

DRAFT MODEL

GOA VALUE ADDED TAX ACT, 2002

DISCLAIMER – CUM - CLARIFICATION

As per the consensus reached in the Conference of Chief Ministers held on 16.11.1999 and various subsequent meetings, it is decided to introduce Value Added Tax (VAT system) in the State of Goa w.e.f. 1.4.2003. Accordingly, a draft of the proposed Goa Value Added Sales Tax Act, 2001 has been drawn and hereby made available for public dissemination in order to obtain suggestions and comments from Trade, Industry, Tax Practitioners and members of the public. The Government will consider the revised draft after studying the responses and decide the final contents thereof.

A Bill to give effect to the decision of the Government will be prepared thereafter and submitted to the State Legislature. The present draft is not, therefore, an earlier version of the Bill.

It is hereby clarified that the full impact of the proposed legislation in all its details will become clear only on considering the responses called for and approving the outcome by the Government.

Any suggestions to improve the draft may please be addressed on or before 15/3/2002 to Y.S. Pai Bir, Addl. Commissioner of Sales Tax, Vikrikar Bhavan, Panaji-Goa, either by post or on Fax No.225032 or on E-Mail: yspb@netcracker.com or salestax@goa.nic.in

Sd/-

(A.T.Kamat)

PANAJI – GOA.

Commissioner of Sales Tax,

LAST DATE TO ADDRESS SUGGESTION/COMMENTS 15/3/2002.

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PROPOSED DRAFT OF GOA VALUE ADDED TAX ACT, 2002

CHAPTER I

1. SHORT TITLE, EXTENT AND COMMENCEMENT

- (1) This Act may be called the Goa Value Added Tax Act, 2002.
- (2) It extends to the whole of the State of Goa.
- (3) It shall come into force on such date as the State Government may by notification in the Official Gazette appoint, and different dates may be appointed for different provisions.

2. DEFINITIONS

In this Act, unless the context otherwise requires, -

- (1) "**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 (4), the expression "forest" means the forest to which the Indian Forest Act, 1927, in its application to the State of Goa, applies;

- (2) "**agriculturist**" means a person who cultivates land personally, for the purpose of agriculture;
- (3) "**appointed day**" means the day on which the Act comes into force;
- (4) "**business**" includes, -
 - a. any service,
 - b. in any other case, any trade, commerce or manufacture;
 - c. any adventure or concern in the nature of service, trade, commerce or manufacture;
 - d. any transaction in connection with, or incidental to or ancillary to such service, trade, commerce, manufacture, adventure or concern;

- e. any transaction in connection with, or incidental or ancillary to the commencement or closure of such business;
- f. any occasional transaction in the nature of such service, trade, commerce, manufacture, adventure or concern whether or not there is volume, frequency, continuity or regularity of such transaction,

whether or not such service, 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 service, 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 assets pertaining to such service, 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;
- (5) “business premises” means any place where a dealer or a transporter sells, transports, books or delivers goods and include such place where he stores, processes, produces or manufactures goods or keeps books of accounts.
- (6) "capital asset" means plant and machinery, (including spares) and equipment used in or relation to manufacture, production or processing of goods for sale;
- (7) “casual trader” means a dealer who, whether as principal, agent or in any other capacity, has occasional or seasonal transaction involving the selling, supply or distribution of goods in the State of Goa;
- (8) “Company” means a company as defined in Section 3 of the Companies Act, 2000 Act (1) of 2000 and includes a body corporate or corporation

within the meaning of Clause (7) of Section (2) of Foreign Company referred to in Section 591 of that Act;

- (9) "**Commissioner**" means the person appointed to be the Commissioner of Commercial Taxes/Sales Tax or Value Added Tax for the purposes of this Act and includes Additional Commissioner;
- (10) "**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;

- (11) "**dealer**" means any person who, for the purposes of or in connection with or incidental to or in the course of his business buys or sells, supplies or distributes directly or indirectly goods in the State whether for commission, remuneration or otherwise and includes,-
- i. a factor , broker, commission agent, del credere agent or any other mercantile agent, by whatever name called, who for the purposes of or in connection with or incidental to or in the course of the business, sells, supplies or distributes goods belonging to any principal or principals whether disclosed or not;
 - ii. an auctioneer, who sells or auctions goods belonging to any principal whether disclosed or not and whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of the principal;

- iii. a manager or an agent residing in the State, of a non-resident dealer who sells goods in the State for the purpose of or in connection with or incidental to or in the course of the business;
- iv. (a) any department of the Government if it sells goods;
- (b) any society, club or other association of persons which sells goods to its members for price, fee or subscription;

Explanation- For the purposes of this clause,

(i) each of the following persons, bodies and entities 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 (5) or any other provision of this Act, be deemed to be a dealer, to the extent of such disposals, without prejudice to any liability which may accrue on account of the other provisions of this Act, namely :-

- a. Advertising agencies;
- b. Air transport companies and Airlines;
- c. Customs Department of the Government of India administering the Customs Act, 1962;
- d. Incorporated or unincorporated societies, clubs or other associations of persons;
- e. Insurance and financial corporations, institutions or companies and Banks included in the Second Schedule to the Reserve Bank of India Act, 1934;
- f. Local authorities including Zilla Parishads, Municipal Corporations, Municipal Councils and Cantonment Boards;
- g. Port Trusts,
- h. Railway administration as defined under the Indian Railways Act _____;
- i. Shipping, and construction companies;
- j. Transporters, holding permit for transport vehicles granted under the Motor Vehicles Act, 1939, or as the case may be, the Motor Vehicles Act, 1988, which are used or adopted to be used for hire;
- k. Works contractor;
- l. any other Corporation, company, body or Authority owned or set up by, or subject to administrative control, of the Government;

Exception I - 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;

Exception II - An educational institution carrying on the activity of manufacturing, selling or supplying goods, in the performance of its functions for achieving its objects, shall not be deemed to be a dealer within the meaning of this clause ;

- (12) "**declared goods**" means declared goods as defined in the Central Sales Tax Act, 1956;
- (13) "**director**" in relation to a company include any person occupying the position of director by whatever name called;
- (14) "**earlier law**" means The Goa Sales Tax Act, 1964 (Act 4 of 1964) and The Goa Tax on Entry of Goods Act, 2000 (Act 14 of 2000);

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;

- (15) "**goods**" means all kinds of moveable 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.
- (16) "Input-tax" means tax charged under this Act by the seller to the purchaser on the sale of goods for business or manufacture.
- (17) "**importer**" means a person who brings any goods into the State or to whom any goods are dispatched from any place outside the State;
- (18) "**manufacture**" with all its grammatical variations and cognate expressions, includes producing, making, extracting, altering, ornamenting, finishing or otherwise processing, treating or adapting any goods;

(19) "non-resident dealer" means a dealer who effects sales of any goods in the State, but who has no fixed place of business or residence in the State;

(20) "notification" means any notification issued under the Act or rules;

(21) 'Output tax' in relation to any registered person means the tax charged in respect of sale or supply of goods made by that person.

(22) "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;

(23) "prescribed" means prescribed by the rules or by any notification as the case may be, under this Act;

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

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

- i. in the same form in which they were purchased, or
- ii. without doing anything to them which amounts to, or results, in a manufacture,

and the word "resell" shall be construed accordingly;

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

(27) "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 for property in any 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 other valuable consideration;

Explanation – A sale shall be deemed to take place in Goa if the goods are within Goa, -

- (a) in the case of specific or ascertained goods, at the time the contract of sale made; and
- (b) 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.

- (28) “sale price” means the amount of valuable consideration paid or payable to a dealer for any sale made including any sum charged on account of interest in respect of late payment, freight, storage, demurrage, insurance and any sum charged for anything done by the dealer in respect of the goods but shall not include installation charges when such cost is separately charged.

Explanation –

For the purpose of this clause ‘sale price’ includes, -

- (a) in relation to the transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract, such amount as is arrived at by deducting from the amount of valuable consideration paid or payable to a person for the execution of such works contract, the amount representing labour and other charge incurred and profit occurred not in connection with transfer of property in goods for such execution;
- (b) in relation to the delivery of goods on hire purchase or any system of payment by instalments, the amount of valuable consideration payable to a person for such delivery; and

- (c) in relation to transfer of the right to use any goods for any purpose (whether or not for a specified period) the valuable consideration received or receivable for such transfer.
- (29) "schedule" means the schedule appended to this Act;
- (30) "the State" means the State of Goa;
- (31) "State Government" means the Government of Goa;
- (32) "tax" means a tax, payable under this Act;
- (33) "taxable goods" means goods other than those specified in Schedule;
- (34) "Tribunal" means the Tribunal constituted under section 12 of this Act;
- (35) "taxable turnover" means the turnover on which a dealer is liable to pay tax.
- (36) "turnover" means the aggregate amount for which goods are either bought or 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.
- (37) "taxable sale" means sale which is taxable under the provisions of this Act.
- (38) "taxable person" means every person who is registered or is liable to be registered and liable to pay tax under this Act.
- (39) "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.
- (40) "year" means, the financial year.

CHAPTER II

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 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 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 during which this Act is enforced, 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 year during which this Act is enforced of the said year upto the time when his turnover of sales as computed from the first day of the year during which this Act is enforced of the said year, 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, other than tax, already levied or leviable, shall until his turnover of sales or turnover again first exceeds the relevant limit specified in sub-section (4) or, as the case may be, until he becomes liable to pay tax under sub-section (7), cease:

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 Rs. 50,000	In the case of a dealer, who is an importer or a manufacturer, (other than non-resident dealer or casual trader)
(ii) Limit of turnover Rs. 5,000/-	In case of Non-resident dealer
(iii) Limit of turnover Rs. 30,000/-	In case of Casual trader
(iv) Limit of turnover Rs. 1,00,000/-	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 clause (i), (ii) and (iii) of clause (11) 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 Central Sales Tax Act: -

Every dealer shall, notwithstanding that he is not liable to pay tax under any of sub-section (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, 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, aforesaid.

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

4. TAXES PAYABLE BY A DEALER OR A PERSON

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

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 the 'A' Schedule @ 1 paise in a rupee.
- (b) In respect of goods specified in the 'B' Schedule @ 4 paise in a rupee.
- (c) In respect of goods specified in the 'C' Schedule @ 20 paise in a rupee.

(d) In respect of goods specified in the 'D' Schedule Nil tax.

(e) In the case of any other goods at such rate, State Government by notification in the Official Gazette Adopt being Revenue Neutral Rate (RNR).

