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¹(M. P. Act No.5 of 1995)

An Act to levy tax on commerce in the State of Chhattisgarh

BE it enacted by the Chhattisgarh Legislature in the Forty Fifth year of the Republic of India as follows:

Sec.1 SHORT TITLE, EXTENT & COMMENCEMENT

(1) This Act may be called the Chhattisgarh Vanijyik Kar Adhiniyam, 1994.

(2) It extends to the whole of Chhattisgarh.

²(3) It shall come into force on ³such date as the State Government may by notification in the Official Gazette appoint and different dates may be appointed for different provisions of the Act.

Sec. 2 DEFINITIONS

In this Act, unless there is anything repugnant in the subject or context -

- (a) **Appellate Deputy Commissioner** means an Appellate Deputy Commissioner of Commercial Tax appointed under Section 3 and includes an Additional Appellate Deputy Commissioner of Commercial Tax ;

-
1. Received the assent of the President on the 7.1.95; Assent first published in the Chhattisgarh Rajpatra dt. 7.2.95, Corrigendum dated 15.11.96 published in the Chhattisgarh Rajpatra Part - 4 of 13.12.96; The Act has come into force w.e.f. 1.4.95.
The Act has been amended by the following Amending Acts/Ordinances;
 (1) MPCT (Amendment) Ordinance, 1995;
 (2) MPCT (Amendment) Act, 1995;
 (3) MPCT (Second Amendment) Act, 1996;
 (4) MPCT (Amendment) Act, 1997;
 (5) MPCT (Amendment) Ordinance, 1997;
 (6) MPCT (Second Amendment) Act, 1997;
 (7) MPCT (Amendment) Act, 1998;
 (8) MPCT (Amendment) Act, 1999;
 (9) MPCT (Second Amendment) Ordinance, 1999 (Read with corrigendum dated 28.1.00);
 (10) MPCT (Amendment) Act, 2000;,
 (11) CGCT (Amendment) Ordinance, 2001 w.e.f, 05.06.2001
 (12) CGCT (Amendment) Act, 2001 w.e.f, 04.09.2001.
 (13) CGCT (Amendment) Act (No.6 of 2002).2001 w.e.f, 18.04.2002
 (14) CGCT (Amendment) Ordinance, 2002 w.e.f, 01.06.2002.
 (15) CGCT (Amendment) Act (No.26 of 2002) w.e.f, 28.10.2002.
 (16) CGCT (Amendment) Ordinance, 2003 (No.1 of 2003) w.e.f, 31.12.2002.
 (17) CGCT (Amendment) Ordinance, 2003 (No.3 of 2003) w.e.f, 12.05.2003
 (18) CGCT (Amendment) Act (No.17 of 2003) w.e.f, 12.05.2003.
 (19) CGCT (Amendment) Ordinance, 2004 (No.4 of 2004) w.e.t, 04.09.2004.
2. Sub-section (3) substituted by MPCT (Amendment) Act, 1995 w.e.f, 1.4.94.
3. The Act has come into force w.e.f, 01.04.1995 vide Noti, No.9, dt, 2.3.95.

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(b) Assistant Commissioner means an Assistant Commissioner of Commercial Tax appointed under Section 3;

(c) Business includes -

(a) any trade, commerce, 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 and irrespective of the volume, frequency, continuity or regularity of such trade, commerce, manufacture, adventure or concern; and

(b) any transaction of sale or purchase of goods in connection with or incidental or ancillary to the trade, commerce, manufacture, adventure or concern referred to in sub-clause (a) , that is to say-

(i) goods of the description referred to in sub-section (3) of Section 8 of the Central Sales Tax Act, 1956 (No.74 of 1956), whether or not they are specified in the registration certificate, if any, of the dealer under the said Act and whether or not they are in their original form or in the form of second hand goods, unserviceable goods, obsolete or discarded goods, mere scrap or waste material; and

(ii) goods which are obtained as waste products or by-products in the course of manufacture or processing of other goods or mining or generation of or distribution of electrical energy or any other form of power;

(d) Commerce means sale or purchase of goods within the meaning of clause (29-A) of Article 366 of the Constitution of India and the expression "Commercial" shall be construed accordingly;

(e) Commercial Tax Officer means a Commercial Tax Officer appointed under Section 3 and includes an Additional Commercial Tax Officer;

(f) Commissioner means the Commissioner of Commercial Tax appointed under Section 3;

(g) Cooked food includes sweets and sweetmeats, ⁴[namkeen] mishri, batasha, chironji, shrikhand, rabadi, doodhpak, prepared tea and prepared coffee but excludes ice-cream, kulfi, ice-candy, non-alcoholic drink containing ice-cream, cakes, pastries, biscuits, chocolates, toffees, lozenges, peppermint drops and mawa;

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

(i) a local authority, a company, an undivided Hindu family or any society (including a co-operative society) , club, firm or association which carries on such business;

(ii) a society (including a co-operative society) , club, firm or association which buys goods from, or sells, supplies or distributes goods to, its members;

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

⁵**(iv)** any person who transfers the right to use any goods for any purpose, (whether or not for a specified period) in the course of business to any other person;

⁴ The Word 'namkeen' inserted first by Commercial Tax (Amendment) Ordinance, 2001 w.e.f., 05.06.2001 and then by Commercial Tax (Amendment) Act, 2001 w.e.f, 04.09.2001.

⁵ Clause (IV) inserted by MPCT (Amendment) Act, 1995 w.e.f, 1.4.95

Explanation -

(I) Every person who acts as an agent of a non-resident dealer, that is as an agent on behalf of a dealer residing outside the State and buys, sells, supplies or distributes goods in the State or acts on behalf of such dealer as -

- (i) a mercantile agent as defined in the Indian Sale of Goods Act, 1930 (III of 1930) ; or
- (ii) an agent for handling goods or documents of title relating to goods; or
- (iii) an agent for the collection or the payment of the sale price of goods or as a guarantor for such collection or payment, and every local branch of a firm or company situated outside the State,

shall be deemed to be a dealer for the purpose of this Act.

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

- {i) The expression **declared goods** shall have the meaning assigned to it in the Central Sales Tax Act, 1956 (No.74 of 1956);

(j) **Deputy Commissioner** means a Deputy Commissioner of Commercial Tax appointed under Section 3 and includes an Additional Deputy Commissioner of Commercial Tax;

{k) **Goods** means all kinds of movable property other than actionable claims, newspapers, stocks, shares, securities or Government stamps and includes all materials, articles and commodities, whether or not to be used in the construction, fitting out, improvement or repair of movable or immovable property, and also includes all growing crops, grass, trees, plants and things attached to, or forming part of the land which are agreed to be severed before the sale or under the contract of sale;

{I) **Import** means the bringing or causing to be brought of goods into the State of Chhattisgarh from any, place outside the State;

{m)**Incidental goods** means goods, other than raw material and packing material, referred to in clause (b) of sub-section (3) of Section 8 of the Central Sales Tax Act, 1956 (No.74 of 1956), for use by the registered dealer in the manufacture or processing of goods or in mining of or in the generation or distribution of electrical energy or any other form of power;

(n) **Licence** means a licence granted under the Act;.

{0) **Manufacture** includes any process or manner of producing, collecting, extracting, preparing or making any goods, but does not include such manufacture or manufacturing process as may be notified.

(p) **Place of business** means any place where a dealer purchases or sells any goods or stores goods or keeps accounts of his purchases or sales or both and also includes -

- (i) the place of business of an agent where a dealer carries on business through an agent;
- (ii) any place or building whether any business is carried on therein or not, in which the person carrying on the business, states that any of his books of accounts, documents, stocks or other things, relating to his business are kept;

6., See Noti, No.18, dt, 1.4.95.

(q) Purchase price shall comprise of -

- (i) the amount payable by a dealer as valuable consideration for the purchase of goods, *simpliciter* :

Provided that where goods are purchased together with the packing material or container, then notwithstanding anything contained in this Act, the purchase price of such goods shall be inclusive of the price or cost or value of such packing material or container, whether such price or cost or value is paid separately or not as if such packing material or container were the goods purchased;

- (ii) transport costs, if any;
 (iii) trade commission, if any, by whatever name called;
 (iv) forwarding and handling charges, if any;
 (v) insurance charges, if any;
 (vi) local taxes, if any;
 (vii) excise duty, if any, leviable under the Central Excise and Salt Act, 1944 (No.1 of 1944);
 (viii) cost of packing, if any; and
 (ix) any other charges or costs other than those specified above, if incurred or paid in respect of goods so purchased;

Explanation -For the purpose of this clause "transport cost" includes such expenses as are incurred by the dealer on transportation of goods after taking delivery from the seller;

(r) Raw material means an article used as an ingredient in any manufactured goods, or an article consumed in the process of manufacture and includes fuel and lubricants required for the process of manufacture;

(s) Registered dealer means a dealer registered under this Act;

(t) Sale with all its grammatical variations and cognate expressions means any transfer of property in goods for cash or deferred payment or for other valuable consideration and includes -

- (i) a transfer, otherwise than in pursuance of a contract, of property in any goods for cash, deferred payment or other valuable consideration;
- (ii) a transfer of property in goods whether as goods or in some other form, involved in the execution of a works contract;
- (iii) a delivery of goods on hire purchase or any system of payment by instalments;
- (iv) a supply of goods by any unincorporated, association or body of persons to a member thereof for cash, deferred payment or other valuable consideration;
- (v) a supply, by way of or as part of any service or in any other manner whatsoever, of goods being food or any other article for human consumption or any drink (whether or not intoxicating) where such supply or service is for cash, deferred payment or other valuable consideration; and such transfer, delivery or supply of any goods shall be deemed to be a sale of those goods by the person making the transfer, delivery or supply and purchase of these goods by the person to whom such transfer, delivery or supply is made, ⁷[but does not include a mortgage, hypothecation, charge or pledge];
- ⁸(vi) a transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;

⁷ Subs, vides MPCT (Second Amendment) Act, 1996 w.e.f, 1.4.95.

⁸ Sub-clause (vi) inserted by MPCT (Amendment) Act, 1995 w.e.f, 1.4.95.

Explanation -

(a) Notwithstanding anything contained in the Sale of Goods Act, 1930 (III of 1930), where a sale or purchase of goods takes place in pursuance of a contract of sale, such sale or purchase shall be deemed, for the purposes of this Act to have taken place in the State wherever the contract of sale or purchase might have been made, if the goods are within the State.-

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

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

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

(u) **Sale price** means the amount payable to a dealer as valuable consideration for the sale of any goods less any sum allowed as cash discount according to ordinary trade practice but inclusive of any sum charged for anything done by the dealer in respect of the goods at the time of or before delivery thereof other than the cost of freight or delivery or the cost of installation when such cost is separately charged;

Explanation -Where goods are sold on hire purchase or any system of payment by instalments, the sale price of such goods shall be exclusive of insurance charges, interest and hire charges and such other charges as may be prescribed;

(v) **Tax** means the tax payable under this Act;

(w) **Taxable turnover in relation to any period** means that part of a dealer's turnover for such period which remains after deducting therefrom -

(i) The sale price of goods declared tax free under Section 15 or exempted in whole under Section 17;

(ii) The sale price of goods mentioned in 9[part II to VI] of Schedule II which are in the nature of tax paid goods in the hands of such dealer;

(iii) the sale price of unginned cotton as specified in Part I of Schedule II and such other goods in the said Part as the State Government may from time to time, by notification, specify, sold to a registered dealer who has declared in the prescribed form that the goods are for resale or for use by him in the manufacture of goods for sale by him;

(iv) The sale price of goods specified in Part I of Schedule II other than those referred to in sub-clause (iii) .sold to a registered dealer who has declared in the prescribed form that the goods are for resale by him;

(v) The amount arrived at by applying the following formula:

$$\frac{\text{Rate of tax} \times \text{aggregate of sale prices}}{100 + \text{rate of tax}}$$

100 + rate of tax

Provided that no deductions on the basis of the above formula shall be made if the amount by way of tax collected by a registered dealer, in accordance with the provisions of this Act, has been otherwise deducted from the aggregate of sale prices.

Explanation -Where the turnover of a dealer is taxable at different rates, the aforesaid formula shall be applied separately in respect of such part of the turnover liable to a different rate of tax under sub-section (1) of Section 9;

9, Subs, for the words 'Part II to VII' first by MPCT (Amendment) Ordinance, 1999 w.e.f, 1.1.2000 and then by MPCT (Amendment) Act, 2000 w.e.f, 15.3.2000.

(vi) Such other deductions as may be prescribed.

Relevant Rules & Forms -Rules 26 & 35; Forms 26, 27, 28, 29, 30 & 31

(x) Tax paid goods in relation to a dealer means any goods specified in ¹⁰[part II to VI] of Schedule II which have been purchased by such dealer from a registered dealer inside the State of Chhattisgarh within the meaning of Section 4 of the Central Sales Tax Act, 1956 (No.74 of 1956) except -

- (i) the goods sale whereof by such registered dealer is exempted in whole from payment of tax subject to the condition that such exemption is available only to such registered dealer; and
- (ii) the goods manufactured by a registered dealer in his new industrial unit in respect of which such dealer is availing of the facility of exemption from payment of tax in whole under any notification issued under the Act repealed by this Act or under this Act in pursuance of any scheme of the State Government formulated and enforced before or after the commencement of this Act for grant of incentives for the establishment of new industrial units in the State;

(y) **Tribunal** means tribunal as constituted under Section 4;

(z) **Turnover used in relation to any period** means the aggregate of the amount of sale prices received and receivable by a dealer in respect of any sale or supply or distribution of goods made during that period, whether or not the whole or any portion of such turnover is liable to tax but after deducting the amount, if any, refunded by the dealer to a purchaser, in respect of any goods purchased and returned by the purchaser within the prescribed period:

Provided that.

- (i) In the case of sale by bonafide agriculturist as defined in clause (e) of sub-section (1) of Section 2 of the Chhattisgarh Land Revenue Code, 1959 (No.20 of 1959), of ghee produced by himself; or
- (ii) In case of sale by a person of agricultural or horticultural produce grown by himself or grown on any land in which he has an interest whether as owner, usufructuary mortgagee, tenant or otherwise, when such produce is sold in the form in which it was produced, without being subjected to any physical, chemical or other process for being made fit for consumption save mere dehusking, cleaning, grading or sorting, the amount of consideration relating to such sales shall be excluded from his turnover;

¹¹**Explanation** -The amount realised or realisable under Section 9-A shall be included in the turnover.

Relevant Rule -Rule 36

(zz) Year means the twelve months ending on the 31st day of March

¹⁰, Subs, for the words 'Part II to VII first by MPCT (Amendment) Ordinance 1999 w.e.f, 1.1.2000 & then by MPCT (Amendment) Act, 2000 w.e.f, 15.3.2000,

¹¹, Explanation inserted by MPCT (Amendment) Act, 1995 w.e.f, 1.4.1995

Sec.3 TAXING AUTHQRTITIES AND OTHER OFFICERS

(1) There may be appointed a person to be the Commissioner of Commercial Tax and the following category of officers to assist him, namely:

- (a) Additional Commissioner of Commercial Tax;
 - (b) Appellate Deputy Commissioner or Additional Appellate Deputy Commissioner of Commercial Tax;
 - (c) Deputy Commissioner or Additional Deputy Commissioner of Commercial Tax: (d) Assistant Commissioner or Additional Assistant Commissioner of Commercial Tax;
 - (e) Commercial Tax Officer or Additional Commercial Tax Officer;
 - (f) Assistant Commercial Tax Officer; and
 - (g) Inspector of Commercial Tax.
- (2) The Commissioner of Commercial Tax and the Additional Commissioner of Commercial Tax shall be appointed by the State Government and the other officer referred to in sub-section (1) shall be appointed by the State Government or such other authority as it may direct.
- (3) The Commissioner of Commercial Tax and the Additional Commissioner of Commercial Tax shall exercise all the powers and perform all the duties conferred or imposed on the Commissioner by or under this Act, throughout the State and for this purpose any reference to the Commissioner in this Act, shall be construed as a reference to the Additional Commissioner of Commercial Tax.
- (4) Other Officers referred to in sub-section (2) shall, within such areas as the appointing authority may, by general or special order specify, exercise such powers as may be conferred and perform such duties as may be imposed by or under this Act.

Relevant Rule -Rule 3**Sec, 4 TRIBUNAL**

- (1) Subject to such rules as may be made in this behalf, the State Government may, by notification, with effect from a date specified therein, constitute Tribunal to exercise the powers and perform the functions conferred on the Tribunal by or under this Act.
- (2) Till the date specified in the notification under sub-section (I), the Board of Revenue shall act as Tribunal for the purpose of this Act and on the date aforementioned all proceedings pending before the Board of Revenue, Chhattisgarh, acting as Tribunal shall stand transferred to the Tribunal constituted under sub-section (I).
- (3) Subject -to the previous approval of the State Government, the Tribunal may, from time to time, make regulations consistent with the provisions of this Act regulating the procedure and disposal of its business.

Relevant Rule -Rule 4**Sec.5 INCIDENCE OF TAXATION**

- (1) Every dealer whose turnover during a period of twelve months immediately preceding the commencement of this Act exceeds the limit specified in sub-section (5), shall from such commencement be liable to pay tax under this Act in respect of sales or supplies of goods effected in Chhattisgarh.
- (2) Every dealer to whom sub-section (1) does not apply shall be liable to pay tax under this Act in respect of sales or supplies of goods effected in Chhattisgarh with effect from the date on which his turnover in a year first exceeds the limit specified in sub-section (5) but for the purpose of assessment of the tax only so much of his turnover as is in excess of such limit, shall be taken into consideration.
- (3) Every dealer who is liable to pay tax under this Act shall continue to be so liable until the expiry of two consecutive years during each of which his turnover has not exceeded the limits specified in sub-section (5) and till such further period thereafter as may be prescribed and on the expiry of this later period his liability to pay tax shall cease.

- (4) Every dealer whose liability to pay tax under this Act has ceased under sub-section (3) shall, if his turnover calculated from the commencement of any year again exceeds the limit specified in sub-section (5), be liable to pay tax under sub-section (2).
- (5) For the purpose of this Section, the limit shall be -
- In relation to a dealer who imports into the State goods other than lottery tickets of the value of not less than Rs. ¹²[1.00;000]/- in a year - ¹³[Two Lac Rupees];
 - In relation to a dealer who manufactures in a year any goods (other than such goods as may be ¹⁴notified by the State Government in this behalf) of the value not less than Rs, ¹⁵[1.00.000] - ¹⁶[Two Lac Rupees].
 - In relation to a dealer being a co-operative society registered under any law for the time being in force relating to co-operative societies dealing exclusively in goods produced or manufactured by such society or its members without the aid of hired labour - ¹⁷[Two] Lac Rupees.
 - In relation to a dealer who enters into a works contract and in the execution thereof supplies goods (whether as goods or in some other form) - ¹³[Two] Lac Rupees.
 - In relation to a dealer not falling in clause (a), (b), (c) or (d) - ¹⁸[Five] Lac Rupees] ¹⁹(f) in relation to a dealer liable to pay tax under Section 9-A-Fifty Thousand Rupees.

Sec, 6 DETERMINATION OF LIABILITY TO PAY TAX UNDER THIS ACT

(1) The Commissioner shall, in the prescribed manner, institute proceedings for the purpose of determining the liability of a dealer to pay tax under this Act, Such liability shall be determined by an order and such determination shall be made within a period of twelve months from the Elate of institution of such proceedings.

(2) Notwithstanding anything contained in sub-section (2) of Section 5, liability of a dealer to pay tax under this Act shall not be determined from a date earlier than five years prior to -,

- The date of institution of proceedings under sub-section (1); or
- The date of validity of the registration certificate, whichever is earlier.

Relevant Rule & Form -Rule 69; Form 56 & 51

Sec, 7 JOINT AND SEVERAL LIABILITY OF A CONTRACTOR OR A SUB- CONTRACTOR

(1) Where a dealer who carries on the business of supplying goods in the course of execution of works contract entered into by him (hereinafter referred to as a contractor) through another such dealer (hereinafter referred to as a sub-contractor) directly or otherwise, and the sub-contractor executes such works contract and each or either of them is liable to pay tax under this Act, then notwithstanding anything contained in this Act, the contractor and the sub-contractor shall be jointly and severally liable to pay tax in respect of ²⁰[transfer of property in goods whether as goods or in some other form involved in the execution of such works contract] .

(2) If the contractor proves in the prescribed manner that the tax has been paid by the sub-

- 12 Substituted for the word '5000' by CGCT (Amendment) Ordinance, 2003 w.e.f, 12.05.2003 and then by CGCT (Amendment) Act, 2003.
- 13 Substituted for the word 'Fifty Thousand Rupees' by CGCT (Amendment) Ordinance, 2003 wef 12.05.2003 and then by CGCT (Amendment) Act, 2003.
- 14 See Noti, No.19, dt, 1.4.95.
- 15 Substituted for the word '20,000' by CGCT (Amendment) Ordinance, 2003 w.e.f, 12.05.2003 and then by CGCT (Amendment) Act, 2003.
- 16 Substituted for the word 'Fifty Thousand Rupees' by CGCT (Amendment) Ordinance. 2003 wef 12,05,2003 and then by CGCT (Amendment) Act, 2003.
- 17 Word 'Two' Substituted for the word 'one' in clause (c), (d) & (e) first by Commercial Tax (Amendment) 'Ordinance, 2001 we.f, 05.06.2001, and then by Commercial Tax (Amendment) Act, 2001, w.e.f, 04.09.2001.
- 18 Substituted for the word 'Two Lac Rupees' by CGCT (Amendment) Ordinance, 2003 w.e.f, 12.05.2003 and then by CGCT (Amendment) Act, 2003.
- 19 Clause (f) inserted by MPCT (Amendment) Act, 1995 w.e.f, 1.4.95.
- 20 Subs, by MPCT (Second Amendment) Act, 1996 w.e.f, 1.4.95.

contractor on the turnover of goods supplied in the course of execution of the works contract, the contractor shall not be liable to pay tax again on the turnover of such goods.

(3) If the sub-contractor proves in the prescribed manner that the tax has actually been paid by the contractor on the turnover of goods supplied in the course of execution of the works contract, the sub-contractor shall not be liable to pay tax again on the turnover of such goods.

(4) Deduction in respect of the turnover of goods supplied in the course of execution of works contract referred to in sub-section (2) or sub-section (3) shall be allowed to the contractor or to the sub-contractor on the production of proof required to be furnished under the said sub-section.

Sec. 8 LIABILITY OF A DEALER REGISTERED UNDER CENTRAL ACT NO. 74 OF 1956 TO PAY TAX

(1) A dealer registered under the Central Sales Tax Act, 1956 (No. 74 of 1956) who is not liable to pay tax under Section 5 shall nevertheless be liable to pay tax on his sales of any goods in respect of the purchases of which he has furnished a declaration under sub-section (4) of Section 8 of the said Act or on the sales of any goods in the manufacture of which such goods have been used, at the rate specified in sub-section (1) of Section 9.

(2) Every dealer to whom sub-section (1) applies shall for the purposes of Section 26, 27, 32 and 42 be deemed to be a registered dealer.

Sec. 9 LEVY OF TAX

(1) Subject to provisions of sub-section (2) and sub-section (3), the tax payable by a dealer under this Act shall be levied on the taxable turnover relating to goods specified in Schedule II at the rate mentioned in corresponding entry in column (3) of the said Schedule.

²¹(2) Subject to such restrictions and conditions as may be prescribed and to the provisions of sub-clause (iii) of clause (w) of Section 2 -

(a) the tax payable by a registered dealer on the sales of any goods specified in Schedule II except the goods specified in Schedule III, to another registered dealer for use by him inside the State -

(i) as raw material or as incidental goods, in the manufacture or in the processing of goods or in the mining of goods, declared tax free under Section 15 or exempted in whole under Section 17 and sold by him -

(a) In the State of Chhattisgarh, or

(b) In the course of inter-State trade or commerce, or

(c) In the course of export out of the territory of India, or

(ii) In the generation or distribution of electrical energy or any other form of power; shall be levied at the concessional rate of four per cent.

(b) (i) the tax payable by a registered dealer on the sale of any goods specified in Schedule II except the goods specified in Schedule III, to another registered dealer holding a recognition certificate under Section 25 for use by him as raw material or as incidental goods in the manufacture or processing or mining of taxable goods other than coal; or

(ii) the tax payable by a registered dealer on the sale of any goods specified in Schedule II to another registered dealer holding a recognition certificate under Section 25 for use by him as raw material or incidental goods in the mining of coal, for sale by him in the State of Chhattisgarh or in the course of inter-State trade or commerce or in the course of export out of the territory of India, shall be levied at the concessional rate of four per cent:

²¹, In sub-section (2) of Sec. 9, for the words 'four per cent' wherever they occur, the words 'two per cent' have been substituted by MPCT (Amendment) Act, 1998, But, so far the same has not been made effective.

Provided that when the tax on the sale of such raw material or incidental goods is payable under sub-section (1) at a rate lower than four per cent, the tax payable under clause (a) or clause (b) shall be calculated at such lower rate or at such other lower rate as may be ²²notified by the State Government.

(3) Where any goods purchased by a registered dealer under clause (a) or clause (b) of sub-section (2) are used by him contrary to the purpose specified therein or in violation of the restrictions and conditions prescribed under the said sub-section such registered dealer shall be liable to pay in such manner as may be prescribed, tax or penalty .as the case may be, at the rate equal to the difference of the full rate of tax under sub-section (1) and the concessional rate of tax under sub-section (2) .in respect of such goods :

Provided that no tax or penalty shall be imposed on a registered dealer where any goods purchased for use by him as raw material or incidental goods under clause (a) or clause (b) of sub-section (2), are sold by him subject to such restrictions or conditions as may be prescribed, to another registered dealer who is a manufacturer of goods declared tax free under Section 15 or goods exempted in whole under Section 17, or who holds a recognition certificate under Section 25 for the purpose specified in the said clauses.

Explanation -In this Section -

- (i) The expression "taxable goods" shall mean the goods liable to tax under this Act;
- (ii) The amount payable for violation of restrictions and conditions shall be by way of tax in respect of goods other than declared goods and by way of penalty in respect of declared goods.

Relevant Rules & Forms -Rule 27 & 30; Form 32, 33, 34 & 35

²³Sec.9-A TAX ON RIGHT TO USE

Every dealer who transfers the right to use any goods, ²⁴[.....], for any purpose, (whether or not for a specified period) to any person for cash, deferred payment or other valuable consideration in the course of his business, notwithstanding anything contained in the provisions of clause (w) of Section 2, shall on the total amount realised or realisable by him during the year by way of payment in cash or otherwise on such transfer, pay tax at the rate of ²⁵[four] per cent on the aggregate of such amount.

²⁶Sec.9-B LEVY OF TAX IN SPECIAL CIRCUMSTANCES

²⁷(1) Every dealer liable to pay tax under this Art, whose turnover in the year preceding the commencement of the Chhattisgarh Vanijyik Kar (Sanshodhan) Adhiniyam, 1998 exceeds rupees ²⁸[twenty five lacs] and every other dealer whose turnover in a year first exceeds rupees ²⁸[twenty five lacs) shall, from the commencement of the aforesaid Act or from the date on which the turnover exceeds rupees ²⁸[twenty five lacs], as the case may be, be liable to pay tax on the resale of any goods specified in ²⁹[part II to VI] of Schedule II at the rate of ³⁰[4%] on such part of his turnover in respect of the said goods which remains after deducting therefrom -

22 See Noti, No.20, dt, 1.4.95.

23 Section 9-A inserted by MPCT (Amendment) Act, 1995 w.e.f, 1.4.95.

24 Words in bracket 'as the state government may specify by it notification' deleted by CGCT Amendment (Ordinance), 2004 (No.4 of 2004) w.e.f, 04.09.2004, # See Noti, No.37, dt, 1.5.95, For exemption to Tent House for the period 1.4.95 to 31.3.01, See Noti, No.84, dt, 6.11.95 and for the period 1.4.01 to 31.3.02 see Noti, No.23, dt, 30.3.01.

25 Substituted for the word 'five' by CGCT Amendment (Ordinance), 2004 (No.4 of 2004) w.e.f, 04.09.2004, This word 'five' is prior substituted for the word 'four' first by Commercial Tax (Amendment) Ordinance, 2001 w.e.f, 05.06.2001 and then by, Commercial Tax (Amendment) Act, 2001 w.e.f, 04.09.2001.

26 Section 9-8 inserted by MPCT (Amendment) Act, 1997 w.e.f, 1.5.97.

27 Sub-section (1) substituted by MPCT (Amendment) Act, 1998 w.e.f, 1.4.99, Earlier to substitution sub-section (1) read as under:
"Notwithstanding anything contained in clause (x) of Section 2 and sub-section (1) of Section 9, every such dealer liable to pay tax under Section 9 whose turnover in the year preceding the commencement of the Chhattisgarh Vanijyik Kar (Sanshodhan) Adhiniyam, 1997 exceeds rupees one crore and every other dealer whose turnover in a year first exceeds rupees one crore shall, from the date of such commencement or from the date on which the turnover exceeds rupees one crore, as the case may be, be liable to pay tax on the resale of any goods specified in Part II to VII of Schedule II and such tax shall be payable on .such part of his turnover in respect of the said goods at the rate specified in column (3) of the said Schedule which remains after deducting therefrom -

(i) Sale price of declared goods:

(ii) Sale price of such goods at the hands of the registered dealer from whom they have been purchased;

(iii) Amount arrived at in accordance with the provisions of sub-clause (v) of clause (w) of Section 2;

(iv) Any other deduction as may be prescribed, in such manner as may be prescribed."

28 Subs, for words 'fifty lacs' where they occur by CGCT (Amendment) Ordinance, 2003 w.e.f, 12.05.2003 and then by CGCT (Amendment) Act, 2003.

29 Subs, for the words 'Part II to VII' first by MPCT (Amendment) Ordinance, 1999 w.e.f, i, 1.2000 and then by MPCT (Amendment) Act, 2000 w.e.f, 15.3.2000.

