

The 6th January, 2006

No. LL(B). 45/2001/42- The Meghalaya Tax (On Luxuries) Act, 2005 (Act No. 1 of 2005) is hereby published for general information.

MEGHALAYA ACT NO. 1 OF 2005.

As passed by the Meghalaya Legislative Assembly.

Received the assent of the Governor on the 4th January, 2005

Published in the Gazette of Meghalaya Extra-Ordinary issued dated 8th January, 2005.

THE MEGHALAYA TAX (ON LUXURIES) ACT, 2005

An

Act

To provided of tax on luxuries. Whereas, it is expedient to provide for the imposition of tax on luxuries and for matters connected therewith.

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

- | | | |
|---|----------|---|
| Short title, extent and commencement | 1 | (1) This Act may be called the Meghalaya Tax (On Luxuries) Act, 2004

(2) It extends to the whole of Meghalaya.

(3) It shall come into force on such date as the State Government may, by notification, appoint. |
| Definitions | 2 | In this Act, unless there is anything repugnant in the subject or context-

(a) "Act" means the Meghalaya Tax (On Luxuries) Act, 2004,

(b) "Licence Stockist" means a stockist to whom a licence has been granted under sub-section (4) of Section 6;

(c) "Luxuries" means the commodities, specified in the Schedule, for enjoyment over and above the necessary of life;

(d) "Notification" means notification published in the Official Gazette;

(e) "Prescribed" means prescribed by Rules made under this Act; |

- (f) "Prescribed Authority" means the Commissioner of Taxes appointed under sub-section (1) of Section 8 of the Meghalaya Sales Tax Act (Assam Act XVII of 1947 as adapted by Meghalaya);
- (g) "Schedule" means the Schedule appended to this Act;
- (h) "State Government" means the Government of the State of Meghalaya;
- (i) "Stock of luxuries" means the quantity of luxuries received by a stockist;
- (j) "Stockist" means a person who has in customary course of business, in his possession of, or control over, a stock of luxuries, whether manufactured, made or possessed by him in Meghalaya or brought by him into Meghalaya either on his own account or on account of others, from any place outside Meghalaya;
- (k) "Tax" means the tax payable under this Act;
- (l) "Turnover of stock of luxuries" in relation to a stockist in respect of any period as prescribed or part thereof, means the aggregate of the value of stock of luxuries;
- (m) "Value of Stock of Luxuries" means-
 - i) In respect of any Stockist a manufacturer of any of the luxuries, the value of such luxuries calculated at the ex-factory price at the time of receipt of entry thereof in his stock and the amount of excise duty and of transport and insurance charges if any paid or payable by him;
 - ii) In respect of any stockist being an importer of any of the luxuries, the value of such luxuries calculated at the price thereof as per consignor's bill, invoice or consignment note or other document of like nature and shall include-
 - (ia) excise duty and central sales tax, if any, paid or payable on such luxuries by the manufacturer or importer thereof as the case may be; and
 - (ib) transport charges and insurance charges if any for carrying such luxuries to any premises, godown, warehouse or any other place for delivery to a wholesaler, dealer, retailer, distributor or any other person, and

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(n) “Year” means the year commencing on the first day of April and ending on the 31st day of March.

Taxing Authority

- 3** (1) The State Government shall appoint the Prescribed Authority and such other persons as appointed under sub-section (1) of Section 8 of the Meghalaya Sales Tax Act, (Assam Act XVII of 1947 as adapted by Meghalaya) to assist the Prescribed Authority for carrying out the purpose of this Act with area or areas as specified under the said Act over which such persons have been exercising jurisdiction.
- (2) Persons appointed under sub-section (1) shall exercise such powers as may be conferred and such duties as may required by or under this Act.
- (3) The Prescribed Authority and the persons appointed under sub-section (1) shall be deemed to the public servants within the meaning of Section 21 of Indian Penal Code.
- (4) Subject to such conditions and restrictions as may be prescribed, the Prescribed Authority may, by order in writing, delegate any of its powers and duties under this Act.
- (5) No suit, prosecution or other proceedings shall lie against the Prescribed Authorities or the persons appointed under sub-section (1) for anything which is in good faith done or intended to be done under this Act or the Rules made there under.

Incidence of Tax

- 4** Every stockist shall be liable to pay on his turnover of stock of luxuries of such rate, not exceeding twenty percentum, as the State Government may, by notification fix in this behalf and different rates may be fixed for different class or classes of luxuries.

Levy of Tax

- 5** The tax payable by a stockist under this Act shall be levied on his turnover of stock of luxuries during any period as prescribed.

Licence

- 6** (1) No Stockist shall, while being liable to pay luxuries tax under Section 4, hold any stock of luxuries in any premises, godown, warehouse or any other place in Meghalaya unless he obtains, on application, a licence in the prescribed form.
- (2) If a stockist fails to obtain a licence under sub-section:-

- (1) Within the period of one month of the commencement of this Act, or within a period of seven days from the date of his liability under Section 4, whichever is later, the Prescribed Authority may, after giving him reasonable opportunity of being heard, impose, by way of penalty a sum being not less than five thousand rupees and not more than ten thousand rupees for each month of delay in obtaining the licence and direct the stockist by a notice to pay the amount of such penalty into a Government Treasury within the date specified in the notice:

Provided that no penalty under this sub-section shall be imposed in respect of the same fact for which a prosecution has been instituted and no prosecution would lie vice-versa.

- (3) Every stockist required to obtain a licence under sub-section (1) shall make an application in this behalf in the prescribed manner to the prescribed Authority.
- (4) If the Prescribed Authority is satisfied that the application for licence is in order, it shall subject to such conditions and restrictions and in such manner as may be prescribed, grant the applicant a licence in the prescribed form.
- (5) Where a stockist makes an application for licence under sub-section (3) within the period referred to in sub-section (2) such stockist shall be deemed to have completed with the provisions of sub-section (1) of this application.
- (6) Where a licence has been granted to a stockist under sub-section (4) the Prescribed Authority may, if in its opinion it is necessary or expedient so to do for the proper realisation of recovery of the tax under this Act, at any time while such licence is in force, by an order in writing and for reasons to be recorded therein, require the stockist to furnish within such period and in such manner as may be prescribed, a security for the payment of the tax payable by him under this Act;

Provided that no order shall be passed under this sub-section without giving the stockist an opportunity of being heard.

- (7) The Prescribed Authority may, on application or otherwise, from time to time, amend the licence of a stockist.

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- (8) Where the liability of stockist to whom a licence has been granted under sub-section (4) to pay the tax under this Act has ceased, such licence may, on application by him, be cancelled by the Prescribed Authority in the manner as may be prescribed.
- (9) A licence granted to a stockist under sub-section (4) may be cancelled by the Prescribed Authority after due notice to such stockist if it is satisfied that he has failed to pay the tax, penalty or interest payable under this Act or to furnish the security under sub-section (6);

Provided that the licence so cancelled may be restored if the stockist to whom the licence was granted pays the arrears tax, penalty and interest and furnished a receipt challan therefore;

Returns and Payment of tax.