(2) AMENDMENT TO THE SCHEDULE

(1) The State 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 amend any entry of the schedule and thereupon the schedule shall be deemed to have been amended accordingly:

(2) Any notification issued under Sub-Section (3) shall take effect from the date of publication thereof in the Official Gazette or from such later date as may be mentioned therein.

(3) The provisions contained in Sub-Section (4) of Section 81 regarding rules made by the State Government shall apply mutatis mutandis to any notification issued under Sub-Section (1) as they apply to rules made by the State Government.

6. EXEMPTION & REIMBURSEMENT OF TAX

(1) Subject to such conditions as it may impose, the State Government may, if it is necessary so to do in the public interest, by notification in the Official Gazette, exempt any sales made to or by a class of dealers or persons specified in the said notification from payment of the whole or any part of any tax payable under the provisions of this Act and any notification issued under this section may be issued so as to be retrospective to any date not earlier than the 1st April, 2002 and such exemption shall take effect from the date of the publication of the notification in the Official Gazette or such other earlier or later date as may be mentioned therein.

(2) If the Commissioner has reason to believe that any person or dealer is liable to pay tax under sub-section (1), the Commissioner shall, after giving him a reasonable opportunity of being heard, assess the amount of tax so due.

(3) Tax collected under this Act on purchases made by specialized agencies of United Nations Organization and Consulates or Embassies of any other country located in the State shall be reimbursed in such manner and subject to such conditions as may be prescribed.

7. TURNOVER OF TAXABLE SALE

- (1) except as otherwise provided by or under this Act, the turnover of a taxable sale is the total consideration payable or paid in money for that sale.
- (2) Where a taxable sale is made without a separate amount of the consideration being identified as a payment of tax, the taxable turnover of that sale is the total amount of the consideration paid, without reduction for the tax, multiplied by the tax fraction.
- (3) In this section “tax fraction” means the amount ascertained by the following formula:

$$P^* = \frac{P}{1 + R}$$

P* = is the tax exclusive price;

P = is the tax inclusive price; and

R = is the rate of tax payable to the taxable supply

8. ADJUSTMENTS

- (1) Adjustments as provided under this section shall be made in relation to a taxable sale by a person, when-
 - (a) the nature of the sale is fundamentally varied or altered; resulting in a change in the rate of tax applicable to that sale;
 - (b) previously agreed consideration for the sale is altered, whether due to an offer of a discount or for any other reason; or
 - (c) the goods or part thereof are returned to the supplier and the taxable person making the sale within six months from the date of sale and that person has issued:
 - (i) a tax invoice in relation to the sale and the amount shown therein as the tax charged on the supply is incorrect as a result of the occurrence of one or more of the events described in clauses (a) to (c) above; or

- (ii) filed a return for the tax period in which the sale occurred and has accounted for an incorrect amount of output tax on that sale as a result of the occurrence of one or more of the events described in clauses (a) to (c) above; or
- (2) Where the output tax properly chargeable in respect of the sale exceeds the output tax actually accounted for by the taxable person making the sale, the amount of the excess is treated as tax charged by the person in relation to a taxable sale made in the tax period in which the event referred to in sub-section (1) occurred.
 - (3) Subject to the provisions of sub-section (5), where the output tax actually accounted for exceeds the output tax properly chargeable in relation to a sale, the registered person making the sale shall be allowed a credit for the amount of the excess in the tax period in which the event referred to in sub-section (1) occurred;
 - (4) The credit allowed under sub-section (2) is treated as a credit for input tax;
 - (5) No credit shall be allowed under sub-section (2) where the sale has been made to a person who is not a registered person, unless the amount of the excess tax has been repaid by the taxable person to the person from whom excess collection is made, whether in cash or as a credit against an amount owed by that person to the taxable person. The registered person should maintain evidence satisfactory to the Commissioner for such payment.
 - (6) If the input tax exceeds the output tax, the excess can either be refunded to the tax payer or credited against the tax due for the succeeding taxable period. However, the input tax already paid after delivery of goods to non-taxable dealers shall not be credited or refunded.

9. TAX ON A TAXABLE TRANSACTION

- (1) The tax payable on a taxable sale is calculated by applying the rate of tax applicable to the goods as set out in Schedule II on the taxable turnover of the dealer for the tax period.
- (2) Every registered dealer who in the course of his business purchases taxable goods in circumstances in which no tax under Section 4 is leviable on the sale of such goods, and

- (a) either consumes such goods in the manufacture of other goods for sale or otherwise (or uses or consumes otherwise) or disposes of such goods in any manner other than by way of sale in the State or
 - (b) despatches them to a place outside the State except as a direct result of sale or purchase in the course of inter-State or commerce,
- shall be liable to pay tax on the purchase price of such goods at the same rate at which it would have been leviable on the sale price of such goods.

10. NET TAX OF A TAXABLE PERSON

- (1) Subject to provisions of Section 11, the net tax payable by a taxable person for a tax period is calculated according to the following formula;

$$A - B,$$

Where –

A = total of the tax payable in respect of taxable supplies made by the taxable person during the tax period; and

B = total input tax credit allowed to the taxable person for the tax period.

- (2) Where the amount determined by the formula in sub-section (1) is a negative amount, the taxable person may carry forward the amount to the next reporting period and that amount shall be deemed to be an input tax credit, for that period;
- (3) An amount shall not be included in the total for 'A' in the formula at sub-section (1) above, for a tax period of a person to the extent that amount was included in that total for a preceding tax period of the person;
- (4) An amount shall not be included in the total for 'B' in the formula at sub-section (1) above for a particular tax period of a person to the extent that the amount was claimed or, included as an input tax credit or deduction in determining the net-tax for a preceding reporting period.
- (5) Every taxable person shall pay in full the net tax payable by him for the tax period at the time that person is required to file his return pursuant to sub-section (1) of Section 26.

11. INPUT TAX CREDIT

- (1) For the purposes of calculating the net tax payable by a registered person for a tax period, an input tax credit as determined under sub-section (4) shall be allowed to the registered person for the tax payable in respect of all taxable sales other than those specified in Schedule 'E' or any other goods as prescribed, made to the person during the tax period.
- (2) For the purpose of calculating the net tax payable by a registered person for his first tax period after becoming registered, an input tax credit as determined under sub-section (4) shall be allowed to the registered person for the tax payable in respect of –
 - (a) all taxable sale of goods (excluding capital goods) made to the person prior to the person becoming registered; or
 - (b) purchases of goods made by the person prior to becoming registered.

Provided that the purchase was for use in the business of the taxable person, and the sale or purchase occurred no more than three months prior to the date of registration and the goods are on hand at the date of registration.

The input tax credit shall be allowed if any inputs or capital assets as such or after partially processed are sent to a job worker for further processing, testing repair, reconditioning or for any other purpose and it is established from the records, challans or any other documents produced by the dealer that said inputs or capital goods are received within 180 days of their being sent to a job worker. In case if inputs or capital goods are not received within 180 days, the dealer shall pay an amount of credit taken and subsequently can take the credit when inputs or capital goods are received back in his premises.

When inputs (other than capital assets) on which credit is taken are removed for re-sale activity, the dealer should pay an amount of tax at the appropriate rate, however the amount of tax paid should not be less than credit availed. In case of capital assets, the tax shall be paid as per sales price.

- (3) Subject to the provisions of sub-section (4) input tax credit for a tax period in respect of capital goods shall be calculated as under:

The input tax credit to a dealer on the purchase of capital assets shall be admissible over a period of two years from the date of purchase of such asset not exceeding 50% of the tax paid on such capital assets in the same financial year and balance in the next financial year.

No input tax credit shall be allowed on exempted goods or goods sold to 100% EOU/STP/EHTP.

In case of a dealer deals with exempted and taxable goods and take input tax credit shall pay an amount equal to 2% on the price of exempted goods.

The input tax credit in respect of capital assets shall not be allowed in respect of that part of value of capital assets which represents the amount of tax on such capital tax which dealer claims as depreciation under Section 32 of Income Tax Act, 1961(43 of 1961).

- (4) Where during a tax period a registered person purchasing goods that are not capital goods or is entitled to a credit under sub-section (2) or sub-section (3), the amount determined by the following formula shall determine the input tax credit for the period:

$$M \times N$$

Where –

M = is the input-tax in respect of the purchases that become payable by the person during the tax period or that is paid by the person during the period without having become payable the amount determined under sub-section (2) or the amount determined under sub-section (3) as the case may be; and

N = is the extent (expressed as a percentage) to which the person purchased the goods for consumption, use or sale in the course of making taxable sale.

- (5) The methods that are used by a person in a year to determine the extent to which goods are used, consumed or supplied, or intended to be used, consumed or supplied, in the course of making taxable sales, shall be fair and reasonable in the circumstances.
- (6) No amount shall be included in respect of input tax paid on capital goods other than such goods used for manufacturing or processing of goods for sale either directly or indirectly.
- (7) Goods brought from outside the State shall not be entitled to get input tax credit in respect of tax paid in the other State.
- (8) Subject to sub-section (9), an input tax credit allowed under this section cannot be claimed by the taxable person in a tax period unless the taxable person has an original tax invoice for the taxable supply.

- (9) Where a taxable person does not have an original tax invoice evidencing the input tax paid, the Commissioner may allow an input tax credit in the tax period in which the credit arises where the Commissioner is satisfied –
- (a) that the taxable person took all reasonable steps to obtain a tax invoice;
 - (b) that the failure to obtain a tax invoice was not due to any fault of the taxable person; and
 - (c) that the amount of input tax claimed by the taxable person is correct.
- (10) No person shall be entitled for input tax credit on capital goods if such person is the second or subsequent purchaser of capital goods.
- (11) No person shall be entitled on input tax credit on the stock of goods remaining unsold at the time of stoppage or closure of his business.
- (12) Tax paid under this Act by any dealer on purchases of inputs in respect of any goods sold in the course of inter-State trade or commerce shall be available for deduction, as provided under this section in output tax payable by such dealer.

12. TAX INVOICE

- (1) A taxable person making a taxable sale to another person shall; provide that other person, at the time of sale, with an original tax invoice (which is as described in Schedule 'F' for the sale and shall retain one copy thereof.
- (2) An original tax invoice should not be provided to a person in any circumstances other than those specified in sub-section (1), but a copy marked as duplicate may be provided if the person receiving the original invoice so requests for the reason that the original has been lost.

13. CREDIT AND DEBIT NOTES

- (1) Where a tax invoice has been issued and the amount shown as tax charged in that tax invoice exceeds the tax properly chargeable in respect of the sale, the taxable person making the sale shall provide the recipient of the sale with a credit note containing the requisite particulars.