30 Subs, for words '8%' by CGCT (Amendment) Ordinance, 2003 w.e.f, *11.05.2003* and then by CGCT (Amendment) Act, 2003.

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- (i) Sale price of ³¹[cereals and pulses as specified in clause (i) and (vi-a) of Section 14 of Central sales Tax Act, 1956 (No.74 of 1956)];
 - (ii) Sale price of such goods at the hands of the registered dealer from whom they have been purchased;
 - (iii) The amount arrived at in accordance with the provisions of sub-clause (v) of clause (w) of Section 2]
- (2) Every dealer who is liable to pay tax under sub-section (1) shall continue to be so liable until the expiry of two consecutive years during each of which his turnover has not exceeded the limits specified in sub-section (1) and on the expiry of such period his liability to pay tax shall cease.

Sec.10 LEVY OF PURCHASE TAX

(1) Every dealer who in the course of his business purchases any goods specified in Schedule-II-

- (i) From a registered dealer in the circumstances in which no tax under Section 9 is payable by that registered dealer on the sale price of such goods; or
- (ii) From any other person; shall be liable to pay tax on the purchase price of such goods, if after such purchase the goods are not sold within the State or in the course of inter-State trade or commerce or in the course of export out of the territory of India, but are -
 - (a) Sold or disposed of otherwise; or
 - (b) Used or consumed in the manufacture or processing of other goods or used or consumed otherwise; such tax shall be levied at the same rate at which tax under sub-section (1) of Section 9 would have been levied on the sales of such goods within the State on the date of such purchase.

³²(2) Notwithstanding anything contained in sub-section (1) but subject to such restrictions and conditions as may be prescribed, the tax under sub-section (1) payable by a registered dealer on the goods, other than the goods specified in Schedule-III purchased by him for consumption or use by him as raw material or incidental goods in the manufacture or .1 the mining of goods for sale by him in the State of Chhattisgarh or in the course of inter-State trade or commerce or in the course of export out of the territory of India or in the generation or distribution of electrical energy or any other form of power, shall be levied at the concessional rate of four percent:

Provided that when the tax on the purchase of such raw material or incidental goods is payable under sub-section (1) at a rate lower than four per cent, the tax payable under this sub-section shall be calculated at such lower rate or at such other lower rate as may be ³³notified by the State Government.

(3) No tax under this Section shall be levied in respect of any year on -

- (a) A dealer whose turnover in a year does not exceed the limit specified in sub- section (5) of Section 5;
- (b) a dealer holding a licence under Section 18 in respect of raw material and incidental goods used in that year in the manufacture of goods in respect of which he holds such licence;
- (c) A dealer in respect of the purchase price of unginned Cotton as specified in Part I of Schedule-II and such other goods in the said part as the State Government may from time to time by notification specify, who has consumed or used them as raw material for the manufacture of other goods and the goods so manufactured are sold by him in the State of Chhattisgarh or in the course of inter-State trade or commerce or in the course of export out of the territory of India;
- (d) Any other dealer who has no turnover, if his aggregate of purchase prices of all the goods does not exceed fifty thousand rupees.

(4) Every dealer who has no turnover and is liable to pay tax under sub-section (I) shall, for the purpose of Sections 26, 27, 28, 32.33 & 42 be deemed to be a registered dealer, Relevant Rules & Forms -Rule 28 & 30; Form 36

³¹ Subs, for words 'declared goods' by CGCT (Amendment) Ordinance, 2003 w.e.f, 12.05.2003 and then by CGCT (Amendment) Act, 2003.

³² In sub-section (2) .of Sec, 10, for the words 'four per cent, wherever they occur, the words 'two per cent, have been substituted by MPCT (Amendment) Act, 1998, But, so far the same has not been made effective.

³³ See Noti, No.21, dt, 1.4.95.

³⁴Sec.10-A LEVY OF SURCHARGE ON TAX PAYABLE EXCEPT ON DECLARED GOODS

(1) There shall be levied a surcharge on the amount of tax payable under this Act at the rate of fifteen per centum of such amount,

Provided that surcharge shall not be leviable on the amount of tax as is relatable to declared goods.

(2) The surcharge levied under sub-section (I) shall be in addition to the amount of tax payable under this Act and all the other provisions of this Act, shall apply to surcharge so levied as they apply to tax.

Sec.11 DEALER NOT TO PASS INCIDENCE OF TAX TO AGRICULTURISTS AND HORTICULTURISTS UNDER CERTAIN CIRCUMSTANCES

No dealer shall collect any amount, by way of tax, from a person who sells agricultural or horticultural produce grown by himself or grown on any land in which he has an interest, whether as owner, usufructuary mortgagee, tenant or otherwise, when such produce is sold in the form in which it was produced, without being subjected to any physical, chemical or other process for being made fit for consumption save mere dehusking, cleaning, grading or sorting.

Sec, 12 RATE OF TAX ON CONTAINER OR PACKING MATERIAL

Notwithstanding anything contained in 35[sub-section (1) of Section 9 or Section 9-B] or sub-section (1) of Section 10 where any goods packed in any container or packing material are sold or purchased, the container or packing material in which such goods are so packed shall be deemed to have been sold or purchased along with such goods and the tax under [sub-section (1) of Section 9 or Section 9-B] or sub-section (1) of Section 10 shall be leviable on the sale or purchase of such container or packing material at the rate of tax, if any, applicable to the sale, or as the case may be, the purchase of the goods themselves:

Provided that no tax under [sub-section (1) of Section 9 or Section 9-B] or sub-section (1) of Section 10 shall be leviable where the container or packing material is sold or purchased along with the goods declared tax-free under Section 15 or exempted in whole from payment of tax under Sect]

Sec, 13 SET OFF OR REFUND OF TAX IN RESPECT OF TAX PAID GOODS IN CERTAIN CIRCUMSTANCES

(1) Subject to such restrictions and conditions as may be prescribed a set off, as provided in this Section shall be granted in such manner as may be prescribed, to a registered dealer in respect of tax paid goods in the circumstances specified below -

³⁶(a) when a registered dealer purchases any tax paid goods, other than the goods specified in Schedule-III ³⁷[except timber], which have borne tax under *[sub-section (I) of Section 9 or Section 9-8] at full rate exceeding the concessional rate of four per cent or exceeding such other concessional rate as may be ³⁸notified by the State Government in respect of such goods as raw material or incidental goods and subsequently consumes or uses such goods as raw material or incidental goods in the manufacture or in the processing of any goods or in the mining of any goods specified in Schedule-II which have not been exempted in whole under Section 17 and any such goods after their manufacture, processing or mining are sold by him in the State of Chhattisgarh or in the course of inter-State trade or commerce or in the course of export out of the territory of India, he shall be entitled to set off at a rate equal to the difference between the tax at full rate under *[sub-section (1) of Section 9 or Section 9-8] and the tax at the concessional rate of four per cent or such other aforesaid concessional rate, as the case may be, in respect of such goods in such manner and on such quantum of the price at which such goods were purchased from a registered dealer, as may be prescribed.

34 Sec, 10-A inserted by MPCT (Second Amendment) Act, 1997 w.e.f, 22.8.97.

35 Subs, for the words 'sub-section (1) of Section 9' wherever occurred in Section 12 by MPCT (Amendment) Act, 1997 w.e.f, 1.5.97.

36 In clause (a) of Sec, 13(1) for the words per cent' have been substituted by MPCT not been made effective.

37 The words in bracket is inserted by CGCT and then by CGCT (Amendment) Act, 2003.

* Subs for the words 'sub-section (1) of Section 9' wherever occurred in section 13 [1] MPCT (Amendment) Act, 1997 w.e.f, 1.5.97

38 See Noti, No.22, dt, 1.4.95.

39(b) (i) When a registered dealer sells any goods specified in Schedule II other than the goods specified in Schedule III which are tax paid goods in his hands to any person other than a registered dealer, or an agency and the sale of such goods is exempt from tax, in whole or in part, under a notification issued under Section 17 or 'under any provision of this Act, he shall, subject to the compliance of the restrictions and conditions if any specified in such notification or prescribed under such provision, be entitled to set off in respect of such goods at a rate equal to the difference between the tax at full rate on such goods under *[sub-section (1) of Section 9 or Section 9-8] and the tax at the rate specified under the said notification or prescribed under such provision in such manner and on such quantum of the price at which such goods were purchased from a registered dealer, as may be prescribed;

(ii) When a registered dealer purchases any goods specified in Schedule II other than the goods specified in Schedule III which are tax paid goods in his hands and the sale thereof by the selling registered dealer to him is otherwise exempt from tax, in whole or in part, under a notification issued under Section 17 or under any provision of this Act, the purchaser shall, subject to the compliance of the restrictions and conditions, if any, specified in such notification or prescribed under such provision, be entitled to set off in respect of such goods at a rate equal to the difference between the tax at full rate on such goods under *[sub-section (I) of Section 9 or Section 9-8] and the tax at the rate specified under the said notification or prescribed under such provision in such manner and on such quantum of the price at which such goods were purchased from the seller, as may be prescribed.

Explanation -When the amount of set off to which a registered dealer is entitled is not fully adjusted towards the tax payable by him, the balance of the amount of set off after adjustment shall be granted to him by way of refund of tax.

⁴⁰**(c)** A registered dealer entitled to set off in respect of tax paid goods under clause (a) or clause (b) shall also be entitled to a set off in the amount of surcharge paid on such goods equal to fifteen per cent of the amount of set off admissible under the said clauses.

(2) Nothing in sub-section (I) shall apply to a registered dealer who holds a recognition certificate under Section 25.

Relevant Rules -Rule 29

Sec.14 BURDEN OF PROOF

The burden of proving that any sale or purchase effected by a dealer is not liable to tax under ⁴¹[Section 9 or Section 9-A] or Section 10 or Section 21 as the case may be, shall be on the dealer.

Sec.15 TAX FREE GOODS

(1) No tax shall be payable on the sales or purchase of goods specified in the second column of Schedule-I, subject to the restriction and exceptions, if any, set out in the corresponding entry in the third column thereof.

(2) The State Government may in respect of any goods, by notification amend Schedule-I, so as to include therein any goods not already specified or may relax or omit any of the conditions and exceptions set out in the corresponding entry in the third column thereof.

39 Clause (b) substituted by MPCT (Second Amendment) Act, 1996 w.e.f, 1.4.95

***** Subs for the words 'sub-section (1) of Section 9' wherever occurred in section 13 [1] MPCT (Amendment) Act, 1997 w.e.f, 1.5.97

40 Clause (c) inserted by MPCT (Second Amendment) Act, 1997 w.e.f, 22.8.97, Earlier clause (c) inserted by MPCT (Amendment) Ordinance, 1997 w.e.f, 1.7.97 and repealed by MPCT (Second Amendment) Act, 1997 provided for set-off of surcharge @ 5%.

41 Subs, for the words 'Section 9' by MPCT (Second Amendment) Act, 1996 w.e.f, 1.4.95.

⁴²Sec.16 POWER OF STATE GOVERNMENT TO AMEND SCHEDULE II

(1) The State Government may, by notification, amend the Schedule II and thereupon the said Schedule shall stand amended accordingly:

Provided that the rate of tax in respect of any goods specified therein other than the declared goods shall not exceed twice the original rate of tax specified in the Schedule:

Provided further that if any goods are transposed by deleting them from one of the parts of the Schedule and inserting or adding them to another, the rate of tax in respect of -such goods shall not exceed twice the rate specified in the schedule for the part where from such goods have been transposed.

(2) No notification enhancing the rate of tax, shall be issued under this Section without giving in the Gazette such previous notice as the State Government may consider reasonable of its intention to issue such notification;

(3) Every notification issued under sub-section (1) shall, as soon as maybe, be laid on the table of the Legislative Assembly.

Sec.17 SAVING

(1) The State Government may, by notification and subject to such restrictions and conditions as may be specified therein, exempt whether prospectively or retrospectively.

(i) (a) any class of dealers; or

(b) Any goods or class of goods, in whole or in part, from the payment of tax under this Act for such period as may be specified in the notification;

(ii) Any dealer or class of dealers from any provision of this Act or any provision of a rule made under Section 80 for such period as may be specified in the notification.

(2) Any notification issued under this Section may be rescinded before the expiry of the period for which it was to have remained in force and on such rescission such notification shall cease to be in force, A notification rescinding an earlier notification shall have prospective effect.

(3) Notwithstanding the repeal of the Chhattisgarh General Sales Tax Act, 1958 (No.2 of 1959) (hereinafter referred to as the repealed Act) the State Government may, by notification exempt -

(i) (a) Any class of dealers; or

(b) Any goods or class of goods in whole or in part, from the payment of tax under the repealed Act; or

(ii) Any dealer or class of dealers from any provision of the repealed Act or the provision of any rule made thereunder, for any period before the commencement of this Act and for that purpose it shall and shall always be deemed that the provision of Section 12 of the repealed Act have revived for the purpose of such exemption.

Sec, 18 LICENSING OF CERTAIN DEALERS

(1) The Commissioner may subject to such conditions as may be prescribed, license under this Section any registered dealer who carries on business in any of the goods specified in Schedule-IV and whose yearly turnover in respect of all goods specified in Schedule-I and Schedule-II does not ordinarily exceed such amount as may be prescribed, on advance payment of such annual licence fee as may be determined in relation to such registered dealer in accordance with the rules made in this behalf and the provisions of Sections 26, 27, 42 and 43, shall not apply to such registered dealer in respect of his business relating to goods specified in Schedule-I and IV during the period in which the licence issued to him under this Section remain in force,

(2) The licence fee recovered from a registered dealer under sub-section (1) shall be deemed to be in lieu of the tax payable in respect of the sales of goods specified in the licence during the currency of the licence.

(3) The State Government may, from time to time, by notification, amend Schedule-IV so as to include any goods not already specified therein.

Sec.19 COMPOSITION OF TAX BY CERTAIN REGISTERED DEALERS

(1)(a) The Commissioner may, subject to such restrictions and conditions as may be prescribed, permit any registered dealer, who carries on wholly or partly the business of supplying goods in the course of execution of works contract entered into by him, to pay in lieu of tax payable by him under this Act a lumpsum at such rate, not exceeding 15 per cent, as may be prescribed, determined in the prescribed manner, by way of composition.

(b) The provisions of Sections 26, 27, 42 and 43 shall not apply to a registered dealer to whom permission to pay a lumpsum by way of composition is granted under clause (a) in relation to the period for and the goods in respect of which such composition of tax has been made and who complies with the restrictions and conditions prescribed under the said clause.

(2) For the purpose of determination of the lumpsum by way of composition under clause (a) of sub-section (1), the State Government may prescribe different rates for different kinds of contracts.

Relevant Rules & Forms -Rule 31; Form 37 &38**Sec.20 LIABILITY TO TAX OF PERSONS NOT OBSERVING CONDITIONS OF EXEMPTION OR LICENCE**

If any restrictions or conditions notified under Section 17 or imposed under Section 18, are not complied with by a dealer, the sales or purchases, as the case may be, of the dealer may with effect from the commencement of the year in which such non-compliance took place, be assessed under Section 27 to tax payable under Section 9, or Section 10 and the licence fee, if any, recovered from such dealer, shall be adjusted towards the tax so assessed.

Sec. 21 LIABILITY OF A DEALER PURCHASING EXEMPTED GOODS

Notwithstanding anything contained in Section 20, where any condition of exemption imposed under Section 17 requires that the registered dealer purchasing the goods exempted in whole or in part from the payment of tax under this Act, shall furnish a declaration or certificate to the effect that -

- (a) The goods purchased shall be used by him for a specified purpose and within a specified time; or
- (b) The goods purchased shall be disposed of by him in a specified manner and within a specified time;

And contrary to such declaration or certificate, if such dealer -

- (i) Does not use the goods for the specified purpose or within the specified time, or
- (ii) Does not dispose of the goods in the specified manner or within the specified time,

He shall be liable to pay the tax on the purchase price of such goods at the full rate mentioned in column (3) of Schedule-II and penalty equal to 25 per cent of the amount of tax payable under this Act:

Provided that where the goods were exempted from payment of tax in part, the registered dealer instead of paying the tax at the full rate, shall be liable to pay the difference between the tax already paid and the tax payable at the rate mentioned in column (3) of Schedule-II on the purchase price of such goods, in addition to any penalty, that may be imposed on him under this Section.

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Sec.22 REGISTRATION OF DEALERS

(1) Every dealer whose turnover during the twelve months immediately preceding the commencement of this Act exceeds the limits specified in sub-section (5) of Section 5 shall get himself registered in the prescribed manner before such date as may be notified in this behalf.

(2) Every dealer other than a dealer to whom sub-section (1) applies shall be liable to get himself registered within the prescribed period from the date on which his turnover in a year first exceeds the limits specified in sub-section (5) of Section 5.

(3) Every dealer required by sub-section (1) or sub-section (2) or sub-section (1) of Section 49 to be registered shall make an application in the prescribed form and manner giving correct and complete particulars therein, such application shall be accompanied by an affidavit in support of the particulars given in the application as also a satisfactory proof of payment of a registration fee of five hundred rupees in that behalf in the prescribed manner to the Commissioner:

Provided that no such fee shall be payable where such application is made by a person holding a provisional registration certificate under Section 24.

(4) (a) On the day the application is received, the said authority shall grant the applicant a provisional registration certificate in the prescribed form.

(b) After issue of the provisional registration certificate the Commissioner shall require the applicant to produce before him evidence and documents in respect of the particulars given in the application as also the accounts relating to the business for verification, On production of the evidence, documents and accounts the Commissioner shall verify the particulars given in the application, On being satisfied about the correctness of the particulars, the Commissioner shall issue to the applicant a permanent registration certificate in the prescribed form not later than thirty days of the date of receipt of the application for grant of a registration certificate.

(c) If the Commissioner is satisfied that the particulars given by the applicant in his application are incorrect or that the applicant has misrepresented certain facts, he shall, after giving the applicant an opportunity of being heard and recording the reasons in writing reject the application and cancel the provisional registration certificate issued to the applicant from the date of its issue, not later than thirty days of the date of receipt of the application.

(5) The registration certificate granted under sub-section (4) shall take effect from -

(a) In a case where a dealer required to get himself registered under sub-section (2) has applied for registration within the prescribed period, the date on which his turnover in a year first exceeds the limits specified in sub-section (5) of Section 5;

(b) In a case where a dealer required to get himself registered under sub-section (2) has applied for registration after the expiry of the prescribed period, the date on which he applies for registration;

(c) In a case where a dealer required to apply for registration under sub-section (1) of Section 49 has applied for registration within thirty days of the transfer of business, the date from which the ownership of the business is entirely transferred to him; and

(d) in a case where a dealer required to get himself registered under sub-section (I) of Section 49, has applied for registration after the expiry of thirty days of the transfer of business, the date on which he applies for registration.

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(6) Without prejudice to the provisions of sub-section (6) of Section 27 when a dealer has without reasonable cause, failed to get himself registered within the prescribed time as required by sub-section (1) or sub-section (2), the Commissioner may, after giving such dealer a reasonable opportunity of being heard, direct him to pay by way of penalty in addition to the fee payable, a sum of rupees five hundred.

(7) Every dealer who at the commencement of this Act holds a registration certificate under the provisions of the Act repealed by this Act shall, on such commencement, be deemed for all purposes of this Act to be a dealer registered and holding a registration certificate under this Section.

(8) (a) The Commissioner shall -

(i) On an application made by a dealer for amendment of his registration certificate in pursuance of the provisions of Section 48 or otherwise, amend the registration certificate of the dealer or reject the application within 30 days of the date of receipt of such application, after making such enquiry as he deems fit; and

(ii) On being satisfied that the registration certificate issued to a dealer requires amendment with regard to certain particulars specified therein, amend the registration certificate after giving the dealer an opportunity of being heard.

(b) (i) When the registration certificate is amended under sub-clause (i) of clause (a) in pursuance of any of the events specified in clause (a) or clause (b) or clause (c) of Section 48, such amendment shall take effect from the date such event has taken place and in all other cases falling under the said sub-clause the amendment shall take effect from the date of application, An amendment made under sub-clause (ii) of clause (a) shall take effect from the date of order for making such amendment.

(ii) where any application for amendment, other than the amendment requested for in pursuance of any event specified in Section 48 is not rejected or the registration certificate is not amended within the time specified in sub-clause (i) of clause (a) .the dealer shall be entitled to have the registration certificate amended in accordance with his application from the date of application for amendment and the Commissioner shall amend the certificate accordingly.

(9) When -

(a) A registered dealer discontinues or transfers his business; or

(b) The liability of a registered dealer to pay tax ceases in accordance with the provisions of sub-section (3) of Section 5; or

(c) A registered dealer has been granted a registration certificate by mistake; or

(d) A registered dealer is in arrears of tax or penalty or any other sum due under this Act; or

(e) The Commissioner for reasons to be recorded in writing, is of the opinion that the registration certificate should be cancelled for any other reason; the Commissioner may either on his own motion or on the application of the dealer in this behalf cancel the registration certificate but notwithstanding such cancellation the dealer shall be liable to pay tax for the period during which his registration certificate remained in force.

(10) (a) When a registration certificate is cancelled under sub-section (9) in any case other than that of a dissolution of firm or entire transfer of the business of dealer, the dealer shall be liable to pay tax on his stock of goods remaining unsold at the time of cancellation of the registration certificate.

(b) (i) any dealer whose application for registration is rejected under clause (c) of sub- section (4); or
(ii) any dealer whose registration certificate is cancelled under clause (d) or clause (e) of sub-section (9); he shall, for the purpose of sub-section (6) of Section 27 be deemed to be a dealer, who has failed to apply for registration, but he shall not be liable to pay any penalty under the said sub-section.

Relevant Rules & Forms -Rule 7 to 16; Form 4 to 7

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Sec.23 VOLUNTARY REGISTRATION OF DEALERS

(1) (a) A dealer or person who desires to obtain a voluntary registration certificate, though he is not liable to pay tax under Section 5, may make an application in the prescribed form to the Commissioner giving correct and complete particulars therein, Such application shall be accompanied by an affidavit in support of the particulars given in the application as also a satisfactory proof of payment of registration fee of five hundred rupees, in that behalf, Where the application is made by a dealer or person undertaking works contract the application shall also be accompanied by a copy of award of the contracts :

Provided that no such fee shall be payable where the application is made by a person holding a provisional registration certificate under Section 24.

(b) On the day the application is received the said authority shall grant the applicant a provisional registration certificate in the prescribed form.

(c) After issue of the provisional registration certificate the Commissioner shall require the applicant to produce before him evidence and documents in respect of the particulars given in the application as also the accounts relating to the business for verification, On production of the evidence, documents and accounts the Commissioner shall verify the particulars given in the application, On being satisfied about the correctness of the particulars the Commissioner shall issue to the applicant a permanent registration certificate in the prescribed form not later than thirty days of the date of receipt of the application for grant of a registration certificate.

(d) If on verification of the records produced by the applicant the Commissioner is satisfied that the particulars given by the applicant in his application are incorrect or that the applicant has misrepresented certain facts, he shall, after giving the applicant an opportunity of being heard and recording the reasons in writing, reject the application and cancel the provisional registration certificate issued to the applicant from the date of its issue, not later than thirty days of the date of receipt of the application.

(2) The certificate granted under sub-section (1) shall take effect from the date on which the dealer has applied for registration and every dealer who has been registered under this Section shall, notwithstanding the provisions of Section 5 be liable to pay tax under this Act, during the period from the said date till his registration certificate remains in force.

Relevant Rules & Forms -Rule 7 to 16; Form 4 to 7**Sec.24 PROVISIONAL REGISTRATION OF INTENDING MANUFACTURERS**

(1) Any person intending to establish a business in the State for the purpose of manufacturing goods for sale of value exceeding rupees fifty thousand a year and who is registered with the Industries Department of the State Government for establishing a small scale industrial unit in the State or who is issued a licence wherever necessary or has sent a memorandum of information to the Central Government to establish a new industrial undertaking in the State under the provisions of the Industries (Development and Regulation) Act, 1951 (No.65 of 1951) may, notwithstanding that he is not liable for registration under Section 22 make an application to the Commissioner accompanied by a satisfactory proof of payment of registration fee of five hundred rupees in that behalf in the prescribed manner for grant of a provisional registration certificate under this Act.

(2) On the day the application is received the said authority shall grant the applicant a provisional registration certificate in the prescribed form.

(3) The provisional registration certificate granted under sub-section (2) shall take effect from the date on which the person had applied for registration and notwithstanding the provisions of Section 5 every person who has been granted a provisional registration certificate under this Section shall, during the period from such date till such certificate remains in force, be liable to pay tax under this Act.

(4) A provisional registration certificate granted under this Section shall be in force for such period as may be specified therein and the provisions of sub-section (8) and (10) of Section 22, shall, so far as may be, apply in respect thereto

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Provided that the Commissioner on an application made by the holder of such certificate before the expiry of the period of validity mentioned in the certificate, may for reasons to be recorded in writing, extend the period specified in the provisional registration certificate by a further period not exceeding six months on each occasion.

(5) Every person who has been granted a provisional registration certificate under this Section shall for the purpose of this Act be deemed to be a registered dealer.

(6) Where a person who has been granted a provisional registration certificate under this Section starts manufacturing and selling of goods during the period the provisional registration certificate is in force, he shall get himself registered under Section 22 or Section 23 as the case may be, before the date on which the provisional registration certificate is due to expire and on the grant of the registration certificate under Section 22 or Section 23 as the case may be, which shall take effect from the date on which application has been made for registration, the provisional registration certificate shall cease to be in force as from such date.

(7) If a person who has been granted a provisional registration certificate under this Section fails to start selling goods manufactured by him within the period specified in such certificate or within the period extended by the Commissioner, as the case may be, he shall, if he had purchased any goods for use as ⁴³ **[raw material or incidental goods]** on payment of tax in accordance with the provisions of clause (b) of sub-section (2) of Section 9 be liable to pay as penalty an amount not less than the difference between the amount of tax on the sales of such goods at the full rate applicable thereto under sub-section (1) of Section 9 and the amount of tax paid under clause (b) of sub-section (2) thereof but not exceeding one and one quarter times the amount of tax at such full rate as the Commissioner may determine having regard to the circumstances of the case.

(8) The provisions of this Section shall also apply to the Central Government or the State Government or public sector undertaking intending to establish any new industrial undertaking in the State.

Explanation -In this Section the expression 'Industrial Undertaking' shall have the meaning assigned thereto in clause (d) of Section 3 of the Industries (Development and Regulation) Act, 1951 (No.65 of 1951), .

Relevant Rules & Forms -Rule 9 to 17; Forms 5 to 9

Sec. 25 ISSUE OF RECOGNITION CERTIFICATE TO CERTAIN DEALERS

(1) Where the Commissioner is satisfied that the business of a registered dealer who manufactures taxable goods is likely to suffer in view of the provisions of Section 13 relating to grant of refund or set off in respect of the use of tax paid goods as raw material or incidental goods in such manufacture either due to the fact that the goods manufactured are liable to be taxed at substantially lower rates than the rate of tax on goods used as raw material or incidental goods or that the goods manufactured are wholly or substantially sold in the course of export out of the territory of India, or for any other reason, he may issue a recognition certificate to such registered dealer in such form and in such manner and subject to such restrictions and conditions as may be prescribed so as to enable him to purchase the goods for use as raw material or incidental goods in accordance with the provisions of clause (b) of sub-section (2) of Section 9.

(2) If the Commissioner is satisfied that -

- (a) Any registered dealer has obtained a recognition certificate by misrepresenting the facts, or
- (b) the reasons due to which any registered dealer was found eligible for holding a recognition certificate no longer exist, ⁴⁴[or
- (c) A registered dealer who makes default in furnishing return/or is in arrears of tax or penalty or any other sum due under this Act.] He may after giving such dealer a reasonable opportunity of being heard; cancel the recognition certificate issued to him, the order of cancellation of such certificate shall take effect from the date of communication of such order to the dealer.

Relevant Rules & Forms -Rule 18; Form 10 & II

⁴³ Subs. for the words 'raw material' by MPCT (Second Amendment) Act, 1996 w.e.f. 1.4.95.

Sec. 26 -RETURNS

- ⁴⁵(1) (i) Every such dealer as may be required so" to do by the Commissioner by notice served in the prescribed manner; and
- (ii) Every registered dealer; and
- (iii) Every dealer whose registration certificate has been cancelled under clause (d) or (e) of sub-section (9) of Section 22, shall furnish return in such form, in such manner, for such period, by such dates and to such authority as may be prescribed :

Provided that the Commissioner may, subject to such terms and conditions as may be prescribed, exempt any such dealer from furnishing such returns or permit any such dealer to furnish them for such different period, in such other form and to such other authority, as he may direct.

(2) Every dealer required to file return under sub-section (1) shall pay the full amount of tax payable according to the return as required by sub-section (2) of Section 32 or the difference of the amount of tax payable according to the revised return as required by sub-section (3) of the said Section and the full amount of interest, if any, payable under clause (a) or clause (b) of sub-section (4) & shall furnish the proof of such payment along with the return under sub-section (1) or the revised return under sub-section (3).

(3) If any dealer discovers any omission, error or wrong statement in any return furnished by him under sub-section (1) he may furnish a revised return in the prescribed manner and within the prescribed time.

(4) ⁴⁶(a) If a dealer required to file return under sub-section (1) -

- (i) Files without sufficient cause to pay the amount of tax payable according to a return for any period in the manner prescribed under sub-section (2) of Section 32; or
- (ii) Files a revised return under sub-section (3) showing a higher amount of tax to be due than was shown by him in the original return; or

44 The word 'or' and clause (c) inserted by MPCT (Second Amendment) Act, 1997 w.e.f, 1.9.97.

45 Sub-Section (1) & (2) substituted by MPCT (Second Amendment) Act, 1997 w.e.f, 1.9.97, Earlier to substitution sub-section (1) & (2) read as under:

(1) Every such dealer as may be required so to do by the Commissioner by notice served in the prescribed manner and every registered dealer shall furnish returns in such form, in such manner, for such period, by such dates and to such authority as may be prescribed :

Provided that the Commissioner may, subject to such terms and conditions as may be prescribed, exempt any such dealer from furnishing such returns or permit any such dealer to furnish them for such different period, in such other form and to such other authority, as he may direct.

