deemed to be a continuing offence until full payment is made.

(e) deliberately disregards a notice issued under section 53; or

(f) prevents or obstructs in any manner the competent officer under the Act, to enter, inspect and search the business place or any other place where the goods or the accounts, registers and documents are believed to be kept, or prevents or obstructs such officer to seize the goods or the accounts, registers and documents; or

(g) fails to stop the vehicle or carrier transporting the goods, of which he is the driver or otherwise in charge, for being inspected in accordance with the provisions of this Act, or prevents or obstructs the inspection of the goods, or the vehicle or the carrier transporting the goods, by the in charge of a checkpost or other officer empowered in this behalf to discharge his duties; or

(h) imports into or exports from, the State of Rajasthan, any goods showing incorrect or fictitious names or addresses of consignors or consignees or incorrect details of goods or incorrect particulars in vouchers or way bills or goods receipt or other documents accompanying the goods while in movement, or

(i) aids or abets any person in the communication of any such offence as aforesaid;

on a complaint being made against such person by the assessing authority or any other competent officer after having obtained sanction from the Deputy Commissioner (Administration) having jurisdiction, he shall, on conviction by a Judicial Magistrate having jurisdiction, be punishable with simple imprisonment for a term which may extend to six months and with fine not exceeding rupees five thousand, and for the offences covered under clauses (b), (c), (f) or (g) with a minimum sentence of simple imprisonment of three months.

(2) Where an offence under this section is committed with regard to a business, every person, who was responsible for the conduct of the business at the time when the offence was committed or who was answerable for a legal lapse in any manner by his action or omission, shall be liable to be proceeded against and punished under this section.

(3) Where an offence under this section is committed with regard to a business, every person, who was responsible for the conduct of the business at the time when the offence was committed or who was answerable for a legal lapse in any manner by his action or omission, shall be liable to be proceeded against and punished under this section.

(4) Any proceeding under this Act including the proceeding of assessment, reassessment, rectification or recovery other than the proceeding for imposition of penalty, shall be carried on without prejudice to any prosecution under this section.

## Section 72. Composition of offences



(1) Where a person is charged under this Act with the offence of avoidance or evasion of tax in any manner and at any time, or with the offence of misuse of declaration forms, he may make an application on plain paper to the Deputy Commissioner (Administration) having jurisdiction, admitting his offence and making request therein for composition of the offence in lieu of penalty or prosecution.

(2) The Deputy Commissioner (Administration), whether or not an assessment order under any section of the Act has been passed, may accept from the person who made the application under sub-section (1), by way of composition of the offence in lieu of penalty or prosecution –

(i) a sum equal to the amount of tax avoided or evaded in any manner and at any time; and

(ii) a sum equal to the tax payable but not required to be paid on account of the use of the declaration forms.

(3) Notwithstanding anything contained in sub-sections (1) and (2) on an application by a person admitting the offence committed by him under sub-section (8) of section 77 or sub-section (5) or (6) of section 78, the assessing authority, the officer authorised under sub-section (4) of section 77, the officer empowered under sub-section (3) of section 78 of the in charge of a checkpoint, as the case may be, may accept composition money from such person in lieu of penalty or prosecution, which shall be equal to the amount of four times of the tax leviable on the goods involved or twenty five per cent of the value of such goods, whichever is less.

(4) The composition of offence in lieu of penalty or prosecution under this section shall be without prejudice to the liability of the person charged with the offence, to pay tax with interest under this Act.

(5) On the payment of the amount of composition determined under sub-section (1) no further proceeding under the provisions of this Act for imposition of penalty or launching or prosecution for the same offence, shall be initiated.

(6) Notwithstanding anything contained in section 84, no appeal shall lie or subsist against an order of composition made under the Act.

(7) Notwithstanding anything contained in section 54, no amount of composition accepted and no amount of interest levied under this section, shall be waived or reduced by the Commissioner.

## Section 73. Penalty or composition under the act not to interfere with punishment under other law

Any penalty, proceeding under this Act whether pending or completed or any composition of offence in lieu of penalty or prosecution, shall not prevent the infliction of any punishment to which the person affected thereby is liable under any other law.

## Section 74. Investigation of offences

(1) Subject to such conditions as may be prescribed, the Commissioner may authorise either generally or in respect of a particular case or class of cases, any officer not below the rank of an Assistant Commercial Taxes Officer to investigate all or any of the offences punishable under this Act.