- (2) Where a tax invoice has been issued and the tax properly chargeable in respect of the sale exceeds the amount shown as tax charged in that tax invoice, the taxable person making the sale shall provide the recipient of the goods with a debit note containing the requisite particulars.
- (3) The registered person who is the recipient shall repay any input-tax credits claimed in prior tax periods where a credit note is issued – and such repayment is made in the tax period in which the events occurred and shall be considered tax charged.

CHAPTER III

14. SALES TAX AUTHORITIES

- (1) For carrying out the purposes of this Act, the State Government shall appoint an officer to be called the Commissioner.
- (2) Likewise, the State Government may appoint Additional Commissioner, if any, and such number of__
 - a. Assistant Commissioners,
 - b. other officers and persons,

and give them such designations, if any, as that Government thinks necessary.

- (3) The Commissioner shall have jurisdiction over the whole of the State of Goa; and an Additional Commissioner, if any be appointed, shall have jurisdiction over the whole of the State, or where the Commissioner so directs by notification in the Official Gazette, over any local area thereof. All other officers shall have jurisdiction over the whole of the State or over such local areas as the Commissioner may specify by notification in the Official Gazette.
- (4) The Commissioner shall have and exercise all the powers and perform all the duties, conferred or imposed on the Commissioner by or under this Act, and an Additional Commissioner, if any, appointed, shall, save as otherwise directed by the Commissioner by notification in the Official Gazette, have and exercise within his jurisdiction all the powers and perform all the duties, conferred or imposed on the Commissioner, by or under this Act.
- (6) Assistant Commissioners, other officers and persons shall, within their jurisdiction, exercise such of the powers and perform such of the duties of the Commissioner under this Act, as the Commissioner may, subject to such conditions and restrictions as he may by general or special order impose, delegate to them either generally, or as respects any particular matter or class of matters by an order notified in the Official Gazette.
- (7) The State Government may, subject to such restrictions and conditions, if any, as it may impose, by notification in the Official Gazette, delegate to the Commissioner the powers (not being powers relating to the appointment of Additional Commissioner or Asstt. Commissioner or Sales Tax Officer) conferred on that Government by sub-section (2).
- (8) No person shall be entitled to call in question in any proceeding any jurisdiction including the territorial jurisdiction of any officer or person appointed under sub-section (2), after the expiry of thirty days from the date of receipt by such person of any notice under this Act, issued by such officer or person. If within the period aforesaid, a separate application in writing in the prescribed form raising an objection as to the jurisdiction of any such officer or person is made to him, the officer or person shall refer the question to the Commissioner, who shall after giving the person raising the objection, a reasonable opportunity of being heard, make an order determining the question.
- (9) All officers and persons appointed under sub-section (2) shall be subordinate to the Commissioner; and the subordination of officers

other than the Commissioner, and of persons, amongst themselves shall be such as may be prescribed.

- (10) The Commissioner may, from time to time, issue such instructions and directions as he may deem fit to the authorities subordinate to him for carrying out the purposes of the Act, and such authorities shall observe and follow such instructions and directions of the Commissioner.

Provided that no such instructions or directions shall be issued,

- i. so as to require any authority to pass a particular order or to dispose of a particular case in a particular manner; or
- ii. so as to interfere with the discretion of the appellate authorities in any particular case.

Provided further that, if the Commissioner is of the opinion that it is necessary in the public interest so to do, he may cause such instructions and directions to be published and circulated for general information.

15. TRIBUNAL

- (1) Subject to the provisions of this section, the Government shall constitute a Tribunal consisting of one member or as many members as it thinks fit to discharge the functions conferred on the Tribunal by or under this Act:

Provided that where the Tribunal consists of one member, that member shall be a person who has held a civil judicial post for at least ten years or who has been a member of the Central Legal Service (not below Grade III) for at least three years or who has been in practice as an advocate for at least ten years, and where the Tribunal consists of more than one member, one such member shall be a person qualified as aforesaid.

- (2) If the Tribunal consists of more than one member, the Government shall appoint one of the members of the Tribunal to be the Chairman thereof.
- (3) The qualifications of the member or members constituting the Tribunal and the period for which such member or members shall hold office, shall be such as may be prescribed.
- (4) The Government may terminate the appointment of any member of the Tribunal before the expiry of the term of his office if such member-
 - (a) is adjudged as an insolvent or

- (b) engages during his term of office in any paid employment outside the duties of his office, or
- (c) is or becomes, in any way concerned or interested in any contract or agreement made by or on behalf of the Government or participates in any way in the profit thereof or in any benefits or emoluments arising therefrom, or
- (d) is in the opinion of the Government, unfit to continue in office by reason of infirmity of mind or body, or
- (e) is convicted of an offence involving in moral turpitude:

Provided that before terminating the appointment of any member under this sub-section, such member shall be given a reasonable opportunity of making representation.

- (5) Any vacancy in the membership of the Tribunal shall be filled up by the Government as soon as practicable.
- (6) If the Tribunal consists of more than one member, the functions of the Tribunal may be discharged by any of the members sitting either singly or in benches of two or more members, as may be determined by the Chairman.
- (7) Where the Tribunal consists of more than one member and they are divided on any matter arising for decision before them, the decision shall be the decision of the majority, if there be a majority; but if the members are equally divided, they shall state the point or points on which they differ and the case shall be referred by the Chairman for hearing on such point or points to one or more of the other members of the Tribunal, and such point or points shall be decided according to the majority of the members of the Tribunal who heard the case, including those who first heard it.
- (8) Subject to such conditions and limitations as may be prescribed, the Tribunal shall have power to award costs, and the amount of such costs shall be recoverable from the person who is ordered to pay the same as an arrear of land revenue.
- (9) The Tribunal shall for the purpose of regulating its procedure and disposal of its business make regulations not inconsistent with the provisions of this Act and the rules made thereunder.

Provided that the regulations so made shall not have effect until they are approved by the Government and published in the Official Gazette.

- (10) Notwithstanding anything contained in this section, the Government may, by notification in the Official Gazette, confer on any Tribunal constituted or functioning under any other law for the time being in force, the powers conferred on a Tribunal by or under this Act and thereupon such other Tribunal shall be deemed to be a Tribunal constituted under this section in relation to the said law notwithstanding anything inconsistent in such other law:

Provided that the provisions of sub-section (3) and (4) shall not apply to the Tribunal on which powers are so conferred.

- (11) Any proceedings before the Tribunal shall be deemed to be a judicial proceeding within the meaning of section 193 and 228 of the Indian Penal Code 45 of 1860.

16. ACTION AGAINST ANY AUTHORITY FOR VEXATIOUS ORDER OR WILLFUL UNDER-ASSESSMENT, ETC

The Commissioner may, -

- i. on receipt of any complaint in the prescribed manner and on payment of prescribed fee from any dealer or person liable to pay tax under this Act that any authority has made in the proceedings of such dealer or person a false or vexatious order or has taken any action under this Act vindictively, or
- ii. on receipt of a report from any authority appointed under section (11) or from the Tribunal that a particular authority has knowingly or willfully under-assessed any dealer or person or has passed a false or vexatious order or has taken any action under this Act vindictively, or
- iii. on his own motion, if he has reason to believe that any authority has passed such order or taken such action or has made such underassessment,

initiate appropriate enquiry or action in the matter, and if in his opinion prima facie case against such authority exists, he may proceed against such authority under the Goa Civil Services Conduct, Discipline and Appeal Rules or any other relevant rules for the time being in force.

17. PERSONS APPOINTED UNDER SECTION 11 AND MEMBERS OF TRIBUNAL TO BE PUBLIC SERVANTS

The Commissioner and all officers and persons appointed under section 11 and all members of the Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

18. POWERS OF TRIBUNAL AND COMMISSIONER

- (1) In discharging their functions by or under this Act, the Tribunal and the Commissioner shall have all the powers of a Civil Court for the purpose of-
- • • (a) proof of facts by affidavit;
 - (b) summoning and enforcing the attendance of any person, and examining him on oath or affirmation;
 - (c) compelling the production of documents; and
 - (d) issuing commissions for the examination of witnesses,
- (2) In the case of any affidavit to be made for the purposes of this Act, any officer appointed by the Tribunal or the Commissioner may administer the oath to the deponent.
- (3) Without prejudice to the provisions of any other law for the time being in force, where a person, to whom a summons is issued by the Tribunal or the Commissioner either to attend to give evidence or produce books of accounts, registers or other documents at a certain place and time, intentionally omits to attend or produce the documents at the place and time, the Tribunal or the Commissioner, as the case may be, may impose on him such fine not exceeding five thousand rupees as it or he thinks fit; and the fine so levied may be recovered in the manner provided in this Act for recovery of arrears of tax.

Provided that, before imposing any such fine, the person concerned shall be given a reasonable opportunity of being heard.

- (4) If any documents are produced by a person or dealer on whom a summons was issued by the Commissioner, and the Commissioner is of the opinion that any dealer has evaded or is attempting to evade the payment of any tax due from him and the documents produced are necessary for establishing the case against such dealer, the Commissioner may, for reasons to be recorded in writing, impound the documents and shall grant a receipt for the same, and shall retain the same for so long as may be necessary in connection with the proceedings under this Act, or for a prosecution under any law.

19. INDEMNITY

No suit, prosecution or other legal proceedings shall lie against any servant of the Government for anything which is in good faith done or intended to be done under this Act or the rules or notifications.

CHAPTER IV

20. REGISTRATION

- (1) No dealer shall, while being liable to pay tax under section 3 or under sub-section (6) of section 21, 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 21, 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, the certificate of registration shall not be granted to such person or dealer unless the person or the dealer has deposited, by way of fee, an amount of Rs. 500/- (Rupees five hundred only) for dealers having Gross Turnover of less than Rs.15 lakhs during previous year or Rs. 2000/- (Rupees one thousand) for other dealers in Government treasury in the prescribed manner and by the prescribed time.

- (4) 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.

- (5) 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.
- (6) 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.

(7) 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, 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.

21. 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 section 44, 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 or purchases of goods made by him on and after the date of such succession, and shall (unless he already holds a certificate of registration) within sixty days thereof apply for registration.