(2) Every registered dealer shall pay the full amount of tax payable according to the return as required by sub-section (2) of Section 32 and the amount of interest, if any, payable under clause (a) of sub-section (4) and shall furnish the proof of such payment along with the return under sub-section (1).

46 Clause (a) substituted by MPCT (Second Amendment) Act, 1997 w.e.f, 1.9.97, Earlier to sub-section clause (a) read as under :

"If a registered dealer fails without sufficient cause -

(i) to pay the amount of tax payable according to a return for any period in the manner prescribed under sub-section (2) of Section 32; or

(ii) To furnish his return under sub-section (1) or a revised return under sub-section (3) for any period in the manner OF by the date prescribed thereunder; or

(iii) fails to furnish return, such dealer shall, be liable to pay, in respect of tax that may be payable according to such return or the tax payable for the period relating to such return, interest at the rate of two per cent per month from the date the tax so payable had become due to the date of its payment or to the date of order of assessment, whichever is earlier.

Explanation -For the purpose of this clause:

(1) Where the period of default covers a period less than a month the interest payable in respect of such period shall be computed proportionately.

(2) 'Month' shall mean thirty days."

(iii) Fails to furnish return, such dealer shall be liable to pay interest in respect of, -

(a) The tax payable by him according to the return referred to in sub-clause (i); or

(b) The difference of the amount of tax payable according to the revised return; or

(c) The tax payable for the period for which he has failed to furnish return, at the rate of ⁴⁷[1] per cent per month from the date the tax so payable had become due to the date of its payment or to the date of order of assessment, whichever is earlier, Explanation -For the purpose of this clause, -

(1) Where the period of default covers a period less than a month the interest payable in respect of such period shall be computed proportionately,

(2) 'Month' shall mean thirty days,

(b) If a registered dealer having filed a return under sub-section (1) or a revised return under sub-section (3) for any period and paid the tax payable according to such return or revised return after the time prescribed therefore, fails to pay interest along with such return or revised return in accordance with the provisions of clause (a) the Commissioner may, after giving the dealer a reasonable opportunity of being heard, direct him to pay in addition to the tax payable or paid and the interest payable by him, by way of penalty a sum equal to two per cent per month from the date such interest had become due to the date of its payment or to the date of order of assessment, whichever is earlier,

(c) (i) A dealer fails without sufficient cause to comply with the requirement of notice issued under sub-section (1); or

(ii) A registered dealer having paid the tax payable according to a return in time fails to furnish the return in time; or

(iii) a registered dealer having paid the tax payable according to a return and furnished the return in time, fails to furnish along with the return proof of payments made in accordance with the provisions of sub-section (2) ;

the Commissioner may after giving the dealer a reasonable opportunity of being heard, direct him to pay, in addition to any tax payable or paid by him by way of penalty a sum not exceeding fifty rupees for each occasion of default subject to a maximum of five hundred rupees in each case,

(d) Where no tax is payable by a registered dealer committing a default under sub- clause (ii) or sub- clause (iii) of clause (a), the Commissioner may after giving such dealer a reasonable opportunity of being heard direct him to pay by way of penalty a sum not exceeding five hundred rupees,

Relevant Rule & Form, Rule 19 to 25, 32 to 34, 37; Form 12 to 25

Sec.27 ASSESSMENT OF TAX

(1) The amount of tax due from a registered dealer shall be assessed separately for each year:

Provided that where such dealer fails to furnish any return by the prescribed date or knowingly furnishes incomplete or incorrect return for any period of any year, the Commissioner may, at any time, assess such dealer to tax for such period:

Provided further that the Commissioner may, subject to such conditions as may be prescribed and for reasons to be recorded in writing, assess the tax due from any such dealer at any time for any part of a year.

⁴⁷ Substituted for the figure '1.25' by CGCT (Amendment)Ordinance, 2004 w.e.f. 04.09.2004, This figure '1.25' earlier substituted for the word ' 2' by CGCT (Amendment) Ordinance, 2003 w.e.f. 12.05.2003 and then by CGC(Amendment) Act, 2003.

(2) (a) where a registered dealer, -

(i) Who is an importer or a manufacturer and whose gross turnover in a year does not exceed rupees ten lacs; or

(ii) Who is neither an importer nor a manufacturer and whose gross turnover in a year does not exceed rupees ⁴⁸[fifty] lacs. has furnished the return or returns for any year and paid the tax payable according to such return or returns within the prescribed time or has furnished the return or returns for any year after the prescribed time but not later than four months of the expiry of the period to which the return relates and has paid the tax according to such return or returns along with the interest payable under clause (a) of sub-section (4) of Section 26 shall be eligible for summary assessment under this Section ⁴⁹[the return or returns furnished by such dealer for that year shall be accepted and his assessment shall be deemed to have been made for the purpose of sub-section(1)].

(b) On receipt of the return or returns for any such year from a registered dealer in the manner specified in clause (a) the Commissioner shall, subject to the restrictions and conditions in the rules that may be made for the purpose and without requiring the presence of such dealer and calling for his accounts, accept such return or returns and send an intimation of acceptance to the dealer within such time as may be prescribed, Such intimation of acceptance shall be deemed to be an order of assessment for the purpose of this Act.

(c) Notwithstanding the provisions of clause (b) the Commissioner shall direct every year that five per cent of the dealers in each circle eligible for summary assessment under clause (a) to be selected on sample basis in the manner decided by the Commissioner, be assessed under sub-section (4) or sub-section (5), as the case may be.

(3) In every other case, the Commissioner shall serve the dealer with a notice appointing a place and day and directing him:

(i) To appear in person or by an agent entitled to appear in accordance with the provisions of Section 31; or,

(ii) To produce evidence or have it produced in support of the returns; or

(iii) To produce or cause to be produced any accounts, registers, cash memoranda or other documents as may be considered necessary by the Commissioner for the purpose.

(4) After hearing the dealer or his agent and examining the evidence produced in compliance with the requirements of clause (ii) or clause of sub-section (3) and such further evidence as the Commissioner may require, the Commissioner shall assess him to Tax.

(5) If a registered dealer -

(a) Has not furnished returns in respect of any period by the prescribed date; or

(b) Has knowingly furnished incomplete or incorrect returns for any period; or

(c) Having furnished such returns fails to comply with any of the terms of a notice issued under sub-section (3); or

(d) has not maintained any accounts or the accounts maintained by him are not in accordance with the provisions of sub-section (1) of Section 42 or has nor regularly employed any method of accounting or if the method employed is such that in the opinion of the Commissioner assessment cannot properly be made on the basis thereof, the Commissioner shall in the prescribed manner assess the dealer to the best of his judgment ⁵⁰[based on reasonable grounds which shall be recorded].

48 Substituted for the word 'forty' by CGCT (Amendment) Ordinance, 2002 w.e.f.01.06.2002 and then by CGCT Amendment Act (No.26 of 2002) w.e.f. 28.10.2002.

49 Words in bracket inserted by CGCT(Amendment) Ordinance, 2004 (No.4 of 2004) w.e.f, 04.09.2004.

50 Inserted first by Commercial Tax (Amendment) Ordinance, 1001 w.e.f, 05.06.2001 & then by Commercial Tax (Amendment) Act, 2001 w.e.f.04.09.2001.

(6) (a) If upon any information which has come into his possession, the Commissioner is satisfied that any dealer, who has been liable to pay tax in respect of any period has failed to, apply for registration, the Commissioner shall within ⁵¹[one calendar year] from the date of completion of the proceedings under sub-section (I) of Section 6, after giving the dealer a reasonable opportunity .of being heard, proceed in such manner as may be prescribed, to assess to the best of his judgement the amount of tax due from the dealer in respect of the whole of such period and the .Commissioner may if he is satisfied that the dealer has wilfully failed to apply for registration direct that the dealer shall pay by way of penalty in addition to the amount of tax so assessed, as in ⁵²[not less than two times but not exceeding five times] of that amount, ..

(b) In respect of periods subsequent to the period referred to in clause (a), the, amount of tax due from a dealer referred to in the said clause shall be assessed separately for each year,

⁵³(7) If the Commissioner is satisfied that a dealer has, with a view to evade payment of tax, Showed in his accounts sales or purchases of any goods at prices which are abnormally low compared to the prevailing market prices of such goods, the Commissioner may, after making such enquiry as may be necessary and after giving the dealer a reasonable opportunity of being heard, assess or re-assess the dealer to the best of his judgement,

(8) The assessment shall be made under this Section -

- (i) in respect of a registered dealer .and a dealer referred to in clause (b) of sub- section:(6) within a period of two calendar years from the end of the period for which assessment is to be made; and
- (ii) In respect of a dealer who has failed to apply for registration, within a period, of two calendar years from the commencement of proceedings under sub-section (6):

Provided that -

(a) Where a fresh assessment has to be made to give effect to any finding or direction contained in any order under Sections 61, 62 or 70 or to any order of the Civil Court, High Court or Supreme Court, such assessment shall be made within a, period of two calendar years from the date of the order containing such finding or direction or the order of the Civil Court, High Court or Supreme Court, as the case may be, If for any reason, such fresh assessment is not made within the specified , period, the Commissioner shall take steps to ensure that assessment is made as expeditiously as possible;

(b) Where an order of .ex-parte assessment is set-aside and case reopened under Section 72 for making a fresh assessment, such fresh assessment shall be made within , a period of six calendar months from the date of setting aside the ex-parte order of assessment or within the period of laid down in clause (i) whichever is later; and

(c) Nothing contained in this sub-section shall apply to proceedings initiated under Section 28 or Section 29 or any proceeding other, than assessment of tax that .may be instituted under any other provisions of this Act.

(9) Notwithstanding anything contained in sub-section (8), where assessment proceedings in respect of any dealer relating to any year cannot be completed before the expiry of the period specified therefore in the said sub-section, the State Government, may by notification, for reasons to be recorded in writing, extend the period for the completion of, the assessment proceeding~ in respect of such dealers by such further period as may be specified in such notification.

Relevant Rules/ Forms -Rule 46, 47, 48, 51 to 53 & 57; Form 46, 47, 49 & 50

51 Subs. for the words 'twelve months' by MPCT (Second Amendment) Act, 1997 w.e.f, 1.9.97,

52 Subs. for the words 'not exceeding one an~ half times' w.e.f, J.9.97 by ibid.

53 Sub-section (7) substituted by MPCT (Amendment) Act, 1999 w.e.f, 1.5.99, Earlier to substitution sub-section (7) read as under:

(7) If the Commissioner is satisfied that a dealer has with a view to evade payment of tax, effected sales mostly to favoured buyers at prices which are abnormally low in comparison to the prices charged by other dealers similarly circumstanced, the Commissioner, may after giving the dealer a reasonable opportunity of being heard assess or reassess the dealer to the best of his judgement.

Sec, 28 ASSESSMENT OF TURNOVER ESCAPING ASSESSMENT

- (1) Where an assessment has been made under this Act or the Act repealed by this Act and if for any reason any sale or purchase of goods chargeable to tax under this Act or the Act repealed by this Act during any period, has been under assessed or has escaped assessment or assessed at a lower rate or any deduction has been wrongly made therefrom or a set off has been wrongly allowed, the Commissioner may, at any time within five calendar years from the date of order of assessment after giving the dealer a reasonable opportunity of being heard and after making such enquiry as he considers necessary, proceed in such manner as may be prescribed to reassess within a period of two calendar years from the commencement of such proceedings the tax payable by such dealer and the Commissioner may, where the omission leading to such reassessment is attributable to the dealer, direct that the dealer shall pay by way of penalty in addition to the amount of tax so assessed, a sum not exceeding that amount.
- (2) The reassessment made under sub-section (1) shall be at the rate at which it would have been made had there been no under assessment or escapement or wrong deduction.
- (3) If for any reason the licence fee, registration fee or exemption fee has escaped levy or has been charged at a lower rate in any year, the Commissioner may at any time within a period of three calendar years next succeeding that to which such fee relates, levy the correct amount of the fee payable in respect of that year after issuing a notice to the dealer and after making such enquiry as he considers necessary and the Commissioner may direct that the dealer shall pay by way of penalty in addition to the amount of fee so levied a sum equal to that amount.

Relevant Rules -Rule 48 & 50; Form 47

Sec.29 POWER OF REASSESSMENT IN CERTAIN CASES

- (1) Where any order passed in respect of a dealer for any period is rendered erroneous and prejudicial to the interest of revenue consequent to or in the light of any judgement or order of any Court or tribunal, which has become final, then notwithstanding anything contained in this Act the Commissioner may at any time within a period of three years from the date of such judgement or order initiate proceedings to reassess the tax payable by such dealer.
- (2) The reassessment proceedings initiated under sub-section (1) shall be completed as far as may be within a period of two calendar years from the date: of initiation of such proceedings.
- (3) No order of reassessment under this Section shall be passed without giving to the dealer a reasonable opportunity of being heard,

Relevant Rules & Forms -Rule 48; Form 47

Sec. 30 EXCLUSION OF TIME IN ASSESSMENT PROCEEDINGS

- (1) Nothing contained in Section 28 limiting the time within which any ⁵⁴[re-assessment] may be made, shall apply to a ⁴³[re-assessment] made in consequence of or to give effect to any finding or direction contained in an order under Sections 61, 62 or 70.
- (2) In computing the period of limitation prescribed for assessment or reassessment as the case may be, under Section 27 or Section 28, the time during which any assessment or reassessment proceedings remained stayed under the order of any civil or other competent court, or under special or general order of the Commissioner issued under Section 67 shall be excluded.

⁵⁴ As per the original Hindi version of the Act and also as per the corresponding Sec. 20 of the MPGST Act. Here the words should be 'assessment or re-assessment'.

(3) Where any turnover or a part thereof of any dealer has been assessed to tax under this Act or under any of the Acts repealed by Section 52 of Act No.2 of 1959 and the Act repealed by this Act (hereinafter referred to as the repealed Acts) and not under the Central Sales Tax Act, 1956 (No.74 of 1956) or vice versa, but subsequently as a result of any order passed under Section 61 or Section 62 or Section 70 or under the corresponding provisions of any of the repealed Acts or of an order passed by any civil or any other competent Court, it is held to be assessable under the Central Sales Tax Act, 1956 (No.74 of 1956) or under this Act or under any of the repealed Acts, as the case may be, then in consequence of such order or to give effect to any finding or direction contained in such order, such turnover or part thereof, shall, irrespective of the fact that the order previously passed in the other case under the Central Sales Tax Act, 1956 (No.74 of 1956) or under this Act or under any of the repealed Acts, as the case may be, has become final, be assessed or re-assessed to tax, as the case may be, at any time within five years from the date of such order, under the relevant Act, notwithstanding anything contained in Section 27 or Section 28 or of the corresponding provisions in the relevant repealed Acts limiting the time within which any assessment or reassessment may be made.

Sec.31 APPEARANCE BEFORE TAXING AUTHORITIES

(1) Any dealer who is entitled or required to attend or appear before any officer appointed under Section 3 in connection with any proceedings under this Act, otherwise than when required under Section 55 to attend personally for examination on oath or affirmation, may attend or appear by a person authorised by him in writing in this behalf being a relative of or a person regularly employed by, the dealer or a legal practitioner or a chartered accountant or a tax practitioner.

(2) For the purposes of sub-section (1) any person who -

- (a) before coming into force of this Act, had been enrolled as a Sales Tax Practitioner under the Act repealed by this Act; or
- (b) holds a degree in law or commerce or the degree of Bachelor of Arts with economics as one of his subjects conferred by any Indian university incorporated by any law for the time being in force or by any other university as the State Government may, from time to time by notification, specify; or
- (c) does not possess any of the qualifications referred to in sub-clause (b) but has held a post in the Commercial Tax Department not below the rank of an Assistant Sales Tax Officer / Assistant Commercial Tax Officer for at least ten years and is granted a certificate by the Commissioner having regard to his record of service in the department as being a fit and proper person to appear in any proceeding under this Act, shall be entitled to appear as a: Tax Practitioner.

(3) Every tax practitioner and every person who is entitled to appear as a tax practitioner in any proceedings under this Act shall within such time as may be prescribed get himself enrolled as such on payment of such fee as may be prescribed.

(4) If the Commissioner is satisfied that the application for enrolment is in order, he shall enroll the applicant and grant him a certificate of enrolment in the prescribed form, If the Commissioner, after making such enquiry as he deems fit, and after giving the applicant a reasonable opportunity of being heard is not so satisfied, he shall, for reasons to be recorded in writing, reject the application.

(5) Notwithstanding anything contained in sub-section (1) and (2) no person who has held any post in the Sales Tax / Commercial Tax Department not below the rank of a Sales Tax / Commercial Tax Inspector shall be entitled to represent any dealer in any proceeding under this Act :

- (i) if he has at any time, passed any order in such proceeding, while he was holding any post in the department;
- (ii) if the place of business of the dealer whom he desires to represent is in the district or circle within the territorial jurisdiction of which the head quarter of the office of the Sales Tax / Commercial Tax department in which he had held such post was located, unless a period of two years has elapsed since he ceased to hold that post:

Provided that nothing in clause (ii) shall apply if the representation is to be made before an officer holding a rank higher than the rank last held by such person.

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(6) No person who has been dismissed from Government service shall be qualified to represent any dealer under sub-section (1).

(7) If any legal practitioner or a chartered accountant is found guilty of misconduct in connection with any proceedings under this Act or the Central Sales Tax Act, 1956 (No.74 of 1956) or the Act repealed by this Act by the authority empowered to take disciplinary action against members of the profession to which he belongs or if any other person is found guilty of such misconduct by the Commissioner, the Commissioner may direct that he shall be thenceforward disqualified to represent a dealer under sub-section (1) :

Provided that no such person shall be disqualified unless he is given a reasonable opportunity of being heard.

(8) Any person whose application for enrollment is rejected under sub-section (4) or who is disqualified under sub-section (7) may within sixty days of the direction relating thereto, appeal to the Tribunal to have the direction cancelled.

Relevant Rules & Forms -Rule 94; Form 71, 72 & 73

Sec.32 PAYMENT AND RECOVERY OF TAX AND OTHER DUES UNDER THIS ACT.

(1) The tax payable for each year shall be paid in the manner hereinafter provided at such intervals as may be prescribed.

⁵⁵(2) Before any registered dealer furnishes any return as required by sub-section (I) of Section 26, he shall pay into a Government treasury .in the prescribed manner and time, the full amount of tax payable according to such return and the amount of interest, if any, payable by him under the provisions of this Act.

(3) If a revised return furnished by a registered dealer in accordance with sub-section (3) of Section 26 shows a higher amount of tax to be due than was shown in the original return, he shall pay the difference and the interest payable, if any, under the provisions of this Act into a Government treasury.

(4) Notwithstanding anything contained in sub-section (2) or sub-section (3), where the registered dealer is the Central Government or a State Government or any of their departments, the Commissioner may, subject to such terms and conditions as may be prescribed, permit such dealer to pay the amount of tax by book adjustment.

(5) Notwithstanding anything contained in any other provisions of this Act, but subject to such conditions as may be prescribed, a registered dealer who belongs to any of the categories specified in Section 37 and has been granted the facility of the deferment of payment of tax, is liable to pay tax under the provisions of sub-section (2) or sub-section (3) or sub-section (6) and where a loan liability equal to the amount of tax payable by the dealer as aforesaid for the period of eligibility to avail of the said facility has been created by any agency or agencies as the State Government may, by general or special order, specify then such tax shall be deemed to have been paid in accordance with the provisions of sub-section (2) or sub-section (3) or sub-section (6) .as the case may be.

(6) (i) The amount of tax -

(a) Due where the returns were furnished without full payment of tax, or

(b) assessed under sub-section (1), (2), (4) and (5) of Section 27 less the sum, if ; any, already paid by the dealer or person in respect of the said year together; with interest, if any, required to be paid and the penalty if any, directed to be paid under sub-section (4) of Section 26, or

(c) assessed under sub-section (6) or sub-section (7) of Section 27 or Section 28 together with the interest and/ or penalty, if any, directed to be paid thereunder, and

(ii) The amount of penalty if any imposed or directed to be paid under any provisions of this Act not covered under sub-clause (b) and (c) of clause (i),

shall be paid by the dealer or person into a Government treasury by such date as may be specified in a notice to be issued by the Commissioner for this purpose and the date to be so specified which shall be not less than thirty days from the date of service of such notice, (7) Where on an admission of first appeal or a second appeal, the appellate authority stays the recovery of any amount of tax assessed or penalty imposed and on decision of such appeal by it the amount of tax or penalty so stayed has been maintained in whole or in part by it, the dealer shall be liable to pay interest on such amount at the rate of two per cent per month for the period from the date on which the recovery of such amount was stayed by the appellate authority to the date of its payment after the decision in appeal.

(8) If, for any reason, a dealer or person, is unable to pay the tax assessed or the penalty imposed on him under this Act or the tax payable by him in advance of assessment within the time specified therefore in the notice of demand, he may apply to the Commissioner in writing to grant him further time for payment of such amount or to permit him to pay such amount in instalments, Subject to such conditions and restriction as may be prescribed, the Commissioner may grant further time to such dealer or person or allow him to pay such amount in instalments on such condition as he may deem fit to impose, Where any extension of time or permission to pay by instalments is granted, the dealer or person shall be liable to pay interest on such amounts from the last date on which the tax and / or penalty was due to be paid in accordance with such notice of demand, The interest shall be paid at ⁵⁶[twelve] per cent per annum for the period commencing from such last date,

(9) Where a dealer or person does not pay the tax assessed on him or the penalty imposed on him or any other amount due from him under this Act within the time specified therefore in the notice of demand and the dealer or person, has not obtained any order under sub-section (8) or has failed to pay the tax or penalty in accordance with the order passed by the Commissioner under sub-section (8), the Commissioner shall, after giving the dealer or person a reasonable opportunity of being heard, direct that such dealer or person shall, in addition to the amount due, pay by way of penalty a sum equal to 2 per cent of the amount of tax, penalty or any other amount due, for every month, for the period for which payment has been delayed by him after the last date on which such tax, penalty or other amount was due to be paid.

(10) (a) Where the State Government after such enquiry as it may deem fit, is of the opinion that genuine hardship is being caused to a dealer or person due to any proceedings initiated for recovery of any amount of tax, interest or penalty or other dues outstanding against him, the State Government may, subject to such restrictions and conditions as may be prescribed, grant to the dealer or person additional time to pay such amount of tax or penalty or any other dues or may grant facility to pay such amount in instalments and pending the completion of such enquiry, the State Government may stay the recovery of the dues, In respect of every such facility the dealer or person shall be liable to pay interest at the rate specified in sub-section (8) :

Provided that no such facility shall be granted to the dealer or person unless he has in the first instance applied in this behalf to the Commissioner under sub-section (8).

(b) If the dealer or person does not comply with any order passed by the State Government, the Commissioner may impose on him penalty under sub-section (9).

(11) Where a dealer or person to whom any facility has been given under sub-section (8) or sub-section (10) and such dealer or person has properly complied with the order granting him such facility, the Commissioner may, if he is of the opinion that the interest payable by him has caused him hardship, remit such portion of the interest payable on the tax due or on the penalty imposed as is in excess of the tax to be paid or the penalty to be recovered:

Provided that the State Government may *suo motu* or on a reference made by the Commissioner, grant such further remission of interest payable under this sub-section as it may deem fit.

(12) Where any amount of tax assessed or any penalty imposed on a dealer or other amount due from him under this Act is not paid by him within the time allowed in the notice of demand or any order for payment of such amount in instalments, issued for the purpose but is paid by him within a period not exceeding one year, then the State Government may remit the penalty under sub-section (9) payable by such dealer in respect of the said amount.

(13) (a) If any amount of tax or any other amount due under this Act or the Act repealed by this Act (hereinafter referred to as the repealed Act) remains unpaid on the expiry of the period prescribed or the payment thereof by or under this Act or the repealed Act or on the expiry of the period specified in any notice of demand or order issued or made under this Act or the repealed Act or the rules made thereunder, for the payment thereof, the dealer or person liable to pay such sum shall be deemed to be in default as to the whole of the amount then outstanding;

(b) When a dealer or person is in default or is deemed to be in default under clause (a), ¹[the sum outstanding shall be recoverable as an arrear of land revenue according to the provisions of Chhattisgarh Land Revenue Code, 1959 (No.20 of 1959) and the rules made thereunder] and for the purpose of effecting the recovery of such sum -

- (i) The Commissioner of Commercial Tax shall have and exercise all the powers and perform all the duties of the Commissioner under the Chhattisgarh Land Revenue Code, 1959 (No.20 of 1959);
- (ii) An Additional Commissioner of Commercial Tax shall have and exercise all the powers and perform all the duties of the Additional Commissioner under the said code;
- (iii) A Deputy Commissioner of Commercial Tax shall have and exercise all the powers and perform all the duties of the Collector under the said code;
- (iv) An Assistant Commissioner of Commercial Tax shall have and exercise all the powers and perform all the duties of the Assistant or a Deputy Collector under the said code;
- (v) A Commercial Tax Officer and Assistant Commercial Tax Officer shall have and exercise all the powers and perform all the duties of the Tehsildar under the said code.

(c) Every notice issued or order passed in exercise of the powers conferred by clause (b), shall for the purpose of Sections 60, 61, 62, 70 and 71 of this Act be deemed to be a notice issued or an order passed under this Act.

²[(d) Notwithstanding anything contained in the Chhattisgarh Land Revenue Code, 1959 (No.20 of 1959) where twenty five percent of the sale value is deposited by the purchaser for the purchase of property sold in auction, the purchaser may apply to the Commissioner in writing to permit him to pay the balance amount in instalments, The Commissioner may allow him to pay such amount in instalments with interest thereon, on such conditions as he may deem fit to impose.)

(14) Where in pursuance of sub-section (13) any proceedings for the recovery as an arrears of land revenue of any tax, penalty, interest or fee or part thereof or any other amount remaining unpaid, have been commenced and the amount of tax, penalty, interest, fee or any other amount is subsequently modified, enhanced or reduced in consequence of any assessment made or order passed in appeal or revision under Section 61 or Section 62 or rectification of mistake under Section 71, the Commissioner may, in such manner and within such period as may be prescribed, inform accordingly the dealer or person and the authority by whom or under whose order the recovery is to be made and thereupon such proceedings may be continued as if the amount of tax, penalty, interest or fee or any other amount as modified, enhanced or reduced, had been substituted for the tax, penalty, interest or fee or any other amount which was to be recovered under sub-section (13).

Relevant Rules & Forms -Rule 40.45 & 55; Form 39 & 51

¹ Subs. vide MPCT (Amendment) Act, 2002 w.e.f. 23-4-2002
² Inserted vide MPCT (Amendment) Act, 2002 w.e.f. 23-4-2002

Sec. 33 PAYMENT OF TAX IN ADVANCE OF ASSESSMENT ON FAILURE TO FURNISH RETURNS

(1) Where any registered dealer fails to furnish any return as required by sub-section (I) of Section 26 and fails to pay the tax payable in accordance with the return under the provision of sub-section (2) of Section 32-

(a) The Commissioner may, if the tax payable by such dealer in a year does not ordinarily exceed one thousand rupees; and

(b) The Commissioner shall, if the tax payable by such dealer in a year exceeds rupees one thousand, require such dealer to pay such tax, in the manner laid down in the following sub-sections in advance of an assessment which may be under Section 27.

(2) The amount of tax payable in advance under sub-section (I) shall be computed by the Commissioner as under:

(a) (i) Where the registered dealer has been assessed to tax for any previous year or part thereof, the tax payable in advance shall be an amount which bears to the amount of tax assessed in respect of the latest previous year or part thereof the same proportion as the period for which the tax payable in advance bears to the period for which the latest assessment was made, or

(ii) where the registered dealer has furnished the return as required under sub-section (I) of Section 26 for any period subsequent to the latest previous year or part thereof for which he has been assessed to tax, the tax payable in advance shall be an amount which bears to the maximum amount of tax payable according to any such return the same proportion as the period for which the tax payable in advance bears to the period for which such maximum amount of tax was payable according to such return, whichever is greater.

(b) Where a registered dealer has not been assessed to tax for any previous year or part thereof but has furnished the return as required by sub-section (1) of Section 26 for any period, the tax payable in advance shall be an amount which bears to the maximum amount of tax payable according to any such return the same proportion as the period for which the tax payable in advance bears to the period for which such maximum amount of tax was payable according to such return.

(c) Where a registered dealer has not been assessed to tax for any previous year and no returns have been furnished by him for such year or where a registered dealer has no previous year, the tax payable in advance shall be such amount as the Commissioner may determine to the best of his judgement.

(3) After the expiry of the date by which the return has become due, the Commissioner may issue a notice in the prescribed form to a registered dealer requiring him to pay in the prescribed manner and within the prescribed time the tax payable in advance computed in accordance with sub-section (2).

(4) If any registered dealer who is required to pay the tax in advance furnishes the return under sub-section (1) of Section 26 and pays the amount of tax in accordance with the provisions of sub-section (2) of Section 32 on or before the date specified in the notice issued under sub-section (3) or satisfies the Commissioner that the return was already furnished by him by the date by which it was due, the said notice shall stand cancelled.

(5) The tax payable in advance or any part thereof left unpaid within the time specified in the notice issued under sub-section (3) shall be recoverable as an arrear of land revenue for which purpose the provisions of sub-section (13) and (14) of Section 32 shall *mutatis mutandis* apply.

(6) The tax paid under this Section shall be adjusted towards the tax assessed under Section 27.