- 7 (1) Every licensed stockist shall furnish returns of turnover of stock of luxuries to the Prescribed Authority, in such manner, for such period or periods and by such date or date or dates as may be prescribed.
- (2) Before any licensed stockist furnishes the returns under sub-section (1) he shall in the prescribed manner, pay into a Government Treasury the full amount of tax due from him under this Act according to such returns and shall furnish along with each such returns a receipt from such Treasury, showing the payment of such amount.

Interest

- 8 (1) If the amount of tax payable under Section 5 in respect of any periods not paid by the Stockist referred to in Section 7 by the date prescribed under that Section, such stockist shall pay a simple interest at the rate of two per centum for each English Calendar month of default from the first day of such month next following the date as prescribed to the last day of the month prior to the month in which such tax is fully paid or unto the month prior to the month of assessment under Section 9 in respect of such period, whichever is earlier, often so much of the amount of tax payable by him according to the return, where return is furnished, or according to such assessment where return is not furnished, as remains unpaid at the end of each such month of default.
- (2) Where a stockist fails to make payment of any tax payable after assessment made under sub-section (1) of this Section by the date specified in the notice issued under Section 9 for payment thereof, he shall pay a simple interest at the

rate of two per centum for each English Calendar month of default from the first day of such month next following the date specified in such notice to the last day of the month prior to the month of full payment of such tax, or up to the month prior to the month of commencement of proceedings under sub-section (10) of Section 9, whichever is earlier, upon so much of the amount of tax due from him according to such notice as remain unpaid at the end of each such month of default.

- (3) Where as a result of an order under Section 14, the amount of tax on which interest was payable this Section is modified, the interest shall be payable on the modified amount.
- (4) A stockist liable to pay interest under sub-section (1) or sub-section (2) shall pay into a Government Treasury the amount of such interest in such manner and by such date or dates as may be prescribed.
- (5) Notwithstanding anything contained in sub-section (1) or sub-section (2), no interest shall be payable in such cases or under such circumstances, and subject to such conditions, if any, as may be prescribed.
- (6) The State Government shall in the prescribed manner, pay a simple interest at the rate of two per centum for each English Calendar month of delay in making refund of luxury tax paid in excess which arises out of an order passed under Section 4, from the first day of such manner next following the expiry of three months from the date of passing of such order to the last day of the month prior to the month in which the refund is made upon the amount of tax refundable to him according to such order.
- (7) In calculating the interest payable under this Section, the amount of tax in respect of which such interest is to be calculated shall be rounded off to the nearest multiple of one hundred and for this purpose, where such amount contains as part of one hundred rupees. If such part is fifty rupees or more, it shall be increased to one hundred rupees and if such part is less than fifty rupees, it shall be ignored.

**Assessment of tax,
imposition of
penalty and
determination of
interest.**

- 9** (1) If no return is furnished a licence stockist in respect of any period by the prescribed date, or if the Prescribed Authority is not satisfied that the return furnished is correct and complete, the Prescribed Authority shall proceed in such manner as may be prescribed to assess to the best of

its judgement the amount of tax from the licensed stockist in respect of a year comprising all such periods and in making such assessment, shall give the licensed stockist a reasonable opportunity of being heard and in the case of failure by a licensed stockist to submit in respect of any period a return accompanied by a receipt from a Government Treasury as required under Section 7 by the prescribed date, the Prescribed Authority may, if he is satisfied that the default was made without reasonable cause for such period, direct that the licensed shall pay, by way of penalty, in addition to the amount of tax so assessed in respect of such period, a sum not exceeding that amount.;

Provided that no penalty under this sub-section shall be directed to be paid in respect of the fact for which a prosecution under clause (c) of sub-section (1) of Section 17 has been instituted and no prosecution would be vice versa.

- (2) If, upon information, the Prescribed Authority is satisfied that any stockist who has been liable to pay under Section 4 has failed to obtain licence, or has not been granted licence, the Prescribed Authority shall proceed in such manner as may be prescribed to assess to the best of its judgement the amount of tax due from such stockist in respect of any period or part thereof during which such stockist has either failed to obtain licence, or has been granted licence, after giving him a reasonable opportunity of being heard.
- (3) No assessment under sub-section (1) shall be made after the expiry of two years, and no assessment under sub-section (2) shall be made after expiry of six years, from the end of the year in respect of which or part of which the assessment is made.
- (4) In computing the period limited by sub-section (3) for making any assessment under sub-section (1) or sub-section (2), the period during which the Prescribed Authority is restrained from commencing or continuing any proceeding for such assessment by an order of any Court shall be excluded.
- (5) Where the Prescribed Authority is satisfied that a stockist is liable to pay interest under Section 8, it shall, in such manner as may be prescribed, determine the amount of interest payable by such stockist and if, on such determina-

tion, any additional amount is found to be payable by the stockist or any excess amount is found to be refundable to the stockist, the Prescribed Authority shall issue a notice, in the prescribed manner, to such stockist directing him to pay such additional amount or informing him of the amount of excess payment, as the case may be.

- (6) No determination under sub-section (5) of the interest payable under sub-section (1) of Section 8 shall be made after the expiry of one year from the date of assessment of tax under sub-section (1) in respect of period for which such determination is made.
- (7) Where there is an apparent mistake in the determination of interest under sub-section (5), the Prescribed Authority may; on its own motion or upon application made by a stockist, within six months from the date of determination rectify the amount of interest payable by such stockist and issue a fresh notice in the prescribed manner.
- (8) The amount of tax due from a stockist upon assessment made under sub-section (1) or sub-section (2), as the case may be, shall together with any penalty directed to be paid under sub-section (1), be paid by the stockist into a Government Treasury by such date as may be specified in a notice by the Prescribed Authority for this purpose and the due date to be so specified shall not ordinarily be less than thirty days from the date of service of such notice.
- (9) The amount of interest that may become due from a stockist upon determination under sub-section (5) shall be paid by the stockist into a Government Treasury by such date as may be specified in the notice issued under the sub-section by the Prescribed Authority and the date to be so specified shall not ordinarily be less than thirty days from the date of service of such notice.
- (10) Any amount of tax, penalty or interest which remain unpaid after the date specified in the notice under sub-section (8) or sub-section (9) shall be recoverable as an arrear of land revenue, as if it were payable to the Collector.

Refund

- 10** The prescribed Authority shall, in the prescribed manner, refund to a stockist any amount of tax, penalty or interest paid by such stockist in excess of the amount due from him under this Act, either by cash payment or by deduction from or adjustment in the amount of tax, penalty or interest due in respect of any other period.

Accounts

11 Every stockist shall maintain and keep true and up-to-date account of the quantity and value of luxuries held in stock by him and vended, supplied or distributed by him during the period as prescribed and also keep documents in support of other charges, duties and tax paid or payable by him, and if the Prescribed Authority considers that such account is not sufficiently clear or intelligible to enable him to make a proper check of the return referred to in section 7, he may require such stockist to keep such accounts as he may direct.

Production and inspection of accounts and search of premises.

12 (1) The Prescribed Authority may, subject to such conditions as may be prescribed, require any person-

(a) To produce any accounts, registers of documents before it and explain them;

(b) To furnish any information in relation to manufacture, import, use or sale and stock of luxuries and relating to any other matter, as may be deemed necessary for the purposes of this Act.

(2) All accounts, registers and documents and luxuries kept in any place of business of a stock shall, at all reasonable times, be open to inspection by the Prescribed Authority.