22. LIABILITY OF PARTNERS

Notwithstanding anything contained in the Indian Partnership Act, 1932 or any contract to the contrary, where any firm is liable to pay tax under this Act, the firm and each of the partners of the firm shall be jointly and severally liable for such payment and accordingly any notice or order under this Act may be served on any person who was a partner during the relevant time whether or not the firms has been dissolved and all the provisions of this Act shall apply accordingly:

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

23 . AMALGAMATION OF COMPANIES

- (1) When two or more companies are to be amalgamated by the order of a Court or of the Central Government and the order is to take effect from a date earlier to the date of the order and any two or more of such companies have sold or purchased any goods to or from each other in the period commencing on the date from which the order is to take effect and ending on the date of the order, then such transactions of sale and purchase will be included in the turnover of sales or of purchases of the respective companies and will be assessed to tax accordingly.

- (2) Notwithstanding anything contained in the said order, for all of the purposes of this Act, the said two or more companies will be treated as distinct companies and will be treated as such for all periods up to the date of the said order and the registration certificates of the said companies will be cancelled, where necessary, with effect from the date of the said order.

- (3) Words and expressions used in this section, but not defined, will have the respective meanings assigned to them in the Companies Act, 1956.

24. INFORMATION TO BE FURNISHED REGARDING CHANGES IN BUSINESS, ETC

If any person or dealer liable to pay tax under this Act-

- a. transfers whether by way of sale or not or otherwise disposes of his business or any part thereof, or effects or knows of any other change in the ownership of the business, or
- b. discontinues his business, or changes the place thereof or opens a new place of business, or
- c. changes the name or nature of his business, or
- d. enters into a partnership or other association in regard to his business,
- e. effects any change regarding the opening or closing of the Bank accounts of his business,
- f. applies for or has an application made against him for insolvency, liquidation,

he shall, within the prescribed time, inform the prescribed authority accordingly;

(2) Where any dealer liable to pay tax under this Act__

- a. dies, his executor, administrator or other legal representative or,
- b. where he is firm, a Hindu undivided family or an association of persons and there is a change in the constitution of such firm, Hindu undivided family or association, either by way of dissolution or disruption, or otherwise, then, every person who was a partner, karta or a member of such firm, a Hindu undivided family or association, or
- c. transfers or otherwise disposes of his business in the circumstances mentioned in sub-section (4) of section 45, then every person to whom the business is so transferred,

shall in the prescribed manner inform the said prescribed authority of such death, change in the constitution, dissolution, disruption or transfer.

25. DEALER TO DECLARE THE NAME OF MANAGER OF BUSINESS AND PERMANENT ACCOUNT NUMBER

- (1) Every dealer, who is liable to pay tax, and who is a Hindu undivided family, or an association of persons, club or society or firm or company, or who is engaged in business as the guardian or trustee or otherwise on behalf of another person, shall within the period prescribed send to the authority prescribed, a declaration in the manner prescribed stating the name of the person or persons who shall be deemed to be the manager or managers of such dealer's business for the purposes of this Act. Such declaration may be revised from time to time.
- (2) Every dealer liable to pay tax under this Act who is liable to obtain a permanent account number under the Income Tax Act, 1961, shall

communicate in the prescribed time and prescribed manner to the prescribed authority, the said number if he has obtained the same and in any other case shall state whether he has applied for the same.

CHAPTER V

26. RETURNS & PAYMENT OF TAX, ETC.

- (1) Every registered dealer shall file a correct and complete quarterly return in such form, by such date and to such authority, as may be prescribed. In addition to any data required for proper quantification of tax, the State Government may require the registered dealers to furnish data for the purpose of collecting statistics relating to any matter dealt with, by or in connection to this Act.
- (2) Without prejudice to the generality of the provisions contained in subsection (1), every registered dealer may be required to furnish correct

and complete returns in such form for such period, by such dates, and to such authority, as may be prescribed:

Provided that the Commissioner may, subject to such terms and conditions as may be prescribed, exempt any such dealer from furnishing such returns or permit any such dealer to furnish them for such different periods,

- (3) If any dealer having furnished a return under sub-section (1), discovers any omission or incorrect statement therein, he may furnish a revised return at any time before a notice for assessment is served on him in respect of the period covered by the said return or before the expiry of one year following the last date prescribed for furnishing the said return, whichever is earlier.

27. 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 26 shall pay into the Government treasury, in such manner and at such intervals as may be prescribed, the amount of tax due from him for the period covered by a return which he is required to file under the rules along with 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 26, which revised return shows that a larger amount of tax than, already paid is payable, shall first pay into the Government treasury the extra 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.
 - (b) (i) The amount of tax due as per by 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 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, by installments but grant of installment to pay tax shall be without prejudice to the other provisions of this Act including levy of penalty, interest, or both.

- (5) Any tax, penalty, interest, fine or sum forfeited, which remains unpaid after the service of notice under sub-section (4), or any installment not duly paid, shall be recoverable as an arrear of land revenue.
- (6) (i) There shall be established a Fund to be called the ***Goa Consumer Protection and Guidance Fund*** (hereinafter, in this section, referred to as "the Fund"). From the amounts forfeited and recovered except for the amounts refunded as aforesaid to the purchasers and except for the amounts in respect of which a set-off, refund or remission is granted, and after deducting the expenses of collection and recovery as determined by the State Government, the remaining amounts shall under appropriation duly made by law in this behalf, be entered into, and transferred to, that Fund.
 - (ii) No sum from the Fund shall be paid or applied for any purpose other than the one specified in clause (iii).
 - (iii) The Fund shall be administered in the prescribed manner; and the amount in the Fund shall be utilised for meeting the expenses of any activities related to consumer protection and guidance as the State Government may direct, and for giving grant in the prescribed manner to any voluntary consumer organisation, society, association, body or institution engaged in providing for the better protection of the interests of the consumers and having such qualifications as may be prescribed.

28. ASSESSMENT

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

Provided prescribed authority may select either at his discretion or as directed by the Commissioner, ten percent of the total number of such dealers for detailed assessment:

- (2) Where –

- (a) a person fails to file a return as required by Section 26 or;
- (b) the Assessing Authority is not satisfied with the correctness and completeness of a return filed by a person, 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;

the Assessing Authority may, either ***suo motu*** or on directions from the Commissioner, make an assessment of the amount of tax payable by the person.

- (3) (a) whereas in respect of dealers with a turnover below Rs. 15 lakhs who are registered at their option for a minimum period of one year including period under earlier law, the assessment may be done by levying the tax at the rate of one percent flat rate on the total turnover.

Provided he submits return under this Act every quarter and effect payments of the tax amount due on or before 10th of the month following the month to which the payment relates.

- (b) a dealer who is permitted to pay tax under clause (a) above shall not be entitled to input tax credit on goods purchased.
- (4) No assessment under this section for any year shall be made after a period of three years from the end of the year to which the return under sub section (2) of Section 26 is submitted by a dealer.
- (5) Where a taxable person is not satisfied with the return filed by him under this Act, he may apply to the Commissioner within a period of six months of the close of the year to which the return relates, to make any addition or alteration to that return by filing a revised return.
- (6) An application under the above sub-section must be in writing and specify in details the grounds upon which it is made.
- (7) The Assessing Authority 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.
- (8) The Assessing Authority shall serve a notice of the proposed assessment 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.
- (9) The Assessing Authority shall serve a notice of assessment on completion of assessment under this section and the dealer shall pay the balance of tax in accordance with the terms of that notice.
- (10) An amended assessment is treated in all respects as an assessment under this section;
- (11) 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.

29. ASSESSMENT OF ESCAPED TURNOVER

- (1) If the prescribed authority 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 deductions or exemptions have been wrongly allowed in respect thereof or the turnover is assessed a lower rate than the one applicable under the law, prescribed authority 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 judgement the tax, payable by the dealer in respect of such turnover after issuing a notice to the dealer and after making such enquiry as it may consider necessary.
- (2) In making an assessment under the sub-section (1) the prescribed authority may, if it 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 one and half times the tax so assessed.

- (3) No assessment under sub-section (1) or penalty under sub-section (2) shall be made or used without giving a reasonable opportunity to the dealer.

30. PROTECTIVE ASSESSMENT

Where the prescribed authority has reason to believe that any person with a view to evade payment of tax or in order to claim any input tax rebate which he otherwise is not eligible for or was 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, penal 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 are dealers under the Act. However, before taking action under this section the persons concerned shall be given a reasonable opportunity of being heard.

31. PAYMENT OF INTEREST ON AMOUNT REFUND

When any amount refundable to any person under an order made under any provisions of this Act, is not refunded within ninety days –

- (a) of the date of such order is made by the prescribed authority; or
- (b) of the date of receipt of such order by the prescribed authority, if such order is made by an authority other than the prescribed authority;

the prescribed authority shall pay such person simple interest at the rate of twelve percent per annum on the said amount from the day immediately following the expiry of the said ninety days to the day of refund.

Provided that the interest calculable shall be on the balance of the amount remaining after adjusting out of the refundable amount any tax, penalty or other amount due under this Act, for any year by the person on the date from which such interest is calculable.

32. DEDUCTION OF TAX AT SOURCE

- (1) Notwithstanding anything contained in this Act, any employer including the Government, the State Government, or an individual, or a commercial or trading undertaking of the Government or of the State Government, any Company registered under the Companies Act, 1956, any local authority or any person or dealer 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 3% on half the value of the Works Contract undertaken by such dealer which shall be deemed to be on account of transfer of property of 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 fifty thousand rupees during a year.

- (2) The tax deducted under sub-section (1) shall be remitted to the Government treasury by the said employer making such deduction within 30 days from the end of the month during which deduction of the amount is made:

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 month in which such deduction is made, send to the prescribed authority a statement in the prescribed form within the prescribed time containing details of the Works Contract under execution and tax deducted thereon, 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, after such enquiry as it deems fit and after giving to such employer a reasonable opportunity of being heard, 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 2% per month or part thereof on the

amount due and deductible, and by order in writing shall direct such employer to pay the interest in addition to such amount.

- (6) 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.
- (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.

33. APPEALS

- (1) Any person objecting to an order affecting him passed under the provisions of this Act by any 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 assessed has reasonable cause for not preferring to file an appeal within the time specified in sub-section (1) he may accept an appeal, provided it is within one year;
- (3) The appeal shall be in the prescribed form and shall specify in detail the grounds upon which it is made;
- (4) In the case of an appeal against an assessment, the Appellate Authority shall consider it only if –
 - (a) the person has paid the tax due as per turnover returned by him, or
 - (b) paid the tax which is not disputed by him.

Provided that, on application made by the appellant in this behalf, the Appellate Authority may, for good and sufficient reason to be recorded in writing, exempt him from the operation of the provisions of the sub-section.

- (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 the decision objected to accordingly, 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 notice in writing, of the appeal decision, setting forth the reasons for the decision.

