

- (a) one-and-a-half per centum of the whole subscribed capital of the company; or
- (b) if any company which has paid the said duty or composition in full subsequently issued an addition to its scribed capital, one and half per centum of the additional capital so issued.

SCRIP. See Certificate (No. 19).

60. SHIPPING ORDER for or relating to the conveyance of goods on board of any vessel

One hundred rupees.

61. SURRENDER OF LEASE—

- (a) when the duty with which the lease is chargeable does not exceed ten rupees
- (b) In any other case

The duty with which such lease is chargeable.

Fifteen rupees.

*Exemptions*

Surrender of lease when such lease is exempted from duty.

63. TRANSFER OF LEASE by way of assignment and not by way of underlease

The same duty as is leviable on a conveyance with clause (a) or (b) as the case may be or article 22 for consideration equal to the amount of the consideration for the transfer.

Transfer of any lease exempt from duty.

64. TRUST—

- (a) Declaration of— of, or concerning any property when made by any writing not being a Will
- (b) Revocation of— or concerning any property when made by any instrument other than a Will

Fifty rupees.

Thirty rupees.

See also settlement (No. 58).

VALUATION-See Appraisement (No. 8).

65. WARRANT FOR GOODS, that is to say, any instrument evidencing the title of any person therein any named, or his assigns, or the holder thereof, to the property in any goods, lying in or upon any dock, warehouse or wharf such instrument being signed or certified by or on behalf of the person in whose custody such goods may be

Twenty rupees.

LA/LEGN/2013/331

The following bill which was introduced in the Legislative Assembly of the State of Goa on 29th April, 2013 is hereby published for general information in pursuance of Rule-138 of the Rules of Procedure and Conduct of Business of the Goa Legislative Assembly.

The Goa Value Added Tax (Seventh Amendment) Bill, 2013

(Bill No. 18 of 2013)

A

BILL

*further to amend the Goa Value Added Tax Act, 2005 (Goa Act 9 of 2005).*

BE it enacted by the Legislative Assembly of Goa in the Sixty-fourth Year of the Republic of India, as follows:—

1. *Short title and commencement.*— (1) This Act may be called the Goa Value Added Tax (Seventh Amendment) Act, 2013.

(2) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. *Amendment of section 2.*— In section 2 of the Goa Value Added Tax Act, 2005 (Goa Act No. 9 of 2005) (hereinafter referred to as the “principal Act”),—

(i) in clause (k), for the expression “any goods directly or otherwise,” the

expression “any goods directly or otherwise, or organizing or conducting exhibition or any event or programme either for sale of goods or for promoting goods for sale,” shall be substituted;

(ii) in clause (ac), for the existing sub-clause (b), the following sub-clause shall be substituted, namely:—

“(b) transfer of property in goods (whether as goods or in some other form) involved in execution of a works contract including an agreement for carrying out the work of building, construction, manufacture, processing, fabrication, erection, installation, fitting, improvement, modification, repair or commissioning of any movable or immovable property, for cash, deferred payment or other valuable consideration;”.

3. *Amendment of section 3.*— In section 3 of the principal Act, for sub-section (9), the following sub-section shall be substituted, namely:—

“(9) *Special liability of person organizing or conducting exhibition or event or programme.*— Any person organizing or conducting exhibition or event or programme either for sale of goods or for promoting goods for sale, by providing stalls or space to other persons or dealers under the banner of specific name or otherwise or under a common roof or otherwise shall be liable to pay tax on all taxable sales effected by all such persons or dealers participating in such exhibition or event or programme other than the dealers who are already registered under this Act and self help groups participating in such exhibition or event or programme:

Provided that no person shall be allowed to carry on such exhibition or event or programme without obtaining prior written permission of the Commissioner as per the procedure prescribed and payment in advance of estimated tax. The advance estimated tax shall be adjusted towards the output tax liability payable by the

person organizing or conducting exhibition or event or programme so conducted:

Provided further that the owner of the property where the exhibition or event or programme is to be held, shall be jointly and severally liable to pay tax that may become due on sale of goods made in such exhibition or event or programme if he fails to inform the Commissioner about renting/leasing/letting out of his property, whether residential or commercial, or any open space, alongwith the details of dealer or person conducting the exhibition or event or programme as well as the conditions subject to which the said property is rented/leased/let out and any other relevant information.

*Explanation:*—

(1) Self Help Groups means Self Help Groups registered with the Rural Development Agency or with the Registrar of Co-operative Society or any other Government Department as Self Help Groups within the State of Goa and are selling goods manufactured by themselves.

(2) For the purpose of calculation of tax to be paid in advance, the stalls occupied by dealers holding valid registration under this Act, and the self help groups shall not be included while making such calculation, provided prior permission of the Commissioner is obtained by them for their participation in such exhibitions, event, or programme in a prescribed manner”.

4. *Amendment of section 5.*— In section 5 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) *Determination of rate of tax on Industrial Inputs.*— The Commissioner may, on an application made by a registered dealer who is a manufacturer, by way of Notification in the Official Gazette, declare certain types or class of

goods as industrial inputs for that dealer, in order to avail concessional rate of tax.”.

5. *Insertion of new section 6A.*— After section 6 of the principal Act, the following new section shall be inserted, namely:—

“6A. *Reimbursement of tax paid by tourists on purchases and by airlines operating on domestic sector on Aviation Turbine Fuel.*— (1) The Government may, by notification in the Official Gazette, frame a scheme for refund of tax paid by tourists holding Indian or foreign passport or both on purchases made by them within the State.

(2) The Government may, by notification in the Official Gazette, frame a scheme for refund of tax paid by airlines operating on domestic sector on purchase of aviation turbine fuel.”.

6. *Amendment of section 7.*— In section 7 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) Any dealer who is eligible for composition of tax under sub-section (1), fails to file return within the time prescribed, for the period for which composition is granted, he shall not be eligible for composition of tax for next one year:

Provided that the Commissioner, upon an application made by such dealer to continue in the composition scheme, shall first determine the dealer’s liability for the preceding year within a period of 30 days from the date of such application. After payment of dues as determined by the Commissioner, the Commissioner may consider the said application and upon imposing a penalty of an amount equal to 10% of the tax so determined, by order in writing, permit the dealer to avail composition of tax.”.

7. *Amendment of section 9.*— In section 9 of the principal Act,—

(i) in sub-section (1), the following provisos shall be inserted, namely:—

“Provided that when any goods purchased in the State are subsequently sold at lower price than the purchase price, the excess of input tax credit over output tax credit in respect of such goods shall be refunded only on proper verification by the Assessing Authority, in the manner prescribed:

Provided further that if the Assessing Authority has any doubt as to the genuineness of such claim, he shall refer to the Commissioner and the Commissioner shall decide the same by order in writing and after giving an opportunity of being heard to the dealer:

Provided also that a dealer whose certificate of registration is suspended shall not be entitled to claim any input tax credit during the period of suspension of the certificate of registration:

Provided also that a dealer who purchases goods from another dealer, whose certificate of registration is suspended, as notified in Official Gazette shall not be eligible for input tax credit on such purchases of goods made during the period of suspension of the certificate of registration.”;

8. *Amendment of section 18.*— In section 18 of the principal Act,—

(i) for sub-section (9), the following sub-section shall be substituted, namely:—

“(9) Any person intending to organize or conduct exhibition or any event or programme either for sale of goods or for promoting goods for sale, by providing stalls or space to other persons or dealers under the banner of specific name or otherwise or under a common roof or otherwise, shall obtain a registration under this Act and shall apply in the prescribed manner, to the Commissioner requesting permission, indicating therein the details

of the persons and/or dealers participating in, and the period of such exhibition alongwith payment of estimated tax in advance. The Commissioner may issue such permission in such form and subject to such conditions as may be prescribed. The dealer to whom the permission is issued shall exhibit the same at a conspicuous place where the exhibition or event or programme is conducted. The provisions of sub-sections (4), (5), (6), (7), (8), (10), (11), (12), (13), (14) and (15) of this section shall, *mutatis mutandis*, apply to this sub-section.”;

(ii) after sub-section (9), the following sub-sections shall be inserted, namely:—

“(10) Any registration granted under the provisions of this Act shall remain valid for such period as may be prescribed unless it is cancelled before the expiry of such period. In case the registration granted is not renewed within the prescribed time, it shall stand cancelled automatically and such dealer shall not be entitled to any benefits available to a registered dealer under this Act:

Provided that, before passing the order of cancellation, the dealer shall be given a reasonable opportunity of being heard.

(11) If a dealer,—

(a) fails to file three consecutive returns under this Act;

(b) fails to pay the dues demanded in assessment/reassessment or otherwise within the period specified except where such demand has been stayed by the appellate authority or tribunal or any other court;

(c) fails to pay the tax due from him for three consecutive tax periods under the provisions of this Act;

(d) having issued tax invoice or retail invoices, fails to account for the said invoices in his books of account;

(e) holds or accepts or furnishes or causes to be furnished a declaration, which he knows or has reason to believe to be false;

(f) has been convicted of an offence under this Act, or under the earlier law;

(g) discontinues his business without complying with the provisions contained in sub-section (8) of section 18 of the Act;

(h) without entering into a transaction of sale, issues to another dealer tax invoice, retail invoice, bill or cash memorandum, with intention to defraud the Government of revenue;

(i) is found evading tax on account of variation in physical stock compared with his regular books of accounts;

then the Commissioner may, at any time after giving the dealer an opportunity of being heard and for the reasons to be recorded in writing, by order cancel his certificate of registration from such date as may be specified by him in such order.

(12) (a) If a dealer,—

(i) fails to inform changes in business as required by sub-section (1) of section 22;

(ii) fails to file declaration and/or furnish the documents as required by section 23;

(iii) fails to furnish return as required by section 24;

(iv) fails to pay tax as required by section 25;

(v) fails to produce the books of accounts as required by the Commissioner under sub-section (1) of section 73;

then the Commissioner may, at any time, after giving the dealer an opportunity of being heard and for the reasons to be

recorded in writing, by order suspend his certificate of registration from date not earlier than the date of such order, as may be specified by him in such order.

(b) Where a dealer, whose certificate of registration is suspended for the failure of any of the requirements specified in clause (a), fulfils the requirements, the Commissioner shall, by an order in writing, withdraw the suspension order from such date as may be specified therein.