(3) If the Prescribed Authority, or any person appointed under sub-section (1) of Section 3 to assist it, has reason to suspect that any stockist is attempting to evade payment of tax, he may enter into and search any place of business and for reasons to be recorded in writing, seize such accounts, registers or documents of the stockist as may be necessary, for determination of liability to pay tax by such stockist or for assessment of such tax or for determination of interest or for any other purposes as may be required by or under this Act,

(4) The Prescribed Authority, or any person appointed under sub-section (1) of Section 3 shall grant a receipt for any accounts, registers or documents seized by him and shall retain any of such accounts, registers or documents only for period as may be necessary for examination thereof or for prosecution or for any other purpose of this Act:

Provided that no accounts, registers or documents seized by the Prescribed Authority, shall be retained for any period exceeding one year from the date of seizure unless such Authority records, in writing, reasons therefore, but where seizure is made by any person appointed under sub

-section (1) of section 3 to assist the Prescribed Authority, such person shall not retain any of the accounts, registers or documents seized by him under sub-section (3) for any period exceeding one year from the date of seizure unless he records, in writing, the reasons for further retention and obtains sanction of the Commissioner in writing in this behalf.

Search and seizure

- 13** (1) If the Prescribed Authority, or any person appointed under sub-section (1) of Section 3 to assist him has reasons to believe that a person is holding a stock of any of the luxuries manufactured by him in Meghalaya or brought by him into Meghalaya from any place outside Meghalaya in any premises and that he is attempting to evade payment of tax, such Authority, or the person appointed under sub-section (1) of Section 3 to assist it may, subject to such conditions and restrictions as may be prescribed enter into such premises and conduct search therein and seize such luxuries to secure payment of tax that may become payable on assessment under Section 9.
- (2) While making seizure the Prescribed Authority or the person who seizes luxuries, shall grant a receipt thereof in the prescribed manner;
 Provided that when the Prescribed Authority, or the person appointed under sub-section (1) of Section 3 to assist it, thinks it necessary not to seize such luxuries for the time being, he shall seal in the prescribed manner any room, godown or warehouse on any container found within such premises.
- (3) Until the amount of tax that may be assessed under sub-section (2) of Section 9 is paid together with penalty, if any, what may be directed to be paid under sub-section (2) of Section 6 the luxuries so seized shall be retained;
 Provided that where a stockist furnished a security or bank guarantee to secure payment of the tax pending determination of such tax under sub-section (2) of Section 9. The luxuries so seized shall be retained.
- (4) If a stockist fails to pay the amount of tax as may become payable under Section 5 or due from him under section 9 and penalty payable under sub-section (2) of Section 6 if any within such period as may be prescribed the luxuries so seized shall subject to such condition and restrictions and in such manner as may be prescribed be sold in open auction or otherwise by the Prescribed Authority, and the sale proceeds thereof shall be remitted to a Government Treasury after deducting there from the incidental expenses if any:

- (5) The amount of tax due from a stockist after assessment under section 9 together with penalty, if any that may be directed to be paid under sub-section (2) of Section 6 shall be recovered out of the sale proceeds of the luxuries sold under sub-section (4) and the balance amount of the sale proceeds if any shall be refunded to such stockist in the prescribed manner on application made by him within the period as prescribed.

Appeal, Revision, and Review. 14

- (1) Any stockist may in the prescribed manner appeal to such Authority as may be prescribed hereinafter referred to as the Appellate Authority, against any order of assessment determination of interest, or imposition of penalty under Section 9 within such time as may be prescribed.

Provided that no appeal shall be entertained by the Appellate Authority unless it is satisfied that such amount of tax, interest or penalty, as the case may be, as the appellate may admit to be due from him has been paid.

- (2) Subject to such rules of procedure as may be prescribed and for reasons to be recorded in writing, the Appellate Authority of any appeal under sub-section (1) may be order-
- (a) Confirm, set aside or annul the assessment; or
 - (b) Reduce or enhance the amount of tax, or
 - (c) Modify any order pertaining to interest or penalty.
- (3) Subject to such rules as may be prescribed and for reasons to be recorded in writing-
- (a) The Prescribed Authority may, on its own motion, revise any assessment made or order passed by a person appointed under sub-section (1) of Section 3 to assist it;
 - (b) The Prescribed Authority may, upon application, revise any order, other than an order referred to in clause (c) and an order against which an appeal lies under sub-section (1) passed by a person appointed under sub-section (1) of Section 3 to assist it.
 - (c) The Board may, upon application, revise a final appellate or revisional order from an order of assessment of tax, determination of interest or imposition of penalty, under Section 9.
- (4) Subject to such rules as may be prescribed and for reason to be recorded in writing-
- (a) Any order of assessment or other order passed under this Act or the rules made there under by the Prescribed Authority or any person appointed under sub-section (1)

of Section 3 to assist it, may be reviewed by it or the person passing such order, upon application or of its or his own motion, and

(b) The Board may review any order passed by it, either on its own motion or on application.

(5) Before any order is passed under this section, any person who is likely to be affected thereby adversely shall be given a reasonable opportunity of being heard.

Bar to certain proceedings

15 No assessment made and no order passed under this Act or the Rule made there under by the Prescribed Authority, or any person appointed under sub-section (1) of Section 3 to assist it and no order passed under this Act or the rules made there under shall be called in question in any civil court, and save as otherwise in section 14, no appeal or application for revision or review shall lie against any such assessment or order.

Power to take Evidence

16 The Board, the Prescribed Authority or any person appointed under sub-section (1) of Section 3 to assist the Prescribed Authority shall, for the purpose of this Act, have the power as are vested in a court under the Court of Civil Procedure, 1908, (Central Act 5 of 1908) when trying a suit, in respect of the following matters, namely:-

- (a) Enforcing the attendance of any person and examining him on oath or affirmation;
- (b) Compelling the production of documents; and
- (c) Issuing commissions for the examination of witness; and any proceeding under this Act before the Board, the Prescribed Authority or any person appointed under sub-section (1) of Section 3 to assist the Commissioner shall be deemed to be a judicial proceeding within the meaning of Section 193 and Section 228 and for the purpose of Section 196 of the Indian Penal Code (Central Act 45 of 1860).

Offences, penalties and prosecution.