34. APPEAL BY ASSESSEE TO THE APPELLATE TRIBUNAL

- (1) A person dissatisfied with the decision of the Appellate Authority may, within sixty days after being served with notice of the decision-
 - (a) file a second appeal before the Appellate Tribunal or to such authority as may be prescribed, and
 - (b) serve a copy of the notice of appeal on the Commissioner as well as the authority whose original order is under second appeal before the Appellate Tribunal or prescribed authority as the case may be.
- (2) The Appellate Tribunal or the prescribed authority may admit an appeal after expiry of sixty days if it is satisfied that the appellant had sufficient reason for not filing the appeal within the time specified in sub-section (1), provided it is within one year.
- (3) In deciding an appeal, the Appellate Tribunal or the prescribed authority 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 enhance, or
 - (b) remitting the assessment or other order under appeal for reconsideration by the Authority concerned with such directions as it may deem fit,
 - (c) a copy of such order shall be served on the Commissioner/prescribed authority.

- (4) The Appellate Tribunal or the prescribed authority shall serve the appellant with notice, in writing, of the appeal decision setting forth the reasons for the decisions.

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.

35. APPEAL BY COMMISSIONER TO APPELLATE TRIBUNAL

- (1) The Commissioner or any officer empowered by him on this behalf if he objects to an order passed by the Appellate Authority, may appeal to the Appellate Tribunal within a period of sixty days from the date on which the order was communicated to him.
- (2) **Power of Review** – The Appellate Tribunal may, on the application either by the appellant or by the respondent made within one year from the date of receipt of the order under sub-section (3) of Section 34 review any order passed by it on the basis of facts which were not before it when the order was passed.

36. REVISION TO HIGH COURT

- (1) An assessee who is dissatisfied with the decision of the Appellate Tribunal or Commissioner may, within sixty days after being notified of the decision, file a revision with the High Court; and the assessee so appealing shall serve a copy of the notice of revisions on the respondent to the proceeding.
- (2) A revision to the High Court may be made on question of law or an erroneous decision or failure to decide a question of fact. A notice of the revision shall state the questions of law that will be raised in the revision.
- (3) The Commissioner shall also be made a party to the proceedings before the High Court where appeal is filed by the dealer or other person.
- (4) **Power to Review** – The High Court may on application either by the petitioner or by the respondent review any order passed by it provided such application is made within one year from the date of receipt of the judgement.

37. HEARING OF REVISION AND REVIEW BY HIGH COURT

A revision or review application presented before the High Court under Section 32 shall be heard by a bench consisting of not less than two Judges.

38. REVISION BY COMMISSIONER

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 officer other than the Appellate Authority and the Appellate Tribunal, 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 it deems fit.

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

39. BURDEN OF PROOF

The burden of proving that any turnover of goods is exempt from or that there is no liability or obligation under this Act shall be on the person objecting.

40. POWER TO RECTIFY ERROR APPARENT ON THE RECORD

- (1) An assessing, appellate or revising authority including the Appellate Tribunal may, on an application or otherwise, at any time within three years from the date of any order passed by it, rectify any error apparent on the face of the record.

Provided that no such rectification which has the effect of enhancing the liability to pay tax or penalty or penal interest shall be made unless such authority has given notice to the person affected and have allowed him a reasonable opportunity of being heard.

- (2) Where such rectification has the effect of enhancing the tax liability or penalty, the Assessing authority shall give the dealer or other person a notice of assessment or penalty and the dealer or other person shall pay the tax in the manner prescribed and when such rectification has the effect of reducing the tax liability or penalty the Assessing Authority shall issue refund of the excess tax, if any, paid.

41. POWER TO TRANSFER PROCEEDINGS

- (1) The Commissioner may, after giving the parties a reasonable opportunity of being heard in the matter, wherever it is possible so to do, by order in writing recording therein his reasons for doing so, transfer any pending proceedings or class of proceedings under any provision of this Act, from himself to any other officer and he may likewise transfer any such proceedings including a proceeding pending with any officer or already transferred under this section from any officer to any other officer whether with or without concurrent jurisdiction or to himself :
- (2) For the purpose of this section, any proceedings shall be deemed to have commenced only when any authority having appropriate jurisdiction issues notice under the provisions of this Act, rules or notifications and the proceedings shall be deemed to be pending only after issue of such notice.
- (3) Where no proceedings are pending before any authority, then any authority having appropriate jurisdiction over a person or dealer, may initiate and complete any proceedings whatsoever.

Explanation.- In this section, the word "proceedings" in relation to any dealer means all proceedings under this Act in respect of any year, which may be pending on the date of such order or which may have been completed on or before such date, and includes also all proceedings under this Act which may be commenced after the date of such order in respect of the said year in relation to such dealer.

42. DELEGATION OF POWERS

- (1) The State Government may delegate any of its powers and functions under this Act to the Commissioner or to any other authority under this Act;
- (2) The Commissioner may delegate any of his powers and functions under this Act to any officer subordinate to him;
- (3) Such delegation shall be notified in the Gazette.

CHAPTER VII

43. OFFENCES RELATED TO REGISTRATION

A person who fails –

- (a) to apply for registration as required under Section 20; or
- (b) to notify the Registering Authority of a change in circumstances as required by Section 24;

is guilty of an offence and liable on conviction to –

- (c) where such failure is deliberate or repeated, the person shall, on conviction, be liable for a fine not exceeding fifty thousand rupees or to imprisonment for a term not exceeding one year, or both; or

(d) in any other case, the person shall, on conviction, be liable for a fine not exceeding fifty thousand rupees or to imprisonment for a term not exceeding six months, or both.

44. OFFENCES RELATED TO TAX INVOICES, CREDIT NOTES, AND DEBIT NOTES

A registered person who fails to provide a tax invoice as required by sub-section (1) of Section 12 or a credit or debit note as required by sub-section (1) or sub-section (2) of Section 13, who provides a tax invoice otherwise than as provided in Section 12 or a credit or a debit note as provide in Section 13, is guilty of an offence and liable on conviction to a fine not exceeding fifty thousand rupees or to imprisonment for a term not exceeding one year, or both.

45. FAILURE TO FILE A RETURN

- (1) A person who fails to file a return or other document as required by this Act or the Rules made thereunder, is guilty of an offence and liable on conviction to a fine not exceeding fifty thousand rupees or to imprisonment for a term not exceeding six months, or both;
- (2) If a person convicted of an offence under sub-section (1) fails to file the return or other prescribed documents within the period specified by the Court, that person is guilty of an offence and liable on conviction to a fine of five thousand rupees for each day during which the failure continues and to imprisonment for three months without the option of a fine in lieu of imprisonment.

46. FAILURE TO COMPLY WITH RECOVERY PROVISIONS

- (1) A person who fails to pay any tax in the manner provided in Section 10 or in terms of a notice issued under sub-section (9) of Section 28 is guilty of an offence and liable on conviction to a fine not exceeding fifty thousand rupees or to imprisonment for a term not exceeding one year, or both;
- (2) Where a person is convicted of an offence under sub-section (1), the appropriate Court may, in addition to imposing a penalty, order the convicted person to pay to the Commissioner an amount not exceeding the amount which the person failed to pay as if it were a fine imposed by the Court.

47. FAILURE TO MAINTAIN PROPER RECORDS

A person who fails to maintain true and complete accounts and other records in accordance with the requirements of this Act is guilty of an offence and liable on conviction to –

- (a) where the failure was deliberate or repeated, a fine not exceeding fifty thousand rupees or to imprisonment for a term not exceeding one year, or both; or
- (b) in any other case, a fine not exceeding thirty thousand rupees or to imprisonment for a term not exceeding six months, or both.

48. IMPROPER USE OF TAXPAYER IDENTIFICATION NUMBER

A person who knowingly uses a false tax payer identification number, including the taxpayer identification number of another person with a view to evade or avoid or shift the liability to pay the tax in a return or other document prescribed or used for the purposes of this Act, is guilty of an offence and liable on conviction to a fine not exceeding Fifty Thousand rupees or to imprisonment for a term not exceeding one year, or both.

49. FALSE OR MISLEADING STATEMENTS

(1) A person who knowingly –

- (a) makes a statement to a taxation officer which is false or misleading in a material particular; or
- (b) omits from a statement made to a taxation officer any matter or thing without which the statement is misleading in a material particular,

is guilty of an offence and liable on conviction to –

- (c) where the statement or omission was made knowingly or repeatedly, a fine not exceeding fifty thousand rupees or to imprisonment for a term not exceeding one year, or both; or
- (d) in any other case, a fine not exceeding thirty thousand rupee or to imprisonment for a term not exceeding six months, or both

(2) A reference in this section to a statement made to a taxation officer a reference to a statement made orally, in writing, or in any other for to that officer acting in the performance of his duties under this Act, and includes a statement made –

- (a) in an application, certificate, declaration, notification, return, appeal, or other document made, prepared, given, filed or furnished under this Act; or
- (b) in information required to be furnished under this Act; or
- (c) in a document furnished to a taxation officer otherwise the pursuant to this Act; or
- (d) in answer to a question asked of a person by a taxation officer; or
- (e) to another person with the knowledge or reasonable expectation that the statement would be conveyed to a taxation officer.

50. OBSTRUCTING TAXATION OFFICERS

A person who obstructs the Commissioner or an authorized officer in the performance of his duties under this Act is guilty of an offence and liable on conviction to a fine not less than rupees five thousand and not exceeding rupees fifty thousand and imprisonment for a period not less than fifteen days and not exceeding one year.

51. OFFENCES BY COMPANIES

- (1) Where an offence under this Act has been committed by a company, every person who, at the time of the commission of the offence –
 - (a) was a nominated officer, director, general manager, secretary, or other similar officer of the company; or
 - (b) was acting or purporting to act in such capacity, is deemed to have committed the offence.
- (2) Sub-section (1) does not apply where –
 - (a) the offence was committed without such person's consent or knowledge; and
 - (b) the person exercised all due diligence to prevent the commission of the offence as ought to have been exercised having regard to the nature of the person's functions and all the circumstances.

52. COMPOUNDING OF OFFENCES

- (1) Where any person has committed an offence under this Act, the Commissioner may, on admission by such person in writing and upon his option for compounding at any time prior to the commencement of the court proceedings relating thereto, compound such offence and order the person to pay such sum of money as specified by the Commissioner, not exceeding the amount of the fine prescribed for the offence in addition to the tax due.
- (2) Where the Commissioner compounds an offence under this section, the order referred to in sub-section (1) –
 - (a) shall be in writing and specify the offence committed, the sum of money to be paid, and the due date for the payment;
 - (b) shall be served on the person who committed the offence; and
 - (c) shall be final and not subject to any appeal; and
 - (d) may be enforced in the same manner as a decree of a court for the payment of the amount stated in the order.
- (3) When the Commissioner compounds an offence under this section, the person concerned shall not be liable for prosecution in respect of such offence or for penal tax.