(c) The dealer whose certificate of registration is suspended under clause (a) shall not be entitled to claim input tax credit during the period of suspension of registration.

(13) Every person whose registration is cancelled under sub-section (11) shall pay in respect of every taxable goods held as stock on the date of cancellation an amount equal to the tax that would be payable in respect of the goods if the goods were sold at fair market price on that date or the total tax credit previously claimed in respect of such goods, whichever is higher.

(14) If an order of suspension or cancellation passed under this section is set aside in an appeal or other proceedings under this Act, the certificate of registration of the dealer shall stand restored with effect from the date of such suspension or cancellation, as the case may be.

(15) Suspension or cancellation of a certificate of registration shall not affect the liability of any dealer to pay tax, penalty or interest due for any period till the date of such suspension or cancellation and which has remained unpaid or is assessed thereafter.

(16) The Commissioner shall notify in Official Gazette the details of dealers whose certificate of registration has been suspended or cancelled under the provisions of this Act.”.

9. *Amendment of section 25.*— In section 25 of the principal Act,—

In sub-section (4),—

(i) for clause (a), the following clause shall be substituted, namely:—

“(a) Wherever a dealer has not filed any return and tax is due, as per the books of the dealer, or as assessed or re-assessed, under the provisions of this Act or the tax is due as per the returns or revised returns furnished without any payment or part payment of tax by the dealer, then such dealer shall be liable to pay interest @ 18 % per annum or at such rate as may be notified by the Government from time to time, from the date such tax have become payable.”;

(ii) for the second proviso, the following proviso shall be substituted, namely:—

“Provided further that, subject to the rules made in this behalf, the Commissioner may at the request of the dealer or person and after obtaining prior approval of the Government, remit the part of the penalty and/or interest, not exceeding fifty percent thereof, payable by such dealer or person.”.

10. *Amendment of section 28.*— In section 28 of the principal Act, in sub-section (1), for the figures “2%”, the figures “5%” shall be substituted.

11. *Amendment of section 29.*— In section 29 of the principal Act,—

(i) in sub-section (3), for the words “two years”, the words “three years” shall be substituted;

(ii) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) The Commissioner shall make an assessment of the amount that in his opinion, is the amount of tax, penalty, interest or any other amount payable under this Act, after making necessary

enquiries, as may be deemed fit by him.”;

(iii) sub-section (5) shall be omitted;

(iv) for sub-section (9), the following sub-section shall be substituted, namely:—

“(9) Where, the Commissioner has reason to believe that a dealer is liable to pay tax in respect of any period, but has failed to apply for registration or has failed to apply for registration within the time as required by or under this Act or has failed to file a return as required by section 24, the Commissioner shall proceed to assess, to the best of his judgement, wherever necessary, the amount of tax due from the dealer in respect of such period and all subsequent periods and, in making such assessment, he shall give the dealer reasonable opportunity of being heard; and if he is satisfied that the default is without reasonable cause, direct the dealer to pay by way of penalty, in addition to tax assessed, a sum not exceeding the amount of tax assessed.”.

12. *Amendment of section 31.*— In section 31 of the principal Act, in sub-section (1), for the words “five years”, the words “eight years” shall be substituted.

13. *Insertion of new section 31A.*— After section 31 of the principal Act, the following section shall be inserted, namely:—

“31A. *Limitation period not to apply in certain cases.*— Notwithstanding anything contained in this Act, the time limit stipulated in this Act for assessment, re-assessment and/or for the levy of penalty under this Act shall not apply to a dealer who has evaded payment of tax in respect of any period or periods by not recording or recording in an incorrect manner, any transaction of sale or purchase or by claiming input tax credit or the refund on the basis of

any bogus or forged documents or where the claim was otherwise fraudulent:

Provided that no such assessment, re-assessment shall be carried out and/or penalty shall be levied without approval of the Government.”.

14. *Insertion of new section 32A.*— After section 32 of the principal Act, the following section shall be inserted, namely:—

“32A. *Assessment in case of casual trader and non resident dealers.*— Notwithstanding anything contained in this Act, where the Commissioner has a reason to believe that any person who is unregistered casual trader and/or non-resident dealer and is likely to evade the payment of tax due, the Commissioner may, if deemed necessary, proceed to assess such persons and if it is not practicable to issue a notice for assessment, may proceed to assess such person on the spot and direct such person to deposit the amount of tax in such manner and by such date as may be indicated in the Order.”.

15. *Amendment of section 35.*— In section 35 of the principal Act, for sub-section (6), the following sub-section shall be substituted, namely:—

“(6) After considering the appeal and after affording an opportunity of hearing, the Appellate Authority may allow it in whole or part and amend the assessment or enhance the assessment or levy tax and/or penalty and/or other amount or remand it for fresh disposal or dismiss the appeal:

Provided that before making a levy of tax, penalty or other amount and/or enhancement of assessment as the case may be, the appellant shall be given an opportunity of being heard.”.

16. *Amendment of section 36.*— (i) In section 36 of the principal Act, for sub-section

(2), the following sub-section shall be substituted, namely:—

“(2) No appeal under sub-section (1) shall be entertained by the Tribunal, unless such appeal is accompanied by a satisfactory proof of the payment of whole of the undisputed amount of tax, interest and penalty and fifty percent of the disputed amount of tax, interest and penalty, that may be due.”;

(ii) In the principal Act, after the existing sub-section (2), the following section shall be inserted, namely:—

(2A) Provided that in all cases pending before the tribunal on the date of coming into force of these amendment the appellants shall comply with the sub-section 2; within a period of 120 days failing which any pending appeal shall stand abated.”.

17. *Amendment of section 39.*— In section 39 of the principal Act,—

(i) in sub-section (1), in the proviso, for the words “three years”, the words “five years” shall be substituted;

(ii) in sub-section (2), in the proviso, for the words “two years”, the words “five years” shall be substituted.

18. *Amendment of section 55.*— In section 55 of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) A person who fails to file return within the time required under this Act shall be liable to pay penalty of Rs. 500/- for every quarter plus an amount equal to simple interest @ 18% per annum or at such rate as the Government may specify by notification, from time to time, on the tax payable for the return period:

Provided that, any dealer who fails to file three consecutive returns, the

certificate of registration granted to such dealer shall stand cancelled from the date of expiry of the period for filing of such third return and upon making application to the Commissioner a fresh registration shall be granted to such dealer prospectively upon payment of penalty of rupees twenty-five thousand in addition to the payment of tax, interest and penalty as assessed under the registration so cancelled.”;

(ii) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Any registered dealer covered under Schedule ‘E’ appended to this Act, fails to file a return within the time required under this Act shall be liable to pay penalty of Rs. 500/- per quarter plus an amount equal to simple interest @ 2% per month or at such rate as may be specified by the Government by notification on the tax payable for the return period:

Provided that any dealer who fails to file three consecutive returns, the certificate of registration granted to such dealer shall stand cancelled from the date of expiry of the period for filing of such third return and upon making application to the Commissioner, a fresh registration to such dealer shall be granted prospectively upon payment of penalty of rupees twenty five thousand in addition the tax, interest and penalty as assessed under the cancelled registration.”.

19. *Amendment of section 58.*— For section 58 of the principal Act, the following section shall be substituted, namely:—

“58. *Penalty in relation to non-maintenance of records and unauthorised stock.*— (1) A person who fails to maintain proper records in a tax period in accordance with the provisions of this Act or notification issued by the Commissioner in this regard, or who is for the time being in possession of the stock of value exceeding rupees 20,000/- in excess of the stock

disclosed by him in his records shall be liable to pay by way of penalty, an amount not exceeding twice the amount of net tax payable by the person for the unaccounted stock, or two thousand rupees, whichever is higher for the first offence, and an amount not exceeding thrice the amount of net tax payable by the person for the unaccounted stock or four thousand rupees, whichever is higher, for every subsequent offences.

(2) Notwithstanding anything contained in sub-section (1), the dealer shall have an option to get the offence compounded, on the spot, before the officer, upon payment of fifty per cent of penalty payable under sub-section (1).

(3) Where an offence has been compounded under sub-section (2), no further penal proceedings under sub-section (1) shall be taken against the dealer in respect of such offence.

(4) A dealer who commits the offence under sub-section (1) for more than five occasions in a year shall be liable for cancellation of his registration.

*Explanation:—* 'Officer', for the purposes of this section, means the Commissioner appointed under this Act or any other officer not below the rank of Assistant Commercial Tax Officer specifically authorised by the Commissioner for this purpose."

20. *Insertion of new section 58A.*— After section 58 of the principal Act, the following new section shall be inserted, namely:—

"58A. *Penalty for non-issuance of tax invoice, sale bill or cash memorandum.*—

(1) Any officer who during the course of any inspection or search of any business place, building, godown or any other place, or while checking of goods under transport or verification of the bills at any place, finds that the dealer has not issued a sale bill or a tax invoice or cash memorandum in respect of any sale, in

violation of section 11, he shall, without prejudice to any other provisions of the Act, be liable to pay by way of penalty, an amount not exceeding twice the amount of tax evaded or sought to be evaded or one thousand rupees whichever is higher, for the first offence and an amount not exceeding thrice the amount of net tax payable by the person for the unaccounted stock or two thousand rupees whichever is higher for every subsequent offences.

(2) A dealer who commits the offence under sub-section (1) for more than ten occasions in a year shall be liable for cancellation of his registration.

*"Explanation:—* 'Officer', for the purpose of this section, means the Commissioner appointed under this Act or any other officer not below the rank of Assistant Commercial Tax Officer specifically authorised by the Commissioner for this purpose."

21. *Substitution of section 64.*— For the existing section 64 of the principal Act, the following section shall be substituted, namely:—

"64. *Special powers for recovery of tax.*—

(1) Any tax assessed, or any other amount due under this Act from any dealer or any other person may, without prejudice to any other mode of collection be recovered:—

(a) as if it were an arrears of land revenue; or

(b) by attachment and sale of any property of such dealer or any other person by the officer appointed under sub-section (2) of section 13, in accordance with the rules as may be prescribed.

(2) The Government may, by general or special order, published in the Official Gazette, authorize any officer, not below the rank of Assistant Commercial Tax Officer, to exercise, for the purpose of



effecting recovery of the amount of tax or penalty or any other amount due from any dealer or person under this Act, the powers of a Collector under the Goa Land Revenue Code, 1968 (Act No. 9 of 1969), to recover the dues as arrears of land revenue.