(2) Every officer so authorised shall, in the conduct of such investigation, exercise the powers conferred by the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) upon the officer in

charge of a police station for the investigation of a cognizable offence.

## Section 75. Accounts to be maintained by a dealer

(1) Every dealer liable to pay tax under this Act shall keep and maintain a true and correct account of his business activities in an intelligible form including the value and quantity of the goods received, manufactured, sold or otherwise disposed of or held in stock by him.

(2) Every manufacturer liable to pay tax under this Act shall, in addition to accounts referred to in sub-section (1), maintain a stock book of raw materials used and finished goods produced.

(3) The accounts required to be maintained under sub-section (1) shall be kept by the dealer at the place (s) of business as recorded in his certificate of registration, and the stock book as referred to in sub-section (2) shall be kept at the place where manufacturing activity is carried on, however final accounts, annual statement, registers and documents shall be kept at principal place of business.

(4) Where a dealer has established branches at places in the State other than the principal place of business, the necessary accounts, registers and documents relating to the business activities being carried on at each branch shall, without prejudice to the provisions of sub-section (3), be kept by him at such branch.

(5) The accounts, registers and documents, relating to a year shall be preserved and kept by a dealer for six years excluding the year to which they relate, and this period of six years shall be deemed extended by such time until any pending proceeding referring thereto under the Act is finally disposed of.

## Section 76. Certain dealers to issue bill or cash memorandum

(1) Every dealer who is liable to pay tax under this Act and whose turnover exceeds rupees two lacs in any year shall, for each sale of goods exceeding rupees fifty in value made by him in the succeeding years, issue to the purchaser, a bill or a cash memorandum signed and dated by such dealer or his manager, agent or servant showing such particulars as may be prescribed, and a counterfoil or duplicate of such bill or cash memorandum shall be kept by him.

(2) Notwithstanding anything contained in sub-section (1), where a dealer deals exclusively in goods not liable to tax, he shall not be required to issue a bill or cash memorandum.

(3) Where any dealer, who deals in any goods liable to tax and to whom sub-section (1) applies, contravenes the provisions of the said sub-section the assessing authority may, after giving such dealer a reasonable opportunity of being heard, direct him to pay by way of penalty a sum equal to double the amount of tax leviable on sale in respect of which a bill or cash memorandum has not been issued, or rupees fifty, whichever is higher.

Rajasthan Sales Tax Act, 1994

## Section 77. Power of entry, inspection and seizure of accounts and goods

(1) An assessing authority or any officer not below the rank of Inspector, Commercial Taxes Department authorised by the Commissioner in this behalf with such conditions and restrictions as may be specified by such Commissioner, shall have the power –

- (a) to inspect or survey the place of business of a dealer or any other place where it is believed by such authority or officer that business is being done or accounts are being kept by such dealer;
- (b) to direct such dealer to produce accounts, registers and documents relating to his business activities for examination;
- (c) to inspect the goods in the possession of the dealer or in the possession of anybody else on behalf of such dealer, wherever such goods are placed;
- (d) to make search of such places including the search of the person found there, where concealment of facts relating to business is suspected;
- (e) to break open the door of any premises or to break open any almirah, box, receptacle in which any goods, accounts, registers or documents of the dealer are suspected to be concealed, where access to such premises, almirah, box or receptacle is denied;
- (f) to record the statement of the dealer or his manager, agent or servant or to take extracts from the record and to put identification marks on accounts, registers or documents and on any door, almirah, box or receptacle.

Explanation : There shall be presumption in respect of goods, accounts, registers or documents, which are found at any place of business of a dealer during any inspection or search that they relate to his business unless the contrary is proved by him.

(2) The power under clauses (d) and (e) of sub-section (1) shall be exercised by the Inspector in the presence of an authority not below the rank of Assistant Commercial Taxes Officer.

(3) Where any accounts, registers or documents are produced before any assessing authority or any officer not below the rank of Assistant Commercial Taxes Officer in any proceeding under the Act, such authority or officer may, for reasons to be recorded in writing, impound and retain them in its custody for a period not exceeding six months, and shall give the dealer or any other person who has produced such accounts, registers or documents a receipt of the same, and the dealer may obtain copy of such accounts, registers or documents on payment of copying fee as may be prescribed.