53. PENAL TAX FOR FAILURE TO REGISTER

A person who fails to apply for registration as required by sub-section (1) of Section 20 or sub-section (6) of Section 21 is liable for penal tax not exceeding double the amount of tax payable from the time the person becomes a taxable person until either the person files an application for registration with the Commissioner or the Commissioner registers the person under the provisions of sub-section (5) of Section 21.

54. PENAL TAX FOR FAILURE TO FILE RETURN

A person who fails to file a return within the time required under this Act is liable for penal tax on the tax payable for the period of the return at the rate of three per cent per month or part of the month the return is outstanding.

55. PENAL TAX FOR FAILURE TO PAY TAX WHEN DUE

- (1) A person who fails to pay tax on or before the due date is liable for penal tax on the unpaid tax at the rate of three per cent for each month or for part of a month the tax is outstanding.
- (2) If a person pays penal tax under sub-section (1) and the tax to which it relates is found not to have been due and payable by the person and/or is refunded, then so much of the penal tax as relates to the amount of the refund shall also be refunded to that person and when the tax is found not to have been due or payable the penal tax shall also be proportionately reduced.

56. PENALTY ON UNAUTHORISED COLLECTION OF TAX

Where a person collects tax in contravention of the provisions of Section 25 the Assessing Authority may, after giving such person reasonable opportunity of being heard, by order in writing, impose upon him by way of penalty a sum not exceeding one and half times such tax collected.

57. PENAL TAX IN RELATION TO RECORDS

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

58. PENAL TAX IN RELATION TO FALSE OR MISLEADING STATEMENTS

Where a person without reasonable cause,

- (a) makes a statement to a taxation officer that is false or misleading in a material particular; or
- (b) omits from a statement made to a taxation officer any matter or thing without which the statement is misleading in a material particular, and the tax properly payable by the person exceeds the tax that would be payable if the person were assessed on the basis that the statement is true.;

the person is liable for penal tax equal to double the amount of the excess.

59. REMISSION OF PENAL TAX

- (1) Where good and sufficient reason is shown, in writing, by the person liable for penal tax, the Commissioner may remit in whole or part any penal tax payable.
- (2) Subject to sub-section (3), the imposition of penal tax is in addition to any penalty imposed as a result of a conviction for an offence.
- (3) No penal tax is payable under Sections 51, 55, 56 where the person has been convicted of an offence under Sections 39, 44 or 46 respectively in respect of the same act or omission.
- (4) If penal tax under Sections 51, 55, 56 has been paid and the Commissioner institutes a prosecution proceeding under Section 39, 44 or 46 respectively in respect of the same act or omission, the Commissioner shall refund the amount of penal tax paid; and that penal tax shall not become payable unless and until the prosecution is withdrawn.
- (5) Penal tax is treated as tax for all purposes under this Act and is payable in addition to the tax payable or net tax payable as the case may be and is payable in and for the tax period to which it relates.

60. POWER TO SUMMON WITNESS AND PRODUCTION OF RECORDS ETC.

- (1) The Commissioner or the assessing, appellate or revising authority, for securing the attendance of any person or for production of any document for the purposes of this Act, shall have all powers conferred on a civil court under the provisions of the Civil Procedure Code, 1908 (Central Act 5 of 1908) for securing the attendance of witness or production of documents which include the powers to issue summons and to examine such persons on oath and affirmation.
- (2) No suit or other proceedings shall be entertained by any court except as expressly provided under this Act to set aside or modify any assessment or other proceedings made under this Act and no such court can question the validity of any assessment or levy of penalty or interest or shall grant any stay for the continuation of the proceedings under the Act or for recovery of any amount due under the Act.
- (3) No suit or other proceedings shall be instituted against the State Government or any officer of the State Government for anything done or purporting to be done under the provisions of the Act except with the previous permission of the State Government.

61. ROUNDING OFF THE TAX, ETC.

The amount of tax, penalty, interest, composition money, fine or any other sum payable, and the amount of set off or refund due under the provisions of this Act, shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee, and if such part is less than fifty paise, it shall be ignored:

Provided that, nothing in this section shall apply for the purpose of collection by a dealer of any amount by way of tax under this Act.

CHAPTER VIII

62. SPECIAL MODE OF RECOVERY

- (1) Notwithstanding anything contained in any law or contract to the contrary, the Commissioner may, at any time or from time to time, by notice in writing a copy of which shall be forwarded to the dealer or person at his last address known to the Commissioner, require-
- • (a) any person from whom any amount of money is due, or may become due, to a dealer or person on whom a notice has been served under sub-section (4) of section 30, or, who has admitted to any liability by filing a return or revised return but has not discharged such liability, or
 - (b) any person who holds or may subsequently hold money for or on account of such dealer or person,

to pay to the Commissioner, either forthwith upon the money becoming due or being held or at within the time specified in the notice (but not before the money becomes due or is held as aforesaid), so much of the money as is sufficient to pay the amount due by the dealer in respect of the arrears of tax, penalty, interest and sum forfeited under this Act, or the whole of the money when it is equal to or less than that amount.

Explanation _ For the purposes of this section, the amount of money due to a dealer from, or money held for or an account of a dealer, by any person, shall be calculated after deducting therefrom such claims (if any) lawfully subsisting, as may have fallen due for payment by such dealer to such person.

63. SPECIAL POWERS FOR RECOVERY OF TAX AS ARREARS OF LAND REVENUE

- (1) The State Government may, by general or special order published in the Official Gazette, authorise any officer not below the rank of a Sales Tax Officer, to exercise, for the purpose of effecting recovery of the amount of tax or penalty due from any dealer or person under the Act, the powers of a Collector under the Goa, Daman and Diu Land Revenue Code 1968 (Act No. 9 of 1969) to recover the dues as arrears of land revenue.

64. PROVISIONAL ATTACHMENT TO PROTECT REVENUE IN CERTAIN CASES

- (1) If during the course of inquiry in any proceedings including proceedings related to recovery of any amount due, in respect of any person or dealer or during any inspection or search in relation to the business of any person or dealer under this Act, the Commissioner is of the opinion that for the purpose of protecting the interests of the revenue it is necessary so to do, then he may, notwithstanding anything contained in any law for the time being in force or any contract to the contrary, attach provisionally by notice in writing any money due or which may become due to such person or dealer from any other person or any money which any person holds or may subsequently hold for or on account of such person or dealer:

Provided that, the Commissioner may, by an order, revoke such notice if the dealer furnishes, to the Commissioner, in such time, such security, for such period, as may be specified, in the said order.

- (2) Every such provisional attachment shall cease to have effect after the expiry of a period of one year from the date of service of the notice issued under sub-section (1):

Provided that, the Commissioner may for reasons to be recorded in writing, extend the aforesaid period by such further period or periods as he may think fit, so, however that the total period of extension shall not in any case exceed two years.

- (3) The powers under this section shall be exercised by the Commissioner himself or the Additional Commissioner having jurisdiction over the entire State.
- (4) Where a notice under sub-section (1) is served upon any person, provisionally attaching any money, then, such person shall be personally liable, so long as the attachment notice is not revoked or has not ceased to have effect, to pay to the Commissioner, the amount of money so attached.

65. LIABILITY UNDER THIS ACT TO BE THE FIRST CHARGE

Notwithstanding anything contained in any contract to the contrary but subject to any provision regarding creation of first charge in any Central Act for the time being in force, any amount of tax, penalty, interest, sum forfeited, fine or any other sum, payable by a dealer or any other person under this Act, shall be the first charge on the property of the dealer or, as the case may be, person.

66. TRANSFER TO DEFRAUD REVENUE VOID

- (1) Where, during the pendency of any proceeding under this Act or after the completion thereof, any dealer liable to pay tax or any other sum payable under this Act, the total amount of which exceeds Rs. Twenty five thousand creates a charge on, or parts with the possession by any mode of transfer whatsoever including sale, mortgage, gift or exchange of any of the assets of his business valued at Rs. Ten thousand or more in favour of any other person, then notwithstanding anything contained in any Act or contract to the contrary such charge or transfer shall be void as against any claim in respect of any tax or other sum payable by the dealer as a result of the completion of such proceeding or otherwise:

Provided that, such charge or transfer shall not be void if made for adequate consideration and without notice of the pendency of the proceeding.

- (2) Where any person liable to pay tax or other sum payable under this Act has, during the pendency of any proceeding under this Act or after completion thereof, created a charge on or parted with possession by any mode of transfer including sale, mortgage, gift or exchange of any of his assets in favour of any other person and the Commissioner is of the opinion that such charge or transfer becomes void under sub-section (1), then the Commissioner shall issue a notice and hold enquiry and decide whether the charge or transfer became void under sub-section (1).
- (3) If, after holding such enquiry the Commissioner comes to a conclusion that the charge or transfer is void, he shall make an order declaring such charge or transfer to be void for the purposes of this Act.

Explanation.--In this section, "assets" includes land, building, machinery, plant, shares, securities and fixed deposits in banks, to the extent to which

any of the assets aforesaid does not form part of the stock-in-trade of the business of the assessee.

CHAPTER IX

67. APPLICABILITY OF ALL THE PROVISIONS OF THIS ACT OR ANY EARLIER LAW TO PERSON LIABLE TO PAY TAX UNDER THIS ACT

Where in respect of any tax including any penalty, interest and amount forfeited due from a dealer or person under this Act or under any earlier law, any other person is liable for the payment thereof under section 42, all the relevant provisions of this Act or, as the case may be, of the earlier law, shall in respect of such liability apply to such person also, as if he were the dealer himself.

68. INSTRUCTIONS TO SUB-ORDINATE AUTHORITIES

- (1) The State Government and the Commissioner may from time to time, issue such orders, instructions and directions to all officers and persons employed in the execution of this Act as they may deem fit for the administration of this Act, and all such officers and persons shall observe and follow such orders, instructions and directions of the State Government and the Commissioner.
- (2) No such orders, instructions or directions shall be issued under sub-section (1) so as to interfere with the discretion of any Appellate Authority in the execution of its appellate functions.
- (3) Without prejudice to the generality of the foregoing power, the Commissioner, may on his own motion or on an application by a registered dealer liable to pay tax under this Act, if he considers it necessary or expedient so to do for the purpose of maintaining uniformity in the work of assessment and collection of revenue, clarify the rate of tax payable under this Act in respect of goods liable to tax under the Act, and all officers and such persons employed in execution of this Act shall observe and follow such clarification.