22. *Amendment of section 76.*— In section 76 of the principal Act, after sub-section (6), the following sub-section shall be inserted, namely:—

“(7) The Government may, by notification formulate a scheme for monetary reward or incentives to employees or public towards their input or action which helps the Government to earn revenue on account of unearthed concealed revenue or for collection of amount towards penalty.”.

#### Statement of Objects and Reasons

Clause 2 (i) of the Bill seeks to broaden the definition of “dealer” so as to include within its scope any person organizing or conducting exhibition or any event or programme either for sale of goods or for promoting goods for sale.

Clause 2 (ii) substitute sub-clause (b) of clause (ac) of section 2 so as to levy a tax on consideration received or receivable by the builder or developer by way of agreement to sale the flats or housing project or dwelling units or row houses and the like, which are under construction or development.

Clause 3 of the Bill seeks to substitute sub-section (9) of section 3 so as to extend the levy to the organizers of events or programmes wherein goods are sold or promoted for sale and to limit the liability of the organizer towards the unregistered dealers selling the goods at the exhibition or promoting the goods for sale.

Clause 4 of the Bill seeks to insert sub-section (5) in section 5 so as to empower the Commissioner to identify any goods as industrial inputs by inspection, if any, on the

individual request of a particular industry.

Clause 5 of the Bill seeks to insert section 6A so as to empower the Government to formulate a scheme for tourists holding Indian or Foreign passport or both, visiting Goa, who will be entitled for refund of VAT paid against purchases made in the State of Goa and to formulate another scheme for refund of tax paid on purchase of aviation turbine fuel by airlines operating on domestic sector within the State.

Clause 6 of the Bill seeks to substitute sub-section (3) of section 7 so as to delete the word ‘quarters’ from the said sub-section which is a consequential requirement for prescribing a return for a period other than a quarter and to allow the Commissioner to relax the provision of dis-qualification on account of non-filing of the return as prescribed, after collection of penalty, in genuine cases.

Clause 7(i) of the Bill seeks to insert proviso to sub-section (1) of section 9 so as to bar a purchasing dealer from claiming input tax credit in excess of the corresponding tax paid by the selling dealer and allow it only in genuine cases. Also it bars a dealer whose registration certificate is suspended from claiming any input tax credit during the period of suspension of the registration certificate.

Clause 8 (i) of the Bill seeks to insert sub-section 9 in section 18 so as to provide for registration compulsory for any person intending to organize or conduct exhibition or any event or programme either for sale of goods or for promoting goods for sale;

Clause 8 (ii) of the Bill seeks to insert sub-sections 10, 11, 12, 13, 14, 15 and 16 in section 18 so as to provide renewal of registration for all dealers and in case of non-renewal as prescribed; for automatic cancellation thereof.

Clause 9(i) of the Bill seeks to insert clause (a) in sub-section (4) of section 25 so as to provide for interest for non-payment of tax when due, from the date it has become due

in cases where dealer does not show the tax payable in return/revised return and is detected in assessment.

Clause 9(ii) of the Bill seeks to substitute the second proviso to clause (b) of sub-section (4) of section 25 so as to allow the Commissioner for remission of interest/penalty, with the prior approval of the Government.

Clause 10 of the Bill seeks to enhance the rate of tax deducted at source from the existing 2% to 5%.

Clause 11(i) of the Bill seeks to insert fourth proviso to sub-section (3) of section 29 so as to increase the limitation period for completion of audit assessments and assessments in consequence of investigation.

Clause 11(ii) of the Bill seeks to substitute sub-section (4) of section 29 so as to allow the Commissioner to levy penalty and/or impose interest in addition to making an assessment of the amount of tax due.

Clause 11(iii) of the Bills seeks to omit the existing sub-section (5) of section 29 so as to allow the Commissioner to make an assessment without giving prior intimation of the tax payable or refund.

Clause 11(iv) of the Bills seeks to substitute sub-section (9) of section 29 so as to allow the Commissioner where he has reason to believe that a dealer is liable to pay tax in respect of any period, but has failed to apply for registration or has failed to apply for registration within the time as required by or under this Act or has failed to file a return as required by section 24, giving the dealer reasonable opportunity of being heard to assess, to the best of his judgement; and if he is satisfied that the default is without reasonable cause, direct the dealer to pay by way of penalty, in addition to tax assessed, a sum not exceeding the amount of tax assessed.

Clause 12 of the Bill seeks to amend section 31 so as to increase the limitation period for completion of assessments/re-assessments of escaped turnover from the existing five years to eight years.

Clause 13 of the Bill seeks to insert new section 31A so as to assess the dealer, claiming input tax credit on the basis of bogus or forged documents or otherwise claiming input tax credit fraudulently, at any time after the limitation period provided under the Act.

Clause 14 of the Bill seeks to insert new section 32A so as to allow the Commissioner to assess 'on the spot' without giving prior notice, any unregistered casual trader who is likely to evade tax.

Clause 15 of the Bill seeks to substitute sub-section (6) of section 35 so as to allow the Appellate Authority to levy or enhance assessment and/or penalty and/or other amount.

Clause 16 (i) of the Bill seeks to substitute sub-section (2) of section 36 so as to make it mandatory for the dealer making an appeal before the Tribunal to pay fifty percent of the amount in dispute before filing of the appeal.

Clause 16 (ii) of the Bill seeks to insert new sub-section (2A) in section 36 so as to make the appellant comply with the sub-section 2; within a period of 120 days failing which any pending appeal shall stand abated.

Clause 17(i) of the Bill seeks to amend sub-section (1) of section 39 so as to extend the limitation period, for revision by the Commissioner, from three to five years.

Clause 17(ii) of the Bill seeks to amend sub-section (2) of section 39 so as to extend the limitation period, for review of assessment/order by any authority, from two to five years.

Clause 18(i) of the Bill seeks to substitute sub-section (1) of section 55 so as to reduce the penalty for non-filing of return from Rs. 1000/- per quarter to Rs. 500/- per quarter and to provide for cancellation and re-registration in cases where there is delay in filing of three consecutive returns.

Clause 18(ii) of the Bill seeks to substitute sub-section (2) of section 55 so as to reduce the penalty for non-filing of return by dealers opting for composition scheme, from Rs. 1000/- per quarter to Rs. 500/- and to provide for cancellation and re-registration in cases where there is delay in filing of three consecutive returns.

Clause 19 of the Bill seeks to substitute section 58 so as to provide for penalty for non-maintenance of the prescribed records or for holding unauthorised stock or stock in excess of that which is disclosed by the dealer.

Clause 20 of the Bill seeks to insert new section 58A so as to provide for penalty for non-issuance of tax invoice, sale bill or cash memorandum.

Clause 21 of the Bill seeks to substitute section 64 so as to enable speedy recovery of dues by prescribing a procedure therefor.

Clause 22 of the Bill seeks to insert sub-section (7) in section 76 so as to empower the Government to formulate a scheme for monetary reward/incentive to the employees/general public towards their input/action which helps the Government to unearth concealed revenue or to collect on account of levy of penalty.

#### Financial Memorandum

No financial implications are involved in this Bill.

#### Memorandum Regarding Delegated Legislation

Clause 4 of the Bill empowers the Commissioner to declare, by Notification, any goods as industrial inputs on the individual request of a particular industry.

Clause 5 of the Bill empowers the Government to formulate a scheme for tourists holding Indian or foreign passport or both, visiting Goa, entitling them for refund of VAT paid against purchases made in the State of Goa. This clause also empowers the Government to formulate a scheme for refund of tax paid by airlines operating on domestic sector on aviation turbine fuel, within the State.

Clause 6 of the Bill empowers the Commissioner to permit the dealer to avail composition of tax in cases where the dealer fails to file the returns.

Clause 11(ii) of the Bill empowers the Commissioner to remit interest and/or penalty payable by a dealer/person with the prior approval of the Government.

Clause 11(iii) of the Bill empowers the Commissioner to levy penalty and/or impose interest in addition to making an assessment of the amount of tax due, without giving prior notice.

Clause 14 of the Bill empowers the Commissioner to assess the casual dealer on the spot and to direct such dealer to deposit the amount of tax in such manner and by such date as he thinks fit.

Clause 15 of the Bill empowers the Appellate Authority to levy or enhance assessment and/or penalty and/or other amount.

Clause 18 of the Bill empowers the Commissioner to condone the delay in filing of returns for justified reasons, after levy of penalty.

Clause 19 of the Bill empowers the Commissioner to impose penalty on the defaulting dealer for non-issuance of tax invoice, sale bill or cash memorandum.

Clause 21 of the Bill empowers the Government to frame rules in accordance of which the officer appointed under sub-

-section (2) of section 13 to shall recover the tax and/or interest and/or penalty by attachment and sale or by sale without attachment, of any property of such dealer or any other person by the Clause 21 also empowers the Government to appoint any officer, not below the rank of Assistant Commercial Tax Officer, to exercise, for the purpose of effecting recovery of the amount of tax or penalty or any other amount due from any dealer or person under this Act, the powers of a Collector under the Goa Land Revenue Code, 1968 (Act No. 9 of 1969), to recover the dues as arrears of land revenue.

Clause 22 of the Bill empowers the Government to formulate a scheme for monetary reward or incentives to employees or public towards their input or action which helps the Government to earn revenue on account of unearthed concealed revenue or for collection towards levy of penalty.

This delegation is of normal character.

Assembly, Hall, SHRI MANOHAR PARRIKAR  
Porvorim, Goa. Hon. Chief Minister/  
27th April, 2013. /Finance Minister

Assembly Hall, N. B. SUBHEDAR  
Porvorim-Goa. Secretary to the  
27th April, 2013. Legislative Assembly of Goa.

#### Governor's Recommendation under Article 207 of the Constitution of India

In pursuance of Article 207 of the Constitution of India, I, Bharat Vir Wanchoo, the Governor of Goa hereby recommend to the Legislative Assembly of Goa, the introduction and consideration of the Goa Value Added Tax (Seventh Amendment) Bill, 2013.

Raj Bhavan, BHARAT VIR WANCHOO  
27th April, 2013. Hon. Governor of Goa.