17 (1) Whoever-

- (a) Fails to furnish the security demanded under sub-section (6) of Section 6;
- (b) Fails to pay the full amount of tax payable for any period in accordance with the provisions of Section 7;
- (c) Fails without reasonable cause to furnish return under Section 7;
- (d) Submit false return;
- (e) Fails to make payment of interest payable under sub-section (1) of Section 8;
- (f) Fails to comply with provision of Section 11; or

- (g) Refuses to comply with any requirements under sub-section (1) of Section 12; shall be punishable with simple imprisonment which may extend to six months or with fine or with both and when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the period of continuance of the offence.
- (2) Whoever holds a stock of luxuries in contravention of the provisions of sub-section (1) of Section 6 shall be punishable with imprisonment which may extend to one year or with minimum fine of fine thousand rupees or with both and when offence is a continuing one, with a daily fine not exceeding one hundred rupees during the period of continuance of the offence.
- (3) Whoever obstructs the Prescribed Authority or any person appointed under sub-section (1) of Section 3 to assist it making inspection, search or seizure under Section 12 or Section 13, shall be punishable with imprisonment of either description for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.
- (4) Whoever abets any of the offences referred to in sub-section (2) or sub-section (3) shall, if the act abetted is committed in consequence of the abetment, be punished with the punishment provided for the offence.
- (5) In any prosecution for an offence under this Act which require a culpable mental state on the part of the accused, the court shall presume the existence of such culpable mental until the contrary is proved.
- Explanation:-* For the purpose of the sub-section. “Culpable mental state” shall include intention, motive, knowledge of a fact and belief in, or reason to believe, a fact.
- (6) No court shall ‘take cognizance of any offence under sub-section (1) sub-section (2), sub-section (3) or sub-section (4) or the rules made under this Act except with the previous sanction of the Prescribed Authority and no court inferior to the court of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try such offence.
- (7) The offence punishable under sub-section (1), sub-section

(2) or sub-section (4) shall be cognizable and bailable and the offence punishable under sub-section (3) shall be cognizable and non-bailable.

Liability to prosecution.

- 18 i) Where an offence under this Act has been committed by a stockist every person at the time the offence was committed, was in charge of the business of the stockist and was responsible to the stockist for the conduct of the business of the stockist as well the stockist, shall be deemed to be guilty of the offence and shall be proceeded against and punished accordingly;

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided under this Act, if he proves that the offence was committed without his knowledge or that exercised all due diligence to prevent the commission of the offence;

- ii) Notwithstanding anything contained in sub-section (1), where an offence under this Act, has been committed by a stockist, being a company within the meaning of the Companies Act, 1956 and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer, as the case may be, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Compounding of offences

- 19 (1) Subject to such conditions as may be prescribed, any person alleged to have committed an offence referred to in clause (f) or clause (g) of sub-section (1) or sub-section (2), of Section 17 may, either before or after the commencement of any proceedings in respect of such offence, at his option, compound such offence by paying to Prescribed Authority such sum, not exceeding twenty thousand rupees, as may be determined by the Prescribed Authority.

(2) On full payment of such sum as may be determined by the Commissioner under sub-section (1);

- (a) No proceeding shall be commenced against the person as aforesaid; or
 (b) If any proceedings have already been commenced against such person, such proceedings shall not be proceeded with;
 (c) If such person undertakes to comply with the requirements of the provisions contained in sub-sec-

tion (1) of Section 6, Section 11 or sub-section (1) of Section 12, as the case may be, within such period as the Prescribed Authority may direct.

- Power to make Rules** **20** (1) The State Government may, by notification, make Rules for carrying out the provisions of this Act.
- (2) In particular, and without prejudice to the generally of the foregoing power, such Rules may provide for all or any of the following matters, namely:-
- (a) The procedure for and other matters (including provisions of payment of fees) incidental to, the disposal of appeal, revision and review under Section 14;
- (b) Any other matter which may be, or is required to be, prescribed under this Act.
- (3) In making any Rule, the State Government may direct that a breach thereof shall be punishable with fine not exceeding five hundred rupees and when the offence is a continuing one, with a daily fine not exceeding twenty five rupees during the continuance of the offence.

- Power to** **21** If any difficulty arises in giving effect to any of the provision of this Act, the State Government may, by order, do anything which appears to it to be necessary or expedient of the purposes of removing the difficulty:
- Provided that no such order shall be made after expiry of a period of two years from the date of commencement of this Act.

SCHEDULE

[See Clause (c) and (g) of Section 2]

1. Cigarettes and Cigars.

Shri L. M. Sangma
Deputy Secretary
Government of Meghalaya.
Law Department, Shillong.

The 14th Match, 2005

No. LL(B). 53/2002/314- The Meghalaya Value Added Tax Act 2003 (Act No.2 of 2005) is hereby published for general information.

MEGHALAYA ACT NO. 2 OF 2005.

Assented by the President of India on 25th February 2005. Published in the Gazette of Meghalaya *Extra-Ordinary* issued dated 4th Match, 2005.

THE MEGHALAYA VALUE ADDED TAX ACT, 2003

AN

ACT

To provided for and consolidate the Laws relating to lavy of Value Added Tax on Sales or Purchase of goods in the State of Meghalaya:

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

1. Short title extent and commencement:-

- i) This Act may be called the Meghalaya Value Added Tax Act, 2003
- ii) It extends to the whole of Meghalaya.
- iii) 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:

- i) "Act" means the Meghalaya Value Added Tax Act 2003
- ii) "Appellate Authority" means the Authority authorized by the State Government under Section 27.
- iii) "Appellate Tribunal" means the Tribunal authorized by the State Government under section 29:
- iv) "Appointed Day" means the day on which the Act comes into force.
- v) "Assistant Commissioner" means Assistant Commissioner of Taxes appointed under sub-section (1) of Section 25 or deemed to have been appointed under Section 116:
- vi) "Assesses" means any person by whom tax or any other sum of money is payable under this Act and includes every person in respect of whom any proceedings under this Act have been taken for the assessment of tax payable by him.
- vii) "Assessing Authority" means any person not below the rank of Superintendent of Taxes authorised by the Government, or by any authority empowered by the Government to make any assessment under this Act.

- viii) “Board” means Meghalaya Board of Revenue constituted under the Meghalaya Board of Revenue Act or under any statutory modification or re-enactment thereof:
- ix) “Business” includes
 - i) Any trade, commerce or manufacture or execution of work contract or any adventure or concern in the nature of trade, commerce, manufacturer whether or not such trade, commerce, manufacture or execution of works contract or adventure or concern is carried on with the motive to make gain or profit and whether or not any gain or profit accrues from such trade commerce, manufacture, execution of works contractor adventure or concern and:
 - ii) Any transaction in connection with or incidental or ancillary to such trade commerce, manufacture, execution or work contract, adventure or concerns:
- x) “Business Premises” means any place where a dealer or a transport purchases, sells, transport, books or delivers goods and include such place where the stores, processes produces or manufacture goods or keeps books of accounts, any vehicles or vessel or any other carrier where in the goods are stored as used for transporting the goods:
- xi) “Commissioner” means Commissioner of Taxes appointed under sub-section (1) of Section 25 or deemed to have been appointed under Section 116:
- xii) “Capital Goods” means plant machinery and equipment used in the process of manufacturing excluding civil structures as may be prescribed:
- xiii) “Casual Trader” means a person who whether as principal, agent or in any capacity, has occasional transactions involving buying, selling, supplying or distributing goods in the State. Whether for cash or for deferred payment or for commission, remuneration or other valuable consideration:
- xiv) “Declared Goods” means the good declared to be of special importance in inter State trade or commerce under section 14 of the Central Sales Tax Act 1956 (Central Act 74 of 1956)
- xv) “Deputy Commissioner” means Deputy Commissioner of Taxes appointed under sub-section (1) of Section 25 or deemed to have been appointed under Section 116:
- xvi) “Dealer” means any person who carries on (Whether regularly or otherwise) for cash for commission or for remuneration or for deferred payment or for other valuable consideration within the State of Meghalaya, the business of:
 - (a) Transferring property in goods otherwise than in pursuance of any contract. Or
 - (b) Transferring property in goods (whether as goods or in some other form) involved in the execution of any works contract. Or
 - (c) Delivering goods on hire purchase or any system of payment in instalment. Or