(4) No such application under sub-section (3) shall be entertained unless it is accompanied by proof of payment of such fee paid in such manner, as may be prescribed.

(5) All officers and persons employed in execution of this Act shall observe and follow such administrative instructions as may be issued to him for his guidance by the Addl. Commissioner or by the Asstt. Commissioner within whose jurisdiction he performs his functions.

CHAPTER X

69. ACCOUNTS TO BE A AUDITED IN CERTAIN CASES

(1) Every dealer liable to pay tax shall, —

- a. if his Gross turnover of sales exceed rupees one crore in any year, or in any other case,
- b. if the amount of set-off claimed by him in any year exceed or exceeds rupees five lakhs,

get his accounts in respect of such year audited by an accountant within six months from the end of that year and furnish within that period the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars and certificates as may be prescribed.

(2) For the purposes of this section, "Accountant" means a Chartered Accountant within the meaning of the Chartered Accountant's Act, 1949 or The Cost Accountant within the meaning of the Cost and Works Accountants Act, 1957 (23 of 1959).

(3) If any dealer liable to get his accounts audited under sub-section (1) fails to furnish a copy of such report within the time as aforesaid the Commissioner shall, after giving the dealer a reasonable opportunity of being heard, impose on him, in addition to any tax payable, a sum by way of penalty equal to one half percent of the total sales or a sum of rupees one lakh rupees whichever is less.

70. ASSESSMENT PROCEEDINGS ETC. NOT TO BE INVALID ON CERTAIN GROUNDS

(1) No return, assessment (including supervision, appeal and rectification), notice, summons or other proceedings furnished, made or issued or taken or purported to have been furnished, made or issued or taken in pursuance of any of the provisions of this Act shall be invalid or shall be deemed to be invalid merely by reason of any mistake, defect or

omission in such return, assessment, notice, summons or other proceedings, if such return, assessment, notice, summons or other proceedings are in substance and effect in conformity with or according to the intent, purposes and requirements of this Act.

- (2) The service of any notice, order or communication shall not be called in question if the said notice, order or communication, as the case may be, has already been acted upon by the dealer or person to whom it is issued or which service has not been called in question at or in the earliest proceedings commenced, continued or finalized pursuant to such notice, order or communication.
- (3) No order, including an order of assessment, supervision, revision or rectification passed under the provisions of this Act shall be invalid merely on the ground that the action could also have been taken by any other authority under any other provisions of this Act.

71. ACCOUNTS TO BE MAINTAINED BY DEALERS

- (1) Every person registered under this Act and every dealer or other person liable to get himself registered under this Act shall keep and maintain true and correct accounts and such other records, as may be prescribed, by the Commissioner by notification, in the principal place of business in the State.
- (2) The Commissioner may, subject to such conditions or restrictions as may be prescribed in this behalf, by notice in writing direct any dealer or by notification direct any class of dealers to maintain accounts and records showing the details regarding their purchases, sales or deliveries of goods in such form and in such manner as may be specified by him.

72. PRODUCTION AND INSPECTION OF ACCOUNTS AND DOCUMENTS AND SEARCH OF PREMISES

- (1) The Commissioner may, subject to such conditions as may be prescribed, require any dealer to produce before him any accounts or documents, or to furnish any information, relating to stocks of goods of, or to sale, purchase and delivery of goods or to payments made or received by the dealer, or any other information relating to his business, as may be necessary for the purposes of this Act.
- (2) All accounts, registers and documents relating to stocks of goods of, or to purchase, sale and delivery of goods, payments made or received by

any dealer and all goods and cash kept in any place of business of any dealer, shall at all reasonable time be open to inspection by the Commissioner, and the Commissioner may take or cause to be taken such copies or extracts of the said accounts, registers or documents and such inventory of the goods and cash found as appear to him necessary for the purposes of this Act.

- (3) If the Commissioner has reason to believe that any dealer has evaded or is attempting to evade the payment of any tax due from him, he may, for reasons to be recorded in writing, seize such accounts, registers or documents of the dealer as may be necessary, and shall grant a receipt for the same, and shall retain the same for so long as may be necessary in connection with any proceeding under this Act or for a prosecution, under any law.
- (4) For the purposes of sub-section (2) or sub-section (3), the Commissioner may enter and search any place of business of any dealer or any other place where the Commissioner has reason to believe that the dealer keeps or is for the time being keeping any account, registers or documents of his business or stocks of goods relating to his business.
- (5) Where any books of accounts, other documents, money or goods are found in the possession or control of any person in the course of any search, it shall be presumed, unless the contrary is proved, that such books of accounts, other documents, money or goods belong to such person.

73. CROSS - CHECKING OF TRANSACTIONS

- (1) With a view to preventing evasion of tax and ensuring proper compliance with the provisions of this Act, the Commissioner may from time to time collect information regarding sales and purchases effected by any class of dealers and cause any of such transactions of sale and purchase to be cross-checked.
- (2) For this purpose, the Commissioner may from time to time by notification in the Official Gazette require any class of dealers to furnish such information, details and particulars as may be specified therein regarding the transactions of sales and purchases effected by them during the period mentioned in the said notification to such authority and by such date as may be specified.
- (3) The Commissioner shall cause any of such transactions to be cross-checked by reference to the books of accounts of the purchasing and selling dealers. For this purpose, the Commissioner shall so far as he may, send an intimation in writing to the dealer whose books of

accounts are required to be verified for the purpose of cross-checking, stating therein the details of the transactions proposed to be cross-checked and the time and date on which any officer or person duly authorised to cross check the transaction will visit the place where the books of accounts are ordinarily kept by the dealer.

CHAPTER XI

74. SURVEY

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

75. AUTOMATION

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

76. POWER TO COLLECT STATISTICS

- (1) If the Commissioner considers that for the purposes of the better administration of this Act it is necessary so to do, he may by notification in the Official Gazette, direct that statistics be collected relating to any matter dealt with, by or in connection to this Act.

- (2) Upon such direction being made, the Commissioner or any person or persons authorised by him in this behalf may by notification in the, Official Gazette; and if found necessary by notice in any newspapers or in such other manner as in the opinion of the Commissioner or the said person, is best calculated to bring the notice to the attention of dealers and other person or persons, call upon all dealers or any class of dealers or persons to furnish such information or returns as may be stated therein relating to any matter in respect of which statistics are to be collected. The form in which, the persons to whom or, the authorities to which, such information or returns should be furnished, the particulars which they should contain, and the intervals in which such information or returns should be furnished, shall be such as may be prescribed.
- (3) Without prejudice to the generality of the foregoing provisions, the State Government may by rules provide that every registered dealer or, as the case may be, any class of registered dealer shall furnish, in addition to any other returns provided for elsewhere, an annual return in such form, by such date and to such authority as may be prescribed and different provisions may be made for different classes of registered dealers.

77. DISCLOSURE OF INFORMATION BY A PUBLIC SERVANT

- (1) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Act, or in any record of evidence given in the course of any proceedings under this Act (other than proceeding before a Criminal Court), or in any record of any assessment proceeding, or any proceeding relating to the recovery of a demand, prepared for the purposes of this Act shall, save as provided in sub-section (3), be treated as confidential; and notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall save as aforesaid, be entitled to require any servant of the Government to produce before it any such statement, return, account, document or record or any part thereof, or to give evidence before it in respect thereof.
- (2) If, save as provided in sub-section (3), any servant of the Government discloses any of the particulars referred to in sub-section (1), he shall, on conviction, be punished with imprisonment which may extend to six months or with fine or with both:

Provided that no prosecution shall be instituted under this section except with the previous sanction of the State Government.

- (3) Nothing contained in this section shall apply to the disclosure-

- (a) of any such particulars in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition, for the purpose of any prosecution under the Indian Penal Code or the Prevention of Corruption Act, 1947, or this Act, or any other law for the time being in force or
- (b) of any such particulars to the State Government or to any person acting in the execution of this Act or to any person for the purposes of this Act; or
- (c) of any such particulars when such disclosure is occasioned by the lawful employment under this Act of any process for the service of any notice or the recovery of any demand; or
- (d) of any such particulars to a Civil Court in any suit, to which the Government is a party, which relates to any matter arising out of any proceeding under this Act; or
- (e) of any such particulars to any officer appointed to audit receipts or refunds of the tax imposed by this Act; or
- (f) of any such particulars where such particulars are relevant to any inquiry into the conduct of an official of the Sales Tax Department to any person or persons appointed as Commissioner under the Public Servants (Inquiries) Act, 1850, or to any officer otherwise appointed to hold such inquiry or to a Public Service Commission established under the Constitution when exercising its functions in relation to any matter arising out of such inquiry; or
- (g) of such facts to an officer of the Central Government or any State Government as may be necessary for the purpose of enabling that Government to levy or realise any tax or duty imposed by it; or
- (h) of any such particulars, when such disclosure is occasioned by the lawful exercise by a public servant of his powers under the Bombay Stamp Act, 1958 or the Indian Stamp Act, 1899, to impound an insufficiently stamped document; or
- (i) of any such particulars where such particulars are relevant to any inquiry into a charge of misconduct in connection with sales tax proceedings against a legal practitioner, sales tax practitioner or Chartered Accountant, Cost Accountant, to the authority, if any, empowered to take disciplinary action against members practising the profession of a legal practitioner, sales tax practitioner or Chartered Accountant, Cost Accountant, as the case may be; or

- (j) of any such particulars to the Director, Bureau of Economics and Statistics or any officer serving under him or to any person or persons authorised under sub-section (2) of section 64 as may be necessary for enabling the Director or such person or persons to carry on their official duties.
- (k) of any such particulars to an officer of the Central Government or any State Government as may be necessary for the administration of any law in force in any part or the whole of India.

78. DISCLOSURE OF INFORMATION REQUIRED UNDER SECTION 77 AND FAILURE TO FURNISH INFORMATION OR RETURN UNDER THAT SECTION

- (1) No information of any individual return or part thereof, with respect to any matter given for the purposes of section 77 shall without the previous consent in writing of the owner for the time being or his authorised agent be published in such manner as to enable any particulars to be identified as referring to a particular dealer and no such information shall be used for the purpose of any proceedings under the provisions of this Act.
- (2) Except for the purposes of prosecution under this Act or any other Act, no person who is not engaged in the collection of statistics under this Act or of compilation or computerisation thereof for the purposes of administration of this Act, shall be permitted to see or have access to any information or any individual return referred to in that section.
- (3) If any person required to furnish any information or return under section 76:
 - (a) willfully refuses or without lawful excuse neglects to furnish such information or return as may be by that section be required, or
 - (b) willfully furnishes or causes to be furnished any information or return which he knows to be incorrect or false.