#### ANNEXURE

Bill No 18 of 2013

#### Extract of the Goa Value Added Tax Act, 2005 (Act 9 of 2005)

2. *Definition.*— In this Act, unless the context otherwise requires,—

(a) "agriculture" with all its grammatical variations and cognate expressions, includes horticulture, the raising of crops, grass or garden produce, and also grazing ; but does not include dairy farming, poultry farming, stock breeding, the mere cutting of wood or grass, gathering of fruit, raising of man-made forests or rearing of seedlings or plants;

*Explanation:*— For the purposes of this clause and clause (d), the expression "forest" means the forest to which the Indian Forest Act, 1927 (Central Act 16 of 1927), in its application to the State of Goa, applies;

(b) "agriculturist" means a person who cultivates land personally, for the purpose of agriculture;

(c) "appointed day" means the day on which this Act shall come into force;

(d) "business" includes,—

(i) any trade, commerce or manufacture;

(ii) any adventure or concern in the nature of trade, commerce or manufacture;

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

(iv) any transaction in connection with, or incidental to or ancillary to the commencement or closure of such business;

(v) any occasional transaction in the nature of trade, commerce, manufacture, adventure or concern whether or not there is volume, frequency, continuity or regularity of such transaction,

whether or not trade, commerce, manufacture, adventure, concern or transaction is effected with a motive to make gain or profit and whether or not any gain or profit accrues from such trade, commerce, manufacture, adventure, concern or transaction.

*Explanation:*— For the purpose of this clause,

(i) the activity of raising of man-made forest or rearing of seedlings or plants shall be deemed to be business.

(ii) any transaction of sale of capital goods pertaining to such trade, commerce, manufacture, adventure, concern or transaction shall be deemed to be a transaction comprised in business.

(iii) sales of any goods, the proceeds of which are credited to the business shall be deemed to be transactions comprised in business;

(e) "business premises" means any place where a dealer or a transporter sells, transports, books or delivers goods and includes any place where he stores, processes, produces or manufactures goods or keeps books of accounts;

(f) "capital goods" means plant and machinery (including spares and components) and equipment used in or in relation to manufacture or processing of goods for sale or any other goods which is notified by the Government and used in furtherance of any business excluding such civil structures as may be prescribed;

(g) "casual trader" means a dealer who, whether as principal, agent or in any other capacity, has occasional or seasonal transaction involving the selling, supplying or distribution of goods or conducting any exhibition-cum-sale in Goa whether for cash or for deferred payment, commission, remuneration or other valuable consideration;

(h) "Company" means a company as defined in section 3 of the Companies Act, 1956 (Central Act 1 of 1956) and includes a body corporate or corporation within the meaning of clause (7) of section (2) or Foreign Company referred to in section 591 of that Act;

(i) "Commissioner" means the person appointed to be the Commissioner of Commercial Taxes for the purposes of this Act;

(j) "to cultivate personally" means to carry on any agricultural operation on one's own account:—

(i) by one's own labour, or

(ii) by the labour of one's family, or

(iii) by servants on wages payable in cash or kind (but not in crop share), or by hired

labour under one's personal supervision or the personal supervision of any member of one's family;

*Explanation I:*— A widow or a minor, or a person who is subject to any physical or mental disability or is a serving member of the armed forces of the Union, shall be deemed to cultivate land personally if it is cultivated by her or his servants or by hired labour.

*Explanation II:*— In the case of a Hindu undivided family, land shall be deemed to be cultivated personally, if it is cultivated by any member of such family.

(k) "dealer" means any person who carries on the business of buying, selling, supplying or distributing goods, executing works contract, delivering any goods on hire purchase or any system of payment by instalments, transferring the right to use any goods or supplying by way of or as part of any service, any goods directly or otherwise, whether for cash or for deferred payment, or for commission, remuneration or other valuable consideration and includes;

(a) a casual trader;

(b) a commission agent, a broker or a del-credere agent or an auctioneer or any other mercantile agent, by whatever name called;

(c) a non-resident dealer or an agent of a non-resident dealer, or a local branch of a firm or company or association or body of persons whether incorporated or not, situated outside the State;

(d) a person who, whether in the course of business or not,—

(i) sells goods produced by him by manufacture, agriculture, horticulture or otherwise; or

(ii) transfers any goods, including controlled goods whether in pursuance of a contract or not, for cash or for deferred payment or for other valuable consideration;

(iii) supplies, by way of or as part of any service or in any other manner whatsoever, goods, being food or any other articles for human consumption or any drink (whether or not intoxicating), where such supply or

service is for cash, deferred payment or other valuable consideration;

*Explanation:—*

(a) an agriculturist who sells exclusively agricultural produce grown on land cultivated by him personally shall not be deemed to be a dealer within the meaning of this clause;

(b) Government or departments of Union Governments or Other State Governments and Union Territories which whether or not in the course of business, sells, supplies or distributes, goods directly or otherwise, for cash or for deferred payment or for commission, remuneration or other valuable consideration, shall, in relation to any sale, supply or distribution of surplus, unserviceable or old stores or materials or waste products or obsolete or discarded machinery or parts or accessories thereof, be deemed to be a dealer for the purpose of this Act;

(c) each of the following persons and bodies who dispose of any goods including goods as unclaimed or confiscated or as unserviceable or as scrap, surplus, old, obsolete or discarded material or waste products whether by auction or otherwise, directly or through an agent for cash or for deferred payment, or for any other valuable consideration, shall notwithstanding anything contained in clause (d) or any other provision of this Act, be deemed to be a dealer, to the extent of such disposals, namely:—

(i) Port Trust;

(ii) Municipal Corporation/Council, and other Local authorities;

(iii) Railway Administration as defined under the Railway Act, 1989 (Central Act 24 of 1989);

(iv) Shipping Transport and Construction Companies;

(v) Air Transport companies and Airlines;

(vi) Transporters, holding permit for transport vehicles granted under the Motor Vehicles Act, 1988 (Central Act 59 of 1988) which are used or adopted to be used for hire;

(vi) Customs and Central Excise Department of Government of India administering the Customs Act, 1962 (Central Act 52 of 1962)

and the Central Excise Tariff Act, 1985 (Central Act 5 of 1986);

(vii) Insurance and Financial Corporations or companies and Banks included in the Second Schedule to the Reserve Bank of India Act, 1934 (Act 2 of 1934);

(viii) Advertising agencies;

(ix) Any other corporation, company, body or authority owned or set up by, or subject to administrative control of the Government;

(x) Income Tax Department of Government of India administering the Income Tax Act, 1961 (Central Act 43 of 1961);

(xi) Any other body as may be notified by the Government from time to time.

(l) "declared goods" means declared goods as defined in the Central Sales Tax Act, 1956 (Central Act 74 of 1956);

(m) "director", in relation to a company, include any person occupying the position of director by whatever name called;

(n) "document" includes written or printed records of any sort, title deeds and data stored electronically in whatever form;

(o) "earlier law" means the Goa Sales Tax Act, 1964 (Act 4 of 1964) as amended from time to time, and includes enactments which have validated anything done or omitted to be done under any of the above mentioned laws;

(p) "goods" means all kinds of movable property (other than newspapers) and includes livestock, all materials, commodities, grass or things attached to or forming part of the earth which are agreed to be severed before sale or under a contract of sale, and property in goods (whether as goods or in some other form) involved in the execution of works contract, lease or hire-purchase or those to be used in the fitting out, improvement or repair of movable property but does not include actionable claims, stocks, shares and securities;

(q) "importer" means a person who brings any goods into the State or to whom any goods are despatched from any place outside the State;

(r) "Input-tax" means tax charged under this Act by a registered dealer to another registered dealer on purchases of goods in the course of business;

(s) "manufacture" includes any activity that brings out a change in an article or articles as a result of some process, treatment, labour and results in transformation into a new and different article so understood in commercial parlance having a distinct name, character, use and includes extracting any goods but does not include such activity of manufacture as may be notified;

(t) "non-resident dealer" means a dealer who has no place of business in the State of Goa but who sells or delivers goods in the State of Goa for sale therein;

(u) "notification" means any notification issued under the Act;

(v) "Output tax" in relation to any registered dealer, means the tax charged in respect of sale or supply of goods made by that dealer;

(w) "person" includes an individual, any Government, any company or society or club or association or body of individuals whether incorporated or not, and also a Hindu undivided family, a firm and a local authority and every artificial juridical person not falling within any of the preceding descriptions;

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

(y) "raw materials" means goods used as ingredients in the manufacture of other goods and includes processing materials, consumable stores and material used in the packing of the goods so manufactured:

(z) "registered dealer" means a dealer registered under this Act;

(aa) "resale" means a sale of purchased goods—

(i) in the same form in which they were purchased; or

(j) without doing anything to them, which amounts to, or results in, a manufacture, and the word "resell" shall be construed accordingly;

(ab) "rules" means rules made under this Act;

(ac) "sale" with all its grammatical variations and cognate expressions means every transfer of the property in goods (other than by way of a mortgage, hypothecation, charge or pledge)

by one person to another in the course of trade or business for cash or for deferred payment or other valuable consideration, and includes—

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

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

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

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

(e) 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;

*Explanation:—* A sale shall be deemed to take place in Goa if the goods are within Goa,—

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

(ii) in the case of unascertained or future goods, at the time of their appropriation to the contract of sale by the seller, whether the assent of the buyer to such appropriation is prior or subsequent to the appropriation:

Provided that where there is a single contract of sale in respect of goods situated in Goa as well as in places outside Goa, provisions of this Explanation shall apply as if there were a separate contract of sale in respect of the goods situated in Goa.

(ad) "sale price" means the amount of valuable consideration received or receivable by a dealer for the sale of any goods less any sum allowed as cash discount, according to the practice normally prevailing in the trade, but inclusive of any sum charged for anything done by the dealer in respect of the goods at the time of or before delivery thereof, excise duty, special excise duty or any other duty or taxes except the tax imposed under this Act:

Provided that in case of transfer of property in goods (whether as goods or in some other

form) involved in the execution of a works contract, the sale price of such goods shall be determined in the prescribed manner by making such deductions from the total consideration from the works contract as may be prescribed and such price shall be deemed to be the sale price for the purpose of this clause.