(4) Where at the time of inspection, the assessing authority or any officer not below the rank of Assistant Commercial Taxes Officer authorised by the Commissioner in this behalf has reason to suspect that the dealer is attempting to avoid or evade tax or is concealing his tax liability in any manner, it may, for reasons to be recorded in writing seize such accounts, registers or documents of the dealer as it may consider necessary and shall give the dealer or any other person from whose custody such accounts, registers or documents are seized a receipt for the same, and may retain the same in its custody for examination, enquiry, prosecution or other legal action for a period not exceeding six months, and the dealer may obtain copy of such accounts, registers or documents on payment of copying fee as may be prescribed.

(5) The accounts, registers or documents impounded under sub-section (4) or seized under sub-section (3) could not be retained even beyond a period of six months and up to a maximum period of two years from the date of impounding or seizure, as the case may be, by such authority or officer, after having obtained permission in writing of the Commissioner or the Deputy Commissioner (Administration) authorised by the Commissioner.

(6) The assessing authority or any other officer not below the rank of Assistant Commercial Taxes Officer authorised by the Commissioner under sub-section (4) may seize any goods liable to tax which are found in the possession of a dealer or in the possession of anybody else on

behalf of such dealer and which are not accounted for in his accounts, registers or documents maintained in the course of his business; and a list of goods so seized shall be prepared by such authority or officer and a copy thereof shall be given to the dealer or any other person from whose custody such good are seized.

(7) Where it is not feasible to seize the accounts, registers or documents under sub-section (4) or the goods under sub-section (6) the assessing authority or the officer concerned may serve on the owner or the person who is in immediate possession or certrol there of an order that he shall not remove, part with or otherwise deal with them except with the previous permission of such authority or officer which may, after serving such order, take such steps as may be deemed necessary under the circumstances.

(8) The assessing authority or the officer referred to in sub-section (6) may, after having given the dealer an opportunity of being heard and after having held such further enquiry as it may consider fit, impose on him, for the possession of goods not accounted for, whether seized or not under subs-section (6) a penalty equal to the amount of five times of the tax leviable on such goods or thirty per cent of the value of such goods, whichever is less; and such authority or officer may release the goods, if seized, on payment of the penalty imposed or on furnishing such security for the payment thereof as it may consider necessary.

(9) The assessing authority or other officer as referred to in sub-section (6) may, require any person –

(a) who transports or holds in custody any goods of a dealer, to give any information in his possession in respect of such goods or to allow inspection thereof, as the case may be; and

(b) who maintains or has in his possession any accounts, registers or documents relating to the business of a dealer, to produce such accounts, registers or documents for inspection.

## Section 78. Establishment of checkpoint and inspection of goods while in movement

(1) The Commissioner may, with a view to prevent or check avoidance or evasion of tax, by notification in the Official Gazette, direct the setting up of a checkpoint at such place and for such period as may be specified in the notification, and every officer or official who exercises his powers and discharges his duties at such checkpoint by way of inspection of documents produced and goods being moved, shall be its in charge.

(2) The driver or the person in charge of a vehicle or carrier of goods in movement shall –

(a) carry with him a goods vehicle record including "challans" and "bilties", bills of sale or despatch memos and prescribed declaration forms;

(b) stop the vehicle or carrier at every checkpoint set up under sub-section (1);

(c) produce all the documents including prescribed declaration forms relating to the goods before the in charge of the checkpoint;

(d) give all the information in his possession relating to the goods; and

(e) allow the inspection of the goods by the in charge of the check post or any other person authorised by such in charge.

Explanation : For the purposes of this Chapter –

(i) "vehicle or carrier" shall include any means of transportation including an animal to carry goods from one point to another point;

(ii) "goods" shall include animals also, and

(iii) "goods in movement" shall means –

(a) the goods which are in the possession or control of a transporting agency or person or other such bailee;

(b) the goods which are being carried in a vehicle or carrier belonging to the owner of such goods; and

(c) the goods which are being carried by a person.

(3) Where any goods are in movement within the territory of the State of Rajasthan, 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 the provisions of sub-section (2) shall mutatis mutandis apply.

(4) Where any goods in movement, other than exempted goods, are without documents, or are not supported by documents as referred to in sub-section (2), or documents produced appear false or forged, the in charge of the checkpost 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;

(b) seize the goods for reasons to be recorded in writing and shall give receipt of the goods to the person from whose possession or control they are seized;

(c) release the goods seized in clause (b) to the owner of the goods or to anybody else duly authorised by such owner, during the course of the proceeding if the adequate security of the amount equal to the estimated value of the goods is furnished.

(5) The in-charge of the checkpost 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 on his 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 declaration, a penalty equal to <sup>1</sup>[thirty percent of the value of such goods].