- (d) Transferring the right to use goods for any purpose (whether or not for any specified period): or supplying by way of as part of any service or in any manner of goods being food or any other article for human consumption or any drink (whether or not intoxicating): or
- (e) Being an association (whether incorporated or not) or body of persons supplying to its members any goods, and Dealer also includes:

- (1) A local authority, a body corporate, a company, any co-operative society or other society or a club, a firm, a Hindu undivided family or other association of persons which carries on such business:
- (2) A commission agent, a broker, a factor, a deleredere agent, an auctioneer, a mercantile agent by whatever name called who carries on business within the State.
- (3) An agent of a non resident dealer or a local branch of a company or an association of person, whether incorporated or not, situated outside the State carry on such business within the State: and
- (4) A department, or undertaking or enterprise of the Government of any State or Union Territory or of the Government of India.

xvii) “Goods” means all kinds of movable property other than newspaper, actionable claims, stock shares, or securities and includes livestock, all materials, articles, commodities involved in the execution of any works contract, case or hire purchase or those to be used in fitting out, improvement or repair of movable property.

xviii) “Government” means the State Government.

xix) “Input Tax” means tax payable by the purchasing dealer to the seller.

xx) “Manufacture” with all its grammatical variation cognate expression means producing, making extracting, altering, ornamenting, finishing, assembling or otherwise processing, treating or adapting any good but does not include any such process or mode of manufacture as may be prescribe:

xxi) “Non-resident Dealer” means a dealer who effects purchases or sales of any goods in Meghalaya but who has a no fixed of business or residence in Meghalaya:

xxii) “Official Gazette” means the Meghalaya Gazette:

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

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

Explanation-

- (a) A sale or purchase of goods shall not be deemed to have taken place inside the State if the goods are sold:
 - i) In the course of inter-State trade or commerce; or
 - ii) Outside the State of Meghalaya; or
 - iii) In the course of import or export of goods;
 - (b) Where there is a single contract of sale or purchase of goods situated of more places than one the provisions of this Explanation shall apply as if there were separate contract in respect of the goods at each of such places;
- xxxiii) “Sale Price” means the amount of valuable consideration paid or payable to a dealer for the sale or supply of goods, less any sum allowed as cash discount according to ordinary trade practice, but including any amount charged for anything done by the dealer with or in respect of the goods at the time of or before delivery thereof other than;
- i) The cost or freight or delivery where such cost is separately charged; or
 - ii) The amount representing the costed labour in the execution of any works contract, where such cost of labour shall be determined on the basis of specification detailed to that effect in the deed of contract or in the absence

of such specification on the basis of dealer's accounts produced to the Commissioner's satisfaction or in the case the Commissioner is not satisfied with either of the aforesaid, in the manner as may be prescribed; or

- iii) Amount of tax paid or payable by the purchaser provided that where the amount of tax is not separately indicated in the tax invoice, the amount of tax shall be calculated by multiplying the sale price inclusive of "Tax fraction" which shall be calculated in accordance with formula.

$$\frac{R}{r^2 + 10}$$

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

- xxxiv) "State" means the State Meghalaya;
- xxxv) "Tax" means tax payable under this Act;
- xxxvi) "Tax Invoice" means a document listing the goods sold with the price, quantity, value and VAT due issued by a taxable person to another taxable person;
- xxxvii) "Tax Point" means the date on which a taxable is required to account for the tax on the sale made by him;
- xxxviii) "Taxable Goods" means goods taxable under this Act;
- xxxix) "Taxable Person" means a person who is registered or is liable to be registered for VAT and liable to pay tax under this Act;
- xl) "Taxable Sale" means sale which is taxable under the provisions of this Act.
- xli) "Transporter" means any person who for the purpose of or in connection with or incidental to or in the course of his business transports or causes to transport goods, or holds in custody for delivery to any person after transportation and includes railway, shipping company, and cargo terminal and courier service;
- xlii) "Turnover of Purchases" means the aggregate of the amount of purchase price paid and payable by a dealer in respect of any purchase of goods made by him during a given period, after deducting the amount of:-
- (a) Purchase price, if any, refunded to the dealer by the seller in respect of any goods purchased from the seller and returned to him within the prescribed period; and

- (b) Deposit, if any, refunded in the prescribed period to the dealer by the seller in respect of any goods purchased by the dealer;
- xliii) “Turnover of Sales” means the aggregate of the amount of sale price received and receivable by a dealer in respect of any sales of goods made during a given period after deducting the amount of:-
- (a) Sale price, if any, refunded by the seller, to a purchaser in respect of any goods purchased and returned by the purchaser within the prescribed period; and
 - (b) Deposit, if any refunded in the prescribed manner by the seller to a purchaser in respect of any goods sold by the dealer;
 - (c) And includes, where the Registration Certificate is cancelled, the amounts in respect of sale made before the date of the cancellation on order received or receivable after such date;
- xliv) “Value Added Tax” means a tax on sales or purchases levied under this Act;
- xlv) “Works Contract” means and includes any agreement for carrying out for cash or for deferred payment or for any other valuable consideration the building construction, manufacture, processing, fabrication, erection, installation, laying, fitting out, improvement, modification, repair or commissioning of any movable or immovable property;
- xlvi) “Year” means financial year; and
- xlvii) “Zero rating” means zero rate of tax is to be imposed on the commodities against which rebate should be given for input taxes paid.

CHAPTER II

INCIDENCE AND LEVY OF TAX

Incidence Tax 3.

- (1) Liability:- Subject to other provisions of this Act, every dealer:-
- (a) Whose turnover during the year immediately preceding the commencement of this Act;
 - i) Exceeded the taxable quantum; or who was
 - ii) Liable to pay tax under any of the laws repealed by this Act or Central Sales Tax Act, 1956
 - (b) To whom clause (a) does not apply and

- i) Whose turnover calculated from the commencement of any year first exceeds within such year the taxable quantum; or
- ii) Who has become liable to pay tax under the Central Sales Tax Act, 1956; or
- iii) Who is registered as a dealer under the Central Sales Tax Act, 1956 or under this Act at any time after the commencement of this Act; shall be liable to pay tax in accordance with the provisions of this Act.

- (2) Date of liability:- The dealer shall be liable to pay tax on all sales effected by him and
- (a) In case of clause (a) of sub-section (i) with effect from the date of commencement of this Act.
 - (b) In case of sub-clause (i) of clause (b) of sub-section (1) with effect from the date immediately following the day on which he becomes so liable or date of resignation under this Act, whichever is earlier

- (3) Continuation of liability:- Every dealer who has become liable to pay tax under this Act, shall continue to be so liable until the expiry of three consecutive years during which his turnover has remained below the taxable quantum and on the expiry of such period his liability to pay tax shall cease.

Provided that any dealer whose liability to pay tax under this Act, ceases, may apply for the cancellation of his certificate of registration, and on such cancellation, his liability shall cease.