(ae) "Schedule" means the Schedule appended to this Act;

(af) "State" means the State of Goa;

(ag) "Government" means the Government of Goa;

(ah) "tax" means a tax, payable under this Act;

(ai) "taxable goods" means goods other than those specified in Schedule D;

(aj) "tax period" means such period as may be prescribed as tax period;

(ak) "Tribunal" means the Tribunal constituted under section 14 of this Act;

(al) "taxable turnover" means the turnover on which a dealer shall be liable to pay tax as determined after making such deductions from his total turnover and in such manner as may be prescribed, but shall not include the turnover of sale in the course of interstate trade or commerce or in the course of export of the goods out of the territory of India or in the course of import of the goods into the territory of India and the value of goods transferred or dispatched outside the State otherwise than by way of sale;

(am) "turnover" means the aggregate amount of sale price for which goods are sold or supplied or distributed by a dealer, either directly or through another, whether on own account or on account of others, whether for cash or for deferred payment, or other valuable consideration;

(an) "taxable sale" means sale which is taxable under the provisions of this Act;

(ao) "taxable person" means every person who is registered or is liable to be registered and liable to pay tax under this Act;

(ap) "vehicle" includes every wheeled conveyance used for the carriage of goods solely or in addition to passengers;

(aq) "Works contract" shall include any agreement for carrying out for cash, deferred payment or other valuable consideration, the

building, construction, manufacturing, processing, fabrication, erection, installation, fitting out improvement, modification, repair or commissioning of any movable or immovable property;

(ar) "year" means, the financial year;

(as) "Quarter" means the period of three months ending on the 30th June, 30th September, 31st December or 31st March.

3. *Incidence of Tax.*— (1) Every dealer, whose turnover of all sales made during—

(i) the year ending on the 31st day of March of the year preceding the year in which this Act is enforced; or

(ii) the year commencing on the 1st day of April of the year during which this Act is enforced;

has exceeded or exceeds the relevant limit specified in sub-section (4), of this section shall until such liability ceases under sub-section (3), be liable to pay tax under this Act on his turnover of sales, made, on or after the appointed day:

Provided that, a dealer to whom clause (i) of sub-section (1) does not apply but clause (ii) applies and whose turnover of all sales first exceeds the relevant limit specified in sub-section (4) of this section after the appointed day shall not be liable to pay tax in respect of sales which take place upto the time when his turnover of sales, as computed from the first day of the year during which this Act is enforced, does not exceed the relevant limit applicable to him under sub-section (4).

(2) Every dealer whose turnover, of all sales made, during any year commencing on the first day of the year, being a year subsequent to the years mentioned in sub-section (1), first exceeds the relevant limit specified in sub-section (4), shall, until such liability ceases under sub-section (3), be liable to pay tax under this Act with effect from the said date:

Provided that, a dealer shall not be liable to pay tax in respect of such sales as take place during the period commencing on the first day of the said year upto the time when his turnover of sales does not exceed the relevant limit applicable to him under sub-section (4).



(3) Every dealer who has become liable to pay tax under this Act, shall continue to be so liable until his registration is duly cancelled; and upon such cancellation his liability to pay tax, shall cease other than tax, already levied or leviable:

Provided that, if the dealer becomes liable to pay tax again in the same year in which he ceased to be liable as aforesaid, then in respect of such sales as take place during the period commencing on the date of the cessation of liability to tax and upto the time when his turnover of sales does not exceed the relevant limit applicable to him under sub-section (4), no tax shall be payable by him.

(4) For the purposes of this section, the limits of turnover shall be as follows—

- |   |   |
|---|---|
| (i) Limit of turnover of Rs. 10,000/-     | In case of Non-resident dealer and casual trader. |
| (ii) Limit of turnover of Rs. 1,00,000/-  | In case of importer/manufacturer.                 |
| (iii) Limit of turnover of Rs. 5,00,000/- | In any other case.                                |

(5) For the purpose of calculating the limit of turnover for liability to tax,—

(a) except as otherwise expressly provided, the turnover of all sales shall be taken, whether such sales are taxable or not or of taxable goods or not;

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

(c) in the case of an auctioneer, in addition to the turnover, if any, referred to in clauses (a) and (b), the turnover shall also include the price of the goods auctioned by him for his principal, whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of the principal, if the price of such goods is received by him on behalf of his principal;

(d) in the case of a manager or agent of a non-resident dealer, in addition to the turnover, if any, referred to in clauses (a), (b) or (c), the turnover shall also include the sales of the non-resident dealer effected in the State.

(6) Notwithstanding anything contained in any contract or any law for the time being in force, but

subject to the provisions of this Act, any person covered by sub-clauses (a), (b) and (c) of clause (k) of section 2 shall be liable to pay tax under this Act, whether or not the principal is a dealer and whether or not such principal is liable to pay tax under this section and whether or not the principals are disclosed.

(7) Liability of dealers registered under the Central Sales Tax Act, 1956 (Central Act 74 of 1956).—

Every dealer shall, notwithstanding that he is not liable to pay tax under any of sub-sections (1) to (3) of section 3, be liable to pay tax under this Act so long as he is registered under the Central Sales Tax Act, 1956 (Central Act 74 of 1956), on all sales effected by him or on his behalf within Goa, on or after the date of his liability or the date of his registration, whichever is earlier, under the Central Sales Tax Act, 1956 (Central Act 74 of 1956):

Provided that no tax shall be payable in respect of sales in any period prior to commencement of liability under this Act.

(8) Liability of exporters and dealers effecting stock transfers outside the State:—

Every dealer exporting any goods outside India or effecting stock transfers to any States and Union Territories within India, shall, notwithstanding that he is not liable to pay tax under any of sub-sections (1) to (3) of section 3, be liable to pay tax under this Act on all taxable sales effected within the State.

(9) *Special liability of person organizing or conducting exhibition.*— Any person organizing or conducting exhibition either for sale of goods or for promoting goods for sale, by providing stalls or space to other persons or dealers under the banner of specific name and style or under a common roof, for a specific period, shall, notwithstanding that such participating persons or dealers are individually liable to pay tax under any of the provisions of this section, be liable to pay tax on all taxable sales effected by such participating persons or dealers during such exhibition.

5. *Levy of Value Added Tax on Goods specified in the Schedule.*—

(1) *Levy of Value Added Tax on Goods specified in the Schedule (Output Tax).*—

There shall be levied a Value Added Tax (output tax) on the turnover of sales of goods at rates hereinafter provided:

(a) In respect of goods specified in Schedule 'A', @ 1 paisa in a rupee.

(b) In respect of goods specified in Schedule 'B', @ 4 paise in a rupee.

(c) In respect of goods specified in Schedule 'C', at the rates shown against each of the entry.

(d) In respect of goods specified in Schedule 'D', exempt from tax.

(e) In the case of any other goods, at the rate of 12½ paise in a rupee.

(2) *Zero Rate for Exports.*—

(a) When calculating the output tax in relation to any dealer, sale of goods in course of export outside the territory of India shall be deemed as taxable at the zero rate.

(b) The Government may, by notification published in the Official Gazette and subject to such terms and conditions as may be specified in this behalf, extend zero rate of tax for transactions effected from Domestic Tariff Area to Special Economic Zone or for 100% export oriented units or Software Technology Park units or Electronics Hardware Technology Park units or for any such manufacturing or processing units as it may deem fit.

(3) *Rate of Tax on Packing Materials.*—

Where any goods are sold and such goods are packed in any materials, the tax shall be payable on the sales of such packing material, whether such materials are separately charged for or not, at the same rate of tax, if any, at which tax is payable on the sales of goods so packed.

(4) *Amendment to the Schedule.*—

(i) The Government may, by notification in the Official Gazette,—

(a) reduce any rate of tax,

(b) enhance any rate of tax,

and may, by like notification, add to, or omit from or otherwise amend any entry of the Schedule] and thereupon the Schedule shall be deemed to have been amended accordingly.

(ii) Any notification issued under clause (i) shall take effect prospectively, either from the

date of publication thereof in the Official Gazette or from such later date as may be mentioned therein.

(iii) The provisions contained in sub-section (4) of section 83 regarding rules made by the Government shall apply *mutatis mutandis* to any notification issued under clause (i), as they apply to rules made by the Government.

6. *Reimbursement and Exemption of Tax.*—

(1) Tax collected under this Act on purchases made by specialized agencies of United Nations Organizations or Diplomatic Mission/Consulates or Embassies of any other country and their diplomats shall be reimbursed in such manner and subject to such conditions as may be prescribed.

(2) In respect of any goods not entitled for input tax credit and covered by Schedule 'C' appended hereto purchased within the State on payment of tax under this Act, the Government may subject to such conditions as it may impose, by Notification in the Official Gazette, to take effect, either prospectively or retrospectively, from the date as may be mentioned therein exempt subsequent sales thereof from payment of output tax for such period as may be notified.

(3) In respect of any goods other than capital goods and such other goods as specified in Schedule 'G' appended to this Act, or in sub-section (2) of section 9, used in the manufacturing or processing of finished products dispatched other than by way of sales, the Government may, notwithstanding anything contained in section 9, by notification, allow input tax credit in excess of the rate of tax specified in sub-section (1) of section 8 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956) on such goods purchased within the State subject to such terms and conditions as may be specified in the notification.

(4) Notwithstanding anything contained in sub-section (2), the Government may, in respect of any goods covered by Schedule 'G' appended to this Act, by notification, exempt the sales *inter-se* dealers thereof, from levy and payment of output tax, when effected within the State, on such conditions as may be specified therein, and any such sales shall not be treated as "subsequent sale" as provided, in sub-section (2).

7. *Composition of Tax*—

(1) Subject to such conditions and in such circumstances as may be prescribed, if any registered dealer, of the class specified in Schedule 'E', whose total turnover in the previous year does not exceed the limit specified in the said Schedule and who is liable to pay tax under sub-section (1), (2) and (3) of section 3, so elects, the Commissioner may accept towards composition of tax, in lieu of the net amount of tax payable by him under this Act, during the year, an amount at the rate shown against respective class of dealers in the said Schedule calculated on total turnover, either in full or in instalments, as may be prescribed:

Provided that any dealer of the class specified in Schedule 'E' is liable to pay tax under sub-section (2) and (3) of section 3, may, at any time during the year, by making self declaration that his turnover of sales during the said year will not exceed the limit specified in the said Schedule 'E' apply for composition of tax under this section.