Relevant Rules & Forms-Rule 41; Form 40

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Sec, 34 DEDUCTION AND PAYMENT OF TAX IN CERTAIN CASES

- ⁵⁷(1) Any person responsible for making payment of any sum to any dealer as a consideration for the sale or supply of any goods in pursuance of a contract between such dealer and the Central Government or a State Government (hereinafter referred to in this Section as the purchaser), shall before crediting such sum to the account of the dealer or before payment thereof in cash or by issue of a cheque or draft or by any other mode, deduct an amount equal to the amount payable by the purchaser to the dealer by way of tax, whether or not such amount is shown by the dealer separately in his bill, where such amount exceed rupees five thousand and shall pay it to the State Government in such manner as may be prescribed.
- (2) Any person making the payment under sub-section (1) shall be deemed to have made the payment on the authority and on behalf of the dealer and the treasury receipt for such payment shall constitute a good and sufficient discharge of the liability of the purchaser to the extent of the amount specified in the receipt.
- (3) Where any payment under sub-section (1) is made by a purchaser on behalf of the dealer such payment shall constitute a good and sufficient discharge of the liability of the dealer to pay tax in respect of such transaction and the amount so paid shall be adjusted in such manner as may be prescribed.
- (4) Any sum which a person is required to deduct and pay under sub-section (1) shall, if it remains unpaid, be recoverable as an arrear of land revenue.

Relevant Rules & Forms -Rule 42; Form 41

Sec.35 DEDUCTION AT SOURCE OF TAX PAYABLE BY A CONTRACTOR

- (1) Notwithstanding anything contained in any other provision of this Act, any person letting out a works contract of value exceeding one lac rupees to a contractor involving sale of any goods in the course of execution thereof by the contractor shall before making the payment of any amount towards the value of such contract to him, deduct at the rate of two per cent an amount towards the tax payable by the contractor under this Act, The amount so deducted shall be adjusted towards the tax assessed on such contractor under Section 27 and any amount that remains after such adjustment shall be refundable to the contractor.
- (2) On deduction of the amount at source under sub-section (1) the person making such deduction shall issue a certificate therefore to the contractor and shall deposit such amount into the Government treasury in such manner and within such time as may be prescribed.
- (3) Any person making a payment of the amount under sub-section (2) shall be deemed to have made the payment thereof on the authority and on behalf of the contractor and the treasury receipt for such payments shall constitute a good and sufficient discharge of the liability of the person to the contractor towards the value of the contract to the extent of the amount specified in the receipt.
- (4) Where any payment of any amount is made by a person under sub-section (2) on behalf of a contractor such payment shall constitute a good and sufficient discharge of the liability of the contractor to pay tax in respect of the sale of the goods in the course of execution of the works contract from the payment of the value whereof such amount has been deducted under sub-section (1) and such amount shall be adjusted towards the tax payable by the contractor on the sale of such goods.
- (5) Where a person contravenes the provisions of sub-section (1) or sub-section (2) the Commissioner shall impose upon such person by way of penalty an amount which shall be twenty five per cent of the amount required to be deducted under sub-section (1).
- (6) Any amount, a person is required to deduct under sub-section (1) and to pay it into a Government treasury under sub-section (2) or the penalty payable under sub-section (5) remains unpaid shall be recoverable as an arrear of land revenue.
- Explanation -for the purpose of this Section "person", means (i) Department of the Central or the State Government.
(ii) Public Sector Undertaking.
(iii) Municipalities and Municipal Corporation.

(iv) ⁵⁸[...] Authorities constituted under any law for the time being in force (v) Public limited companies.

⁵⁹(vi) Non-governmental organisations.

Relevant Rules & Forms -Rule 42; Form 42

⁶⁰Sec.35-A SAVING FOR PERSON RESPONSIBLE FOR DEDUCTION AT SOURCE

Notwithstanding anything contained in Section 34 and 35 no deduction or deduction at a lower rate or deduction of a lump sum amount at source towards the tax payable shall be made under any of the said sections in the case of dealer or person, if such dealer or person furnishes to the person responsible for paying any amount in respect of the sale, supply or contract referred to in Section 34 and 35, as the case may be, a certificate in writing in the prescribed form issued in the prescribed manner by such authority as may be prescribed.

⁶¹Sec.35-B REGISTRATION OF PERSONS LIABLE FOR TAX DEDUCTION AT SOURCE

(i) Every person liable or deduction of tax at source under section 34 and 35, shall obtain a certificate of registration from the Commissioner in such manner and forms as may be prescribed.

(ii) Every person require to obtain a certificate of registration under sub-section (I), shall within 30 days of his becoming liable to pay tax under this Act, apply for the certificate of registration to the Commissioner, in the prescribed ⁶²[form] and that authority shall, after such inquiry as it considers necessary .within days of the receipt of application is in order, grant certificate of registration.

(iii) Where a person liable for registration has failed to apply for such certificate, within the time specified in sub-section (2), the Commissioner may, after giving him a reasonable opportunity of being heard, impose penalty not exceeding one hundred rupees for each day subject to a maximum of five thousand rupees.

(iv) Where a person liable for registration has given false information in any application submitted under this Section, the Commissioner may, after giving him a reasonable opportunity of being heard, impose penalty not exceeding five hundred rupees.

Relevant Rules & Forms -Rule 42-A; Form 42-A & 42-B

⁶³Sec.35-C RETURNS TO BE FURNISHED BY A PERSON LIABLE FOR TAX DEDUCTION AS SOURCE

(1) Every person registered under Section 35-8 shall furnish a return in such form, in such manner, for such period, by such dates and to such authority as may be prescribed.

(2) Every such return shall be accompanied by a Treasury challan in proof of payment of full amount of tax due according to the return, A return without such proof of payment shall not be deemed to have been duly filed.

(3) Where a person has without reasonable cause failed to file such a return within the prescribed time, the Commissioner may, after giving him a reasonable opportunity of being heard, impose upon him a penalty not exceeding one hundred rupees for each day of delay.

(4) The state government may, subject to such conditions as may be specified, exempt any person or class of persons from furnishing returns.

Relevant Rules & Forms -Rule 42-8; Form 42-C

⁵⁸ The word 'Development, omitted by MPCT (Second Amendment) Act, 1997 w.e.f, 1.9.97.

⁵⁹ Clause (vi) inserted w.e.f, 1.9.97 by *ibid*.

⁶⁰ Sec, 35-A inserted w.e.f, 1.9.97 by *ibid*.

⁶¹ Sec, 35-B inserted first by Commercial Tax (Amendment) Ordinance, 2001 w.e.f, 05.06.2001 & then by Commercial Tax (Amendment) Act. 2001 w.e.f, 04.09.2001

⁶² The word in bracket is printed as 'from, in the Gazette dated 04.09.2001.

⁶³ Sec, 35-C inserted first by Commercial Tax (Amendment) Ordinance, 2001 w.e.f, 05.06.2001 & then by Commercial Tax (Amendment) Act. 2001 w.e.f, 04.09.2001

Sec.36 PRODUCTION OF TAX CLEARANCE CERTIFICATE

Any department or office of the Central Government situated in Chhattisgarh or the State Government or any local authority shall, before entering into a contract with any dealer for the sale or supply of any goods by him exceeding rupees ten thousand in value require such dealer to produce a tax clearance certificate in such form as may be prescribed, Such certificate shall be issued by such authority, in such manner, for such period and within such time as may be prescribed.

Relevant Rules & Forms -Rule 43; Form 43 & 44

Sec.37 SPECIAL PROVISIONS RELATING TO DEFERRED PAYMENT OF TAX BY INDUSTRIAL UNITS

⁶⁴(1) Notwithstanding anything contained in any other provisions of this Act a registered dealer who is -

- (a) Registered as a small scale industrial unit with the Industries Department of the Government of Chhattisgarh, or
- (b) Registered with the Industries Department of the Government of Chhattisgarh as medium scale industrial unit or has sent a memorandum of information thereof to the Central Government, or
- (c) registered as a large scale industrial unit with any authority duly empowered to do so by the Government of Chhattisgarh or the Central Government, or
- (d) Holding a licence under the Industries (Development and Regulation) Act, 1951 (No.65 of 1951) wherever necessary. and who in each case has or may set up a new industrial unit in any district of Chhattisgarh eligible for grant of the facility of deferred payment of tax under the scheme providing for grant of incentive to entrepreneur for setting up new industrial units in the State as the State Government may make in this behalf, may make deferred payment subject to such restrictions and conditions as may be specified in such scheme.

(2) Notwithstanding the repeal of the Chhattisgarh General Sales Tax Act, 1958 (No.2 of 1959) (hereinafter referred to as the repealed Act) the State Government may by notification amend retrospectively or prospectively any notification relating to the facility of deferred payment of tax by the industrial units, issued under Section 22-D read with Section 51 of the repealed Act and for that purpose it shall and shall always be deemed that the provisions of Section 22- D and Section 51 of the repealed Act have revived for the purpose of such amendment.

Sec. 38 SPECIAL MODE OF RECOVERY

(i) Notwithstanding anything contained in Section 32 or any law or contract to the contrary, the Commissioner or any officer other than an Inspector appointed under Section 3, may at any time or from time to time, by notice in writing, a copy of which shall be sent to the dealer or person, at his last address known to the officer issuing the notice, require -

- (a) Any person from whom any amount is due or may become due to a dealer or, person who has failed to comply with a notice of demand for any amount due under this Act;
- (b) Any person who holds or may subsequently hold any money for or on account of such dealer or person, to pay to the Government under this sub-section, either forthwith or upon the money becoming due or being held, or at or within the time specified in the notice (not being before the money becomes due or it is held), so much of the money, as is sufficient to pay the amount due from the dealer or person in respect of the arrears of the tax, interest and penalty under this Act or the whole of the money when it is equal to or less than that amount.

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

⁶⁴ Existing Section 37 renumbered as sub-section (1) and sub-section (2) inserted by MPCT (Second Amendment) Act, 1997 w.e.f. 1.9.97.

(2) The Officer issuing a notice under sub-section (I) may at any time or from time to time amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.

(3) Any person making any payment in compliance with a notice issued under sub-section (I) shall be deemed to have made the payment under the authority of the dealer or person and the treasury receipt for such payment shall constitute a good and sufficient discharge of the liability of such a person to the extent of the amount specified in the receipt.

(4) Any person discharging any liability to the dealer or person after service on him of the notice issued under sub-section (I) shall be personally liable to the State Government to the extent of the liability discharged or to the extent of the liability of the dealer or person for tax or penalty or both, whichever is less.

(5) Where a person on whom a notice is served under sub-section (I) proves to the satisfaction of the officer who issued the notice that the sum demanded or any part thereof was not due to the dealer or person or that he did not hold any money for or on account of the dealer or person, at the time the notice was served on him, then nothing contained in this Section shall be deemed to require such person to pay into the Government treasury any such money or part thereof, as the case may be.

(6) Any amount of money which a person is required to pay under sub-section (I) or for which he is personally liable to the State Government under sub-section (4) shall, if it remains unpaid, be recoverable as an arrear of land revenue.

(7) The provisions of this Section shall be without prejudice to any action that may be taken for recovery of the arrears of tax, interest and penalty, if any, due from the dealer or person.

Relevant Rules & Forms -Rule 44; Form 45

Sec. 39 REFUNDS

(1) If the Commissioner is satisfied that the tax or penalty of both or interest paid by or on behalf of a dealer for any year exceeds the amount of the tax to, Which he has been assessed or the penalty imposed or the interest payable under this Act for that year, he shall cause a refund to be made of any amount in the manner prescribed found to have been paid in excess either in cash or at the option of the dealer, by adjustment of such excess towards the amount of tax due in respect of any other year from him.

(2) If the Commissioner is satisfied that due to an error committed by the dealer while crediting any amount payable under this Act or the Act repealed by this Act or the Central Sales .Tax Act, 1956 (No.74 of 1956), into Government treasury the amount so paid cannot be accounted for the purpose for which it is credited, he shall subject to the provisions of sub-section (4) cause refund, to be made of that amount in the manner prescribed either in cash or at the option of the dealer by adjustment of such refundable amount towards the amount of tax due in respect of any other year from him.

(3) If the appellate or the revisional authority is satisfied to the like effect it shall cause refund to be made of any amount found to have been wrongly paid or paid in excess.

(4) Notwithstanding anything contained in sub-section (1) or sub-section (2) or sub- section (3) the authority empowered to grant refund shall apply the refundable amount in respect of any year towards the recovery of any tax, penalty, interest or licence fee, registration fee or exemption fee or part thereof due under this Act or under the Act repaired by this Act or under the Central Sales Tax Act, 1956 (No.74 of 1956) or under .the Chhattisgarh Sthaniya Kshetra Me Mal Ke Pravesh Par Kar Adhiniyam, 1976 (No.52 of 1976) and shall" then refund the balance remaining, if any.

(5) Where a refund of any amount under sub-section (1) or sub-section (3) is not made or is not applied for the purposes mentioned in sub-section (4) within ninety days from the date of passing of the order for refund, the dealer shall be paid interest at the, rate of ⁶⁵[half] per cent per month on the amount of refund for the period commencing from the date of expiry of the said period of ninety days and ending with the day on which the refund is made to him under subsection (1) or sub-section (3) or is applied for the purposes mentioned in subsection (4), as the case may be.

⁶⁵ Substituted for the word 'one' by CGCT (Amendment) Ordinance, 2004 w,e.f. 04.09.2004

Explanation - (i) Under this sub-section where the period for which interest is payable covers a period less than a month, the interest payable in respect of such period shall be computed proportionately.

(ii) For the purpose of this sub-section "month" shall mean thirty days.

(6) Nothing in this Section shall operate to validate any objection or appeal which is otherwise invalid or to authorise the revision of any assessment or other matter which has become final and conclusive or the rectification of any mistake by any officer of his decision which is subject to appeal or revision.

(7) Notwithstanding anything contained in Section 9 or Section 10 where a tax has been levied in respect of the sale or purchase of declared goods under this Act, and such goods are subsequently sold in the course of inter-State trade or commerce, the tax so levied shall be refunded in such manner and subject to such conditions as may be prescribed,

Relevant Rules & Forms -Rule 58 to 62, 63, 65; Form 52 to 55

Sec.40 POWER TO WITHHOLD REFUND IN CERTAIN CASES

Where an order giving rise to a refund is passed and the Commissioner is satisfied that the grant of the refund is likely to be prejudicial to the interest of revenue and action under sub-section (3) or sub-section (6) of Section 62 is required to be initiated or an application to the Tribunal to enhance the tax levied or penalty imposed is required to be made or the said order is the subject matter of any proceeding under Section 70, the Commissioner may withhold the refund till such time as the aforesaid proceedings are finally decided :

Provided that the dealer shall be paid interest under sub-section (5) of Section 39 on the amount of refund ultimately determined to be due as a result of the aforesaid proceedings for the period commencing after the expiry of ninety days from, the date of receipt of the order giving rise to the refund.

Sec.41 REMISSION OF TAX

The Commissioner may subject to such conditions as may be prescribed, remit the whole or part of the amount of the tax payable by a registered dealer in respect of any year during which he suffered financially on account of riots, accidental fire .or through natural calamities :

Provided that if the amount to be remitted exceeds rupees ten thousand the remission shall not be made without the previous sanction of the State Government.

Relevant Rules -64

Sec. 42 ACCOUNTS

(1) Every registered dealer and every dealer liable to pay tax under this Act shall maintain correct account of his purchases, sales and stocks showing value, of different kinds of goods subject to different rates of tax under this Act and shall likewise maintain stock accounts showing value of raw materials and of finished goods.

(2) If the Commissioner considers that the accounts maintained by any dealer or any class of dealers do not sufficiently enable him to verify the returns referred to in sub-section (I) of Section 26 or the assessment cannot be made on the basis thereof, he may by an order, require any dealer or by notification any class of dealers, to keep such accounts including records of manufacture, sales, purchases or transfers in such forms and in such manner as he may, subject to rules made under this Act, direct.

Relevant Rules & Forms -Rule 74; Form 59

Sec.43 CERTAIN DEALERS TO ISSUE BILLS OR CASH MEMORANDA

(1) Every dealer whose turnover exceeds one lac and fifty thousand rupees in any year shall, for each sale made by him of goods exceeding rupees one hundred in value, in the next succeeding year, issue to the purchaser, a bill or a cash memorandum signed and dated by such dealer or his servant, manager or agent showing such particulars as may be prescribed, Every such dealer shall also maintain a counterfoil or duplicate of each bill or cash memorandum issued by him with signature, date and all other aforesaid particulars and shall preserve it for a period of not less than five years from such date or till the completion of assessment whichever is earlier:

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Provided that the Commissioner may, subject to such conditions and restrictions as he may deem fit to impose, exempt any dealer or class of dealers in respect of sale of any goods or class of goods from issuing a bill or a cash memorandum to the purchaser or from showing some of the particulars or from maintaining a counterfoil or duplicate of each bill or cash memorandum issued by him.

(2) If any person to whom sub-section (1) applies, contravenes the provisions of the said sub-section the Commissioner may, after giving such person a reasonable opportunity of being heard, direct him to pay a penalty not exceeding double the amount of the bill or the cash memorandum in respect of which such contravention has occurred or rupees fifty whichever is less subject to a maximum of rupees five thousand in a year.

⁶⁶(3) Every registered dealer, who in the course of his business sells any goods specified in Schedule II, which have been manufactured by an industrial unit in respect of which such unit is availing the facility of exemption from payment of tax in whole under any notification issued under the Act repealed by this Act or under this Act, in pursuance of any scheme of the State Government, shall issue to the purchaser a bill, invoice or cash memo specifically stating in such manner as may be prescribed, that the goods being sold are the goods manufactured by an industrial unit availing the facility of exemption from payment of tax in whole and no tax has been paid on such goods.

(4) Where the goods mentioned in sub-section (3) are purchased and sold in the course of their business by chain of registered dealers, the selling registered dealer shall issue a bill, invoice or cash memo, containing the statement referred to in sub-section (3).

(5) Every registered dealer referred to in sub-section (3) and (4) shall maintain a separate account of purchases and consumption, use or sale of goods referred to in sub-section (3), (6) Where a registered dealer referred to in sub-section (3) or sub-section (4) has failed to make the statement referred to in sub-section (3), it shall be presumed, unless the contrary is proved by him, that he has facilitated the evasion of tax on the sale of such goods and accordingly he shall be liable to pay penalty equal to two times the amount of tax payable on such goods.

Relevant Rules -66, 67 & 68

Sec.44 SAVING FOR DEALERS DEALING IN TAX FREE AND TAX PAID GOODS

(1) If before the, commencement of any year a registered dealer files with the Commissioner, a declaration in the prescribed form and manner in respect of such year to the effect that -

- (i) He will be dealing exclusively during that year in goods declared tax free under Section 15 or exempted in whole under Section 17, or
- (ii) his turnover in a year does not exceed rupees forty lacs and that he will deal exclusively in tax paid goods or deal, along with such goods, in goods declared tax free under Section 15 or exempted in whole under Section 17 during that year .

the provisions of Sections 26, 27 and 43 shall not apply to such dealer so long as he deals exclusively in tax paid goods or in tax paid goods and goods declared tax free under Section 15 or exempted in whole under Section 17 in that year.

(2) Every registered dealer of the category specified in clause (ii) of sub-section (1) shall, before filing a declaration under the said sub-section pay such fee as may be prescribed.

(3) If at any time during the year in respect of which a dealer has filed a declaration under sub-section (1), he desires to deal in any taxable goods, he shall send previous intimation thereof to the Commissioner and thereupon his declaration shall cease to be in force.

⁶⁶ Sub-section (3) to (5) inserted by MPCT (Second Amendment) Act, 1996, w.e.f. 1.4.95.

(4) Where the Commissioner, in consequences of information which has come into his possession, is satisfied that any dealer has at any time during the year, in respect of which he has filed a declaration under sub-section (1), dealt in any taxable goods without complying with the requirement of sub-section (3), he may, after giving the dealer a reasonable opportunity of being heard and after making such enquiry as he considers necessary, make an order annulling the declaration and also impose upon him a penalty equal to three times the amount of tax payable on the taxable goods sold by him during that year.

(5) The Commissioner shall direct every year that detailed inspection upto five per cent of the dealers falling in clause (ii) of sub-section (1), in each circle to be selected on sample basis in the manner decided by the Commissioner shall be carried out to ensure that the dealers concerned have not acted in contravention of the declaration filed by them.

Relevant Rules & Forms -Rule 95; Form 74

Sec. 45 CONSTITUTION OF A COMMITTEE FOR DETECTION AND CHECKING OF EVASION OF TAX BY DEALERS LIABLE TO PAY TAX AND POWER OF THE COMMISSIONER ACTING UPON THE REPORT OF SUCH COMMITTEE

(1) The State Government may constitute a committee for detection and investigation of evasion of tax under this Act or the Act repealed by this Act, The committee shall consist of such number of members as the State Government may determine, The committee shall be assisted by such officers specified in Section 3 as the State Government may appoint for the purposes, The authority and the officers appointed to assist it shall perform such functions as the State Government may direct.

(2) If upon any information which has come into its possession the Committee has reason to believe that any dealer has evaded payment of tax or is indulging in evasion of tax under this Act or under the Act repealed by this Act, it may draw its report in the matter and sent it to the Commissioner to investigate into the tax evasion by such dealer.

⁶⁷(2-A) In emergent cases, if the Commissioner has reason to suspect that any dealer is attempting to evade payment of any tax, he may, for reasons to be recorded in writing, proceed to investigate into the tax evasion by such dealer.

(3) ⁶⁸[On the receipt of the report from the committee in respect of the dealer as provided in sub-section (2) or on his own motion as provided in sub-section (2-A)], the Commissioner shall subject to such conditions as may be prescribed -

- (a) require the dealer to produce before him any accounts, registers, or documents relevant to his business or to furnish such other information as he may deem fit for scrutiny, or
- (b) Inspect the place of business of such dealer and for this purpose all accounts, registers and documents relating to the business of such dealer and all the goods kept in such place of business shall be open to inspection by the Commissioner.

(4) If on scrutiny of the records produced by the dealer or on inspection of his place of business under sub-section (3) the Commissioner is satisfied that the dealer has evaded payment of tax payable by him for any year, he may for reasons to be recorded in writing, seize such accounts, registers or documents relating to the business of such dealer as he considers necessary, and grant a receipt therefore to the dealer and shall detain them only for so long as may be necessary, for examination thereof or for assessment of tax or for prosecution.

⁶⁷ Sub-Section (2-A) inserted first by MPCT (Amendment) Ordinance, 1.1.2000 and 1999 w.e.f. then by MPCT (Amendment) Act, 2000 w.e.f. 15.3.2000.

⁶⁸ Subs. for the words "On the receipt of the report from the committee in respect of a dealer first by MPCT (Amendment) Ordinance, 1999 w.e.f. 1.1.2000 and then by MPCT (Amendment) Act, 2000 w.e.f. 15.3.2000

(5) For the purpose of clause (b) of sub-section (3), the Commissioner may -

(a) enter and search any place of business of such dealer or any other place whether such place be the place of his business or not, where the Commissioner has reason to believe that the dealer keeps or is for the time being keeping any accounts, registers or documents of his business or stock of goods relating to his business and the Commissioner may, for exercising the powers under this clause, seal or break open the lock of any door, box, locker, safe, almirah or any other receptacle where the keys thereof are not produced on demand or are not available; and

(b) also search any person who leaves or is about to enter or is already in the place referred to in clause (a), if the Commissioner has reason to suspect that such person has secreted about his person, any such books of accounts or other documents relating to the business of such dealer.

(6) (a) In the course of scrutiny of accounts, registers or documents produced by the dealer or in the course of inspection of the place of business of such dealer, the Commissioner has reason to believe that the dealer has stored or kept goods liable to tax, without accounting for them in books, registers or accounts maintained by him in the course of his business, with a view to their surreptitious sale in order to evade payment of tax, in any building, place or vehicle under the ownership or control of the dealer in either case whether exclusive or in association with some other person or in any building; place or vehicle in each case belonging to some other person with express or implied permission of such other person, the Commissioner may enter any such building, place or vehicle and inspect and verify if the goods have been accounted for and in the event of his reasonable belief that the dealer has not accounted for such goods with the intention of evading tax, the Commissioner may seize all such goods and take an necessary steps for their removal proper custody and preservation :

Provided that a list of all goods seized under this clause shall be prepared by the Commissioner in presence of at least two respectable persons and a copy thereof shall on demand be furnished to the dealer or as the case may be, to the person from whose possession or custody they were seized.

(b) The Commissioner shall as soon as possible, after seizure of the goods under clause (a), serve upon the dealer, a notice in writing to show cause within a period of thirty days of service of such notice as to why a penalty equal to double the amount of tax payable and calculable on the price which such goods would have fetched on their assumed sale in Chhattisgarh, on the date of seizure, be not imposed on him for the dealers default in not making entries in respect of such goods in his books of account or register or other documents, as the case may be, maintained by him in the course of his business.

(c) If the Commissioner, after taking into consideration the explanation of the dealer and after giving him an opportunity of being heard, is satisfied that the entries relating to the said goods were not made in the books of accounts, registers or other documents of the dealer and without any proper justification, the Commissioner shall pass an order imposing a penalty equal to the sum specified in the notice.

(d) The Commissioner may, at any time after the service of the notice under clause (b) and before passing an order imposing penalty under clause (c), release the goods seized if the dealer or the person from whom the goods were seized furnishes security in the form of cash security or bank guarantee or any other security to the satisfaction of the Commissioner, in each case for such reasonable amount as the Commissioner may specify by order in writing with the due regards to the amount of penalty proposed.

(e) The cash security .and in the case of bank guarantee, or any other security, when the amount thereof realised, shall be adjusted towards the penalty imposed and the balance, if any, shall be refunded to the dealer or to the surety, as the case may be.

(f) Where no security is furnished under clause (d), the dealer shall pay the amount of penalty, within thirty days of the service of the order imposing penalty on him and on payment of such amount goods seized shall be released forthwith.

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(g) If the dealer fails to pay the penalty imposed under clause (c), the Commissioner shall, subject to other provisions of this Section, dispose of the goods by sale in such manner as may be prescribed and apply the sale proceeds thereof towards the penalty imposed and the expenses incurred on account of and incidental to the custody, protection, preservation and sale of such goods and shall refund the balance, if any, to the dealer or person entitled.

(h) The penalty imposed under clause (c) shall be without prejudice to any other action under any other provisions of this Act.

(i) Where any objection is made to the seizure of the property seized under clause (c) on the ground that such goods do not belong to the dealer or are not otherwise liable to seizure, the Commissioner shall proceed to decide the objection:

Provided that no such objection shall be entertained -

- (i) Where, before the objection is made, the property seized has already been sold, or
- (ii) Where the Commissioner considers that the objection was designedly or unnecessarily delayed.

(j) All questions including question relating to right, title or interest in the property seized arising between the parties to such proceeding or their representatives and relevant to the adjudication of the claim or objection, shall be determined by the Commissioner dealing with the claim or objection.

(k) Upon the determination of the question referred to in clause G), the Commissioner shall, in accordance with such determination:

- (i) Allow the claim or objection and release the property from distraint either wholly or to such extent as he thinks fit, or
- (ii) Disallow the claim or objection, or
- (iii) Continue the distraint subject to any lien, charge or other interest in favour of such person, or
- (iv) pass such order as in the circumstances of the case, he deems fit.

(l) where any claim or objection has been adjudicated upon under clause (k) or where the Commissioner refuses to entertain a claim or objection under the proviso to clause (h), any such order made shall be deemed to be an order relating to assessment of tax against a dealer under Section 27 and shall be subject to the same condition as to appeal, revision or any other remedy under this Act.

(7) Where the Commissioner, apprehends any resistance to entry, search or seizure of goods, he may for reasons to be recorded in writing requisition the services of any police officer of the State Government, having jurisdiction over the local area in which such entry, search or seizure is to be made, to assist him for all or any of the purposes specified in clause (b) of sub-section (3) or clause (a) of sub-section (5) or clause (a) of sub-section (6) and it shall be the duty of each police officer to comply with such requirement.

(8) The Commissioner while making entry, search and seizure under this Section shall, unless otherwise expressly provided by or under this Act exercise the same power and follow the same procedure as are exercised by and are required to be followed by a Police Officer in relation to entry, search and seizure under the provisions of the Code of Criminal Procedure, 1973 (No.2 of 1974)

Relevant Rules & Forms -Rule 70 to 73; Form 56 & 58

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⁶⁹Sec. 45-A ESTABLISHMENT OF CHECK POSTS

(1) The State Government or the Commissioner may, with a view to prevent or check evasion of tax under this Act, set up or erect in such manner as may be prescribed, check posts or barriers at such places in the State, excluding railway premises, as may be notified :

Provided that the Commissioner shall not set up a check post or erect a barrier for a period exceeding six months at a time.

(2) An officer, not below the rank of Commercial Tax Officer shall be in-charge of the check post (hereinafter referred to as the check post officer) and he shall be assisted by other category of officers.

(3) Subject to other provisions of this Section a check post officer shall exercise all powers conferred on him by this section.

(4) Every person Transporting such goods as may be notified by the State Government in this behalf (hereinafter referred to in this Section as the transporters shall carry with him an invoice, bill or challan or any other document, by whatever name called, issued by the consignor of the goods giving such particulars as may be prescribed.

(5) Every transporter shall, before crossing any check post or barrier set up or erected under sub-section (1), deliver to the check post officer a declaration duly signed by the consignor in such manner, in such form and containing such particulars as may be prescribed, A separate declaration shall be filed in respect of the consignment or consignments relating to each consignee where the goods are being imported into Chhattisgarh and of each consignor where the goods are being sent outside the State. No declaration in relation to goods to be delivered in Chhattisgarh shall be accepted if the consignee in Chhattisgarh is shown or described as 'self, unless the full particulars and address of the person who will take delivery of the goods at the destination in Chhattisgarh are furnished.