(6) During the pendency of the proceeding under sub-section (5), if anybody appears before the in-charge of the checkpost or the officer empowered under sub-section (3) and prays for being impleaded as a party to the case on the ground of involvement of his interest therein, the said in-charge or the officer on being satisfied may permit him to be impleaded as a party to the cases; and thereafter, all the provisions of this section shall mutatis mutandis apply to him.

(7) The in-charge of the checkpost or the officer empowered under sub-section (3) may release the goods to the owner of the goods or to anybody else duly authorised by such owner, if seized and not already released under clause (c) of sub-section (4), on payment of the penalty imposed under sub-section (5) or on furnishing such security for the payment thereof, as such in-charge or officer may consider necessary.

(8) Where the driver or the 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 (10), the in-charge of the checkpost or the officer empowered under sub-section (3) may detain such vehicle or carrier and after 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 in sub-section (5).

(9) The in-charge of the checkpost or the officer empowered under sub-section (3) may release the vehicle or the carrier on the payment of the amount of penalty imposed under sub-section (8) or on furnishing such security as may be directed by such in-charge or officer.

(10) Where a transporter, while transporting goods, is found to be in collusion with trader to avoid or evade tax, the 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 and with the prior approval in writing of the Deputy Commissioner (Administration) having jurisdiction, may confiscate such vehicle or carrier.

<sup>2</sup>[(11) If a transporter fails to give information as required from him under clause (d) of sub-section (2) about the consignor, consignee or the goods within such time as may be specified or transports the goods with forged documents, besides imposing the penalty under sub-section (5), it shall be presumed that the goods so transported have been sold in the State of Rajasthan by him and he shall be deemed to be a dealer for those goods under this Act.

(12) The provisions of this Act shall, for the purpose of levy, collection and assessment of tax, determination of interest, payment and recovery of tax and interest, appeal, review or revision, apply to the transporter deemed to be a dealer under sub-section (11)].

## Section 79. Establishment of checkpost on contract basis

(1) Where the Commissioner is of the view that without establishing a departmental checkpost, it is in the interest of the State to collect a fixed sum of a tax on contract basis, in respect of all kinds of building stones, marble and granite in all their forms, gitti, bazri and animals at a particular point or for a specified area, he may through a contract, permit a contractor to collect such tax at such point or for such area, on such terms and conditions as may be specified by him, for a period not exceeding two years at a time.

(2) A contractor covered by sub-section (1) shall deposit the fixed amount of tax subject to revision on account of any increase or decrease in the rate of tax or grant of exemption from tax, in such manner and within such time as may be fixed by the Commissioner, and all the provisions of this Act including the provisions of recovery and interest shall, so far as may be, apply to such contractor.

(3) Where the period of a contract entered into sub-section (1) expires and no further contract is awarded, the same contract may be extended for a further period of three months or up to the date of the award of the next contract, whichever is earlier, and the contractor shall accordingly deposit the proportionate amount of tax for such extended period, as directed by the Commissioner.

(4) The contractor shall not collect tax on the goods under sub-section (1) exceeding the amount of tax leviable thereon under the provisions of the Act.

(5) Where a contractor violates the provisions of sub-section (4), the Commissioner or any officer not below the rank of Assistant Commercial Taxes Officer authorised by the Commissioner, shall after affording an opportunity of being heard, direct that such contractor

shall pay by way or penalty, in addition to the amount of excess tax collected, a sum equal to double the amount of excess tax collected by him or any other person on his behalf.

(6) Where a contractor violates any of the terms or conditions of the contract, the Commissioner may, after recording reasons in writing, terminate the contract at any time and shall be empowered to recover the full amount of tax as stipulated under the contract from such contractor, as if such amount was a demand of tax under the Act.

## Section 80. Transit of goods by road through the state and issue of transit pass

(1) Where a vehicle or carrier coming from any place outside the State and bound for any place outside the State and carrying any goods bound for any place outside the State, passes through the State, the owner, the driver or the Person-in-Charge of such vehicle or carrier or goods shall obtain in the prescribed manner a transit pass for such goods from the in-charge of the first checkpost after his entry into the State and deliver it to the in-charge of the last checkpost before his exit from the State.