- (4) Re-commencement of liability:- Every dealer whose liability to pay tax under this Act, has ceased under sub-section (3) or whose certificate or registration has been cancelled, shall, if his turnover calculated from the commencement of any year including the year, in which the registration has been cancelled, again exceeds the taxable quantum on any day within such year, be liable to pay such tax with effect from the date immediately following the day on which his turnover again exceeds the taxable quantum, on all sales effected by him after that day.

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

- (a) Manufacturers or imports for sale any goods into Meghalaya on his own behalf or on behalf of his principal:- Nil
- (b) Is engaged in any other business other than clause (a) above. Rs. 1 (one) lakh.

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

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

For their purpose of calculating the gross turnover to determine the liability to pay under the Act.

- (a) Except as otherwise expressly provided, the turnover of all sales or as the case may be, the turnover of all purchases shall be taken, whether such sales or purchases are taxable or not, and
- (b) The turnover shall include all sales purchases made by a dealer on his own account and also on behalf of principal whether disclosed or not.
4. Tax payable by a dealer or a person:- Subject to the provision of this Act and to any rules or notification there shall be paid by every dealer or, as the case may be every person who is liable to pay 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 appended to this Act:-

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

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

- (a) Sales of goods declared as exempt from tax in schedule to be notified;
- (b) Sales of goods which are shown to be satisfaction of the Commissioner to have taken place-
- i) In the course of inter-State trade or commerce, or
 - ii) Outside Meghalaya, or
 - iii) In the course of the import of the goods into or export of the goods out of the territory of India.

Explanation:- Section 3,4 and 5 of the Central Sales Tax Act, 1956 shall apply for determining whether or not a particular sale or purchase has taken place in the manner indicated in sub-clause (i), sub-clause (ii) or sub-clause (iii).

- (c) In case of turnover of sales in relation to works contract, the charges towards labour services and other like charges and subject to such conditions as may be prescribed;

Provided that in the cases where the amount of charges towards labour, services and other like charges in such contract are not ascertainable from the terms and conditions of the contract, the amount of such charges shall be calculated at the prescribed percentage.

(d) Such other sales on such conditions and restrictions as may be prescribed.

6. Purchase tax payable on purchase of certain goods:- Subject to other provision of this Act, every dealer liable to pay tax under the Meghalaya Purchase Tax Act repealed by this Act, shall, with effect from the appointed day for the purpose of this section, be liable to pay under this Act on all purchase of goods specified in the Schedule to be notified on the last point of purchases within the State at the rate set out against each of such goods in such Schedule;

Provided that no tax shall be levied under this section if the goods purchased are used or consumed in the execution of work contract or in the manufacture of taxable goods which are in fact sold.

7. Levy of tax on containers and packing materials:- Where any goods are packed in any container or packing materials in which such goods are packed shall be deemed to have been sold or purchased along with the goods and the tax under section 5 or section 6 shall be levied on the sale or purchase of such container or packing material at the rate of tax, if any, applicable to the sale, or as the case may be, the purchase of the goods itself.;

Provided that no tax under section 5 or section 6 shall be levied where the container or packing material is sold or purchased along with the goods declared as exempted from tax under this Act.

8. Exemption: - (1) (a) The sale of goods in the Schedule to be notified in the Official Gazette shall be exempt from tax subject to conditions and exceptions set out therein.

(b)Supplies between Special Economic Zones;

(2) The following shall be zero rated sales for the purpose of this Act and shall be eligible for input tax credit;

(a) export from India;

(b) sales to Special Economic Zones;

(c) supplies from Domestic Tariff Area to Export Orientated Unit Electronic Hardware Technology Park/Software Technology Park Units for the purpose export only.

9. Output Tax:- (1) Output tax in relation to a registered dealer means the tax payable under this Act in respect on any sale of goods by that dealer in the course of his business.

(2) Subject to the provisions of section II, a dealer shall be liable to pay the output tax under this Act which shall be levied on the taxable turnover at the rates and subject to such conditions as may be prescribed from time to time.

10. Input tax: - Input tax in relation to a registered dealer means the tax charged under this Act by the selling dealer to such dealer on the sale to him of any goods for resale or use in manufacturing or processing of goods for sale.

11. Input tax credit:- (1) Subject to other provisions of this section, there shall be input tax credit of the amount of tax paid or payable by registered dealer in respect of his purchase of taxable goods for resale in Meghalaya or for use by him directly in the manufacture of taxable goods in Meghalaya and containers and other materials for the packing of such goods or inputs thereof in Meghalaya for sale in Meghalaya against the amount of tax or payable by him under this Act on the sales of taxable goods in Meghalaya.

Explanation:- No input tax credit shall be available to a registered dealer for tax paid or payable at the time of purchase of goods if such goods are not sold because of any theft, loss or destruction for any reason, including natural calamity, and if a dealer has already taken any input tax credit against purchase of such goods there shall be reverse tax credit at the end of the month in which such goods are stolen, lost or destroyed.

(2) A registered dealer who intends to claim input credit under sub-section (i) shall, for the purpose of determining the amount of input tax credit maintain accounts, evidence and such other records as may be prescribed in respect of the purchases and sales made by him in Meghalaya.

(3) Subject to other provisions of this sub-section, a registered dealer who has claimed input tax credit on his purchases and intends to sell goods in Meghalaya will get his input tax credit reversed on the date of transfer of such goods to such other dealer and shall issue a certificate, as may be prescribed in favour of such dealer certifying the amount of input tax credit against purchase of such goods or purchases of input thereof, as the case may be, in Meghalaya and the agent shall be entitled to get the credit of the same.

(4) No input tax credit under this section shall be allowed to a registered dealer against his purchases unless the amount of tax has been separately charged and shown in the tax invoice issued to him by a registered dealer from whom purchases of such goods have been made.

(5) No input tax credit under this Section shall be allowed to a registered dealer in respect of tax paid under Section-6

(6) Subject to sub-section (7) an input tax credit cannot be claimed by the registered dealer unless the registered dealer has an original tax invoice for the relevant supply of purchases.

- (7) Where a registered dealer fails to produce the original tax invoice evidencing the input tax paid, the Commissioner may, subject to such restrictions and conditions as may be prescribed. Allow an input tax credit for the period in which the credit arises if the Commissioner is satisfied.
- (a) That the failure produce tax invoice is not due to any fault of the dealer, and
- (b) That the amount of input tax claimed by the registered dealer is correct.
- (8) Subject to other sub-sections of this section, input tax credit referred to in sub-section (1) in relation to a period shall be determined as follows:- The input tax credit is the aggregate of input tax paid or payable by the dealer in relation to a period less.
- i) Input tax paid or payable in respect of goods returned or rejected by him during such period.
- ii) Input tax paid or payable in respect of goods taxable under this Act or inputs used for manufacturing of such goods, as the case may be disposed of otherwise than by way of sale.
- (9) Notwithstanding anything contained in any sub-section of the section:
- (a) The amount of input tax credit shall not include tax paid or payable in other States or Unions Territories on goods brought into Meghalaya from outside the State.
- (b) No input tax credit shall be allowed against tax paid or payable on goods remaining unsold at the time of stoppage or closure of business and if a dealer has already taken any input tax credit against purchase of such stock of goods, there shall be reverse tax credit on the date of stoppage of closure of such business.
- (c) No input tax credit on tax paid or payable in Meghalaya on purchase of goods or inputs used in manufacturing of goods in Meghalaya and subsequently sent to other States or Union Territories otherwise than by way of sale shall be available.
- Provided that if a dealer has already taken input tax credit either in full or in part, there shall be a reverse credit against each such transfer in the manner as may be prescribed.
- (d) No input tax credit shall be allowed against tax paid or payable on such purchase and under such terms and conditions as may be prescribed.
- (e) For the purpose of determining the amount of input tax to be reverse under this section, any one of the methods as may be prescribed will be applied.
12. Reverse tax credit:- If goods are purchased intended for use specified in sub-section (1) of Section 11 and are subsequently used fully or partly for purpose other those specified

under the said sub-section, the input tax credit availed at the time of such purchase, calculated in such manner as may be prescribed, shall be reduced from the tax credit for the period which the said utilisation otherwise has taken place.