(6) The transporter shall stop the vehicle at every check-post or barrier mentioned in sub- section (1) and keep it stationary for as long as may reasonably be necessary and allow the check post officer to verify and check the declarations and the documents mentioned in, sub-section (4), to search the vehicle and inspect the goods and all documents relating to such goods which are in the possession of the transporters, The transporters shall, if so required, give his name and address and names and addresses of the owner of the vehicle and of the consignor and consignee of the goods.

(1) If the check post officer finds after searching the vehicle and verifying the declaration or other documents relating to the goods, that -

- (a) Goods notified under sub-section (4) are being transported in respect of which the transporters has not filed any declaration; or
- (b) the declaration filed in respect of any goods is false or incorrect, either in respect of the kind of goods, or the quantity of goods transported, or the value thereof; or
- (c) The consignor or the consignee of the goods is shown to be a dealer registered under this Act, while the records available in his office do not show the existence of such a dealer,

such officer may presume, until the contrary is proved, that an attempt was being made to facilitate the evasion of tax in respect of such goods and he may, after recording his reasons therefore in writing, a copy of which shall be forthwith supplied to the transporter, seize such goods or the vehicle along with the goods in such manner as may be prescribed.

⁶⁹ Sec. 45-A, 45-8 & 45-C inserted by MPCT (Amendment) Act, 2000 w.e.f. 15.3.2000

(8) The check post officer seizing the goods or the vehicle along with the goods under sub-section (1) shall also record the statement of the transporter on all the facts of the case and also obtain particulars of the consignor and consignee of the goods and the vehicle seized, The reasons, if any, stated by the transporter for the violation of the provision of this Section shall also be recorded.

(9) If, after considering the statement of the transporter, the check post officer is satisfied that the explanation is satisfactory and that there was no attempt to evade tax in respect of the goods seized, he shall record his findings giving his reasons therefore and release the goods of the vehicle along with the goods to the transporter in such manner as may be prescribed.

(10) If the check post officer is not so satisfied, he shall record his findings accordingly giving reasons therefore, and he shall serve on the transporter a notice in writing requiring him to show cause, ordinarily within fifteen days of the service of the notice, why a penalty as specified in the notice, which shall be equal to ⁷⁰[five] times of the amount of tax which would have been payable if the goods were sold within the State on the date of seizure, should not be imposed upon him for the attempt made to facilitate the evasion of tax on such goods.

(11) If, after taking into consideration the explanation, if any, of the transporter and after giving him an opportunity of being heard, the check post officer is satisfied, for reasons to be recorded in writing, with the explanation and the statement of the transporter, he shall discharge the notice and release the goods or the vehicle along with the goods seized in favour of the transporter, in such manner as may be prescribed.

(12) If the check post officer is not so satisfied, he shall record his findings accordingly giving reasons therefore and he shall pass an order imposing such penalty, not exceeding the sum specified in the notice, as he may deem fit:

⁷¹[Provided that the amount of penalty shall not be less than 3 times of the amount of tax which would have been payable if the goods were sold within the state on the date of seizure.]

(13) A copy of the order passed under sub-section (12) .shall be served on the transporter,

(14) On the payment of the amount of penalty, the goods or the vehicle along with the goods seized, shall be released in favour of the transporter in such manner as may be prescribed.

(15) If the amount of penalty specified in the order passed under sub-section (12) is not paid within thirty days of the service of the order, the check post officer may, notwithstanding anything to the contrary provided in this Act or in any law for the time being in force, confiscate the goods or the vehicle along with the goods seized and dispose of the goods or the vehicle along with the goods by sale in such manner as may be prescribed, and deposit the sale proceeds in the Government Treasury , in such manner as may be prescribed..

(16) The transporter may authorise, in such manner as may be prescribed, the consignor or consignee of the goods or the vehicle along with the goods seized under sub-section (7), to appear before the check post officer in the proceedings under sub-section (II) and such consignor or consignee shall be deemed to be the transporter for all purposes mentioned in the aforesaid sub-sections.

(17) The provisions of Section 31 shall apply to proceedings under sub-section (II) as if the transporter is a dealer.

(18) No person, claiming to have any interest or right in the goods or the vehicle along with the goods released in accordance with the provisions of sub-section (II) or disposed of in accordance with the provisions of sub-section (15), shall have any claim on the check post officer in respect of such goods or the vehicle along with the goods, Explanation: For the purpose of this section, the expressions 'person transporting, or

70 Substituted for the word 'ten' by CGCT (Amendment) Ordinance, 2003 w.e.f, 12.05.2003 and then by CGC(Amendment) Act, 2003.

71 Proviso Substituted by CGCT (Amendment) Ordinance, 2003 w.e.f, 12.05.2003 and then by CGC(Amendment) Act, 2003., Earlier proviso was as under :-
 "Provided that the amount of penalty shall not be less than half the amount of penalty specified in the notice.]"

'the goods transporter' shall include the owner of the vehicle carrying the goods across the check post or barrier, whether an individual, a firm, association, society or company, and the manager, if any, of such owner.

Relevant Rules & Forms -Rule 14-A, 14-b, 14-C AND 14-D; Form 59-A, 59-A-1, 59- AA, 59-AAA and 59-B
Sec.45-B PARTICULARS TO BE FURNISHED BY PERSONS TRANSPORTING GOODS

Every person transporting any goods notified under sub-section (4) of Section 451\ ~hall furnish such particulars in respect of such goods transported by him in such form, in such manner, by such date and to such authority as may be prescribed.

Explanation: For purpose of this section, the expression "person transporting" shall have the meaning assigned to it in Section 45-A.

Relevant Rules& Forms -Rule 74-AA; Form 59-A-2, 59-A-5

Sec.45-C POWER OF OFFICERS OF THE COMMERCIAL TAX DEPARTMENT TO CHECK GOODS AT THE POINTS OF LOADING AND UNLOADING

With a view to verifying the correctness of a declaration furnished or preventing the furnishing of a false or incorrect declaration under Section 45-A, any officer of the Commercial Tax Department not below the rank of Assistant Commercial Tax Officer, as authorised by the Commissioner, may inspect such goods at the points of their loading or unloading along with documents of title of such goods, and the person owning or, for the time being, incharge of the vehicle in which such goods are transported, shall render all assistance to such officer for this purpose.

⁷²Sec, 45-CC POWER TO CHECK GOODS IN TRANSIT

(1) Every transporter transporting any goods by road in the State of Chhattisgarh shall carry with him an invoice, bill or challan or any other document, by whatever name called, issued by the consignor or the goods giving such particulars as may be prescribed.

(2) Any officer, not below the rank of a Commercial Tax Officer, as may be authorised by the Commissioner, may, for the purposes of this Act, require the transporter to stop the vehicle at any place and allow him, and other persons assisting him, to search the vehicle and inspect the goods being carried, and to verify whether the document, relating to such goods, which are in the possession of the transporter, are those as referred: to in sub-sections (I) and copy of the declaration referred to in sub-section (5) of Section 45-A, and also whether the documents are legible, correct and complete in all respects, The transporter, if so required by that officer, shall also give his name and address and the names and addresses of the owner of the vehicle, if the owner is different from the' person in charge of the vehicle, and the consignor and consignee of the goods and also their registration certificate numbers if they are registered under this Act.

(3) If the officer referred to in sub-section (2) finds, on the inspection of the vehicle, that the transporter is not carrying the documents referred to in sub-section (I) or the document being carried are not in order or the transporter is not carrying a copy of declaration referred to sub-section (2), he may direct the transporter to take the vehicle along with the goods and the documents to the nearest checkpost or thee circle or the sub- circle officer to be named by him, and stop it and keep it stationary there till such time as may be required for action in accordance with provisions of section 45-A.

(4) Thereupon the officer referred to in sub-section (2) may initiate action for seizure of the goods and/or the vehicle, and for imposition of penalty in accordance with the provisions of Section 45-A, and for that purpose.

- (i) He shall exercise all the powers exercisable by the check post officer under that section;
- (ii) He shall follow the procedure laid down therein;
- (iii) The provisions of that section shall apply *mutatis mutandis* to such proceedings.

Sec.46 DELEGATION OF COMMISSIONER'S POWERS AND DUTIES

Subject to the provisions of this Act and to such restrictions and conditions as may be prescribed, the Commissioner may, by order in writing, delegate any of his powers and duties under this Act except those under sub-section (2) of Section 74 to any person appointed under Section 3 to assist him :

Provided that power under Section 62 shall not be delegated to an officer below the rank of a Deputy Commissioner of Commercial Tax.

Relevant Rule -91

Comment: Commissioner's order dt. 14.11.2000 for delegation of various powers and duties has been given below Rule 91.

Sec. 47 TRANSFER OF PROCEEDINGS

(1) The Commissioner may transfer any proceeding or class of proceedings under any provision of this Act from himself to any person appointed under Section 3 to assist him and he may likewise transfer any such proceeding (including the proceeding already transferred under this sub-section) from one such person appointed under Section 3 to assist him to another such person or to himself-

⁷³Provided that on an application from any dealer for transferring his case, ⁷⁴[for a decision on such application the grounds shall be recorded.

(2) Where any proceeding or class of proceedings is transferred, the person to whom such proceeding or class of proceedings is transferred shall proceed to dispose it off, as if it had been initiated by the said person, irrespective of the local limits of his jurisdiction; Such transfer shall not render necessary the reissue of any notice already issued before the transfer and the person to whom the proceeding or class of proceedings is transferred may, in his discretion, continue it from the stage at which it was left by the person from whom it was transferred.

Sec.48 INFORMATION TO BE 'FURNISHED REGARDING CHANGES IN BUSINESS

If any registered dealer or other dealer who is required to furnish returns under sub-section (1) of Section 26 -

- (a) Sells or otherwise disposes off his business or any part or place of his business or effects or comes to know of any other change in the ownership of the business, or
- (b) Discontinues his business or changes his place of business or opens a new place of business, or
- (c) Changes the name or nature of his business, he or if he dies, his legal representative shall within the prescribed time, inform the prescribed authority accordingly.

Relevant Rules -12, 13 & 14**Sec.49 TAX PAYABLE BY TRANSFEREE OF BUSINESS**

(1) When the ownership of the business' of a dealer liable to pay the tax is entirely transferred, the transferor and the transferee shall jointly and severally be liable to pay the tax together with penalty, if any or interest or penalty in respect of such business for any year or relatable to a part of any year and remaining unpaid at the time of the transfer and the transferee shall also be liable to pay the tax on the sales or purchases of goods effected by him with effect from the date of such transfer and shall within thirty days of the transfer apply for registration unless he already holds a registration certificate.

(2) When a dealer liable to pay tax transfers the ownership of a part of the business, ⁷⁵[the transferor] shall be liable to pay the tax in respect of the stock of goods transferred along with the part of his business, which is not so transferred, as if the goods have been sold by him, unless the tax on such goods is leviable on the last sale.

73 Proviso inserted first by Commercial Tax (Amendment) Ordinance, 2001 w.e.f. 05.06.2001; & then by Commercial Tax (Amendment) Act, 2001 w.e.f. 04.09.2001.

74 The words in bracket are printed as in the Gazette dated 04.09.2001.

75 The words in bracket are printed as 'transferee' in the Gazette

(3) Where any goods have already been subjected to tax under this Act nothing contained in sub-section (1) or sub-section (2) shall render such goods liable to tax for the second time.

(4) When a dealer is a firm or association of persons or a joint Hindu Family and such firm, association or family has discontinued business -

- (a) the tax payable under this Act by such firm, association or family for the period upto the date of such discontinuance may be assessed and determined as if no such discontinuance had taken place; and
- (b) every person who was at the time of such discontinuance a partner of such firm or a member of such association or family shall notwithstanding such discontinuance, be liable severally and jointly for the payment of the tax payable by such firm, association or family, whether such assessment is made prior to or after such discontinuance and, subject as aforesaid the provisions of this Act shall apply as if every such person or partner were himself a dealer:

Provided that when it is found that a change has occurred in the constitution of the firm or association or that such firm or association has transferred its business and the tax payable by a partner or member as aforesaid cannot be recovered from him, it may be recovered from the firm or association as reconstituted or from the transferee:

Provided further that where a tax is recovered from the firm or association or transferee as aforesaid such firm or association or transferee shall be entitled to recover the same from the partner or member who was originally liable to pay tax.

Explanation - The dissolution or reconstitution of a firm or association of persons or partition of Joint Hindu family shall be deemed to be discontinuance of business within the meaning of this sub-section.

(5) The provisions of this Section shall apply *mutatis mutandis* to any arrears of tax payable under the Act repealed by Section 52 of Act No.2 of 1959 or the Act repealed by this Act and due for any year or relatable to a part of any, year prior to such transfer of business, discontinuance or dissolution of the partnership or the partition of undivided Hindu family, as the case may be.

Sec. 50 LIABILITY OF FIRMS

Notwithstanding any contract to the contrary, where any firm is liable to pay tax under this Act, the firm and each of the partners of the firm shall be jointly and severally liable for such payment :

Provided that where any such partner retires from the firm, he shall be liable to pay the tax, interest and the penalty, if any remaining unpaid at the time of his retirement and any tax due upto the date of retirement though un-assessed on that date.

Sec.51 TRANSFERS TO DEFRAUD REVENUE VOID

Where during the pendency of any proceeding under this Act or under the Act repealed by this Act or under the Chhattisgarh Land Revenue Code, 1959 (No.20 of 1959) any dealer creates a charge on or parts with the possession by way of sale, mortgage, gift, exchange or any other mode of transfer whatsoever of any of his assets in favour of any other person with the intention to defraud revenue, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the dealer as a result of the completion of such proceeding under this Act or in pursuance of such proceeding under the Chhattisgarh Land Revenue Code, 1959 (No.20 of 1959) :

Provided that such charge or transfer shall not be void if made by the transferor and the transferee for valuable consideration under this Act or the Act repealed by this Act or the Chhattisgarh Land, Revenue Code, 1959 (No.20 of 1959).

Sec.52 ASSESSMENT OF LEGAL REPRESENTATIVES

Where a dealer dies, his executor, administrator; or other legal representative shall be deemed to be the dealer for the purposes of this Act and the provisions of this Act shall apply to him in respect of the business of the said deceased dealer:

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

Sec.53 TAX TO BE FIRST CHARGE

Notwithstanding anything to the contrary, contained in any law for the time being in force and subject to the provisions of Section 530 of the Companies Act, 1956 (No.1 of 1956), any amount of tax and/ or penalty or interest, if any, payable by a dealer or other person under this Act shall be first charge on the property of the dealer or such person.

Sec. 54 ASSESSMENT IN SPECIAL CASES

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 on, and recoverable from, any such minor or other incapacitated person, if he were of full age and sound mind and if he were conducting the business himself and all the provisions of this Act and rules made thereunder shall apply accordingly.

Sec.55 POWER OF COMMISSIONER AND HIS ASSISTANTS TO TAKE EVIDENCE ON OATH, ETC.

(1) The Tribunal, the Commissioner or any person other than an Inspector appointed to assist him under sub-section (I) of Section 3 shall, for the purposes of this Act, have -

(a) The following powers of Court of Civil jurisdiction under the Code of Civil Procedure, 1908 (V of 1908) namely:

- (i) To summons and enforce the attendance of any person and examine him on oath or affirmation;
- (ii) To compel the production of documents or accounts and to impound or detain them;
- (iii) To issue commissions for the examination of witness; and
- (iv) To require or accept proof of facts by affidavits; and

(b) Such further powers as may be prescribed.

(2) Every proceeding under this Act before the Tribunal or the Commissioner or any person other than an Inspector, appointed to assist the Commissioner under sub-section (I) of Section 3 shall be deemed to be a judicial proceedings within the meaning of Sections 193 and 228 and for the purposes of Section 196 of the Indian Penal Code, 1860 (XL V of 1860)

Relevant Rule & Form -Rule 86, Form 69

Sec. 56 POWER OF COMMISSIONER TO CALL FOR INFORMATION IN CERTAIN CASES

The Commissioner may, for the purposes of this Act -

- (a) Require any firm or any undivided Hindu family to furnish a statement of the names and addresses of the partners of such firm, or of the names and addresses of the manager and members of such family, as the case may be;
- (b) require any person whom he has reason to believe, to be a trustee, guardian, manager or agent to furnish a statement of the name and address of the person for whom he is a trustee, guardian, manager or agent;
- (c) Require any person whom he has reason to believe to have purchased goods from outside Chhattisgarh to furnish a statement of the name and address of the person from whom he has purchased such goods and the description and price thereof and the manner in which they were delivered to him;

- (d) require any person whom he has reason to believe to have despatched goods to any place outside Chhattisgarh to furnish a statement of the name and address of the person to whom he has despatched such goods and of the description and price thereof;

Sec. 57 FURNISHING OF INFORMATION BY BANK AND CLEARING AND FORWARDING AGENTS

(1) Every bank including, any branch of a bank and every clearing or forwarding agent shall, if so required by the Commissioner, furnish such particulars including statement of accounts and affairs verified in the manner, specified by the Commissioner as he may require in respect of transaction of any dealer with such bank or with such clearing or forwarding agent which during the course of its business handles documents of title to goods or transports goods.

(2) If any clearing or forwarding agent contravenes the provisions of sub-section (1), the Commissioner may, after giving such agent a reasonable opportunity of being heard, direct him to pay, by way of penalty a sum equal to three times the amount of tax payable in respect of the goods involved in the transactions referred to in sub-section (1) and which appear to have been evaded by the owner of such goods due to the failure of such agent to furnish information pertaining thereto required of him by the Commissioner under sub-section (1):

Sec. 58 CONTROL ON CLEARING AND FORWARDING AGENTS TO PREVENT OR CHECK EVASION OF TAX

(1) The State Government may, if it is satisfied that it is necessary so to do with a view to prevent or check evasion of tax under this Act in any place or places in the State, direct that -

- (i) every clearing and forwarding agent who during the course of his business handles documents of title to goods or transports goods or despatches or takes delivery of goods and who has his place of business at such places as may be ⁷⁶notified by the State Government, shall send an intimation about his business in the prescribed form to the prescribed authority and in the prescribed manner before the prescribed date; and
- (ii) Every such clearing and forwarding agent shall maintain a register in such form" and containing such particulars of his business as may be ⁷⁷prescribed which shall be open to inspection by the Commissioner.

(2) If any clearing or forwarding agent on being directed to do so under sub-section (I) contravenes the provisions thereof, the Commissioner may, after giving such agent a reasonable opportunity of being heard, direct him to pay, by way of penalty a sum not exceeding five hundred rupees.

Relevant Rules & Forms -Rule 15; Form 60 & 61

Sec.59 CLEARING AND FORWARDING AGENTS DEFINED

For the purpose of Sections 57 and 58 clearing and/or forwarding agent includes a person engaged in collecting goods from any place inside the State including railway premises and arranging for the transport and/or delivery of Such goods to the principal or any other person or carrier of goods for and on behalf of the principal and in the process of collection, transport or delivery handles documents of title to such goods.

⁷⁶ See Noti. No. 23, dt. 1.4.95

⁷⁷ See Noti. No. 23, dt. 1.4.95

Sec. 60 BAR TO CERTAIN PROCEEDINGS

Save as provided in Section 70, no assessment order or the determination of liability to pay any tax or penalty or the recovery of any tax or penalty made under this Act or the rules made thereunder by the Commissioner or any person appointed under Section 3 to assist him be called into question in any Civil Court and save as provided in Sections 61 and 62, no appeal or application for revision shall lie against any such assessment or order.

Sec, 61 APPEAL

(1) Any dealer or person aggrieved by an order of assessment under Section 27 with or without penalty or to an order of reassessment under Section 28 or Section 29 with or without penalty passed in respect of him or to an order imposing penalty on him or relating to refund under Section 39 or any order passed under Section 71 may, in the prescribed manner, appeal against such order to the Appellate Deputy Commissioner of Commercial Tax:

Provided that in a case where an application made under Section 72 is rejected such dealer or person may in the like manner appeal against the ex-parte order of assessment and in computing the period of limitation for filing the appeal, the period from the date of filing the application under Section 72 to the date of service of order rejecting such application shall be excluded.

(2) Any dealer or person aggrieved by an order passed in appeal under sub-section (1) may, in the prescribed manner, appeal against such order to the Tribunal:

Provided that the dealer or person may, at his option, instead of filing a second appeal under this sub-section, make an application for revision to the Commissioner under sub-section (1) of Section 62 and where the dealer or person exercises such option he shall be precluded from filing a second appeal under this sub-section.

(3) Notwithstanding anything contained in the rules ⁷⁸[or the regulations] framed by the Tribunal under any law for the time being in force ¹[or under the provisions of Section 4] any officer not below the rank of Deputy Commissioner duly authorised by the Commissioner in this behalf shall also have the right to be heard at the hearing of the appeal under sub-section (2).

(4) No first ⁷⁹[.....] appeal against an order of assessment, with or without penalty or against an order imposing penalty shall be admitted by the appellate authority unless out of the total balance due from the dealer -

- (a) where all the returns for the period to which the order appealed against relates have been filed and tax payable according to such returns has been paid, ten per cent of such balance;
- (b) where one or more of the returns for the period for which the order appealed against relates have not been filed and tax has not been paid or where such return or returns have been filed but tax has not been paid, such part of the balance which shall be equal to;
 - (i) thirty three per cent, where the default relates to one quarter;
 - (ii) fifty per cent, where the default relates to two quarters;
 - (iii) seventy five per cent, where the default relates to more than two quarters;
- (c) Where a penalty under Section 69 has been imposed, fifty per cent of such balance;
- (d) Where the order appealed against has been passed under Section 28 and a penalty has been imposed under the said Section, fifty per cent of such balance; and
- (e) in any other case twenty five per cent of such balance; is paid and the memorandum of appeal is accompanied by a satisfactory proof of payment of such amount and thereupon the appellate authority shall stay the recovery of, the balance of tax and/or penalty till the decision of appeal :

⁷⁸ The words in bracket are not there in the original Hindi version of the Act nor in the corresponding Sec. 38(2-A) of the MPGST Act.

⁷⁹ The words 'or second' omitted by MPCT (Second Amendment) Act, 1997 w.e.f. 1.9.97.

Provided that where a dealer is covered by more than one of the aforesaid clauses, the provisions of the clause requiring the payment of the highest amount, shall apply to such dealer and the first or the second appeal shall be admitted only after he has paid such amount;

⁸⁰**4-A)** No second appeal shall be admitted by the Tribunal unless, out of the total balance due from the dealer after the order passed in first appeal, twenty per cent of such balance is paid and the memorandum of appeal is accompanied by a satisfactory proof of payment of such amount and thereupon the Tribunal shall stay the recovery of the balance amount till the decision of the appeal.

(5) Every first appeal shall be filed within thirty days and every second appeal shall be filed within sixty days from the date of communication of the order against which the appeal is to be filed.

⁸¹**(6)** subject to such procedure as may be prescribed, and after such further inquiry as it may think fit,

(a) the Appellate Deputy Commissioner shall dispose of every appeal within one calendar year from the date of filing of such appeal, In disposing of such appeal, the Appellate Deputy Commissioner may confirm, reduce, enhance or annul the assessment of tax or the imposition of penalty or both but shall not remand the case.

Notwithstanding anything contained in this clause, the appeals "pending on the commencement of the Chhattisgarh Vanijyik Kar (Sansodhan) Adhyadesh, 2004 shall be disposed of by the Appellate Deputy Commissioner within one calendar year from the date of the commencement of the said Adhyadesh.

(b) The Tribunal may.

(i) Confirm, reduce, enhance or annul the assessment of tax or the [imposition of penalty or both or

(ii) set-aside the assessment or the imposition of penalty or both and direct the officer whose assessment or penalty has been appealed against to make a fresh assessment or re-impose penalty, after such enquiry, as it may direct; or

(c) pass such order, as it may think fit. ⁸²[.....]

(7) In the case of an order passed in first appeal under this Section against which an application for revision is filed to the Commissioner under sub-section (I) of Section 62, the order passed in revision shall be final and in the case of every other order passed in the first appeal or second appeal under this Section, such order shall, subject to the provisions of this Section, Section 62 or Section 10 as the case may be, be final.

Relevant Rules & Forms -Rule 16 to 81; Form 62 & 64

80 Sub-section (4-A) inserted by MPCT (Second Amendment) Act, 1997 w.e.f, 1.9.97.

81 Sub-section (6) substituted by MPCT (Amendment) Ordinance, 2004 w.e.f, 04.09.2004.

Prior to substitution, it read as under:

(6) Subject to such procedure as may be prescribed, and after such further inquiry as it may think fit the Appellate Authority in disposing of any appeal under sub-section (1) or sub-section (2) may-

(a) Confirm, reduce, enhance or annul the assessment of tax or the 81[imposition of] penalty or both: or

(b) Set-aside the assessment or the imposition of penalty or both and direct the officer whose assessment

or penalty order has been appealed against to make a fresh assessment or re-impose penalty after such further enquiry as may be directed: or

(c) Pass such order, as it may think fit.

Clause the substituted by MPCT (Second Amendment) Act, 1996 w.e.f, 1.4.95.

82 Following Proviso inserted first by Commercial Tax (Amendment) Ordinance, 2001 we.f. 05.06.2001 and then by Commercial Tax (Amendment) Act, 2001 w.e.f, 04.09.2001, Provided that the order in appeal under sub-section (1) shall be passed within one calendar year from the date of filing or the application for appeal, This proviso deleted by CGCT Ordinance , 2003 w.e.f, 31.12.2003.

Sec, 62 POWER OF REVISION BY COMMISSIONER

(1) The Commissioner -

- (a) Either on his own motion, may; or
- (b) On an application by a dealer or person made within the prescribed period from the date of order, shall; call for the record of the proceeding in which any order was passed and on receipt of the record may make such enquiry or cause such enquiry to be made, as he considers necessary and subject to the provisions of this Act, shall pass such order not being an order prejudicial to the dealer or person, as he thinks fit ⁸³[within one calendar year from the date of filing of such application for revision):

Provided that the Commissioner shall not revise any order under this sub-section-

- (a) Where an appeal against the order is pending before any authority specified in sub-section (I) of Section 61 or where, if such appeal lies, the time within which it may be filed has not expired; or
- (b) Where a second appeal against the order has been filed:

Provided further that no revision shall lie -

- (i) Against an order determining the liability of a dealer to pay tax or against a notice issued under this Act for assessment except after an assessment order is passed; and
- (ii) Against an order passed under Section 72, ⁸⁴[....]

Explanation -An order by the Commissioner, declining interference shall not be deemed to be an order prejudicial to the dealer or person.

⁸⁵(I-A) Notwithstanding anything contained in sub-section (1), if the revision under sub- section (1) is in respect of an order of reassessment or re-imposition of penalty in, pursuance to any direction given in appeal or revision, the Commissioner may pass an order in accordance with the provisions of sub-section (1), but shall not remand the case, , (I-B) Where an application for revision under clause (b) of sub-section (1) is pending on the date of commencement of the Chhattisgarh Vanijyik Kar (Sansodhan) Adyadesh, 2004 it shall be disposed of in accordance with the provisions of sub-section (1) or sub-section (I-A) as the case may be, within one calendar year from the date of, commencement of the said Adhyadesh.

(2) The Commissioner may on his own motion call for the record of any proceeding in which any order under sub-section (1) has been passed by an officer to whom the Commissioner has delegated his powers under Section 62 in pursuance of the provisions of Section 46 and on receipt of the record may make such enquiry or cause such enquiry to be made as he considers necessary and subject to the other provisions of this Act may pass such order thereon not being an order prejudicial to the dealer or person as he thinks fit.

(3) The Commissioner may on his own motion or on information received call for and examine the record of any proceeding under this Act if he considers that any order passed therein by any person appointed under Section 3 to assist him including any officer to whom he has delegated his powers under sub-section (1) in pursuance of the provisions of Section 46, is erroneous in so far as it is prejudicial to the interest of the revenue, he may after giving the dealer or person a reasonable opportunity of being heard, after making or causing to be made such enquiry as he deems necessary .pass such order thereon, within one calendar year from the date of initiation of proceeding as the circumstances of the case justify, including an order enhancing or modifying the assessment or cancelling the assessment and directing a fresh assessment :

Provided that no proceeding shall be initiated under this sub-section after the expiry of ⁸⁶[five calendar years] from the date of the order sought to be revised:

⁸³ Words and phrases inserted by CGCT (Amendment) Ordinance, 2004 w.e.f 04.09.2004.

⁸⁴ Following Proviso inserted first by Commercial Tax (Amendment) Ordinance, 2001 we.f 05.06.2001 and then by Commercial Tax (Amendment) Act, 2001 w.e.f 04.09.2001,- Provided further that the order under this sub-section shall be passed within one calendar year from the date of filing of the application for revision.", This proviso is deleted by CGCT Ordinance, 2003 w.e.f, 31.12.2002.

⁸⁵ Sub-section (I-A) and (I-B) inserted by CGCT (Amendment) Ordinance, 2004, w.e.f, 04.09.2004.

⁸⁶ Subs. for the words, three years' by MPCT (Second Amendment) Act. 1997 w.e.f, 1.9.97.

Provided further that the Commissioner shall not revise any order under this sub- section where a second appeal against such order is pending or such appeal has been decided on merits.

(4) Any dealer or person objecting to an order passed by the Commissioner under sub- section (3) may appeal to the Tribunal within sixty days of the date on which the order is communicated to him.

(5) The provisions of sub-section (4) and (6) of Section 61 shall, *mutatis mutandis*, apply to appeals filed under sub-section (4).

(6) Where the Commissioner considers that any order passed under sub-section (1) by his predecessor or any Additional Commissioner of Commercial Tax is erroneous in so far as it is prejudicial to the interests of revenue, he may file an appeal against such order before the Tribunal within two years from the date of such order, The provisions of Section 61 shall *mutatis mutandis* apply to the appeals filed under this sub-section.