(1A) In the event of transfer of business under any of the circumstances as provided under section 19, the total turnover for the purposes of sub-section (1) shall be the aggregate of the turnover of the transferor as well as the transferee during the year and the prescribed conditions, if any, shall be applicable with reference to such aggregate of the turnover.

(2) Any dealer eligible for composition of tax under sub-section (1) shall not:—

(a) be permitted to claim any input tax credit on purchases and on stock held on the appointed day or on the day from which he is held liable to pay tax under this Act or on the day on which his Registration Certificate is made valid, as the case may be;

(b) charge any tax under this Act in his sales bill or sales invoice in respect of sales made by him;

(c) issue tax invoice to any dealer who has purchased the goods from him.

(3) Any dealer who is eligible for composition of tax under sub-section (1), fails to file returns for all the quarters of the year within the time prescribed, he shall be disqualified for the composition of tax for the next two consecutive years.

N.B.:— Total turnover for the purposes of this section will include aggregate sales of taxable and non-taxable goods.

9. *Input Tax Credit*.—

(1) Subject to such conditions and restrictions as may be prescribed Input Tax Credit either partially or wholly shall be allowed for the tax paid during the tax period in respect of goods including capital goods purchased and/or taken on hire or leased to him within Goa, other than those specified in Schedule 'G' and/or such other goods as may be notified from time to time by the Government, provided, the goods purchased are for resale in Goa or for sale in course of Inter State Trade or in course of export outside the territory of India or used by him as raw materials/capital goods in the manufacture or processing of taxable goods in Goa or for sale by transfer of right to use.

(2) No input tax credit under sub-section (1) shall be claimed or be allowed to a registered dealer:-

(i) in respect of goods purchased on payment of tax if such goods are not sold because of theft or destruction for any reason;

(ii) in respect of stock of goods remaining unsold at the time of closure of business;

(iii) in respect of any taxable goods under the Act purchased by him from another registered dealer for resale but given away by way of free samples or gifts;

(iv) in respect of capital goods/industrial inputs and packing materials, covered under Schedule 'B' of the Act, if said goods are utilized for the purposes other than those covered in the prescribed declaration;

(v) in respect of goods purchased from a dealer who has opted for composition of tax under sub-section (1) of section 7;

(vi) in respect of capital goods or capital assets:—

(a) purchased or paid prior to appointed day;

(b) capital expenditure incurred prior to the date of registration under this Act;

(c) capital goods not connected with the business of the dealer;

(d) capital goods used in the manufacture of goods or providing services which are not liable to tax under this Act;

(e) capital goods used in generation of energy/power including captive power;

(f) motor cars, its accessories and spare parts.

(vii) in respect of taxable goods sold within the State or in the course of inter-State trade or commerce within the meaning of section 3 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956), exempted from payment of tax under any specific notification issued under this Act or under the said Central Sales Tax Act, 1956;

(viii) in respect of goods used in the manufacture or processing of finished goods dispatched other than by way of sales outside the State except in case of input tax credit claimed against entry tax paid under sub-section (6) of this section;

(ix) in respect of purchase of motor vehicle including car, three wheeler and two wheeler under this Act or tax paid under the Goa Tax on Entry of Goods Act, 2000 (Act 14 of 2000) on import of such motor vehicle before grant of registration mark under the Motor Vehicles Act, 1988 (Central Act 58 of 1988), when such vehicle is resold as true value vehicle or otherwise by a registered dealer under this Act;

(x) in respect of raw material used in the manufacture of ready mixed concrete;

(xi) in respect of naptha and furnace oil used either as raw material or fuel by chemical fertilizer industry.

(xii) ice cream, alcoholic beverages including beer and wine and non-alcoholic beverages including packed juices, aerated water and soft drinks served in party, factory or industrial canteens, clubs, or served by caterer, for consumption at any place other than hotel/restaurant;

(xiii) condemned vehicles.

(3) If goods purchased are intended for use specified under sub-section (1) and are subsequently used fully or partly, for purposes other than those specified under the said sub-section, or loss of goods arising out of theft or destruction for any reason or the stock of goods

remaining unsold at the time of closure of business, the input tax credit availed at the time of such purchase shall be reduced from the tax credit for the period during which the said utilization has taken place provided that if part of the goods purchased are utilized otherwise, the amount of reverse tax credit shall be proportionately calculated.

(4) Input tax credit shall be allowed to the registered dealer, subject to restrictions of sub-section (2), in respect of tax charged to him by a registered seller on taxable sales of goods made to him for the purpose of the business within three months prior to the date of his registration provided that no input tax credit shall be allowed in respect of goods which have been sold or otherwise disposed of prior to the date of registration.

(5) (a) where a registered dealer has availed of the input credit on any goods and the same goods are not used in the course of his business, input tax credit so availed becomes repayable in the tax period following the date on which these goods were put to such other use;

(b) where such goods were wholly or mainly used or are intended for use in sale of taxable goods prior to change of use, tax shall be calculated on the prevailing market value of such goods at the time of change of use.

(6) Any registered dealer who has paid entry tax under the Goa Tax on Entry of Goods Act, 2000 (Goa Act 14 of 2000), either on raw material or on capital goods, other than on goods covered by Schedule 'G' and/or sub-section (2) of this section, brought by him into the local area for use or consumption in the manufacture or processing of goods within the State, shall be entitled for input tax credit under sub-section (1) of this section:

Provided that in respect of finished products dispatched by way other than sales, the input tax credit on goods other than those covered by Schedule 'G' shall be to the extent it exceeds the rate specified under sub-section (1) of section 8 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956).

(7) Balance unclaimed input tax credit of capital goods shall not be allowed in case of closure of business.

(8) The registered dealer shall be eligible for input tax credit on stock held on the appointed

day, towards the tax paid under the earlier law subject to such conditions as may be prescribed. The period and the date from which such input tax credit is to be apportioned shall be as notified.

(9) The deduction of input tax credit on capital goods under this section shall be allowed in two equal annual instalments after the close of the respective year as under:

(i) in case of existing units, upon installation of such capital goods, and

(ii) in case of new units, upon commencement of commercial production.

18. *Registration.*—

(1) No dealer shall, while being liable to pay tax under section 3 or under sub-section (6) of section 19, be engaged in business as a dealer, unless he possesses a valid certificate of registration as provided by this Act:

Provided that, the provisions of this sub-section shall not be deemed to have been contravened, if the dealer having applied for such registration as in this section provided, within the prescribed time or, as the case may be, within the period specified in sub-section (6) of section 19, while he is engaged in such business.

(2) Every dealer, required by sub-section (1) to possess a certificate of registration, shall apply in the prescribed manner, to the Commissioner.

(3) A person or a dealer who intends to be engaged in business, but is not liable to pay tax under the provisions of this Act may, if he so desires, apply in the prescribed manner under this sub-section for the grant of certificate of registration to the Commissioner and if the certificate is granted, then so long as it is not duly cancelled, the person or dealer shall remain liable to pay tax:

Provided that if the person or dealer to whom such certificate of registration is granted becomes liable to pay tax under any other provisions of the Act, then the certificate of registration so granted shall cease to be valid unless amended after payment of prescribed fee.

(4) Certificate of registration and its renewal shall not be granted to a dealer unless he has deposited in Government treasury prescribed

fee in the prescribed manner and within the prescribed time.

(5) The Commissioner may conduct such inquiry as he deems fit and may call for such evidence and information as he may deem necessary and after the inquiry, if any, and after considering the evidence and information, if any, he is satisfied that the application for registration made under this section is in order, he shall register the applicant and issue to him a certificate of registration in the prescribed form:

Provided that if the Commissioner is satisfied that the particulars contained in the application are not correct or complete or that any evidence or information prescribed for registering the applicant is not furnished, the Commissioner may, after giving the applicant a reasonable opportunity of being heard, reject the application for reasons to be recorded in writing.

(6) The Commissioner may, after considering any information furnished under any provisions of this Act or otherwise received, amend from time to time, any certificate of registration.

(7) If a person or a dealer upon an application made by him has been registered under this section and thereafter it is found that he ought not to have been so registered under the provisions of this section, he shall be liable to pay tax during the period from the date on which his registration certificate took effect until it is cancelled, notwithstanding that he may not be liable to pay tax under this Act.

(8) Where,—

(a) any business, in respect of which a certificate of registration has been issued under this section, has been discontinued, or has been transferred or otherwise disposed of; or

(b) the turnover of sales of a registered dealer has during any year not exceeded the relevant limit specified in sub-section (4) of section 3,—

then, in the case covered by clause (a), the dealer shall apply in the prescribed manner and within the prescribed time for cancellation of his registration to the Commissioner, and in the case covered by clause (b), the dealer may apply in the prescribed manner for cancellation of his

registration to the Commissioner; and thereupon the Commissioner may, after such inquiry as he deems fit and subject to rules framed, cancel the registration with effect from such date including any date earlier to the date of the order of cancellation as he considers fit having regard to the circumstances of the case.

(9) Any person intending to organize or conduct exhibition either for sale of goods or for promoting goods for sale, by providing stalls or space to other persons or dealers under the banner of specific name and style or under a common roof, for a specific period, shall, notwithstanding that such participating persons or dealers are individually registered under this Act, apply in such form as may be prescribed, to the Commissioner, for registration under this Act, indicating therein the details of the persons and/or dealers participating in, and the period of, such exhibition alongwith such security deposit as may be prescribed.

The provisions of sub-sections (4), (5), (6), (7) and (8) of this section shall, *mutatis mutandis* apply, to this sub-section.

19. *Special Provision regarding Liability to Pay Tax in certain Cases.*—

(1) Where a dealer, liable to pay tax under this Act, dies, then,—

(a) if the business carried on by the dealer is continued after his death by his legal representative or any other person, such legal representative or other person shall be liable to pay the tax including any penalty, sum forfeited and interest due from such dealer under this Act or under any earlier law, in the like manner and to the same extent as the deceased dealer; and

(b) if the business carried on by the dealer is discontinued whether before or after his death, his legal representative shall be liable to pay out of the estate of the deceased, in the like manner and to the same extent as the deceased dealer would have been liable to pay if he had not died, the tax including any penalty, sum forfeited and interest due from such dealer under this Act, or under any earlier law, whether such tax including any penalty, sum forfeited and interest has been assessed before his death but has remained unpaid, or is assessed after his death.