13. Net tax credit:- The net tax credit to which a registered dealer is entitled shall be determined by the following formula, namely:-

$$\text{Net tax credit} = A + B + C$$

Where

A= the amount of input tax credit the dealer is entitled to under sub-section (1) of section 11.

B= outstanding credit brought forward as determined under clause (1) of section 11 from the previous period or under sub-section (2) of section 19.

C= reverse tax credit as determined under section 12

14. Input tax credit exceeding tax liability:- (1) If a registered dealer's (other than an exporter) input tax credit determined under section 11 for a period exceed tax liability for that period, the excess may be set off against any outstanding tax under this Act.

(2) The excess input tax credit after adjustment under sub-section (1) of Section 11 may be carried forward as an input credit to the following period or periods.

15. Adjustment of input tax credit:- Where any purchaser, being a registered dealer, has been issued with a credit note or debit note in terms of sub-section (1) of section 20 or if he returns or rejects goods purchased as a consequence of which the input tax credit availed by him in any period in respect of which the purchase of goods relates becomes less or excess, he shall compensate such less credit or excess credit by adjusting the amount of tax credit allowed to him in respect of the tax period in which the credit note has been issued or goods are returned subject to conditions as may be prescribed.

16. Burden of proof:- In respect of any sale or purchase effected by a dealer, the burden of proving that he is liable to any tax under section 6, section 7 or that he is eligible to input tax credit under section 11 shall be on him.

17. Levy of presumptive tax on registered retailers:- All registered retailers whose gross turnover of sales does not exceed rupees five lakhs, subject to such conditions and restrictions as may be prescribed, shall pay in lieu of the tax as specified under section or section 6 a tax at such percentage of the entire taxable turnover of such sales and purchase as the Government may, by order, notify subject to the condition that no input tax credit shall be available to such dealers;

Provided that payment of tax under this section shall not apply to a registered retail dealer who imports goods from outside the State for the purpose of carrying out his business;

Provided further that a registered retail dealer may, by exercising option in the prescribed manner, elect to pay tax as specified under section 5 or section 6 of this Act in lieu of the provisions of this section.

18. Net tax payable by the dealer: - (1) For the purpose of calculating net tax payable by a registered dealer for a period, the input tax credit as determined under sub-section (1) of section 11 shall be allowed set off against the tax by the registered dealer in respect of all taxable sales other than sales, as may be prescribed, made during that period.

(2) Subject to provisions of section 11, the net tax payable by a registered dealer for a period is to be calculated according to the following formula namely;

Where 'A' is the aggregate of the tax payable by the registered dealer during the period and 'B' is the total input tax credit for the period.

(3) If the said opening stock of goods.

(a) has suffered tax under the Meghalaya Finance (Sales Tax) Act, and

(b) is intended to be used for the purposes specified in sub-section (1) of Section 11.

19. The amount of tax suffered under this Act mentioned in clause (a) on such opening stock, in such manner and subject to such condition and restriction and up to the extent as may be prescribed, shall be credited to the dealer and can be availed as outstanding credit brought forward in terms of section 13 in the first tax period after the commencement of this Act.

Provided that no tax credit under this section shall be allowed unless:-

(a) The dealer has in his possession, sale vouchers issued by a dealer registered under the Meghalaya Finance (Sales Tax) Act against the purchases of the said goods; and

(b) The amount of tax the goods have suffered at the first point is indicated separately on the said vouchers.

(4) No tax credit under sub-section (2) shall be allowed for stock for which under sub-section (2) the Commissioner may, after providing the dealer an opportunity of being heard direct him to pay a penalty equal to twice the amount of tax credit so claimed.

(4) If the Commissioner is satisfied that a dealer:

(a) Has claimed tax credit for stock for which he is not entitled for claiming tax credit as per the provisions of sub-section (2) and sub-section (3); or

(b) Has claimed excess tax credit than allowed under sub-section (2) the Commissioner may, after providing the dealer an opportunity of being heard direct him to pay a penalty equal to twice the amount of tax credit so claimed.

20. (1) Credit and debit notes:- (1) Where a tax invoice has been issued and the amount shown as tax charged in the tax invoice exceeds the tax chargeable under this Act in respect of that sale, the registered dealer making the sale shall provide the purchaser with a credit note containing the requisite particulars as prescribed.

(2) Where tax invoice has been issued and the tax chargeable under this Act in respect of the sale exceeds amount of tax charged in that tax invoice, the registered dealer making the sale shall provide the purchaser with a debit note containing the requisite particular as prescribed.

(3) In case of goods returned or rejected by the purchaser, a credit note shall be issued by the selling dealer to the purchaser and a debit note will be issued by the purchaser to the selling dealer containing particulars of the transaction as prescribed.

CHAPTER III LIABILITY IN SPECIAL CASES

21. Liability to pay in case of death- (1) Where a dealer, liable to pay tax under the Act, dies then:-

- (a) If the business carried on by dealer is continued after his death by his legal representative or any other person, such legal representative or other person shall be liable to pay tax including any penalty, sum forfeited and interest due from such dealer under this Act or under any earlier law, in the like manner and to the same extent as the deceased dealer, and
- (b) If the business carried on by the dealer is discontinued whether before or after his death, his legal representative shall be liable to pay out of the estate of the deceased, in the like manner and to the same extent as the deceased dealer would have been liable to pay if he had died, the tax including any penalty, sum forfeited and interest due from such dealer under this Act, or under any earlier law, whether such tax including any penalty, sum forfeited and interest has been assessed before his death but has remained unpaid, or is assessed after his death.

(2) Where a dealer, liable to pay tax under this Act, is a Hindu Undivided family and the joint family property is partitioned amongst the members or group of members, then each member or group of members shall jointly and severally liable to pay the tax including and 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 and penalty sum forfeited and partition.

- (3) Where a dealer liable to pay tax under this Act, is a firm, and the firm is dissolved, and then every person who a partner shall be jointly and severally liable to pay to the extent to which he is liable under section 23, the tax including any penalty, sum forfeited and interest due from the firm under this Act or under any earlier law, up to the time of dissolution, whether such tax including any penalty, sum forfeited and interest has been assessed before such dissolution but has remained unpaid or is assessed after dissolution.
- (4) Where a dealer, liable to pay tax under this Act, transfers or otherwise disposes of his business in whole or in part or effects any change in the ownership thereof, in consequence of which he is succeeded in the business or part thereof by any other person, the dealer and the person succeeding shall jointly and severally be liable to pay the tax including any penalty, sum forfeited and interest due from the dealer under this Act or under any earlier law, up to the time's of such transfer, disposal or change, whether such tax including any penalties, sum forfeited and interest has been assessed before such transfer, disposal or change but has remain unpaid is assessed thereafter.
- (5) Where the dealer, liable to pay tax under this Act:-

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

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

22. Certain agents liable to tax for sales on behalf of principal- (1) Where any persons sells or purchases any taxable goods on behalf of his principal then such person and his principal shall both be jointly and severally liable to pay taxes on the turnover of such sales of purchases.