(7) Notwithstanding anything contained in sub-section (1), but subject to such restrictions and conditions as may be prescribed, where on an application made by a dealer the State Government is of the opinion that hardship is being caused to such dealer due to any order passed under any of the provisions of this Act other than an order under Section 32 or an order passed in pursuance or in consequence of an order by the Tribunal or the Civil Court, High Court or Supreme Court, the State Government may direct the Commissioner to initiate proceedings under sub-section (1) in respect of such order and on such direction the Commissioner shall dispose of such proceeding according to law as if the proceedings had been initiated by him under clause (b) of sub-section (1) :

Provided that no such direction shall be given unless –

- (a) The dealer has exhausted the remedies available to him under Section 61, sub-section (1) of this Section, Section 71 or Section 72, as the case may be, or the period within which any remedy under the aforesaid provisions can be sought has expired, and/ or
- (b) His application for revision under sub-section (1) has been rejected on merits: Provided further that such an application shall be entertained by the State Government only once, .

Relevant Rule & Form -Rule 76 to 82; Form 63.64 & 65

Sec. 63 ADDITIONAL EVIDENCE ON APPEAL OR REVISION

A dealer shall not be entitled to produce additional evidence whether oral or documentary before the appellate or revisional authority except where the evidence sought to be adduced is evidence, which the assessing authority had wrongly refused to admit or which after exercise of due diligence was not within his knowledge or could not be produced by him before the assessing authority or for the production of which adequate time was not given by the assessing authority and in every such case upon the additional evidence being taken on record reasonable opportunity for challenge or rebuttal shall be given to the Commissioner.

Sec.64 COURT FEE STAMPS ON APPEAL AND APPLICATION FOR REVISION

An appeal preferred under Section 61 or sub-section (4) or sub-section (6) of Section 62 and an application for revision made under sub-section (I) of Section 62 shall bear court fee stamps of such value as may be prescribed.

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Relevant Rule -Rule 87.88 & 89;**Sec.65 APPLICATION OF SECTIONS 4 AND 12 OF THE LIMITATION ACT, 1963**

In computing the period laid down under Section 61, 62 ⁸⁷[and] 70 the provisions of Section 4 and 12 of the Limitation Act, 1963 (No.36 of 1963), so far as may be, shall apply.

Section 4 & 12 of the Limitation Act, 3:***Sec. 4: Expiry of prescribed period when Court is closed***

Where the prescribed period for any suit, appeal or application expires on a day when the Court is closed, the suit, appeal or application may be instituted, preferred or made on the day when the Court re-opens.

Explanation -A Court shall be deemed to be closed on any day within the meaning of this Section, if during any part of its normal working hours it remains closed on that day.

Sec, 12: Exclusion of Time in legal proceedings

(1) *In computing the period of limitation for any suit, appeal or application, the day from which such period is to be reckoned, shall be excluded.*

(2) *In computing the period of limitation for an appeal or an application for leave to appeal or for revision or for review of a judgement, the day, on which the judgement complained of was pronounced and the time requisite for obtaining a copy of the decree, sentence or order appealed from or sought to be revised or reviewed shall be excluded.*

(3) *Where a decree or order is appealed from or sought to be revised or reviewed, or where an application is made for leave to appeal from a decree or order, the time requisite for obtaining a copy of the judgement ⁸⁸ [.....] shall also be excluded.*

(4) *In computing the period of limitation for an application to set aside an award, the time requisite for obtaining a copy of the award shall be excluded.*

Explanation -In computing under this Section the time requisite for obtaining a copy of a decree or any order, any time taken by the Court to prepare the decree or order before an application for a copy thereof is made shall not be excluded, "

Sec.66 EXTENSION OF PERIOD OF LIMITATION IN CERTAIN CASES

The provisions of Section 5 of the Limitation Act, 1963 (36 of 1963), so far as may be, shall apply to appeals and applications for revision and reference under this Act, .Section 5 of the Limitation Act, 1963

- Sec. 5: Extension of prescribed period in certain cases***

Any appeal or any application other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908 (5 of 1908), may be admitted after the prescribed period, if the appellant or the applicant satisfies the Court that he had sufficient cause for not preferring the appeal or making the application within such period.

Explanation -The fact that the appellant or the applicant was misled by any order, practice or judgement of the High Court in ascertaining or computing the prescribed period may be sufficient cause within the meaning of this section.

⁸⁷ The word in bracket is printed in the Gazette as 'or'.

⁸⁸ The word 'on which the decree or order is founded' omitted by Amendment Act No.46 01 1999.

Sec.67 POWER OF COMMISSIONER TO STAY PROCEEDINGS

The Commissioner may by special or general order:

(a) pending-examination of any question of law -

(1) Before him, or

(2) Before the Tribunal on an application under sub-section (1) of Section 10, or

(3) Before the High Court on an application under sub-section (2) 89[of1 Section 70, or

(b) For any other reason to be recorded in writing,

Stay any proceeding or proceedings under Section 21 or Section 28 or Section 29 in respect of any dealer or class of dealers.

Sec.68 DETERMINATION OF DISPUTED QUESTIONS

(1) If any question is raised by a dealer in respect of the rate of tax on any goods, the Commissioner shall, within six months from the date of receipt of the application made by the dealer for this purpose in the prescribed manner and on payment of such fee as may be prescribed, make an order determining the rate of tax on such goods in accordance with such procedure as may be prescribed.

⁹⁰(2) The Commissioner if the circumstances so warrant, shall have the power to review any order passed under this Section and pass such order as he deemed necessary:

Provided that no review of an earlier order shall be made unless a reasonable opportunity of being heard is given to the dealer who is likely to be adversely affected by the review:

Provided further that the Commissioner shall not reduce the rate of tax in review,

(3) Any order passed by the Commissioner under sub-section (i) and (2) shall have a prospective effect and shall be binding on the authorities referred to in Section 3 in all proceedings under this Act except appeals.

Relevant Rule -Rule 83

Sec.69 POWER OF COMMISSIONER OR APPELLATE OR REVISIONAL AUTHORITY TO IMPOSE PENALTY IN CERTAIN CIRCUMSTANCES

(1) If the Commissioner or the appellate or revisional authority, in the course of any proceedings under this Act is satisfied that a dealer has concealed his turnover or the aggregate amount of purchase prices in respect of any goods or has furnished false particulars of his sales or purchases, as the case may be, in his return or returns for any year or part thereof or has furnished a false return or returns for such period, the Commissioner or the appellate or the revisional authority as the case may be, may initiate proceeding separately for imposition of penalty under this Section.

(2) The proceeding under sub-section (1) shall be initiated- by the Commissioner or the appellate or revisional authority as the case may be, by issue of a notice in the prescribed form for giving the dealer an opportunity of being heard, On hearing the dealer, the Commissioner or the appellate or the revisional authority as the case may be, shall pass an order not later than one calendar year from the date of initiation of such proceeding or within such further time as allowed by the State Government, directing the dealer that ⁹¹[he shall in addition to the tax payable by him, pay by way of penalty a sum which shall not be less than three times but shall not exceed five times of the amount of tax evaded.]

89 The word in bracket is missing in the Gazette.

90 For the existing sub-section (2), sub-sections (2) & (3) substituted by MPCT (Second Amend- merit) Act, 1997 w.e.f. 1.9.97, Earlier to substitution sub-section (2) read as under:

(2) Any order passed by the Commissioner under sub-section (1) shall have a prospective effect and shall be binding on the authorities referred to in Section 3 in all proceedings under this Act except appeals.

91 Subs. by the MPCT (Second Amendment) Act, 1997 w.e.f. 1.9.97 for the following:

'he shall in addition to the tax payable by him, pay by way of penalty a sum which shall be five times of the amount of tax evaded'

(3) If the total tax shown as payable according to the return or returns and paid by a dealer for any period or part thereof is less than eighty per cent of the total tax assessed under Section 27 such dealer shall be deemed to have concealed his turnover or aggregate of his purchase prices or to have furnished false particulars of his sales or purchases in his return or returns or to have furnished a false return or returns for the purpose of sub-section (I) unless he proves to the satisfaction of the Commissioner or the appellate or the revisional authority, as the case may be, that the concealment of the said turnover or the aggregate of purchase prices or furnishing of particulars of sales or purchases or furnishing of the false return or returns was not due to any fraud or gross negligence on his part.

Relevant Rule -Rule 48

Sec.70 STATEMENT OF CASE TO HIGH COURT

(1) Within sixty days from the date of communication by the Tribunal of any order to a dealer or to the Commissioner under sub-section (2) of Section 61 or sub-section (4) or sub-section (6) of Section 62 or Section 71 the dealer or the Commissioner may, by application in writing, accompanied, where the application is made by a dealer by a fee of one hundred rupees, require the Tribunal to refer to the High Court any question of law arising out of such order and where the Tribunal decides to make a reference to the High Court, it shall draw up statement of the case and refer it accordingly.

(2) If for reasons to be recorded in writing, the Tribunal refuses to make a reference, the applicant may within sixty days from the date of communication of such refusal -

(a) Withdraw his application and if he does so, the fee paid shall be refunded, or

(b) Apply to the High Court to require the Tribunal to make a reference.

(3) If upon the receipt of an application under clause (b) of sub-section (2) the High Court is not satisfied that the refusal was justified, it may require the Tribunal to state the case and refer it, and on receipt of such requisition, the Tribunal shall act accordingly.

(4) If the High Court is not satisfied that the case stated is sufficient to enable it to determine the question of law raised, it may call upon the Tribunal to make such additions or alterations as the Court may direct in that behalf, .

(5) The High Court upon the hearing of a reference under this Section shall decide the question of law raised thereby and shall deliver judgement thereon containing the grounds of decision and shall send to the Tribunal a copy of the judgement under the seal of the Court and the signature of the Registrar, and the Tribunal shall dispose of the case accordingly.

(6) Where an appeal against the judgement of the High Court under sub-section (5) is entertained by the Supreme Court, the Tribunal shall dispose of the case in accordance with the judgement delivered by the Supreme Court and for this purpose a copy of the judgement of the Supreme Court shall be sent to the Tribunal by the High Court under its seal and the signature of the Registrar.

(7) The cost of reference under this Section, including the disposal of the fee referred to in sub-section (I) shall be in the discretion of the Court.

(8) The tax ordered by the Tribunal to be paid by an order in respect of which an application has been made under sub-section (I) shall, notwithstanding the making of such application or any reference in consequence thereof, be payable upon the making of the order.

(9) Where as a result of a reference under this Section the tax due from any dealer is reduced below the amount paid by him under sub-section (8), the difference shall be refunded to him in accordance with the provisions of Section 39.

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Sec. 71 RECTIFICATION OF MISTAKES

(1) The Commissioner may -

- (i) On his own motion at any time within ⁹²[three calendar months] from the date of any order passed by him; or
- (ii) On an application made by a dealer ⁹³[three calendar months] from the date of receipt of such application, rectify such order for correcting any clerical or arithmetical mistake or any error ⁹⁴[apparent on the face of record or] arising therein from any accidental slip or omission:

Provided that the Commissioner shall not entertain any application by the dealer unless it is made within one year from the date of the order sought to be rectified:

Provided further that no such rectification shall be made if it has the effect of enhancing the tax or reducing the amount of refund unless the Commissioner has given notice in writing to the dealer of his intention so to do and has allowed the dealer a reasonable opportunity of being heard.

(2) Where on an application made by a dealer for the rectification of any order, the order is not rectified within the period specified in sub-section (1), the applicant shall be entitled to have the order rectified in accordance with his application and accordingly the Commissioner shall rectify the order, and where in proceedings initiated *suo motu* the order is not passed within the time specified in sub-section (1), the proceedings shall stand abated:

Provided that nothing herein shall preclude the Commissioner from exercising powers under any other provisions of this Act.

(3) (a) The provisions of sub-section (1) and sub-section (2) shall apply to the rectification of a mistake in any order -

- (i) Passed by the Tribunal, or
- (ii) Passed by the appellate authority as they apply to the rectification of a mistake by the Commissioner.

(b) The Tribunal may rectify any order passed by it -

- (i) On its own motion at any time within one calendar year from the date of passing of such order; and.
- (ii) On an application made by the dealer or the Commissioner, at any time within one calendar year from the date of receipt of such application.

(4) Where any such rectification has the effect of reducing the amount of tax, the Commissioner shall in the prescribed manner refund any amount due to the dealer.

(5) Where any such rectification has the effect of enhancing the amount of the tax or reducing the amount of the refund, the Commissioner shall recover the amount due from the dealer in the manner provided in Section 32.

Relevant Rule & Form -Rule 84; Form 66

⁹² Substituted for 'one calendar year' by CGCT (Amendment) Ordinance, 2004 w.e.f. 04.09.2004,

⁹³ Substituted for 'one calendar year' by CGCT (Amendment) Ordinance, 2004 w.e.f. 04.09.2004,

⁹⁴ Inserted first by Commercial Tax (Amendment) Ordinance, 2001 w.e.f. 05.06.2001 & then by Commercial Tax (Amendment) Act, 2001 w.e.f. 04.09.2001.

Sec.72 POWER TO SET ASIDE AN EX-PARTE ORDER

In any case in which an order of assessment is passed *ex-parte* the dealer may:-

- (a) If he had previous intimation of the date of hearing, within thirty days or the date of hearing; and
- (b) If the dealer had no previous intimation of the date of hearing within thirty days from the date of service of such order.

Apply to the assessing authority to set aside the order and reopen the case and if such authority is satisfied that the applicant did not receive notice or was prevented by sufficient cause from appearing on the date fixed, it may set aside the order and reopen the case for hearing:

Provided that no application for setting aside an ex-parte assessment order shall be entertained unless it is accompanied by satisfactory proof of the payment of the amount of tax admitted by the dealer:

Provided further that such an application shall be entertained only once in the course of any proceeding.

Sec. 73 COLLECTION OF TAX BY DEALERS

(1) No person other than a registered dealer or a person who is deemed to be a dealer who has failed to apply for registration under the provisions of clause (b) of sub-section (10) of Section 22 shall collect any amount by way of tax under this Act and no collection of tax shall be made except in accordance with the provisions of this Act and the rules made thereunder.

(2) Any amount collected by any person in contravention of the provisions of sub-section (1) or any amount collected by any person by way of tax or in any other manner not payable under any provisions of this Act shall be liable to forfeiture to the State Government.

(3) If the Commissioner, in the course of any proceedings under this Act or otherwise has reason to believe that any amount is liable for forfeiture under sub-section (2), he shall serve on the person who has collected such amount a notice in the prescribed form requiring him to show cause why the said amount should not be forfeited to the State Government and on receipt of the reply, if any, thereto, the Commissioner shall make enquiry and shall make such order including an order of forfeiture as he thinks fit, after giving such person a reasonable opportunity of being heard.

(4) Where an order of forfeiture under sub-section (3) has been made, the person making the unauthorised collection shall forthwith pay the amount so forfeited to the State Government if it has not already been paid and on his failure to do so; such amount shall be recoverable from him as if it were a tax due from him.

(5) Where an 'order for forfeiture is passed the Commissioner shall publish or cause to be published in the prescribed manner a notice therefore for information of the persons from whom the amount so forfeited had been collected giving such details as may be prescribed, (6) On the publication of the notice under sub-section (5) a refund of such amount or part thereof may be claimed from the State Government within one year from the date of publication of the said notice by the person from whom it was unauthorisedly realised by way of tax and for this purpose the person claiming the refund shall make an application in the prescribed form.

(7) On receipt of an application under sub-section (6) the Commissioner shall hold such enquiry as he deems fit and if he is satisfied that the claim is valid and admissible and that the amount so claimed as refund was actually paid to the State Government and no refund, set off or remission in respect of that amount was granted, the Commissioner shall refund such amount or any part thereof to the person concerned.

(8) ⁹⁵[Notwithstanding anything contained in this Act or in any other law for the time being in force] where any amount collected by any person is forfeited to the State Government under this Section, such forfeiture shall, if the amount forfeited has been paid to the State Government, discharge him of the liability to refund the amount to the person from whom it was so collected.

(9) A dealer specified in clause (b) of sub-section (10) of Section 22 shall be deemed to be a registered dealer for the purpose of this sub-section.

Relevant Rule & Form -Rule 85; Form 61 & 68

Sec.74 OFFENCES AND PENALTIES

(1) Whoever -

- (a) Collects any amount by way of tax in contravention of Section II; or
- (b) fails to get himself registered as required by sub-section (1) or sub-section (2) of Section 22; or
- (c) fails, without sufficient cause, to submit any return as required by sub-section (1) of Section 26 or submits false return or furnishes a false statement; or
- (d) Without reasonable cause fails to pay the tax due within the time allowed; or
- (e) Fails or neglects to issue bill or cash memorandum or to keep or preserve the bill or cash memorandum as required under Section 43; or
- (f) Not being a registered dealer falsely represents when purchasing goods that he is a registered dealer; or
- (g) Fails to keep accounts or records of sales or purchases in accordance with any requirement made of him under Section 42; or
- (h) Knowingly produces incorrect accounts, registers or documents or knowingly furnishes incorrect information; or
- (i) Neglects to furnish any information required by Section 48; or
- (j) refuses or fails to comply with any requirement made of him under Section 45 or Section 56 or sub-section (1) of Section 57; or
- (k) makes a false statement in a verification or declaration prescribed under this Act which he either knows or believes to be false or does not believe to be true; or
- (l) Fails to send intimation required under clause (i) of sub-section (1) of Section 58; or
- (m) fails to maintain a register in accordance with the provisions of clause (ii) of sub-section (1) of Section 58 or refuses or fails to produce the same when required so to do under the said clause; or
- (n) Collects any amount by way of tax in contravention of the provisions of sub-section (1) of Section 73; shall without prejudice to the recovery of the tax or penalty that may be due from him, be punishable with -
 - (i) (a) imprisonment which may extend to three years and a fine which may extend to two thousand rupees or equal to the amount of tax remained to be paid by the dealer whichever is higher, in respect of offence under clause (b); and
 - (b) Imprisonment which may extend to three years and a fine which may extend to two thousand rupees in respect of offence under clause (c), (f), (h) or (k); and when the offence is a continuing offence a further fine which may extend to rupees one hundred for every day, the offence continues.
 - (ii) imprisonment which may extend to six months or a fine which may extend to one thousand rupees or both in respect of offences not covered by clause (i) and where the offence in respect of which a fine has been imposed, is a continuing offence a further fine which may extend to rupees fifty for every day the offence continues.

Explanation -For the purpose of liability to punishment under this sub-section the expression dealer or person shall mean, -

- (a) The partners in relation to a partnership concern;
- (b) The president and secretary of the managing body in relation to co-operative society;
- (c) The proprietor in relation to a proprietorship concern;

- (d) The karta or manager in relation to Hindu Undivided Family; and
- (e) The Secretary, manager and directors in relation to a company incorporated under the Companies Act, 1956 (No.1 of 1956);

(2) No court shall take cognizance of any offence punishable under this Act or any rules made thereunder except with the previous sanction of the Commissioner and no Court inferior to that of a magistrate of the first class shall try any such offence.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (No.2 of 1974) all offences punishable under this Act shall be cognisable and bailable.

(4) Subject to such conditions as may be prescribed, the Commissioner may authorise any person appointed under Section 3 to assist him to investigate all offences punishable under this Act.

(5) Every person authorised under sub-section (4) shall, in the conduct of such investigation exercise the powers conferred by the Code of Criminal Procedure, 1973 (No. 2 of 1974) upon an officer-in-charge of a police station for the investigation of a cognisable offence.

Sec. 75 COMPOUNDING OF OFFENCES

(1) Subject to such conditions as may be prescribed, the Commissioner may, either before or after the institution of proceedings under this Act, permit any person charged with an offence under this Act or any rule made thereunder, to compound the offence on payment of such sum not exceeding one thousand rupees as the Commissioner may determine :

Provided that where the offence charged is under clause (b) or clause (c) of sub- section (I) of Section 14 and the amount of tax which would have been payable by such person had he complied with the provisions of this Act is more than five hundred rupees, the Commissioner may allow composition on payment of a sum not exceeding twice such amount.

(2) On payment of such sum as may be determined by the Commissioner under sub- section (I) the accused person shall be discharged, and no further proceedings shall be taken against him in respect of the same offence.

Relevant Rule & Form -Rule 90; Form 10

Sec.76 BAR OF PROSECUTION IN CERTAIN CASES

No prosecution for contravention of any provision of this Act or of the rules made thereunder, shall be instituted in respect of the same facts on which a penalty has been imposed under this Act or the said rules, as the case may be, if the penalty has been paid within a period of six months from the date of service of the order imposing the penalty.

Sec.77 PROTECTION OF PERSONS ACTING IN GOOD FAITH AND LIMITATION OF SUIT AND PROSECUTION

(1) No suit, prosecution or other proceedings shall lie against any officer or servant of the State Government for any act done or purporting to be done under this Act ⁹⁶[or the rules made thereunder] without the previous sanction of the State Government.

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

(3) No suit shall be instituted against the State Government and no prosecution or suit shall be instituted against any servant of the State Government in respect of anything done or intended to be done under this Act unless the suit or prosecution has been instituted within three months from the date of the act complained of:

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

⁹⁶ The words in bracket are not there in the original Hindi version of the Act not in the corresponding Sec, 48(1) of the MPGST Act.

Sec. 78 DISCLOSURE OF INFORMATION BY PUBLIC SERVANT

- (1) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Act or in evidence recorded under this Act other than evidence given before a Criminal Court shall, save as provided in sub-section (3), be kept confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872) no Court shall, save as aforesaid, be entitled to require any servant of the State Government to produce before it, any such statement, return, account, document or recorded evidence or any part thereof or to give evidence before it in respect thereof.
- (2) If, save as provided in sub-section (3), any servant of the State Government discloses any of the particulars referred to in sub-section (1), he shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.
- (3) Nothing contained in this Section shall apply to the disclosure -
- (a) Of any such particulars in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition for the purpose of any investigation or prosecution under this Act or under the Act repealed by this Act or under the Indian Penal Code 1860 (XL V of 1860) or under any other enactment for the time being in force; or
 - (b) Of any such particulars to any person entrusted with the administration of this Act for the purposes of carrying out the object of this Act; or
 - (c) Of any such particulars when such disclosure is occasioned by the lawful employment under this Act or any process for the service of any notice or the recovery of any demand; or
 - (d) Of any such particulars to a civil court in any suit to which the Government is a party and which relates to any matter arising out of any proceeding under this Act ⁹⁷[or the Act repealed by this Act]; or
 - (e) Of any such particulars to any officer appointed to audit receipts or refunds of the tax imposed by this Act ¹[or the Act repealed by this Act]; or
 - (f) of any such particulars where such particulars are relevant to any inquiry into the conduct of an official of the Commercial Tax Department to any person or persons appointed by the Commissioner under the Public Servant (Inquiries) Act, 1850 (XXX of 1850), or to any officer otherwise appointed to hold such inquiry or to a Public Service Commission established under the Constitution when exercising its functions in relation to any matter arising out of such inquiry; or
 - (g) of such facts to an officer of the Central or a State Government as may be necessary for the purpose of enabling that Government to levy or realise any tax or duty imposed by it; or
 - (h) Of any such particulars, when such disclosure is occasioned by the lawful exercise by a public servant of his powers under the Indian Stamp Act, 1899 (II of 1899) to impound an insufficiently stamped document; or
 - (i) of any such particulars where such particulars are relevant to any inquiry into a charge of misconduct in connection with any proceedings under this Act or the Act repealed by this Act against a legal practitioner, tax practitioner, or chartered accountant, to the authority empowered to take disciplinary action against members practicing the profession of a legal practitioner, tax practitioner or chartered accountant, as the case may be; or
 - (j) of any such particulars to the Directorate of Economics and Statistics Department as may be necessary, for enabling him to work out the incidence of tax on any commodity or for carrying out any statistical survey of trade, commodity or dealers; or
 - (k) of such information as may be required by any officer of department of the Central Government or of a State Government for the purpose of investigation into the conduct and affairs of any public servant or by a court in connection with any prosecution of the public servant arising out of any such investigation.

97 The words in bracket are not there in the original Hindi version of the Act.

Sec.79 SALES NOT LIABLE TO TAX

(1) Notwithstanding anything contained in this Act, a tax on the sale or purchase of goods shall not be imposed under this Act -

- (i) Where such sale or purchase takes place outside the State of Chhattisgarh; or
- (ii) Where such sale or purchase takes place in the course of inter-State trade or commerce; or
- (iii) Where such sale or purchase takes place in the course of import of the goods into, or export of the goods out of the territories of India.

(2) For the purpose of this Section whether a sale or purchase takes place -

- (i) Outside the State of Chhattisgarh; or
- (ii) In the course of inter-State trade or commerce; or
- (iii) In the course of the import of goods into the territory of India or the export of goods out of such territory.

shall be determined in accordance with the principles specified in Section 3, 4 and 5 of the Central Sales Tax Act, 1956 (No.74 of 1956).

Sec. 80 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) In particular and without prejudice to the generality of the foregoing power, the State Government may make rules prescribing -

- (a) All matters which under any provision of this Act are expressly required to be or may be prescribed under this Act.
- (b) The period for return of goods under clause (z) of Section 2.
- (c) The manner in which proceedings shall be instituted under Section 6.
- (d) The manner of proving the payment of tax by the principal under sub-section (3) and by the agent under sub-section (4) of Section 7.
- (e) (i) the restrictions and conditions subject to which the provisions of sub-section (2) of Section 9 shall apply to a selling registered dealer.
- (ii) The restrictions and conditions subject to which tax shall be levied at the concessional rate under sub-section (2) of Section 10,
- (iii) The restrictions and conditions subject to which and the manner in which set off shall be granted under Section 13.
- (f) The conditions subject to which a dealer may be licensed, prescribing the yearly turnover of goods and the rules for the determination of licence fee under Section 18.
- (g) the restrictions and conditions subject to which permission may be granted to a registered dealer to pay a lumpsum in lieu of tax by way of composition and the manner of determining such sum under Section 19.
- (h) (a) the authority to whom application for grant of a registration certificate under sub-section (3) of Section 22 shall be made and the manner of making them.
- (b) The form of a registration certificate under sub-section (4) of Section 22 and the manner of granting a registration certification under Section 23.
- (c) The manner of making application under sub-section (1) of Section 24 and the form of provisional registration certificate under sub-section (2) of Section 24.
- (i) The form and manner in which and the restrictions and conditions subject to which a recognition certificate shall be issued under Section 25.

- (j) (i) the manner of and the authority to whom and the dates by which returns shall be furnished under sub-section (1) of Section 26.
(ii) The manner of furnishing revised return under sub-section (3) of Section 26,
- (k) (i) the restrictions and conditions subject to which return may be accepted under sub-section 2 of Section 27 and time within which an intimation of acceptance shall be sent to the dealer under the said sub-section;
(ii) The manner in which tax shall be assessed under sub-section (6) of Section 27,
- (l) (i) the time within which and the fee on payment of which a tax practitioner or a person entitled to appear as a practitioner shall get himself enrolled under sub- section (3) of Section 31.
(ii) The form of enrollment certificate under sub-section (3) of Section 31.
- (m) (i) the intervals at which the tax shall be paid under sub-section (1) of Section 32,
(ii) The manner in which the full amount of tax due shall be paid into Government treasury under sub-section (2) of Section 32.
(iii) The restrictions and conditions subject to which further time may be given by the Commissioner under sub-section (8) of Section 32.
(iv) The manner in which and the period within which the Commissioner shall inform the dealer or person and the authority regarding arrears of tax under sub- section (14) of Section 32.
(v) The form of notice under sub-section (3) of Section 33.
(vi) The manner in which and time within which the tax payable in advance shall be paid;
(vii) The manner in which any amount deducted by the purchaser under sub- section (1) of Section 34 shall be paid and adjusted;
(viii) The manner in which and the time within which an amount deducted under sub-section (1) of Section 35 shall be deposited by a person.
- ⁹⁸(viii-a) the manner and form in which and the authority by whom the certificate shall be issued under Section 35-A.
- ⁹⁹(viii-b) the manner and form in which certificate of registration shall be obtained under sub-section (1) of Section 35-8.
- ¹⁰⁰(viii-c) the manner and the authority to whom and the dates by which returns shall be furnished under sub-section (1) of Section 35-C.
- (ix) the form and the manner in which, the authority by whom, the time within .which and the period for which tax clearance certificate shall be issued under Section 36.
- (x) The manner in which and the restrictions and conditions subject to which deferred payment of tax due may be made by a dealer under Section 37.
- (n) The manner in which, the extent to which, the person to whom and the conditions subject to which the refund shall be made under Section 39.
- (o) The conditions subject to which tax may be remitted under Section 41.
- (p) (i) particulars of bill or cash memorandum under Section 43.
(ii) The form and manner in which a declaration shall be filed under Section 44.
- (q) (i) the conditions subject to which the Commissioner may require the production of accounts, register or documents or to furnish any other information under sub- section (1) of Section 45.

98 Clause (viii-a) inserted by MPCT (Second Amendment) Act, 1991 w.e.f, 1.9.91.

99 Clause (viii-b) inserted by inserted first by Commercial Tax (Amendment) Ordinance, 2001 we.f, 05.06.2001 and then by Commercial Tax (Amendment) Act, 2001 w.e.f, 04.09.2001.

100 Clause (viii-c) inserted by inserted first by Commercial Tax (Amendment) Ordinance, 2001 we.f, 05.06.2001 and then by Commercial Tax (Amendment) Act, 2001 w.e.f, 04.09.2001.