(2) Where such owner, driver or Person-in-Charge fails to deliver such transit pass in respect of any goods in accordance with the provisions of sub-section (1) or is found to have suppressed or give false particulars of any consignment of goods in his application for issue of transit pass, it shall be presumed that such goods have been sold within the State by the owner, the driver or the Person-in-Charge of the vehicle or the carrier of the goods and after having afforded an opportunity of being heard of such owner, driver or person-in-Charge, any officer not below the rank of Assistant Commercial Taxes Officer as may be authorised by the Commissioner, shall make an order that notwithstanding anything contained in this Act, such owner, driver or Person-in-Charge shall, pay tax on such sale together with the penalty equal to double the amount of such tax.

(3) The system or transit pass as provided in sub-sections (1) and (2) shall come into force from such date and at such checkpost as may be notified by the Commissioner from time to time.

## Section 81. Import of goods into the state or export of goods outside the state

(1) Any registered dealer or any other person, who intends to import or bring any goods, or otherwise receives, goods as may be notified by the State Government from outside the State, for sale, use, consumption or for other disposal in the State, shall, unless otherwise prescribed, obtain a prescribed declaration form from the prescribed authority, and shall cause it to be carried with the goods as part of the documents specified in sub-section (2) of section 78 and produced along with other documents before the in-charge of the entry checkpost of the State.

(2) Any registered dealer or any other person by whom any goods taxable within the State of Rajasthan are despatched from within the State to a place outside the State either in the course of inter-State trade or commerce or for sale outside the State, such registered dealer or other person shall, unless otherwise prescribed, furnish or cause to be furnished a prescribed, declaration form obtained from the prescribed authority as part of the documents specified in sub-section (2) of section 78, before the in-charge of the exit checkpost of the State.

## Section 82. Liability to obtain licence and furnish information by certain agents

(1) A clearing or forwarding agent who in the course of his business renders his service for booking or taking delivery of any consignment of goods liable to tax or handles any document of title relating to goods liable to tax, shall obtain a licence from the Assistant Commissioner or the Commercial Taxes Officer, as the case may be, in whose territorial jurisdiction he conducts his business, in such form and manner and subject to such conditions as may be prescribed.

(2) Every such clearing or forwarding agent shall furnish to the Assistant Commissioner or the Commercial Taxes Officer, as the case may be, such particulars and information in such form and manner as may be prescribed.

(3) Where any clearing or forwarding agent violates any of the provisions of sub-section (1) or sub-section (2), the Assistant Commissioner or the Commercial Taxes Officer, as the case may be, may, after affording a reasonable opportunity of being heard, direct him to pay an amount way of penalty –

(a) in case of violation of provision of sub-section (1), not more than Rs. 2000 and not less than Rs. 1000; and

(b) in case of violation of provisions of sub-section (2), equal to the amount of tax leviable at the full rate on the value of the goods in respect of which violations has been made.

## Section 83. Special provisions relating to under-billing

(1) The Commissioner may permit or authorise any officer not below the rank of an Assistant Commercial Taxes Officer, to purchase any goods in the prescribed manner from a dealer at the price equal to the value shown in his purchase bill or sale bill increased by ten per-cent where such officer has reason to believe that the value shown in the sale or purchase bill is less than the fair market price of such goods. The dealer shall also be reimbursed the octroi and the transportation charges actually incurred.

(2) The dealer, on being directed in purchase of sub-section (1), shall be bound to sell the goods to the officer so permitted or authorised and if he refuses, fails or does not deliver the goods within the time mentioned in the direction given to him, he shall be liable to penalty, which shall be equal to the amount of difference between the fair market price of such goods in the opinion of such officer and the price offered to the dealer for purchase of such goods.

(3) The dealer shall be afforded a reasonable opportunity of being heard before imposition of penalty under sub-section (2).

## Section 84. Appeal to the appellate authority

(1) Subject to the provisions of section 88, an appeal against any order of an Assistant Commissioner, a Commercial Taxes Officer, an Assistant Commercial Taxes Officer or in charge of a checkpost shall lie to the appellate authority.

(2) The appeal shall be presented within sixty days of the date on which the order sought to be appealed against is communicated; but the appellate authority may admit an appeal even after the said period of sixty days if it satisfied that the appellant had sufficient cause for not preferring the appeal within the said period.

(3) Notwithstanding anything contained in sub-section (4) of section 42, no appeal under this section shall be entertained unless it is accompanied by satisfactory proof of the payment of tax or other amounts admitted by the appellant to be due from him or of such instalment thereof as might have become payable, or twenty per cent of the tax or other amounts assessed,



whichever is higher, but the appellate authority may, for reasons to be recorded in writing waive or relax the requirement of depositing of twenty per cent of the amount of disputed demand.