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

- (4) If any person engaged in connection with the collection of statistics under section 76 or compilations or computerisation thereof willfully discloses any information or the contents of any return given or made under that section, otherwise than in execution of his duties under that

section or for the purposes of the prosecution of an offence under this Act or under any other Act, he shall on conviction be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

- (5) Nothing in this section will apply to publication of any information relating to a class of dealers or class of transactions, if in the opinion of the Commissioner, it is desirable in the public interest, to publish such information.

79. PUBLICATION AND DISCLOSURE OF INFORMATION REGARDING DEALERS AND OTHER PERSONS IN PUBLIC INTEREST

- (1) Notwithstanding anything contained in section 66 and 61, if the State Government is of the opinion that it is necessary or expedient in the public interest to publish or disclose the names of any dealers or other persons and any other particulars relating to any proceedings under this Act in respect of such dealers and persons, it may publish or disclose or cause to be published or disclosed such names and particulars in such manner as it thinks fit.
- (2) No publication or disclosure under this section shall be made in relation to any tax levied or penalty imposed or interest levied or any conviction for any offence connected with any proceeding under this Act, until the time for presenting an appeal to the appropriate appellate authority has expired without an appeal having been presented or the appeal, if presented has been disposed of.

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

CHAPTER XII

80. APPEARANCE BEFORE ANY AUTHORITY IN PROCEEDINGS

- (1) Any person, who is entitled or required to attend before any authority including the Tribunal in connection with any proceeding under this Act, may attend—
- a. by a relative or a person regularly employed by him, or
 - b. by a legal practitioner, or Chartered Accountant who is not disqualified by or under sub-section (2), or
 - c. by a sales tax practitioner who possesses the prescribed qualifications and is entered in the list which the Commissioner shall maintain in that behalf, and who is not disqualified by or under sub-section (2).
 - d. any person who, immediately before the commencement of this Act was a sales tax practitioner under any earlier law

only if such relative, person employed, legal practitioner, Chartered Accountant, or sales tax practitioner is authorised by such person in the prescribed form, and such authorisation may include the authority to act on behalf of such person in such proceedings.

- (2) The Commissioner may by order in writing and for reasons to be recorded therein disqualify for such period as is stated in the order from attending before any such authority, any legal practitioner, Chartered Accountant, or sales tax practitioner—

- • • (i) who has been removed or dismissed from Government service, or
- (ii) who being a sales tax practitioner, a legal practitioner or a Chartered Accountant, Cost Accountant is found guilty of misconduct in connection with any proceedings under this Act by the Commissioner or by an authority, if any, empowered to take disciplinary action against the member of the profession to which he belongs

- (3) No order of disqualification shall be made in respect of any particular person unless he is given a reasonable opportunity of being heard.

- (4) Any person against whom any order of disqualification is made under this section may within one month of the date of communication of such order appeal to the Tribunal to have the order cancelled or modified.
- (5) The order of the Commissioner shall not take effect until one month of the making thereof or when an appeal is preferred until the appeal is decided.
- (6) The Commissioner may, at any time suo motu or on an application made to him in this behalf, revoke or modify any order made against an person under sub-section (2) and thereupon such person shall cease to be disqualified subject to such conditions or restrictions that may be contained in such order.

81. POWER TO MAKE RULES

- (1) The power to make rules under this Act Shall be exercisable by the State Government by notification in the Official Gazette.
- (2) Without prejudice to any power to make rules contained elsewhere in this Act, the State Government may make rules generally to carry out the purposes of this Act ; and such rules may include rules for levy of fees for any of the purposes of this Act.
- (3) In making any rules the State Government may direct that a breach thereof shall be punishable with fine not exceeding five thousand rupees, and when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the continuance of the offence.
- (4) Every rule made under this section shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made and notify such decision in the Official Gazette, the rule shall from the date of publication of such notification have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

82. DECLARATION OF STOCK OF GOODS HELD ON THE APPOINTED DAY

The Commissioner may by notification in the Official Gazette require that any class of registered dealers as may be specified in the notification declare such details regarding the stock of goods held by them on the day immediately preceding the appointed day in such manner and with such particulars and to such authority, as he may notify in this behalf.

83. BAR TO CERTAIN PROCEEDINGS

- (1) No order passed or proceedings taken under this Act, the rules or notification by any authority appointed or constituted under this Act, shall be called in question in any Court, and save as is provided by sections 34, 35 or 36, no appeal shall lie against any such order.
- (2) No appeal shall lie against ____
 - (i) any notice issued under this Act, rules or notifications or
 - (ii) any order issued on an application for installment,
 - (iii) an order pertaining to the seizure or retention of books of accounts, registers and other documents, or,
 - (iv) an order sanctioning prosecution under this Act, or

84. REPEALS

The following laws are hereby repealed:-

- i. The Goa Sales Tax Act, 1964, is hereby repealed.

85. SAVINGS

- (1) Notwithstanding the repeal by section 82 of any of the law referred to therein, —
 - a. those laws (including any earlier law continued in force under any provisions thereof), and all rules, regulations, orders, notifications, forms, certificates and notices issued under those laws and in force immediately before the appointed day shall subject to the other provisions of this Act, in so much as they apply, continue to have effect for the purposes of the levy, assessment, reassessment, appeal, revision, rectification, reference, payment and recovery,

collection, refund or set off of any tax, exemption from payment of tax, the imposition of any penalty, or of interest or forfeiture of any sum which levy, assessment, reassessment, appeal, revision, rectification, reference, payment and recovery, collection, refund, set off, exemption, penalty, interest or forfeiture of any sum relates to any period ending before the appointed day, or for any other purpose whatsoever connected with or incidental to any of the purposes aforesaid and whether or not the tax, penalty, interest or sum forfeited, if any, in relation to such proceedings is paid before or after the appointed day.

- b. (i) any registration certificate issued under the Goa Sales Tax Act, 1964, in so far as the liability to tax under sub-section (1) of section 3 of this Act exists, be deemed to be the certificate of registration issued under this Act, and accordingly the dealer holding such registration certificate immediately before the appointed day, shall until the certificate is duly cancelled, be deemed to be a dealer liable to pay tax under this Act and to be a registered dealer under this Act and all the provisions of this Act will apply to him as they apply to a dealer liable to pay tax under this Act.
- (ii) any certificate of registration issued to any dealer and valid on the day immediately preceding the appointed day, issued under the Goa Sales Tax Act, 1964, shall notwithstanding that the dealer is not liable to pay tax under section 3 of this Act be deemed to be the certificate of registration issued under this Act until it is duly cancelled in accordance with the provisions of this Act and such dealer shall continue to be liable to pay tax under this Act and be deemed to be a registered dealer till such cancellation and all the provisions of this Act will apply to him as they apply to a dealer liable to pay tax under this Act.

86. CONSTRUCTION OF REFERENCES IN ANY REPEALED LAW TO OFFICERS, AUTHORITIES, ETC.

Any reference in any provision of any law now repealed by this Act to an officer, authority or Tribunal shall for the purpose of carrying into effect the provisions contained in section 81 be construed as reference to the corresponding officer, authority or Tribunal appointed or constituted by or under this Act; and if any question arises as to who such corresponding officer, authority or Tribunal is, the decision of the State Government thereon shall be final.

87. REMOVAL OF DIFFICULTIES

If any difficulty arises in giving effect to the provisions of this Act, including the provisions contained in section 81, the State Government may by general or special order, do anything not inconsistent with such provisions which appears to it to be necessary or expedient for the purpose of removing the difficulty. In particular and without prejudice to the generality of the foregoing power any such order may provide for the adaptations or modifications subject to which any earlier law shall apply in relation to the proceedings in respect of the year ending on the 31st day of March of the year preceding year in which this Act is enforced:

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

SCHEDULE : 'A'

SCHEDULE: 'B'

SCHEDULE: 'C'

SCHEDULE: 'D'

SCHEDULE: 'E'

SCHEDULE : 'F' TAX INVOICES, CREDIT NOTES, AND DEBIT NOTES

- (1) A tax invoice as required under this Act shall, unless the Commissioner provides otherwise, contain the following particulars:
 - (a) the words "tax invoice" written in a prominent place;
 - (b) the commercial name, address, place of business, and the taxpayer identification number of the taxable person making the supply;
 - (c) the commercial name, address, place of business, and the taxpayer identification number of the recipient of the taxable supply;
 - (d) the individualized serial number and the date on which the tax invoice is issued;
 - (e) a description of the goods of service supplied and the date on which the supply is made;
 - (f) the quantity or volume and the unit price of the goods supplied; and
 - (g) the rate and total amount of the tax charged, the consideration for the supply exclusive of tax and the consideration inclusive of tax.

- (2) A credit note as required under this Act shall, unless the Commissioner provides otherwise, contain the following particulars:
- (a) the words “credit note” in a prominent place;
 - (b) the commercial name, address, place of business, and the taxpayer identification number of the taxable person making the supply;
 - © the commercial name, address, place of business, and the taxpayer identification number of the recipient of the taxable supply;
 - (d) the date on which the credit note was issued;
 - (e) the taxable value of the supply shown on the tax invoice, the correct amount of the taxable value of the supply, the difference between those two amounts, and the tax charged that relates to that difference;
 - (f) a brief explanation of the circumstances giving rise to the issuing of the credit note; and
 - (g) information sufficient to identify the taxable supply to which the credit note relates.
- (3) A debit note as required under this Act shall, unless the Commissioner provides otherwise, contain the following particulars:
- (a) the words “debit note” in a prominent place;
 - (b) the commercial name, address, place of business, and the taxpayer identification number of the taxable person making the supply;
 - (c) the commercial name, address, place of business, and the taxpayer identification number of the recipient of the taxable supply;
 - (d) the date on which the debit note was issued;
 - (e) the taxable value of the supply shown on the tax invoice, the correct amount of the taxable value of the supply, the difference between those two amounts, and the tax charged that relates to that difference;
 - (f) a brief explanation of the circumstances giving rise to the issuing of the debit note; and
 - (g) information sufficient to identify the taxable supply to which the debit note relates.