- (ii) The manner in which goods shall be disposed off under clause (g) of sub- section (6) of Section 45.
- ¹⁰¹(qq) (i) the manner in which check posts be set up or barrier erected, the particulars which a bill, invoice or challan and a declaration shall contain, the form and manner in which a declaration shall be filed, the manner in which the goods shall be seized and penalty imposed, the manner in which the seized goods shall be released, the manner in which the goods seized shall be confiscated and sold, and the manner in which the transporter may authorise the consignor or consignee to appear before the check post officer under Section 45.A.
- (ii) The form and manner in which, the date by which and the authority to whom the particulars of goods transported shall be furnished under Section 45-8.
- (r) The restrictions and conditions subject to which the Commissioner may delegate his powers and duties under Section 46.
- (s) The authority to whom and the time within which information regarding the changes of business shall be furnished under Section 48.
- (t) (i) the prescription of further powers of authorities under clause (b) of sub- section (1) of Section 55.
- (ii) The form in which, the authority to whom, the manner in which and date before which the intimation under clause (i) of sub-section (1) of Section 58 shall be sent; and
- (iii) The form in which the register under clause (ii) of sub-section (1) of Section 58 shall be maintained and the particulars which such a register shall contain.
- (u) (i) the manner of preferring appeal under Section 61.
- (ii) Procedure to be followed by the appellate authority in disposing of appeals under sub-section (6) of Section 61.
- (iii) The time within which the Commissioner may call for record of proceedings under sub-section (1) of Section 62.
- (iv) the procedure for and other matters including fees incidental to the disposal of appeals, applications for revision or rectification of mistake under Section 61, 62 or 71 and other miscellaneous applications or petitions for relief under this Act.
- (v) The value of the Court fee stamps which an appeal or application for revision shall bear, under Section 64.
- (v) (i) the procedure for making an order under sub-section (1) of Section 68.
- (ii) The manner in which the refund shall be made under Section 71.
- (iii) (a) The form of notice under sub-section (3) of Section 73.
- (b) The details to be given in and the manner in which the notice shall be published under sub-section (5) of Section 73.
- (c) The form of application in which refund may be claimed under sub- section (6) of Section 73.
- (w) (i) the conditions subject to which the Commissioner may authorise the persons appointed under Section 3 to assist him to investigate all offences under this Act under sub-section (4) of Section 74.
- (ii) The conditions subject to which the Commissioner may compound the offences under sub-section (1) of Section 75.
- (x) How and within what time applications, information and notice shall be made, furnished or served under this Act.
- (y) (i) the duties and powers of officers appointed for the purpose of enforcing the provisions of this Act; and
- (ii) Generally regulating the procedure to be followed and the form to be adopted in the proceedings under this Act.
- ¹⁰²(z) the manner, procedure and other matters in relation to realisation of tax under Section 9-A.

¹⁰¹ Clause (qq) inserted by MPCT (Amendment) Act, 2000 w.e.f, 15.3.2000.
¹⁰² Clause (z) inserted by MPCT (Amendment) Act, 1995 w.e.f. 1.4.95.

¹⁰³(zz) the manner of realisation of tax under Section 9- B.

(3) The Power to make rules under this Section shall include the power to give retrospective effect from a date not earlier the date of commencement of this Act to the rules or anyone of them.

(4) In making any rule the State Government may direct that -

- (a) A breach thereof shall be punishable with fine not exceeding five hundred rupees, and if the offence is a continuing one, with a fine not exceeding twenty five rupees for every day the offence continues; and
- (b) In respect of contravention of any rule, the Commissioner may impose a penalty not exceeding five hundred rupees:

Provided that no such penalty shall be imposed without giving the person concerned reasonable opportunity of being heard.

(5) All rules made under this Section shall, as soon as may be, after they are made, be laid on the table of Legislative Assembly.

Sec. 81 REPEAL AND SAVINGS

¹⁰⁴[The Chhattisgarh General Sales Tax Act, 1958 (No.2 of 1959) shall stand repealed on the date of coming into force of this Act]:

Provided that -

(i) Such repeal shall not -

- (a) Affect the previous operation of the Act so repealed or anything duly done or suffered, thereunder; or
- (b) Affect any right, privilege, obligation or liability acquired, accrued or incurred under the repealed Act; or
- (c) Affect any penalty, forfeiture or punishment incurred in respect of any offence committed against the repealed Act; or
- (d) Affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability; and

Any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been passed and the said Act had not been repealed.

(ii) Unless it is otherwise expressly provided, anything done or any action taken (including any appointment, notification, notice, order, rule, form, regulation, certificate or licence) in the exercise of any power conferred by or under the said Act shall, in so far as it is not inconsistent with the provisions of this Act, continue to be in force and be deemed to have been done or taken in the exercise of the powers conferred by or under the provisions of this Act as if this Act were in force on the date on which such thing was done or action was taken unless and until it is superseded by or under this Act and all arrears of tax and other amount due at the commencement of this Act may be recovered as if they had accrued under this Act.

(iii) Any assessment, appeal, revision or other proceedings arising under the repealed Act and the rules made thereunder and or pending before an officer or authority duly empowered to make assessment or hear and decide such appeal, revision or other proceeding immediately preceding the commencement of this Act shall, on the date of such commencement stand transferred to the officer or authority competent to make assessment or to hear and decide appeal or revision or other proceedings under this Act and thereupon such assessment, shall be made or such appeal or revision or other proceeding shall be heard and decided by such officer or authority in accordance with the provisions of the repealed Act or the rules made thereunder as if they were the officer or authority duly empowered for the purpose under the repealed Act.

¹⁰³ Clause (zz) inserted by MPCT (Amendment) Act, 1997 w.e.f. 1.5.97
¹⁰⁴ Subs. by MPCT (Amendment) Act, 1995. w.e.f. 1.4.94.

¹⁰⁵(iv) Notwithstanding anything contained in clause (i), any appeal, revision, reference or other proceedings arising under the repealed Act but preferred or initiated after the commencement of this Act, shall be heard and decided by the authority competent to entertain any appeal, revision, reference or any other proceedings in accordance with the provisions of this Act.

Sec. 82 TRANSITORY PROVISIONS

Where any goods are held in stock on the date of commencement of this Act are tax paid goods within the meaning of the Act repealed by this Act, are sold or consumed in the manufacture on or after such date, such goods shall be deemed to be tax paid goods for the purpose of this Act.

Sec.83 POWERS TO REMOVE DIFFICULTIES

If any doubt or difficulty arises in giving effect to any of the provisions of this" Act in consequence of the transition to the said provisions from the corresponding provisions of the Act repealed by Section 81, the State Government may within two years from the date of commencement of this Act by order notified in the official Gazette of the State make such provision not inconsistent with this Act as appear to be necessary or expedient for removing the doubt or difficulty.

105 Clause (iv) inserted by MPCT (Second Amendment) Act, 1996 w.e.f. 1.4.95

***SCHEDULE –I**
(See Section 15)
Goods Exempted from Tax
(Effective from 15.3.2000)

S. No.	Description of goods	Conditions and exceptions subject to which exemption has been allowed
(1)	(2)	(3)
1.	Agricultural implements as specified by the State Government by ¹⁰⁶ Notification in the Official Gazette,	
2.	(1) All kinds of roofing tiles and ridges excepting Manglore, Bagra, Kusner and similar superior roofing tiles and ridges, ¹⁰⁷ (2)	
3.	Articles used by physically handicapped persons, namely, - (i) Artificial limbs (ii) Crutches (iii) Calipers (iv) Corrective shoes (v) Various kinds of spinal braces (vi) Wheel chairs (vii) Denis brown splints (viii) Various kinds of splints	
4.	Fabrics on which Additional Excise Duty is levied or leviable under the Central Excise and Tariff Act, 1985 (No.5 of 1986) and all varieties of khadi cloth, ¹⁰⁸ [handloom cloth] but excluding silk, silk cloth and hessian cloth,	
5.	Besan and chuni of pulses, atta, maida, suji, rawa, daliya, flour, husk, bran of cereals and pulses	
6.	Biogas plants	
7.	Books, almanacs, panchangs, drawing books, exercise books, periodicals and journals	
8.	Braille writer, braille shorthand writer, braille watch, braille writing frame, braille mathematical instruments, braille globes and maps (Geography), Braille thermometer, braille lectometer and braille barometer,	
9.	Charkha including Amber charkha and its parts including wooden and rubber parts, implements used in the production of Khaddar or Khadi as defined in clause (b) of Section 2 of the Chhattisgarh Sales of Khaddar Act, 1953 (X of 1953), handlooms including pit looms, frame looms, light shuttle looms and paddle looms	
10.	Condoms and contraceptives,	
11.	Cow dung and products thereof	
12.	Curd, lassi, butter milk, fresh milk excluding sweetened and coloured milk sold in sealed containers,	
13.	Electrical energy	

* Schedule- I & II have been substituted by MPCT (Amendment) Act, 2000 w,e,f, 15,3,2000, 106 For list of Agricultural implements see Noti, No,52 dt, 17,7,2000,

107 The existing entry renumbered as (1) and entry (2) inserted first by Commercial Tax (Amendment Ordinance), 2001 w,e,f, 05,06,2001 and then by Commercial Tax (Amendment) Act, 2001 w,e,f, 04,09,2001

108 The words 'handloom cloth' is missing in the English version of the Gazette,

S. No.	Description of goods	Conditions and exceptions subject to which exemption has been allowed
(1)	(2)	(3)
14.	Sugar and khandsari on which additional excise duty is levied or leviable under the Central Excise and Tariff Act, 1985 (No0 5 of 1986), excluding mishri, chironji and batasha,	
15.	Tobacco manufactured or unmanufactured, cured or uncured and tobacco products including cigarettes, cigars, cheroots and bidis, on which additional excise duty is levied or leviable under the Central Excise and Tariff Act, 1985 (No0 5 of 1986) and gudakhuo	
16.	Fresh vegetables (including potatoes and onion), ginger (excluding dried ginger), garlic, singhada, fresh fruits, fresh flowers and sugarcane,	
17.	Frozen and liquid semen of cattle	
18.	Goods on which duty is or may be levied under the Chhattisgarh Excise Act, 1915 (No,2 of 1915) other than medicinal and toilet preparations specified for the time being in the Schedule to the Medicinal and Toilet Preparations (Excise Duties) Act, 1955 (No, r6: of 1955),	
19.	Human blood and human blood plasma: lace makers and artificial valve used in human hearts,	
20.	Kumkum, sindoor, all kinds of bangles (excluding those made of ivory, gold or silver) bichhia, mangar sutra of the value not exceeding 500/- rupees, Bindi made of plastic or lac, kajal, mehendi, rakhi and ornaments of kathir " german silver or aluminium,	
21.	Newsprint When sold by a dealer registered under the Act to a newspaper establishment holding a certificate issued by the Directorate of Public Relations, Chhattisgarh, to the effect that the newspaper establishment is publishing a newspaper, and such establishment furnishes a declaration to the effect that the newsprint being purchased is for the publication of the newspaper according to their certified circulation,	
22.	Nipples made of rubber and feeding bottles with rubber nipples	
23.	Organic manure	
24.	Philatelic stamps, kites	
25.	Products of such village industries as the State Government may by ¹⁰⁹ notification specify When sold by producer and/or organisation certified for the purpose by Khadi and Village Industries Commission constituted under the Khadi and Village Industries Commission Act, 1956 (No,61 of 1956) or the Chhattisgarh Khadi and Gramodhyog Board constituted under the Chhattisgarh Khadi Tatha Gramodhyog Adhiniyam, 1978,	
26.	Quinine	

109 For list of village industries see Noti, No, 80 dt, 12,10,2000

S. No.	Description of goods	Conditions and exceptions subject to which exemption has been allowed
(1)	(2)	(3)
27.	<p>Renewable energy devices or equipments. that is to say-</p> <p>(i) Flat plate solar collectors.</p> <p>(ii) Concentrating and pipe type solar collectors.</p> <p>(iii) Solar cookers.</p> <p>(iv) Solar water heaters.</p> <p>(v) Solar crops driers and systems.</p> <p>(vi) Solar air/gas/fluid heating system.</p> <p>(vii) Solar refrigeration. cold storages and air- conditioning systems.</p> <p>(viii) Solar stills and desalination systems.</p> <p>(ix) Solar pumps based on Solar thermal and Solar photo-voltaic conversion.</p> <p>(x) Solar power generating system.</p> <p>(xi) Solar photo-voltaic modules and panels for water pumping and other applications.</p> <p>(xii) Windmills and any specially designed devices which run on windmills.</p> <p>(xiii) Any special devices including electricity generators and pumps running on wind energy.</p> <p>(xiv) Bio-gas engines and bio-gas plant and accessories and equipments connected therewith for utilizing energy from Bio-gas.</p> <p>(xv) Agricultural and Municipal waste conversion devices producing energy from bio-mass.</p> <p>(xvi) Equipment for utilising ocean waves.</p> <p>(xvii) Hydrams or Hydraulic ram or similar other devices using energy derived from flowing or stored up water.</p>	
28.	Salt	
29.	<p>Sirali. bageshi. barroo. date leaves. baskets made out of such leaves. tattas. fans. curtains. mattings and other goods made thereof. handmade sooma and germa. hand-made barahi of leather. utensils and decorative articles made of bamboo and fibrous plants like sabai. shisal etc.. muddas made of sarkanda. done and pattal. phool bahari jhadoo and earthenware made by kumhars (potters).</p>	
30.	<p>(i) Seeds. plants and bulbs of vegetables. grass. fruits and flowers other than methi. dhaniya and the seeds which are covered by the term. oilseeds "specified in Section 14(vi) of the Central Sales Tax Act. 1956 (No. 74 of 1956).</p> <p>(ii) Certified seeds certified by the nominated Government Agencies.</p>	
31.	Unbranded bread. eggs. meat. livestock. poultry. fish and fish seed.	
32.	Water other than aerated. mineral and distilled water and water sold in sealed containers.	
33.	Wooden bullock cart. wooden wheels and bullock cart axle of iron and steel.	
34.	Writing slate and slate pencils. chalk sticks. crayons and foot rules.	

¹¹⁰SCHEDULES -II

[See Section 9(1)]

(Effective from 15.3.2000)

S. No.	Description of goods	¹¹¹ Rate of Tax (%)
(1)	(2)	(3)
Part - I		
1.	Unginned cotton	4
Part - II		
1.	Aviation spirit and ¹¹² aviation turbine fuel	25
2.	Molasses	20
3.	Petrol and High speed diesel oil	25
4.	Raw opium	20
5.	Tendu Patta	20
6.	Timber	20
Part - III		
1.	(i) All kinds of fruit juices and squashes. when sold in sealed or capsuled or cork bottles or jars (ii) All kinds of non-alcoholic drinks and beverages including syrups, cordials, distilled juices, ark and essences when sold in sealed or capsuled or cork bottles or jars	12
2.	ACSR conductors	12
3.	Adhesives	12
4.	Aeronautics	12
5.	All arms including rifles, revolvers and pistols and ammunition for the same	12
6.	All clocks, timepieces and watches	12
7.	All crockery, goods made of china and tamchina, goods made of glass and glass ware (except glass bangles) and all types of cutlery.	12
8.	All kinds of leather goods excluding sports goods and footwears	12
9.	All kinds of musical instruments	12
10.	All types of sanitary goods and fittings thereof	12
11.	All types of two wheeler, three wheeler and four wheeler motor vehicles and motor vehicles with more than four wheels including their chassis and bodies <i>and jeep trailers. parts and accessories thereof excluding tractor and tractor trailers</i>	12
12.	Articles of stainless steel excluding utensils	12
13.	Asbestos sheets and goods made tht'reof	12
14.	(i) Cakes and pastries (ii) Biscuits, Chocolates, toffees, lozenges and peppermint drops ether sold loose or in sealed containers (iii) Bakery goods other than unbranded bread and the goods mentioned in (i) and (ii) above	12
15.	(i) Ice cream and kulfi (ii) Ice candy and non-alcoholic drinks containing ice-cream	12

¹¹⁰ The footnote covers only amendment in Schedule. For other amendment see Gist of Notifications.¹¹¹ In addition to rate of tax. Surcharge u/s. 10-A @15% of tax is payable except on declared goods and certain other goods which are exempt from Surcharge by notification.¹¹² As per the amendment made by the Finance Act. 2001 in clause (li-d) of section 14 of the Central Sales Tax Act, 1956 (No.74 of 1956) Aviation fuel sold to a Turbo Prop Aircraft, shall be covered in declared gods and in that case rate of tax thereon can not exceed 4%.

S. No.	Description of goods	¹¹¹ Rate of Tax (%)
(1)	(2)	(3)
16.	Carpets including kalins and galichas	¹¹³ 15
17.	Cement and cement goods including cement pipes but excluding cement tiles	12
18.	Cigarette cases, holders and lighters	12
19.	Cinematographic equipments including cameras, projectors and sound recording and reproducing equipments, lenses, films and parts and accessories thereof (excluding photographic and other cameras and enlargers, lenses, films, plates, paper and cloth and other parts and accessories required for use thereof)	12
20.	Dyes, paints, varnishes, lacquers, enamels, glue, paint brush, sand paper, turpentine oil and polish excluding dry colours, gulal and shoe polish	12
21.	Electronic toys	¹¹⁴ [12]
22.	Furs and ¹¹⁵ skins (other than those of cattle, sheep and goats) and articles for personal and domestic use made therefrom	12
23.	Laminated sheet such as sunmica, formica, etc.	12
24.	Lifts and elevators	12
25.	Light diesel oil	12
26.	Liquefied petroleum gas	12
27.	Lubricants	12
28.	Marble and marble tiles	12
29.	Mineral ores, bauxite and dolomite	12
30.	Moulded furniture	12
31.	Mosquito and insect repellents ¹¹⁶ [...]	¹¹⁷ 5
32.	Naphtha	¹¹⁸ [12]
33.	Pan masala	¹¹⁹ 20
34.	Plywood and articles made thereof	12
35.	Preserved food articles	12
36.	Purses, ladies handbags & vanity bags, ¹²⁰ [...], attaché cases and despatch cases	12
37.	Refrigerators, deep freezers, air conditioning plants including air conditioners, mechanical water coolers, air coolers and components, parts and accessories thereof	¹²¹ 15

- 113** Substituted for the figure 12, first by Commercial Tax (Amendment) Ordinance, 2001 w.e.f. 05.06.2001 & then by Commercial Tax (Amendment) Act, 2001 w.e.f. 04.09.2001.
- 114** In the Gazette the figure in bracket is not printed.
- 115** Skins (whether raw or dressed) are declared goods. Therefore, it is to be seen whether the State Govt. can impose tax on skins @ 12%. Skins are covered in entry 38 of Part V also for which rate is 4%.
- 116** The words such as jet mat, good knight mat, etc. deleted by first by Commercial Tax (Amendment) Ordinance, 2001 w.e.f. 05.06.2001 & then by Commercial Tax (Amendment) Act, 2001 w.e.f. 04.09.2001.
- 117** Substituted for the figure 12, first by Commercial Tax (Amendment) Ordinance, 2001 w.e.f. 05.06.2001 & then by Commercial Tax (Amendment) Act, 2001 w.e.f. 04.09.2001.
- 118** In the Gazette the figure in bracket is not printed.
- 119** Substituted for the figure 12, first by Commercial Tax (Amendment) Ordinance, 2001 w.e.f. 05.06.2001 & then by Commercial Tax (Amendment) Act, 2001 w.e.f. 04.09.2001.
- 120** The word 'suitcases' is deleted w.e.f. 22.04.2002 by Notification No.49, Dated 22.04.2004. 'Suitcase' are covered also in entry 31 of Part IV also for which rate of tax @8% Therefore, entry beneficial to the dealer should be applicable.
- 121** Substituted for the figure '12' first by Commercial Tax (Amendment) Ordinance, 2001 w.e.f. 05.06.2001 & then by Commercial Tax (Amendment) Act, 2001 w.e.f. 04.09.2001.

S. No.	Description of goods	¹¹¹ Rate of Tax (%)
(1)	(2)	(3)
38.	Rubber goods excluding sports goods and those mentioned elsewhere in the schedule	12
39.	Saltpetre, gunpowder, potash, other explosives and fireworks including coloured matches	¹²² [12]
40.	Sandal wood and Sandal wood oil	12
41.	Scents, perfumes, hair tonics, hair creams, ¹²³ [.....], hair shampoo, depilatories, face creams, snows, lipsticks, rouge, nail polish and other cosmetics including medicinal preparation thereof	¹²⁴ [15]
42.	Sheets and fabrics of PVC	12
43.	(i) Sheets made of rubber or foam rubber or plastic foam or other synthetic foam or rubberised coir	12
	(ii) Cushions, pillows, mattresses and other articles made of rubber or foam rubber or plastic foam or other synthetic foam or rubberised coir	
44.	Silk fabrics	12
45.	Spark plugs	12
46.	Storage batteries and dry cells	12
47.	Synthetic gems	12
48.	Telephone and parts thereof	12
49.	Tooth paste, tooth powder, hair oils, face powder, talcum powder, toilet soap, washing soap and other toilet articles "including medicinal preparations thereof, combs, brushes, razors and razors blades	12
50.	Transmission wires, voltage stabilisers and towers	12
51.	Typewriters, tabulators, calculators, registering, indexing, card punching, franking, addressing and duplicating machines including duplicators and other apparatuses for obtaining duplicate copies, teleprinters and components, parts and accessories of any of them	12
52.	Vacuum cleaner and washing machines	12
53.	Weather proofing compound	12
54.	Wireless reception instruments and apparatus. radios and radio gramophones. television. VCR. VCP. accumulators. electrical valves. amplifiers and loud speakers and parts and accessories thereof	12
¹²⁵ 55.	All types of gases including liquefied gases except those specified elsewhere in the Schedule.	12
Part - IV		
1.	All kinds of bricks including refractory bricks, asphaltic roofing.	8
2.	All kinds of electrical goods including fans, bulbs other than those specified elsewhere in this schedule	8
3.	All kinds of footwears	8
4.	All kinds of furniture including upholstered and metal furniture. cabinet wares such as sofas and almirahs except those specified elsewhere in the schedule	8

¹²² In the Gazette the figure in bracket is not printed.

¹²³ Words 'Hair Oils' is deleted in the entry w.e.f. 22.04.2002 by Notification No.49, dated 22.04.2002. 'Hair Oil' is covered also in entry 49 of this Part also, rate of tax for that entry is 12%.

¹²⁴ Substituted for the figure '12' first by Commercial Tax (Amendment) Ordinance, 2001 w.e.f. 05.06.2001 & then by Commercial Tax (Amendment) Act, 2001 w.e.f. 04.09.2001.

¹²⁵ Sr. No.55 inserted vide Notification No.45 dated 01.09.2001. w.e.f. 01.09.2001

S. No.	Description of goods	¹¹¹ Rate of Tax (%)
(1)	(2)	
5.	All kinds of machines and machinery and ¹²⁶ [parts] except those specified elsewhere in this schedule	8
6.	All kinds of paper	8
7.	All types of cables and electrical wires	8
8.	Butter & Ghee	8
9.	Ceramics	8
10.	Cooked food	8
11.	Drugs and medicines excluding those specified elsewhere in this schedule	8
12.	Electric motors	8
13.	Earth moving machinery	8
14.	Electronic goods except those specified elsewhere in the schedule	8
15.	Electrodes	8
16.	Filters except those specified elsewhere in this schedule	8
17.	Flask	8
18.	Kerosene	8
19.	Magnets	8
20.	Milk food and milk products including proprietary preparations of baby foods except those specified elsewhere in this schedule	8
21.	Napa slab	8
22.	Nutrition food	8
23.	Pipes made of PVC, rubber, polythene and hose pipes	8
24.	Plastic goods except those specified elsewhere in the schedule	8
25.	Pumps and oil engines	8
26.	Pulp	8
27.	Printing ink	8
28.	R.C.C. sleepers	8
29.	Saree falls	8
30.	Sewing machines	8
31.	Suitcases	8
32.	Surgical goods	8
33.	Tea and coffee	8
34.	Tiles including cement tiles except those specified elsewhere in the schedule	8
35.	Transformers	8
36.	Tyres, tubes and naps of motor vehicles of all kinds, of tractor & trailers & of animal drawn vehicles	8
37.	Vegetable, fish and meat sold in sealed containers	8
38.	Detergents	8
39.	All other goods not included in Schedule for any other part of this schedule	8

¹²⁶ The word 'Parts' is missing in the English version of the Gazette.

¹²⁷ The word 'schedule' is missing in the English version of the Gazette.

S. No.	Description of goods	¹¹¹ Rate of Tax (%)
(1)	(2)	(3)
Part - V		
1.	(i) Acid oil (ii) Fatty acid (iii) Oil sludge (iv) Soap stock (v) Lecithin	4
2.	Agarbatti and dhoop	4
3.	All kinds of chemicals, acids, sulphur and bleaching powder	4
4.	All kinds of ropes and twine including jute twine	4
5.	All kinds of umbrellas and parts thereof	4
6.	All types of bags including HDPE, LDPE & PP woven sacks	4
7.	All kinds of yarn including blended yarn, staple yarn, yarn waste and sewing thread	4
8.	Aluminium ingots and aluminium wire rods	4
9.	Betel leaves	4
10.	Bone meal	4
11.	Branded bread	4
12.	Basic drugs	4
13.	Candle	4
14.	Caprolactum, DMT and MEG	4
15.	Caps and hats	4
16.	Cattle feed, poultry feed and aquatic feed	4
17.	Caustic soda	4
18.	Chapri, lac and kitti	4
19.	(i) Cereals as specified in clause (i) of Section 14 of the Central Sales Tax Act, 1956 (No.74 of 1956)	4
	(ii) Food grains and cereals other than those mentioned in serial number (i) of this entry	4
20.	(i) Pulses as specified in clause (vi-a) of Section 14 of the Central Sales Tax Act, 1956 (No.74 of 1956)	4
	(ii) Pulses other than pulses mentioned in serial number (i) of this entry	4
21.	Chemical fertilizers	4
22.	Coal including coke in all its forms and ¹²⁸ charcoal	4
23.	Computers, computer parts and accessories	4
24.	Copper wire rods and wire including copper winding wire	4
25.	Crude oil as specified in clause (ti-c) of Section 14 of the Central Sales Tax Act. 1956 (No.74 of 1956)	4
26.	Cycles, cycle tyre tubes. parts and accessories thereof	4
¹²⁹ 27.	Omitted w.e.f. 05.06.2001	4
28.	Fabrics other than those specified in schedule 1 and elsewhere specified in other parts of schedule II	4
29.	Ferro alloy and super alloy	4
30.	Firewood, charcoal and saw dust	4

128 Charcoal is covered in Entry 30 of this Part also, though the rate of tax for that entry too is 4 %.

129 Entry 27 omitted first by Commercial Tax (Amendment) Ordinance, 2001 w.e.f. 05.06.2001 & then by Commercial Tax (Amendment) Act, 2001 w.e.f. 04.09.2001. Before omission this entry is as under:-
 27. Dry Fruits 4

S. No.	Description of goods	¹¹¹ Rate of Tax (%)
(1)	(2)	(3)
31.	Fountain pens, ball point or nib pens, pencils, rubber, Erasers, pencil sharpners, geometry box and geometrical instruments and refills of ball point pens	4
32.	Ginned cotton (indigenous or imported) baled, pressed or otherwise and cotton waste	4
33.	Goods for use as containers and packing material	4
34.	Grass, hay, straw or any other plant in green or dried form	4
35.	Gur and jaggary	4
36.	Hearing aids	4
37.	Helmets	4
38.	Hides and skins, whether in a raw or dressed state	4
39.	¹³⁰ Hosiery goods	4
40.	Hurricane lanterns, kerosene lamps, glass chimneys and other parts thereof	4
41.	Hydrogenated vegetable oil	4
42.	Ice	4
43.	Industrial beltings	4
44.	¹³¹ Information technology goods as notified by the Government	4
45.	Insecticides, herbicides, weedicides and pesticides other than those specified in ¹³² [serial number 15] of Part III	4
46.	Iron and steel as specified in clause (iv) of Section 14 of the Central Sales Tax Act, 1956 (No.74 of 1956)	4
47.	Jute as specified in clause (v) of Section 14 of the Central Sales Tax Act, 1956 (No.74 of 1956)	4
48.	¹³³ Kirana goods as the State Government may by notification specify	4
49.	Mawa	4
50.	Mosquito nets	4
51.	Oilcake including deoiled cake and soyameal	4
52.	Oilseeds as specified in clause (vi) of Section 14 of the Central Sales Tax Act, 1956 (No.74 of 1956)	4
53.	Papad, badi, kul dai, sewai, finger papad and sabudana ke phool	4
54.	Parched gram (bhune chane), ¹³⁴ [parched peas (bhune mutter)], murmura, poha and lai	4
55.	Pasteurized milk	4
56.	Perforated pipes used in drip irrigation system	4
57.	"Plastic/P . V . C. granules	4
58.	Polystyrene	4
59.	Products of maize, jwar & tapioca roots that is to say: (i) All kinds of- (a) Starch (b) Finishole (thin boiling starch) (c) Dextrin (d) Liquid glucose (ii) Dextrose monohydrate, (iii) Hydrol, (iv) Corn steep liquor, (v) Dextrose Allhydrous, (vi) Sorbitol	4
60.	Rajka seeds, charota seeds, babool seeds and babool seed powder	4

- 130** Readymade cotton hosiery and readymade nylon hosiery are also covered in Entry 63 of this part, though the rate of tax for that entry too is 4%.
- 131** List of Information technology goods applicable in Chhattisgarh has not been defined so far. ¹³² It should be 'serial number 31'.
- 133** For list of 'Kirana Goods' see Notification No.75 dt. 28.09.2000.
- 134** Inserted first by Commercial Tax (Amendment) Ordinance, 2001 w.e.f. 05.06.2001 & then by Commercial Tax (Amendment) Act, 2001 w.e.f. 04.09.2001.