(4) Notwithstanding that an appeal has been preferred to the appellate authority, the tax or other sum shall, subject to the provisions contained in sub-sections (4) and (5) of section 42, be paid in accordance with the order against which an appeal has been preferred.

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

(6) The following shall have the right to be heard at the hearing of the appeal –

(a) the appellant, either in person or by the authorised representative;

(b) the authority or officer against whose order the appeal has been preferred either in person or by a representative.

(7) The appellate authority may, before disposing of any appeal make such further enquiry as it thinks fit, or may direct that assessing authority or the officer against whose order appeal has been preferred to make further enquiry and report the result of the same to the appellate authority and in disposing of the appeal the said authority may –

(a) In the case of an order of assessment, interest or penalty –

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

(ii) set aside the order of assessment, interest or penalty and direct the assessing authority to pass fresh order after such further enquiry as may be directed; and

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

(8) The appellate authority shall send a copy of the order passed by it to the appellant, the assessing authority, the Deputy Commissioner (Administration) concerned and the Commissioner.

## Section 85. Appeal to the tax board

(1) An appeal shall lie to the Tax Board against –

(a) an order of the State Level Screening Committee or the Direct Level Screening Committee passed under the Incentive Schemes of Deferment Schemes notified under sub-section (2) of section 15 or under sub-section (3) of section 25;

(b) an order passed by the Commissioner with regard to determination of a disputed question under section 40 or in any proceeding in exercise of his revisional powers under section 87;

(bb) an order passed by the Commissioner or a Deputy Commissioner (Administration) under sub-section (2) of Section 30; and

(c) an order passed by an appellate authority.

(2) Any person aggrieved by any order referred to in clauses (a), (b) and (c) of sub-section (1), may file an appeal before the Tax Board within ninety days of the date on which the order sought to be appealed against is communicated to him in writing.

(3) Notwithstanding anything contained in sub-section (2) the Commissioner or a Deputy Commissioner (Administration) authorised specially or generally by the Commissioner may, if aggrieved by any order referred to in clauses (a), (b) and (c) of sub-section (1), direct any officer or in-charge of a checkpost to file an appeal before the Tax Board and such officer or in-charge shall file such appeal under his signatures within one hundred and eighty days of the date on which the order sought to be appealed against is communicated in writing to the Commissioner or the Deputy Commissioner.

(4) If an appeal is filed by a dealer under clause (a) of sub-section (1) against an order of refusal of the benefit of exemption from tax or deferment of tax, the Commissioner shall be a necessary party as respondent.

(5) The respondent may, on receipt of notice that an appeal against an order referred to in sub-section (1) has been preferred by the appellant, notwithstanding that he may not have appealed against such order, within one hundred and twenty days in the case of an officer of the Commercial Taxes Department and within sixty days in the case of a dealer, of receipt of the notice, file a memorandum of cross-objections verified in the prescribed manner, against any part of the said referred order and such memorandum shall be disposed of by the Tax Board as if it were an appeal within the time specified in sub-section (2) or (3).

(6) The Tax Board may admit an appeal or permit the filing of memorandum of cross-objections after the expiry of the limitation provided in subsections (2), (3) and (5), if it is satisfied that there was sufficient cause for not presenting the same within that limitation.

(7) An appeal to the Tax Board shall be made in the prescribed form and shall be verified in the prescribed manner.

(8) The Tax Board during the pendency of an appeal before it, shall not stay any proceeding but it may, on an application in writing from the dealer, stay the recovery of the disputed amount of tax, fee, interest or penalty or any part thereof on the condition of furnishing adequate security to the satisfaction of the assessing authority; and the amount found ultimately due shall be subject to interest from the date it became first due, in accordance with the provisions of this Act.

(9) Notwithstanding that an appeal against an order has been preferred to the Tax Board of tax, fee, interest or penalty shall be paid in accordance with the order against which appeal has been preferred, unless recovery of such tax, fee, interest or penalty has been stayed by the Tax Board.

(10) The Tax Board shall, with the previous sanction of the State Government, make by notification in the Official Gazette, regulations consistent with the provisions of this Act and the rules made thereunder for regulating its own procedure and the procedure of the benches thereof in the matters arising out of the exercise of its powers or the discharge of its functions; however, until the regulations are made, the Tax Board shall, subject to the provisions of this Act and the rules made thereunder, have power to regulate its own procedure and the procedure of the benches thereof in all matters arising out of the exercise of its powers and discharge of its functions.