(2) Where a dealer, liable to pay tax under this Act, is a Hindu undivided family and the

joint family property is partitioned amongst the various members or group of members, then each member or group of members shall be jointly and severally liable to pay the tax including any penalty, sum forfeited and interest due from the dealer under this Act or under any earlier law, up to the time of the partition, whether such tax including any penalty, sum forfeited and interest has been assessed before partition but has remained unpaid, or is assessed after partition.

(3) Where a dealer, liable to pay tax under this Act, is a firm, and the firm is dissolved, then, every person who was a partner shall be jointly and severally liable to pay to the extent to which he is liable under this section, the tax including any penalty, sum forfeited and interest due from the firm under this Act or under any earlier law, up to the time of dissolution, whether such tax including any penalty, sum forfeited and interest has been assessed before such dissolution but has remained unpaid, or is assessed after dissolution.

(4) Where a dealer, liable to pay tax under this Act, transfers or otherwise disposes of his business in whole or in part, or effects any change in the ownership thereof, in consequence of which he is succeeded in the business or part thereof by any other person, the dealer and the person succeeding shall jointly and severally be liable to pay the tax including any penalty, sum forfeited and interest due from the dealer under this Act or under any earlier law, up to the time of such transfer, disposal or change, whether such tax including any penalty, sum forfeited and interest has been assessed before such transfer, disposal or change but has remained unpaid, or is assessed thereafter.

(5) Where the dealer, liable to pay tax under this Act,—

(a) is the guardian of a ward on whose behalf the business is carried on by the guardian; or

(b) are trustees who carry on the business under a trust for a beneficiary, then,

if the guardianship or trust is terminated, the ward or, as the case may be, the beneficiary shall be liable to pay the tax including any penalty, sum forfeited and interest due from the dealer up to the time of the termination of the guardianship or trust, whether such tax including any penalty, sum forfeited and interest

has been assessed before the termination of the guardianship or trust, but has remained unpaid, or is assessed thereafter.

(6) Where a dealer, liable to pay tax under this Act, is succeeded in the business by any person in the manner described in clause (a) of sub-section (1) or in sub-section (4), then, such person shall, notwithstanding anything contained in section 3, be liable to pay tax on the sales of goods made by him on and after the date of such succession, and shall (unless he already holds a certificate of registration) within sixty days thereof apply for registration.

#### 25. *Payment of Tax, etc.—*

(1) Tax shall be paid in the manner herein provided, and at such intervals as may be prescribed.

(2) A registered dealer furnishing returns as required by sub-section (2) of section 24 shall pay into the Government treasury or any Bank so notified by the Government, in such manner and at such intervals as may be prescribed, the amount of tax due from him after adjusting the amount of tax covered by the Certificate of Tax Deduction at Source, if any, for the period covered by a return which he is required to file under the rules alongwith the amount of penalty, interest and any other sum payable by him.

(3) A registered dealer furnishing a revised return in accordance with sub-section (3) of section 24, which shows a larger amount of tax payable than already paid, shall first pay into the Government treasury or notified Bank, the differential amount of tax.

(4) (a) The amount of tax due where the return or revised return has been furnished without full payment thereof shall be paid forthwith alongwith interest on defaulted amount @ 12% per annum or at such higher or lower rate as the Government may notify from time to time.

(b) (i) The amount of tax due as per any order passed under any provision of this Act, for any period less any sum already paid in respect of the said period; and

(ii) the amount of interest or penalty or both, if any, levied under any provision of this Act; and

(iii) the sum, if any, forfeited and the amount of fine, if any, imposed under the Act or rules; and

(iv) any other amount due under this Act, shall be paid by the person or dealer or the person liable thereof into the Government treasury or notified Bank within thirty days from the date of service of the notice issued by the Commissioner in respect thereof:

Provided that, the Commissioner may, in respect of any particular dealer or person, and for reasons to be recorded in writing, allow him to pay the tax, penalty, interest or the sum forfeited, in instalments. The grant of this facility to pay tax in instalments shall be without prejudice to the other provisions of this Act including levy of penalty, interest, or both:

Provided further that, subject to the rules made in this behalf, the Commissioner may, at the request of a dealer or person, remit the whole or any part of the penalty and/or interest payable by such dealer or person.

(5) Any tax, penalty, interest, fine or sum forfeited, which remains unpaid after the service of notice under sub-section (4), or any instalment not duly paid, shall be recoverable as an arrear of land revenue.

#### 28. *Tax Deduction at Source.—*

(1) Notwithstanding anything contained in this Act, any employer namely, the Central Government, the State Government, or an industrial, or a commercial or trading undertaking of the Central Government or of the State Government, any Company registered under the Companies Act, 1956, any local authority or any dealer registered under this Act or such other persons as may be notified shall deduct tax from, and out of the amounts payable by such employer to a dealer to whom a Works Contract has been awarded involving transfer of property in goods (whether as goods or in some other form), at the rate of 2% on the value of the Works Contract undertaken by such dealer which shall be deemed to be on account of transfer of property in goods in the execution of such Works Contract:

Provided that, no such deduction shall be made where the amount or the aggregate of the amount payable to a dealer by such employer is

less than one lakh rupees during a year or when the cost of material used in execution of the works contract is less than 10% of the contract value.

*Explanation:*— (i) The deduction of tax under this section shall be effected when the payment is made to the contractor or his account is credited towards such payment, as the case may be.

(ii) The employer effecting such deduction shall be deemed to be a dealer for the purposes of this section and shall get himself registered in the manner as prescribed.

(2) The tax deducted under sub-section (1) shall be remitted to the Government Treasury in the prescribed manner and within the prescribed time by the said employer making such deduction:

Provided that the employer shall remit into the Government Treasury the full amount of tax due and deductible by him under sub-section (1) from the dealer irrespective of the actual amount of tax deducted by him from such dealer.

(3) Any such employer making such deduction under sub-section (1) shall in respect of every quarter in which such deduction is made, send to the prescribed authority the receipt from Government treasury showing the payment of such amount deducted alongwith a statement in the prescribed form containing details of the Works Contract under execution and tax deducted thereon, within the prescribed time, and shall furnish a certificate in the prescribed form to the dealer specifying the amount so deducted and such other particulars as may be prescribed.

(4) Any such employer who remits the tax into the Government Treasury under sub-section (2) shall be deemed to have made payment of tax under the authority of the said dealer.

(5) If any such employer fails to remit into the Government Treasury the amount due and deductible as required by sub-section (2) within the specified time, the Assessing Authority, on being satisfied that the said employer has failed to discharge the liability under sub-section (2), shall levy and recover from the employer interest at the rate of 15% per annum or at such rate as the Government may notify from time to time, on the amount due and deductible, by an order in writing directing such employer to pay the interest in addition to such amount.

(6) (a) No such deduction shall be made under sub-section (1) in respect of such dealers, as may be notified by the Commissioner from time to time;

(b) subject to the conditions and the circumstances as may be prescribed, the Commissioner may certify, on an application made by any registered dealer, that no deduction or deduction at such lower rate as he may decide, shall be made in respect of such registered dealer.

(7) If any Works Contract for execution for the authorities specified in sub-section (1), involves only labour or services but does not involve transfer of property in goods and it is certified to be so by the Appropriate Assessing Authority or by the Assessing Authority of the area on an application made by any dealer, the provisions of sub-section (1) shall not apply and every such application shall be disposed off by the Assessing Authority within one month from the date of receipt, either by issue of certificate as aforesaid or by endorsement, intimating ineligibility to such a certificate to the dealer, as the case may be.

(8) Payment by way of deduction in accordance with the provisions of this section shall be without prejudice to any other mode of recovery of tax due under this Act from the dealer executing the Works Contract.

#### 29. Assessment.—

(1) The returns submitted by the dealer shall be accepted as self-assessed:

Provided the Commissioner, as per the procedure prescribed, shall select upto twenty percent of the total number of such dealers or such percentage as may be notified by Government from time to time for detailed assessment:

Provided further when any dealer applies for cancellation of his registration certificate on the ground of closure or stoppage of his business, his last assessment shall be finalized on the basis of books of accounts and other records maintained by him after giving him an opportunity of being heard.

(2) Where—

(a) a person fails to file a return as required by section 24; or

(b) the Commissioner has reason to believe that the returns filed by a person are not correct and complete; or



(c) the Commissioner has reasonable grounds to believe that a person will become liable to pay tax under this Act but is unlikely to pay the amount due; or

(d) the Commissioner requires to get satisfied with the correctness of the refund so claimed, the Commissioner may make an assessment of the amount of tax payable by the person to the best of his judgement after giving him an opportunity of being heard.

(3) No assessment under this section for any year shall be made after a period of two years from the end of the year to which the return under section 24 is submitted by a dealer and no assessment under sub-section (9) shall be made after the expiry of five years from the end of the year in respect of which or part of which such assessment is to be made:

Provided that where assessment is made in consequence of or to give effect to, any order of an Appellate Authority or Revisional Authority or of a Court, the said period of two years shall be reckoned from the date of such order:

Provided further that in computing the period laid down in this sub-section, any period during which assessment proceedings are stayed by an order or injunction of any Court or authority such period shall be excluded:

Provided also that the Commissioner may, if it is considered necessary by him so to do, by notification published in the Official Gazette, extend the period specified in this sub-section by a further period not exceeding one year.

(4) The Commissioner shall make an assessment of the amount that in his opinion, is the amount of tax payable under this Act, after making necessary enquiries and upon issue of notice on proposed assessment.

(5) The Commissioner shall serve a notice of the proposed assessment in the prescribed manner on the person to be assessed, which shall state—

(a) either the tax payable or the net tax payable in the case of registered dealer and any refund that may be eligible to be claimed;

(b) the time, place, and manner of objecting to the proposed assessment; and

(c) reasons for the assessment to be made.

(6) The Commissioner shall serve a notice on completion of assessment under this section and

the dealer shall pay the balance of tax in accordance with the terms of that notice.

(7) An amended assessment shall be treated in all respects as an assessment under this section.

(8) No assessment or other proceedings purporting to be made, issued or executed under this Act, shall be—

(a) quashed or deemed to be void or voidable for want of form; or

(b) affected by reason of mistake, defect or omission therein, if it is in substance and effect, in conformity with this Act or the rules made thereunder and the person assessed, or intended to be assessed or affected by the document is designated in it according to common understanding.