TOP

S. No.	Description of goods	¹¹¹ Rate of Tax (%)
(1)	(2)	(3)
61.	Raw silk	4
62.	Raw wool	4
63.	(i) Readymade garments, excluding garments of silk fabrics and knitted garments (ii) Readymade cotton hosiery and cotton knitted garment and readymade nylon hosiery	4
64.	Safety matches	4
65.	Sheets, circles and ingots of zinc, brass and copper	4
66.	Sports goods	4
67.	Staple fibre including viscose staple fibre and waste thereof	4
68.	Stitched rajai covers, stitched covers for bed, pillows and cushions	4
69.	Straw board	4
70.	Sugar other than those specified in schedule I	4
71.	Sweets and namkeen, mishri, chironji and batasha	4
72.	Tobacco and tobacco products other than those specified in schedule I	4
73.	Tractors and ¹³⁵ Tractor trailers	4
74.	Utensils other than those specified elsewhere in this Schedule	4
75.	Vegetable and edible oil except hydrogenated vegetable oil	4
76.	Wick stove	4
Part -VI		
1.	Articles including coins made of gold and silver	1
2.	Bullion and specie	1
3.	Gold and silver ornaments of personal wear	1
4.	Precious stones such as diamonds, emeralds, rubies, pearls and sapphires whether they are sold loose or as forming part of any article in which they are set	1

SCHEDULE-III

See Sections 9, 10 & 13

1	Tendu leaves
2	Raw Opium
3	Petrol
4	Diesel Oil
5	Timber

SCHEDULE-IV

See Section 18

1	Cooked food.
2	Bones of animals including powdered bones. horns and hoops.
3	Wax and honey.
¹³⁶ 4	Readymade garments & Hosiery excluding garments of silk fabrics and knitted garments.
5	Sugarcane juice.

- 135** Tractor trailers use in agricultural purposes is exempt from tax in entry 1 of Schedule Agricultural implements.
136 Sr. No.4 substituted by Notification No.11 dt. 23.02.2004 w.e.f. 01.04.2004, Prior to substitution. It read as under: -
 "4. Readymade garments excluding garments of silk fabrics and readymade hosiery or knitted garments."

"बिजनेस पोस्ट के अन्तर्गत डाक शुल्क के नगद भुगतान (बिना डाक टिकट) के प्रेषण हेतु अनुमत. क्रमांक जी. 2-22-छत्तीसगढ़ गजट/38 सि. से. भिलाई, दिनांक 30-5-2001."



पंजीयन क्रमांक "छत्तीसगढ़/दुर्ग/
सी. ओ. रायपुर/17/2002"
COURT BOOK
EMPOWERING LEGAL CLARITY

छत्तीसगढ़ राजपत्र

(असाधारण)
प्राधिकार से प्रकाशित

क्रमांक 5]

रायपुर, शुक्रवार दिनांक 7 जनवरी 2005— पौष 17, शक 1926

विधि और विधायी कार्य विभाग

रायपुर, दिनांक 6 जनवरी 2005

क्रमांक 217/21-अ/प्रारूपण/04.— छत्तीसगढ़ विधान सभा का निम्नलिखित अधिनियम जिस पर दिनांक 02-01-2005 को राज्यपाल की अनुमति प्राप्त हो चुकी है, एतद्वारा सर्वसाधारण की जानकारी के लिए प्रकाशित किया जाता है.

छत्तीसगढ़ के राज्यपाल के नाम से तथा आदेशानुसार,
विमला सिंह कपूर, उप-सचिव.

छत्तीसगढ़ अधिनियम

(क्रमांक 18 सन् 2004)

छत्तीसगढ़ वाणिज्यिक कर (संशोधन) अधिनियम, 2004

छत्तीसगढ़ वाणिज्यिक कर अधिनियम, 1994 (क्र. 5 सन् 1995) को और संशोधित करने हेतु अधिनियम.

भारत गणराज्य के पचपनवें वर्ष में छत्तीसगढ़ विधान मण्डल द्वारा निम्नलिखित रूप में यह अधिनियमित हो :-

- | | | |
|----------------------------|----|---|
| संक्षिप्त नाम तथा प्रारंभ. | 1. | (एक) इस अधिनियम का संक्षिप्त नाम छत्तीसगढ़ वाणिज्यिक कर (संशोधन) अधिनियम, 2004 (क्र. 18 सन् 2004) है.

(दो) यह अधिनियम शासकीय राजपत्र में इसके प्रकाशन की तिथि से प्रभावशील होगा. |
| धारा 9-क का संशोधन. | 2. | छत्तीसगढ़ वाणिज्यिक कर अधिनियम, 1994 (क्र. 5 सन् 1995) (जो इसमें इसके पश्चात् मूल अधिनियम के नाम से विनिर्दिष्ट है), की धारा 9-क में,-

(एक) शब्दों "जैसा कि राज्य शासन अधिसूचना द्वारा विनिर्दिष्ट करे" को विलोपित किया जाये.

(दो) शब्द "पांच" के स्थान पर शब्द "चार" प्रतिस्थापित किया जाये. |
| धारा 26 का संशोधन. | 3. | मूल अधिनियम की धारा 26 में,-

उपधारा (4) के खण्ड (क) में अंक "1.25" के स्थान पर अंक "1" प्रतिस्थापित किया जाये. |
| धारा 27 का संशोधन. | 4. | मूल अधिनियम की धारा 27 में,-

(एक) उपधारा (2) के खण्ड (क) के अंत में वाक्य "उस वर्ष के लिये ऐसे व्यापारी द्वारा प्रस्तुत विवरणी या विवरणियों को स्वीकार किया जायेगा तथा उपधारा (1) के प्रयोजन के लिये उसका कर निर्धारण किया हुआ मान लिया जायेगा" अंतःस्थापित किया जाये.

(दो) उपधारा (2) के खण्ड (ख) का लोप किया जाये.

(तीन) उपधारा (2) के खण्ड (ग) में शब्दों "खण्ड (ख)" के स्थान पर शब्द "खण्ड (क)" प्रतिस्थापित किया जाये तथा शब्दों "खण्ड (क) के अधीन" विलोपित किये जायें. |
| धारा 32 का संशोधन. | 5. | मूल अधिनियम की धारा 32 में,-

उपधारा (8) में अंक "18" के स्थान पर शब्द "बारह" प्रतिस्थापित किया जाये. |
| धारा 39 का संशोधन. | 6. | मूल अधिनियम की धारा 39 में,-

उपधारा (5) में शब्द "एक" के स्थान पर शब्द "आधा" प्रतिस्थापित किया जाये. |

7. मूल अधिनियम की धारा 61 में,-

वर्तमान उपधारा (6) के स्थान पर निम्नलिखित उपधारा प्रतिस्थापित की जाये.

(6) ऐसी प्रक्रिया के अध्यक्षीन रहते हुए जो कि विहित की जाए तथा ऐसी और जांच करने के पश्चात् जैसा कि वह उचित समझे,

(क) अपीलीय उपायुक्त प्रत्येक अपील पर निपटारा ऐसी अपील फाइल करने के दिनांक से एक कैलेण्डर वर्ष के भीतर करेगा. ऐसी अपील का निपटारा करते समय, अपीलीय उपायुक्त कर निर्धारण या शास्ति के अधिरोपण या दोनों की पुष्टि कर सकेगा, उसे कम कर सकेगा, उसमें वृद्धि कर सकेगा या उसे निरस्त कर सकेगा किन्तु, मामले का प्रतिप्रेषण नहीं करेगा.

इस खण्ड में अंतर्विष्ट किसी बात के होते हुए भी छत्तीसगढ़ वाणिज्यिक कर (संशोधन) अधिनियम, 2004 प्रारंभ होने पर, लंबित अपीलों का निपटारा अपीलीय उपायुक्त द्वारा उक्त अधिनियम प्रारंभ होने के दिनांक से एक कैलेण्डर वर्ष के भीतर किया जायेगा.

(ख) अधिकरण -

(एक) कर निर्धारण या शास्ति के अधिरोपण या दोनों की पुष्टि कर सकेगा, उसे कम कर सकेगा, उसमें वृद्धि कर सकेगा या उसे निरस्त कर सकेगा, या

(दो) कर निर्धारण या शास्ति के अधिरोपण या दोनों को अपास्त कर सकेगा और उस अधिकारी को जिसके कर निर्धारण या शास्ति के अधिरोपण आदेश के विरुद्ध अपील की गई है, यह निर्देश दे सकेगा कि वह ऐसी जांच करने के पश्चात् जैसी कि निर्देशित की जाए, नवीन रूप से कर निर्धारण करे या शास्ति पुनः अधिरोपित करे; या

(तीन) ऐसा आदेश पारित कर सकेगा जैसा कि वह उचित समझे.

8. मूल अधिनियम की धारा 62 में,-

धारा 62 का संशोधन,

(एक) उपधारा (1) के खण्ड (ख) में शब्दों "जैसा कि वह उचित समझे" के पश्चात् शब्दों एवम् वाक्यांश "पुनरीक्षण के लिये ऐसा आवेदन फाइल करने के दिनांक से एक कैलेण्डर वर्ष के भीतर" अंतःस्थापित किया जाए,

(दो) उपधारा (1) के पश्चात् निम्नलिखित उपधारा अंतःस्थापित की जाए,

"(1-क) उपधारा (1) में अंतर्विष्ट किसी बात के होते हुए भी, यदि उपधारा एक के अधीन पुनरीक्षण किसी ऐसे पुनर्करनिर्धारण या शास्ति के पुनर्अधिरोपण के किसी ऐसे आदेश के संबंध में है, जो अपील या पुनरीक्षण में दिए गए किसी निर्देश के अनुसरण में है, तो आयुक्त उपधारा (1) के उपबंधों के अनुसार आदेश पारित कर सकेगा, किन्तु मामले का प्रतिप्रेषण नहीं करेगा.

(1-ख) जहां उपधारा (1) के खण्ड (ख) के अधीन पुनरीक्षण के लिए फाइल किया गया कोई आवेदन छत्तीसगढ़ वाणिज्यिक कर (संशोधन) अधिनियम, 2004 के प्रारंभ होने के दिनांक को लंबित है तो उसका निपटारा उक्त अधिनियम के प्रारंभ होने के दिनांक से एक कैलेण्डर वर्ष के भीतर, यथास्थिति उपधारा (1) या उपधारा (1-क) के उपबंधों के अनुसार किया जाएगा."

- धारा 71 का संशोधन. 9. मूल अधिनियम की धारा 71 में,-
उपधारा (1) के खण्ड (एक) एवम् (दो) में शब्दों “एक कैलेण्डर वर्ष” के स्थान पर शब्दों “तीन कैलेण्डर माह” प्रतिस्थापित किया जाये.
- निरसन. 10. छत्तीसगढ़ वाणिज्यिक कर (संशोधन), अध्यादेश, 2004 (क्र. 4 सन् 2004) एतद्वारा निरसित किया जाता है.

रायपुर, दिनांक 6 जनवरी 2005

क्रमांक 217/21-अ/प्रारूपण/04.— भारत के संविधान के अनुच्छेद 348 के खण्ड (3) के अनुसरण में छत्तीसगढ़ वाणिज्यिक कर (संशोधन) अधिनियम, 2004 (क्र. 18 सन् 2004) का अंग्रेजी अनुवाद राज्यपाल के प्राधिकार से एतद्वारा प्रकाशित किया जाता है.

छत्तीसगढ़ के राज्यपाल के नाम से तथा आदेशानुसार,
विमला सिंह कपूर, उप-सचिव.

CHHATTISGARH ACT
(No. 18 of 2004)

CHHATTISGARH VANIJYIK KAR (SANSHODHAN) ADHINIYAM, 2004



An act further to amend the Chhattisgarh Vanijyik Kar Adhiniyam, 1994 (No. 5 of 1995).

Be it enacted by the Chhattisgarh Legislature in the Fifty - fifth Year of the Republic of India as follows :-

- | | | |
|----|---|--------------------------------|
| 1. | (i) This Act may be called the Chhattisgarh Vanijyik Kar (Sanshodhan) Adhiniyam, 2004 (No. 18 of 2004). | Short title and Commencement . |
| | (ii) It shall come into force from the date of its publication in the Official Gazette. | |
| 2. | In section 9-A of the Chhattisgarh Vanijyik Kar Adhiniyam, 1994 (No. 5 of 1995) (hereinafter referred to as the Principal Act), - | Amendment of Section 9-A. |
| | (i) The words "as the State Government may specify by notification" shall be omitted. | |
| | (ii) For the word "five" the word "four" shall be substituted. | |
| 3. | In section 26 of the Principal Act, - | Amendment of Section 26. |
| | (i) In clause (a) of sub-section (4) for the figure "1.25" the figure "1" shall be substituted. | |
| 4. | In section 27 of the Principal Act, - | Amendment of Section 27. |
| | (i) At the end of clause (a) of sub-section (2), the sentences "the return or returns furnished by such dealer for that year shall be accepted and his assessment shall be deemed to have been made for the purpose of sub-section (1)." shall be inserted. | |
| | (ii) Clause (b) of sub-section (2) shall be omitted. | |
| | (iii) In clause (c) of sub-section (2) for the words "clause (b)" the words "clause (a)" shall be substituted and the words " under clause (a)" shall be omitted. | |
| 5. | In section 32 of the Principal Act,- | Amendment of Section 32 . |
| | In sub-section (8) for the word "eighteen" the word "twelve" shall be substituted. | |
| 6. | In section 39 of the Principal Act, - | Amendment of Section 39. |
| | In sub-section (5) for the word "one" the word "half shall" be substituted. | |
| 7. | In section 61 of the Principal Act, - | Amendment of Section 61. |
| | For existing sub-section (6) the following sub-section shall be substituted - | |
| | (6) subject to such procedure as may be prescribed and after such further enquiry as it may think fit, | |

- (a) the Appellate Deputy Commissioner shall dispose of every appeal within one calendar year from the date of filing of such appeal. In disposing of such appeal, the Appellate Deputy Commissioner may confirm, reduce, enhance or annul the assessment of tax or imposition of penalty or both but shall not remand the case.

Notwithstanding anything contained in this clause, the appeals pending on the commencement of the Chhattisgarh Vanijyik Kar (Sanshodhan) Adhiniyam, 2004 shall be disposed of by the Appellate Deputy Commissioner within one calendar year from the date of the commencement of the said Adhiniyam.

- (b) the Tribunal may -
- (i) confirm, reduce, enhance or annul the assessment of tax or imposition of penalty or both, or
 - (ii) set aside the assessment or the imposition of penalty or both and direct the officer whose order of assessment or imposition of penalty has been appealed against to make a fresh assessment or re-impose penalty, after making such enquiry as it may direct; or
 - (iii) pass such order as it may deem fit.

Amendment of Section 62.

8. In section 62 of the Principal Act, -

- (i) in clause (b) of sub-section (1) after the words "as he thinks fit" the words and phrases "within one calendar year from the date of filing of such application for revision" shall be inserted.

- (ii) after sub-section (1) the following sub-section shall be inserted,

(I-A) Notwithstanding anything contained in sub-section (1), if the revision under sub-section (1) is in respect of an order of reassessment or re-imposition of penalty in pursuance to any direction given in appeal or revision, the Commissioner may pass an order in accordance with the provisions of sub-section (1), but shall not remand the case.

(I-B) Where an application for revision filed under clause (b) of sub-section (1) is pending on the date of commencement of the Chhattisgarh Vanijyik Kar (Sanshodhan) Adhiniyam, 2004 it shall be disposed of in accordance with the provisions of sub-section (1) or sub-section (I-A) as the case may be, within one calendar year from the date of commencement of the said Adhiniyam.

Amendment of Section 71.

9. In section 71 of the Principal Act, -

In clause (i) and (ii) of sub-section (1) for the words "one calendar year" the words "three calendar months" shall be substituted.

Repeal.

10. Chhattisgarh Vanijyik Kar (Sanshodhan) Adhyadesh, 2004 (No. 4 of 2004) is hereby repealed.

“बिजनेस पोस्ट के अन्तर्गत डाक शुल्क के नगद भुगतान (बिना डाक टिकट) के प्रेषण हेतु अनुमत. क्रमांक जी. 2-22-छत्तीसगढ़ गजट/38 सि. से. भिलाई, दिनांक 30-5-2001.”



पंजीयन क्रमांक “छत्तीसगढ़/दुर्ग/ सी. ओ./रायपुर/17/2002.”

COURT BOOK
EMPOWERING LEGAL CLARITY

छत्तीसगढ़ राजपत्र

(असाधारण)

प्राधिकार से प्रकाशित

क्रमांक 309]

रायपुर, शनिवार, दिनांक 4 सितम्बर 2004—भाद्र 13, शक 1926

विधि और विधायी कार्य विभाग
मंत्रालय, दाऊ कल्याण सिंह भवन, रायपुर

रायपुर, दिनांक 4 सितम्बर 2004

क्रमांक 5384/21-अ/प्रा./04.—भारत के संविधान के अनुच्छेद 213 के अधीन छत्तीसगढ़ के राज्यपाल द्वारा प्रख्यापित किया गया निम्नलिखित (संशोधन) अध्यादेश, 2004 (क्र. 4 सन् 2004) सर्वसाधारण की जानकारी हेतु प्रकाशित किया जाता है.

छत्तीसगढ़ के राज्यपाल के नाम से तथा आदेशानुसार,
महेन्द्र राठौर, उप-सचिव.

छत्तीसगढ़ अध्यादेश

(क्रमांक 4 सन् 2004)



छत्तीसगढ़ वाणिज्यिक कर (संशोधन) अध्यादेश, 2004

(क्रमांक 4 सन् 2004)

छत्तीसगढ़ वाणिज्यिक कर अधिनियम, 1994 (क्रमांक 5 सन् 1995) को और संशोधित करने हेतु अध्यादेश.

भारत गणराज्य के पंचपनवें वर्ष में राज्यपाल द्वारा प्रख्यापित किया गया.

यतः, राज्य के विधान मण्डल का सत्र चालू नहीं है और छत्तीसगढ़ के राज्यपाल का यह समाधान हो गया है कि ऐसी परिस्थितियां विद्यमान हैं, जिसके कारण यह आवश्यक हो गया है कि वे तत्काल कार्रवाई करें.

अतएव, भारत के संविधान के अनुच्छेद 213 के खण्ड (1) द्वारा प्रदत्त शक्तियों को प्रयोग में लाते हुए छत्तीसगढ़ के राज्यपाल निम्नलिखित अध्यादेश प्रख्यापित करते हैं :—

संक्षिप्त नाम तथा प्रारंभ.

1. (एक) इस अध्यादेश का संक्षिप्त नाम छत्तीसगढ़ वाणिज्यिक कर (संशोधन) अध्यादेश, 2004 (क्रमांक 4 सन् 2004) है.

(दो) यह अध्यादेश शासकीय राजपत्र में इसके प्रकाशन की तिथि से प्रभावशील होगा.

छत्तीसगढ़ वाणिज्यिक कर (संशोधन) अधिनियम (क्रमांक 5 सन् 1995) का अस्थायी संशोधन.

2. इस अध्यादेश के प्रवर्तित रहने की कालावधि के दौरान छत्तीसगढ़ वाणिज्यिक कर अधिनियम, 1994 (क्रमांक 5 सन् 1995) (जो इसमें इसके पश्चात् मूल अधिनियम के नाम से निर्दिष्ट है) निम्नलिखित धाराओं में विनिर्दिष्ट संशोधनों के अधीन रहते हुए प्रभावी होगा.

धारा 9-क का संशोधन.

3. मूल अधिनियम की धारा 9-क में,—

(एक) शब्दों “जैसा कि राज्य शासन अधिसूचना द्वारा विनिर्दिष्ट करें” विलोपित किया जाये.

(दो) शब्द “पांच” के स्थान पर शब्द “चार” प्रतिस्थापित किया जाये.

धारा 26 का संशोधन.

4. मूल अधिनियम की धारा 26 में,—

उपधारा (4) के खण्ड (क) में अंक “1.25” के स्थान पर अंक “1” प्रतिस्थापित किया जाये.

धारा 27 का संशोधन.

5. मूल अधिनियम की धारा 27 में,—

(एक) उपधारा (2) के खण्ड (क) के अंत में वाक्य “उस वर्ष के लिये ऐसे व्यापारी द्वारा प्रस्तुत विवरणों या विवरणियों को स्वीकार किया जायेगा तथा उपधारा (1) के प्रयोजन के लिये उसका कर निर्धारण किया हुआ मान लिया जायेगा” अंतःस्थापित किया जाये.

(दो) उपधारा (2) के खण्ड (ख) का लोप किया जाये.

(तीन) उपधारा (2) के खण्ड (ग) में शब्दों “खण्ड (ख)” के स्थान पर शब्दों “खण्ड (क)” प्रतिस्थापित किये जायें तथा शब्दों “खण्ड (क) के अधीन” विलोपित किये जायें.

6. मूल अधिनियम की धारा 32 में,—

उपधारा (8) में अंक "18" के स्थान पर शब्द "बारह" प्रतिस्थापित किया जाये।

7. मूल अधिनियम की धारा 39 में,—

उपधारा (5) में शब्द "एक" के स्थान पर शब्द "आधा" प्रतिस्थापित किया जाये।

8. मूल अधिनियम की धारा 61 में,—

वर्तमान उपधारा (6) के स्थान पर निम्नलिखित उपधारा प्रतिस्थापित की जाये—

(6) ऐसी प्रक्रिया के अध्यक्षीन रहते हुए जो कि विहित की जाए तथा ऐसी और जांच करने के पश्चात् जैसा कि वह उचित समझे,

(क) अपीलीय उपायुक्त प्रत्येक अपील का निपटारा ऐसी अपील फाइल करने के दिनांक से एक कैलेंडर वर्ष के भीतर करेगा। ऐसी अपील का निपटारा करते समय, अपीलीय उपायुक्त कर निर्धारण या शास्ति के अधिरोपण या दोनों की पुष्टि कर सकेगा, उसे कम कर सकेगा, उसमें वृद्धि कर सकेगा या उसे निरस्त कर सकेगा किन्तु, मामले का प्रतिप्रेषण नहीं करेगा।

इस खण्ड में अंतर्विष्ट किसी बात के होते हुए भी छत्तीसगढ़ वाणिज्यिक कर (संशोधन) अध्यादेश, 2004 प्रारंभ होने पर, लंबित अपीलों का निपटारा अपीलीय उपायुक्त द्वारा उक्त अध्यादेश प्रारंभ होने के दिनांक से एक कैलेंडर वर्ष के भीतर किया जायेगा।

(ख) अधिकरण—

(एक) कर निर्धारण या शास्ति के अधिरोपण या दोनों की पुष्टि कर सकेगा, उसे कम कर सकेगा, उसमें वृद्धि कर सकेगा या उसे निरस्त कर सकेगा, या

(दो) कर निर्धारण या शास्ति के अधिरोपण या दोनों को अपास्त कर सकेगा और उस अधिकारी को जिसके कर निर्धारण या शास्ति के अधिरोपण आदेश के विरुद्ध अपील की गई है, यह निर्देश दे सकेगा कि वह ऐसी जांच करने के पश्चात् जैसी कि निर्देशित की जाए, नवीन रूप से कर निर्धारण करे या शास्ति पुनः अधिरोपित करे।

(तीन) ऐसा आदेश पारित कर सकेगा जैसा वह उचित समझे।

9. मूल अधिनियम की धारा 62 में,—

(एक) उपधारा (1) के खण्ड (ख) में शब्दों "जैसा कि वह उचित समझे" के पश्चात् शब्दों एवम् वाक्यांश "पुनरीक्षण के लिए ऐसा आवेदन फाइल करने के दिनांक से एक कैलेंडर वर्ष के भीतर" अंतः स्थापित किया जाए,

(दो) उपधारा (1) के पश्चात् निम्नलिखित उपधारा अंतःस्थापित की जाए,

(1-क) उपधारा (1) में अंतर्विष्ट किसी बात के होते हुए भी, यदि उपधारा एक के अधीन पुनरीक्षण किसी ऐसे पुनः कर निर्धारण या शास्ति के पुनः अधिरोपण के किसी ऐसे आदेश के संबंध में है, जो अपील या पुनरीक्षण में दिए गए किसी निर्देश के अनुसरण में है, तो आयुक्त उपधारा (1) के उपबंधों के अनुसार आदेश पारित कर सकेगा, किन्तु मामले का प्रतिप्रेषण नहीं करेगा।

धारा 62 का संशोधन.



- (1-ख) जहां उपधारा (1) के खण्ड (ख) के अधीन पुनरीक्षण के लिए फाइल किया गया कोई आवेदन छत्तीसगढ़ वाणिज्यिक कर (संशोधन) अध्यादेश, 2004 के प्रारंभ होने के दिनांक को लंबित है तो उसका निपटारा उक्त अध्यादेश के प्रारंभ होने के दिनांक से एक कैलेंडर वर्ष के भीतर, यथास्थिति उपधारा (1) या उपधारा (1-क) के उपबंधों के अनुसार किया जाएगा.

धारा 71 का संशोधन.

10. मूल अधिनियम की धारा 71 में,—

उपधारा (1) के खण्ड (एक) एवम् (दो) में शब्दों “ एक कैलेंडर वर्ष” के स्थान पर शब्दों “तीन कैलेंडर माह” प्रतिस्थापित किया जाये.

रायपुर,
तारीख 26-08-2004

राज्यपाल,
छत्तीसगढ़.

रायपुर, दिनांक 4 सितम्बर 2004

क्रमांक 5384/21-अ/प्रा./04.—भारत के संविधान के अनुच्छेद 348 के खण्ड (3) के अनुसरण में छत्तीसगढ़ वाणिज्यिक कर (संशोधन) अध्यादेश, 2004 का अंग्रेजी अनुवाद राज्यपाल के प्राधिकार से एतद्वारा प्रकाशित किया जाता है.

छत्तीसगढ़ के राज्यपाल के नाम से तथा आदेशानुसार,
महेन्द्र राठौर, उप-सचिव.

CHHATTISGARH ORDINANCE (No. 4 of 2004)

CHHATTISGARH VANIJYIK KAR (SANSHODHAN) ADHYADESH, 2004 (No. 4 of 2004)

An Adhyadesh further to amend the Chhattisgarh Vanijyik Kar Adhiniyam, 1994 (No. 5 of 1995).

Promulgated by the Governor in the fifty fifth year of the Republic of India.

Whereas, the State Legislature is not in session and the Governor of Chhattisgarh is satisfied that the circumstances exist which render it necessary for him to take immediate action.

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Chhattisgarh is pleased to promulgate the following Adhyadesh :—

Short Title and Com-
mencement.

1. (i) This Adhyadesh may be called the Chhattisgarh Vanijyik Kar (Sanshodhan) Adhyadesh, 2004 (No. 4 of 2004).
- (ii) This Ordinance shall come into force from the date of its publication in the official Gazette.
2. During the period of operation of this Adhyadesh, the Chhattisgarh Vanijyik Kar Adhiniyam, 1994 (No. 5 of 1995) (hereinafter referred to as the Principal Act) shall have effect subject to amendments specified in the following sections.

Chhattisgarh
Vanijyik Kar
(Sanshodhan)
Adhiniyam (No. 5 of
1995) to be tempora-
rily amended.



3. In section 9-A of the Principal Act,—

Amendment of Section 9-A.

- (i) the words "as the State Government may specify by notification" shall be omitted.
- (ii) for the word, "five" the word "four" shall be substituted.

4. In section 26 of the Principal Act,—

Amendment in Section 26.

in clause (a) of sub-section (4) for the figure "1.25" the figure "1" shall be substituted.

5. In section 27 of the Principal Act,—

Amendment of Section 27.

- (i) At the end of clause (a) of sub-section (2) the sentence "the return or returns furnished by such dealer for that year shall be accepted and his assessment shall be deemed to have been made for the purpose of sub-section (1)" shall be inserted.
- (ii) Clause (b) of sub-section (2) shall be omitted.
- (iii) In clause (c) of sub-section (2) for the words "clause (b)" the words "clause (a)" shall be substituted and the words "under clause (a)" shall be omitted.

6. In section 32 of the Principal Act,—

Amendment of Section 32.

in sub-section (8) for the words "eighteen" the words "twelve" shall be substituted.

7. In section 39 of the Principal Act,—

Amendment of Section 39.

in sub-section (5) for the word "one" the word "half" shall be substituted.

8. In section 61 of the Principal Act,—

Amendment of Section 61.

for existing sub-section (6) the following sub-section shall be substituted—

- (6) Subject to such procedure as may be prescribed and after such further inquiry as it may think fit.
 - (a) the Appellate Deputy Commissioner shall dispose of every appeal within one calendar year from the date of filing of such appeal. In disposing of such appeal, the Appellate Deputy Commissioner may confirm, reduce, enhance or annul the assessment of tax or imposition of penalty or both but shall not remand the case.

Notwithstanding anything contained in this clause, the appeals pending on the commencement of the Chhattisgarh Vanijyik Kar (Sanshodhan) Adhyadesh, 2004 shall be disposed of by the Appellate Deputy Commissioner within one calendar year from the date of the commencement of the said Adhyadesh.

(b) the Tribunal may —

- (i) confirm, reduce, enhance or annul the assessment of tax or imposition of penalty or both, or
- (ii) set aside the assessment or the imposition of penalty or both and direct the officer whose order of assessment or imposition of penalty has been appealed against to make a fresh assessment or re-impose penalty, after making such enquiry as it may direct; or
- (iii) pass such order as it may deem fit.

Amendment of section 62.

9. In section 62 of the Principal Act,—

- (i) in clause (b) of sub-section (1) after the words "as he thinks fit" the words and phrases "within one calendar year from the date of filing of such application for revision" shall be inserted.
- (ii) after sub-section (1) the following sub-section shall be inserted.
 - (1-A) Notwithstanding anything contained in sub-section (1), if the revision under sub-section (1) is in respect of an order of re-assessment or re-imposition of penalty in pursuance to any direction given in appeal or revision, the Commissioner may pass an order in accordance with the provisions of sub-section (1); but shall not remand the case.
 - (1-B) Where an application for revision filed under clause (b) of sub-section (1) is pending on the date of commencement of the Chhattisgarh Vanijyik Kar (Sanshodhan) Adhyadesh, 2004 it shall be disposed of in accordance with the provisions of sub-section (1) or sub-section (1-A) as the case may be, within one calendar year from the date of commencement of the said Adhyadesh.

Amendment of section 71.

10. In section 71 of the Principal Act,—

- in clause (i) and (ii) of sub-section (1) for the words "one calendar year" the words "three calendar months" shall be substituted.

Raipur,
Dated 26-08-2004

GOVERNOR.
Chhattisgarh.