(11) The Tax Board shall, after giving both the parties to the appeal an opportunity of being heard, pass such order thereon as it thinks fit and send a copy thereof to the appellant, the assessing authority, the authority whose order was appealed against and the Commissioner.

## Section 86. Revision to the high court

(1) Any dealer aggrieved by an order passed by the Tax Board under sub-section (11) of section 85 or under sub-section (1) of section 37, may, within, ninety days from the date of service of such order, apply to the High Court in the prescribed form accompanied by the prescribed fee, for revision of such order on the ground that it involves a question of law.

(2) The Commissioner may, if he feels aggrieved by any order passed by the Tax Board under sub-section (11) of section 85, direct, any officer or in-charge of a checkpost to apply to the High Court for revision of such order on the ground that it involves a question of law; and such officer or in-charge of a checkpost shall make the application to the High Court within one hundred and eighty days of the date on which the order sought to be revised is communicated in writing to the Commissioner.

(3) The application for revision under sub-section (1) of sub-section (2) shall state the question of law involved in the order sought to be revised, and the High Court may formulate the question of law in any form or allow any other question of law to be raised.

(4) The High Court shall after hearing the parties to the revision, decide the question of law stated to it or formulated by it, and shall thereupon pass such order as is necessary to dispose of the case.

(5) Any person feeling aggrieved by an order passed under sub-section (4) may apply for a review of the order to the High Court and the High Court may make such order thereon as it thinks fit.

## Section 87. Revision by the commissioner

(1) The Commissioner may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by Assistant Commissioner, Commercial Taxes Officer, Assistant Commercial Taxes Officer or in-charge of a checkpost is erroneous and is prejudicial to the interests of the State revenue, he may, after having made or after having caused to be made, such enquiry as he considers necessary, and after having given to the dealer a reasonable opportunity of being heard, pass such order or issue such direction as he deems proper under the circumstances of the case.

(2) No order or direction under sub-section (1) shall be passed or issued by the Commissioner if a period of five years has already elapsed from the date on which the order sought to be revised was passed.

### Section 88. No appeal or revision in certain cases

Notwithstanding anything contained in sections 84, 85 and 86, no appeal or revision shall lie against –

(a) a notice or summons issued under this Act for the purpose of assessment or for any other purpose including for recording statements; or

(b) a direction to maintain certain accounts or furnish certain information, statement, statistics or return; or

(c) an order for impounding, seizure or retention of accounts, re-registers or documents; or

(d) an interim order other than an order of provisional assessment, passed in assessment or other proceeding subject however it will be open to the party aggrieved to challenge such interim order in any appeal or revision preferred against the final order; or

(e) any guidelines formulated, instructions issued, directions given or orders passed by the Commissioner under section 93 of the Act.

## Section 89. Persons appointed under act to be public servants

All the officers and officials, with whatever designation, appointed or posted to discharge a duty under the Act, including the members of Tax Board shall be deemed to be public servants within in the meaning of section 21 of the Indian Penal Code (Central Act XLV of 1860).

## Section 90. Constitution of the Rajasthan tax board

(1) The State Government shall constitute the Rajasthan Tax Board for the State consisting of the Chairman and as many members as it thinks fit, to exercise the powers and to discharge the duties conferred on the said Tax Board by this Act or any other law.

(2) The Tax Board shall, subject to any direction given by the State Government, sit at such place or places as it may deem fit.

(3) The State Government shall prescribe the qualifications of persons who shall be eligible for appointment as Chairman and member of the Tax Board the method of their selection for appointment and conditions of their service.

(4) The constitution of the Tax Board shall not be deemed to be invalid if any vacancy occurs or continues on accounts of death, resignation, retirement, transfer expiry or termination of the appointment, or due to temporary absence of the Chairman or of any member.

## Section 91. Indemnity

No suit, prosecution or other legal proceeding shall lie against any officer or employee of the State Government for anything which is done or intended to be done under this Act or the rules made thereunder in good faith.

## Section 92. Bar to proceedings except as provided in the act

No assessment made and no order passed by any officer appointed or authority constituted under the Act shall be called into question, except as provided in this Act.

## Section 93. General powers of the commissioner

(1) Subject to the provisions of this Act and the rules made thereunder, the Commissioner shall be empowered to formulate guidelines or issue administrative instructions, in particular or in general, for carrying out the purposes of the Act and the rules.

(2) For the purposes of the official use, the Commissioner may, by notice in any newspaper, or in such other manner as he deems proper call upon all dealers or any class of dealers to furnish such information, statement or return as may be specified in the notice issued in this behalf.