(9) Where, the Commissioner has reason to believe that a dealer is liable to pay tax in respect of any period, but has failed to apply for registration or has failed to apply for registration within the time as required by or under this Act, the Commissioner shall proceed to assess, to the best of his judgement, wherever necessary, the amount of tax due from the dealer in respect of such period and all subsequent periods and, in making such assessment, he shall give the dealer reasonable opportunity of being heard; and if he is satisfied that the default is without reasonable cause, direct the dealer to pay by way of penalty, in addition to tax assessed, a sum not exceeding the amount of tax assessed.

### 30. *Provisional Assessment.*—

(a) Where a registered dealer claims refund of tax under sub-section (3) of section 10, the Commissioner may, if deemed necessary, proceed to assess the dealer provisionally under sub-section (2) of section 29 for any return period within the period specified under sub-section (3) of section 34;

(b) Where a registered dealer fails to furnish the return in respect of any tax period within the prescribed time, the Commissioner may, notwithstanding anything contained in this section proceed to assess the dealer provisionally for that period for such default;

(c) The provisional assessment under clause (b) above shall be made on the basis of past returns, or past records and where no such returns are available, on the basis of information received by the Commissioner and the Commissioner shall direct the dealer to deposit

the amount of tax assessed in such manner and by such date as may be prescribed;

(d) If the dealer furnishes return alongwith evidence showing full payment of tax, interest and penalty, if any, on or before the date of payment specified under sub-clause (c), the provisional assessment made under sub-clause (b) shall stand revoked to the extent of the tax demanded, interest levied and penalty imposed, on the date on which such return is filed by the dealer;

(e) Nothing contained in this section shall prevent the Commissioner from making assessment under sub-section (1) of section 29 and any tax, interest or penalty paid against provisional assessment under this sub-section shall be adjusted against tax, interest or penalty payable on assessment under the said sub-section.

### 31. *Assessment of Escaped Turnover.*—

(1) If the Commissioner has reason to believe that the whole or any part of the turnover of the dealer in respect of any period has escaped assessment to tax or has been under-assessed or any deduction or exemption have been wrongly allowed in respect thereof or the turnover is assessed at a lower rate than the one applicable under this Act, Commissioner may, subject to sub-section (2), at any time within a period of five years from the expiry of the year to which the tax relates, proceed to assess or reassess to the best of his judgement the tax, payable by the dealer in respect of such turnover after issuing a notice in the prescribed manner to the dealer and after making such enquiry as it may consider necessary.

(2) In making an assessment under sub-section (1), the Commissioner may, if he is satisfied that the escape from assessment is due to willful non-disclosure of assessable turnover by the dealer, direct the dealer to pay, in addition to the tax assessed, a penalty, not exceeding twice the amount of tax so assessed, but not less than the amount of tax due.

(3) No assessment under sub-section (1) or penalty under sub-section (2) shall be made or

levied without giving a reasonable opportunity to the dealer of being heard.

### 32. *Protective Assessment.*—

Where the Commissioner has reason to believe that any person with a view to evade payment of tax or in order to claim any input tax credit which he otherwise is not eligible for, is carrying on business in the name of, or in association with, any other person, either directly or indirectly, whether as an agent, employee, manager, partner or power of attorney holder, guarantor, relative or sister concern or in any other capacity, such person and the person in whose name the registration certificate, if any, is taken, shall jointly and severally, be liable for payment of the tax, interest or penalty or other amount due under this Act which shall be assessed, levied and recovered from all or any such person as if such person or persons is/are dealers under the Act. However, before taking action under this section the persons concerned shall be given a reasonable opportunity of being heard.

### 35. *Appeals.*—

(1) Any person objecting to an order affecting him passed under the provisions of this Act by an authority may appeal to Appellate Authority as may be prescribed within sixty days from the date of receipt of order by him.

(2) Where the Appellate Authority is satisfied that the person has reasonable cause for not preferring an appeal within the time specified in sub-section (1), he may accept an appeal, provided it is made within one year, from the date of receipt of order by him.

(3) The appeal shall be in the prescribed form and shall specify in detail the grounds upon which it is made.

(4) In case of an appeal against an assessment or any order raising demand against the person, the Appellate Authority shall consider it only if the person has paid the tax which is not disputed by him.

(5) The appellant shall serve a copy of the appeal memo to the authority against whose order the appeal is filed.

(6) After considering the appeal and after affording an opportunity of hearing, the Appellate Authority may allow it in whole or part and amend the assessment or remand it for fresh disposal or dismiss the appeal or enhance the assessment or penalty or other amount:

Provided that before making an enhancement the appellant shall be given an opportunity of being heard on the proposal of enhancement.

(7) The Appellate Authority shall serve the appellant, with an order in writing, of the appeal decision, setting forth the reasons for the decision.

#### 36. *Appeal to the Tribunal.*—

(1) A person dissatisfied with the decision of the Appellate Authority may, within sixty days after being served with an order of the decision—

(a) file a second appeal before the Tribunal; and

(b) serve a copy of the notice of appeal on the Commissioner as well as the authority whose original order is under second appeal before the Tribunal.

(2) The Tribunal shall consider the appeal only if the person has paid the tax which is not disputed by him.

(3) The Tribunal may admit an appeal after expiry of sixty days if it is satisfied that the appellant had sufficient reason for not filing the appeal within the time specified in sub-section (1), provided it is filed within one year of serving of decision of Appellate Authority.

(4) In deciding an appeal, the Tribunal shall, make an order after affording an opportunity to the dealer or other person and the Commissioner,—

(a) affirming, reducing, increasing, or varying the assessment or other order under appeal; or

(b) remitting the assessment or other order under appeal for reconsideration by the Authority concerned with such directions as it may deem fit; and

(c) shall serve a copy of such order to the Commissioner:

Provided that before increasing the tax or other amount the dealer shall be given an opportunity of being heard on the proposal of increasing the liability.

(5) The Tribunal shall serve the appellant with notice in writing, of the appeal decision setting forth the reasons for the decision.

#### 39. *Revision/Review by Commissioner.*—

(1) The Commissioner may, on his own motion, call for and examine the record of any proceeding under this Act and if he considers that any order passed therein by any authority other than the Tribunal or High Court is erroneous, in so far as, it is prejudicial to the interest of the revenue, after giving the assessee an opportunity of being heard pass such order as he deems fit:

Provided that the Commissioner shall not pass any order under this section after the expiry of three years from the date of such order.

(2) Subject to such rules as may be prescribed, any assessment made or order passed under this Act or under the rules made thereunder by any authority appointed under section 13 of this Act, may be reviewed by the respective authority passing it upon an application or of its own motion, as the case may be:

Provided that no order of assessment or any other order shall be reviewed after the expiry of two years from the date of order, by any authority under this sub-section.

#### 55. *Penalty for Failure to File Return.*—

(1) A person who fails to file a return within the time required under this Act is liable for penalty of Rs. 1000/- plus an amount equal to simple interest @ 15% per annum or such higher/lower rate as the Government may notify from time to time on the tax payable for the return period.

(2) Any registered dealer covered under Schedule 'E' appended to this Act, fails to file a return within the time required under this Act, he shall be liable for penalty of Rs. 1000/- per quarter plus an amount equal to simple interest at the rate of 2% per month on the tax payable for the return period.

#### 58. *Penalty in relation to records.*—

A person who fails to maintain proper records in a tax period in accordance with the provisions of this Act is liable for penalty not exceeding double the amount of net tax payable by the person for the tax period.

#### 64. *Special Powers for Recovery of Tax as Arrears of Land Revenue.*—

The Government may, by general or special order, published in the Official Gazette, authorize any

officer, not below the rank of Commercial Tax Officer 1[ ], to exercise, for the purpose of effecting recovery of the amount of tax or penalty due from any dealer or person under this Act, the powers of a Collector under the Goa Land Revenue Code, 1968 (Act No. 9 of 1969), to recover the dues as arrears of land revenue.

76. *Survey.*—

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

(2) For the purposes of the survey, the Commissioner may, by general or special notice, require any dealer or class of dealers to furnish the names, addresses and such other particulars as he may find necessary relating to the persons and dealers who have purchased any goods from or sold any goods to such dealer or class of dealers during any given period.

(3) For the purposes of survey, the Commissioner may, call for details and particulars regarding the services provided by public utilities and financial institutions including Banking companies which he is of the opinion will be relevant and useful for the purposes of the survey. He may, from time to time, cause the results of the survey to be published in any manner that he thinks fit, so however as not to disclose or indicate the identify of any particular unregistered dealer identified during the survey.

(4) The Commissioner may, for the purposes of the survey, enter any place where a person is engaged in business but is unregistered or has not applied for grant of a certificate of registration, whether such place be the principal place of business or not of such business and require any proprietor, employee or any other person who may at that time and place be attending in any manner to or helping in the business,—

(i) to afford him the necessary facility to inspect such books of accounts or other documents as he may require and which may be available at such place;

(ii) to afford him the necessary facility to check or verify the cash, stock or other valuable article or thing which may be found therein; and

(iii) to furnish such information as he may require as to any matter which may be useful for, or relevant to, any proceedings under this Act.

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

(5) The Commissioner shall enter the place where the person is carrying on business only during the hours at which such place is open for business and in case of the said any other place only after sunrise and before sunset. The Commissioner may make or cause to be made extracts or copies from books of accounts and other documents inspected by him, make an inventory of any cash, stock or other valuable article or thing checked or verified by him, and record the statement of any person which may be useful for, or relevant to, any proceeding under this Act.

(6) The Commissioner, in exercise of the powers under this section, shall, on no account, remove or cause to be removed from the place where he has entered, any books of accounts other documents or any cash, stock or other valuable article or thing.

<sup>1</sup>“Sales Tax Officer/Value Added Tax Officer” omitted w.e.f. 01-10-05 vide the GVAT (First Amendment) Act, 2005 published in Official Gazette, Series I No. 24, Extraordinary No. 3 dated 21-09-05.

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LA/LEGN/2013/332

The following bill which was introduced in the Legislative Assembly of the State of Goa on 29th April, 2013 is hereby published for general information in pursuance of Rule-138 of the Rules of Procedure and Conduct of Business of the Goa Legislative Assembly.

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The Goa Entertainment Tax (Amendment) Bill,  
2013

(Bill No. 19 of 2013)

A

BILL

*further to amend the Goa Entertainment Tax Act, 1964 (Act 2 of 1964).*