## Section 94. Power to enforce evidence

Any officer not below the rank of Assistant Commercial Taxes Officer or appellate authority or the Tax Board while exercising powers or discharging duties under any of the provisions of this

Act, shall have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (Central Act V of 1908) when trying a suit, in respect of the following matters arising in any proceeding under the Act, namely –

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

and the proceeding before the said officer or authority shall be deemed to be a judicial proceeding within the meaning of sections 193, 196 and 228 of the Indian Penal Code (Central Act XLV of 1860).

## Section 95. Power to seek assistance from police officer or other officer

An officer exercising the powers under sections 77 and 78 may take the assistance of any police officer or other officer or the other officer shall render necessary help in accordance with law.

## Section 96. Disclosure of information relating to an assessee

(1) Where any information about the registration, returns and assessment or matters incidental thereto, of a dealer is required

- (a) by a court in connection with any proceeding before it; or
- (b) by a police office in connection with any investigation of a case; or
- (c) by any government department for any official purpose; the assessing authority may furnish the information under his possession to such court, police officer or government department.

(2) Where any information as referred to in sub-section (1) is required by a person other than a court, a police officer or a government department, such person shall make an application to the Commissioner in the prescribed form and on payment of a prescribed fee, and the Commissioner may after he is satisfied that there are no considerations justifying its refusal, furnish or cause to be furnished the information to the applicant.

## Section 97. Court fee payable under the act

(1) Notwithstanding anything contained in any other law for the time being in force, all applications, appeals and other proceedings under this Act shall require court fee stamps of such value as may be prescribed.

(2) The State Government shall be exempt from court fee leviable under this Act and the rules made thereunder.

## Section 98. Power to remove difficulties

(1) Where any difficulty arise in giving effect to the provisions of this Act, the State Government may, by notification makes such orders not inconsistent with this Act, as may appear to be necessary or expedient for removing the difficulty.

(2) No order under sub-section (1) shall be made after the expiration of three years from the date of commencement of this Act.

Every order made under sub-section (1) shall be laid before the House of the State Legislature.

## Section 99. Power to make rules

(1) The State Government, may by notification in the Official Gazette make rules for carrying out the purposes of this Act.

(2) All rules made under this Act, shall be laid as soon as may be after they are so made, before the House of the State Legislature, while it is in session, for a period of not less than fourteen days which may be comprised in one session or in two successive sessions and if before the expiry of the session in which they are so laid or in the session immediately following, the House of the State Legislature makes any modification in any of such rules or resolves that any such rules should not be made, such rules shall thereafter have effect only in such modified form or be of no effect as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done there under.

## Section 100. Repeal and saving

(1) The Rajasthan Sales Tax Act, 1994 (hereinafter referred to as the New Sales Tax Act) hereby repeals the Rajasthan Sales Tax Act, 1954 (Rajasthan Act XXIX of 1954) hereinafter referred as the Old Sales Tax Act).

(2) The repeal under sub-section (1) shall not –

(a) revive anything not in force or existing at the time at which the repeal takes effect; or

(b) affect the previous operation of the Old Sales Tax Act or anything done or suffered thereunder; or

(c) affect any right, privilege, obligation or liability acquired, accrued, or incurred under the Old Sales Tax Act; or

(d) affect any penalty, forfeiture or punishment incurred or inflicted in respect of any offence or violation committed under the provisions of the Old Sales Tax Act; or

(e) affect any investigation, enquiry, assessment, proceeding, any other legal proceeding or remedy in respect of any such right, privilege, obligation, liability, forfeiture or punishment as aforesaid;

and any such investigation, enquiry, assessment, proceeding, any other legal proceedings or remedy may be instituted, continued, or enforced and any such penalty, forfeiture or punishment may be imposed as if the New Sales Tax Act had not been enacted.

(3) All rules made and notifications issued under the provisions of the Old Sales Tax Act and/ or the rules made thereunder, in force on the date of the commencement of the New Sales Tax Act, shall remain in force unless such rules and notifications are superseded in express terms or by necessary implication by the provisions of the New Sales Tax Act or the rules made or notifications issued thereunder.

(4) Any reference of any section of the Old Sales Tax Act in any rule, notification, regulation or circular shall be deemed to refer to the relevant corresponding section of the New Sales Tax Act,

until necessary amendments are made in such rule, notification, regulation or circular.

(5) The modified limitations or the newly introduced limitations provided in the New Sales Tax 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 Old Sales Tax Act.

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