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

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

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

23. Liability of partners:- (1) Notwithstanding anything contained in the Indian Partnership Act, 1932 or any contract to the contrary, where any firm is liable to pay tax under this Act, the firm and each of the partners of the firm shall be jointly and severally liable for such payments and according any notice or order under this Act may be served on any person who was a partner during the relevant time whether or not the firm has been dissolved and all the provisions of this Act shall apply accordingly.

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

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

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

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

CHAPTER IV
TAXING APPELLATE AND REVISIONAL AUTHORITIES AND
ENFORCEMENT BRANCH

Sales tax authorities 25- (1) For carrying out the purpose of this Act, the State Government may be notification appoint a person to be the Commissioner of Taxes, together with such other persons to assist him as it thinks fit and may specify the area or areas over which they shall exercise jurisdiction.

(2) Persons appointed under sub-section (1) shall exercise such powers as may conferred and perform such duties as may be required by or under this Act.

Delegation of Commissioner's powers 26- (1) Subject to such restriction and conditions as may be prescribed, the Commissioner may, by order in writing, delegate any of his powers under this Act to any person appointed to assist him under sub-section (1) of section 25.

(2) Notwithstanding anything contained in sub-section (1), the Commissioner may transfer any case or matter from any person appointed under sub-section (1) to assist him to any other person so appointed whether such other person has jurisdiction over the area to which the case or matter relates or not, provided he is otherwise competent to deal with such case or matter in exercise or performance of the powers or duties referred to under this sub-section.

Appellate Authority 27:- The State Government may authorize an officer, not below the rank of an Assistant Commissioner of Taxes appointed under the sub-section (1) of Section 25 to exercise the powers and perform the functions of the Appellate Authority under section 65.

Revisional Authority- 28. The Commissioner of Taxes appointed under sub-section (1) of Section 25 shall not exercise the powers and performs the functions of the Revisional Authority under section 66 and section 67.

Appellate Tribunal- 29. The Meghalaya Board of Revenue shall functions as Appellate Tribunal.

Enforcement Branch- 30. (1) With effect from the appointed day, the Enforcement Branch constituted under the Meghalaya Sales Tax Act shall be deemed to have been constituted under this Act for discharging the functions referred to in sub-section (3) of this

(2) The officers of the Enforcement Branch shall work under the direction of the Assistant Commissioner of Taxes subject to over all control of the Commissioner of Taxes.

(3) The Enforcement Branch on information or of its over motion or where the Commissioner so directs, carry out investigation or hold inquiry into any case of alleged or suspected evasion of tax as well as malpractice connected therewith and send a report in respect thereof to the Commissioner.

CHAPTER V**REGISTRATION OF DEALER AND DEMAND OF SECURITY ETC.**

Compulsory registration of dealers- 31. (1) Subject to the other provisions of this chapter, no dealer shall, while being liable to pay tax under section 3, carry on business as a dealer unless he has been registered and possesses a certificate of registration.

Provided that a dealer liable to pay tax under section 3 shall be allowed thirty days time from the date from which he is first liable to pay such tax to get himself registered.

(2) Every dealer required by sub-section (1) to be registered shall make application in this behalf in the prescribed manner to the prescribed authority and such application shall be accompanied by a declaration in the prescribed form duly filled up and signed by the dealer specifying therein the class or classes of goods dealt in or manufactured by him.

(3) If the said authority is satisfied that an application for registration is in order, he shall, in accordance with such manner, grant registration to the applicant and issue a certificate of registration in the prescribed form which shall specify the class or classes of goods dealt in or manufactured by him.

(4) Where the application for registration is made under this section, the prescribed authority shall grant him the certificate or registration from the date of filing such application.

Provided that the prescribed authority shall grant to such dealer the certificate of registration from the date of commencement of his liability to pay tax where the application for registration is made within thirty days of such date.

(5) For the purpose of identification of taxable person the prescribed authority shall issue a VAT registration identification number known as Tax Payer Identification Number (TIN).

(6) The prescribed authority may from time to time to amend any certificate of registration in accordance with information furnished under section 103 or otherwise received, and such amendment will be made with effect from the date of passing of such order and subject to such registrations and conditions as may be prescribed.

(7) When any dealer has been convicted or has paid composition money under Section 91 or Section 96 as the case may be, in respect of any contravention of the provisions of sub-section (1) of this Section, the prescribed authority shall register such dealer and grant him a certificate of registration and such registration shall take effect from the date of order as if it had been made under sub-section (3) of this Section of the dealer's application.

(8) When-

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

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

(9) The cancellation of registration will take effect from the end of the period in which it is cancelled unless it is to take effect from a different date as ordered by the prescribed authority.

(10) When any dealer to whom a certificate of registration is granted, has failed to pay any tax penalty or interest payable under this Act or has failed to furnish return, the certificate of registration of such dealer may be suspended by the Appropriate Assessing Authority in the manner as may be prescribed.

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

(11) Suspension of certificate of registration will be withdrawn and registration certificate shall be restored on an application made by the dealer on furnishing evidence of payment of taxes and on furnishing of overdue return or returns within 45 days from the date of suspension.

- (12) If certificate of registration of a dealer is suspended or if the suspension is withdrawn, the information will be made public through publication in Official Gazette and insertion of notice in Newspaper.
25. Voluntary registration of dealer:- (1) Any dealer, whose gross turnover of sales during a year thousand rupees, may now withstanding that he is not liable to pay tax, apply in the prescribed manner to the prescribed authority for registration under this Act.
- (2) Every dealer who has been registered on application made under this section shall, for so long as his registration remains in force is liable to pay tax under this Act.
- (3) This registration of a dealer on application made under this section shall be in force for period of not less than 3 complete years and shall remain in force thereafter unless cancelled under the provisions of this Act.
- (4) Subject to the provisions of sub-section (11), a dealer registered on application made and this section may apply in the prescribed manner, not less than six months before the end of a year, to the authority which granted him his certificate of registration for the cancellation of such registration to take effect at the end of the year in which the application for such cancellation is made, and the said authority shall, unless the dealer is liable to pay tax under this Act, cancel the registration accordingly.
- (5) When the gross turnover of sales of any dealer registered on application made under this section has, for three successive years after the period of three years referred to in sub-section (3) failed to exceed the taxable quantum, the prescribed authority may, after giving the dealer a reasonable opportunity of being heard. Cancel registration of such dealer.
26. Security to be furnished:- (1) The Commissioner may, at the time of granting of certificate of registration to dealer under Section 31 or any time thereafter for good and sufficient reasons to be recorded in writing, require the dealer to furnish in the prescribed manner such security or such additional security as may be specified by him for securing proper and timely payment of tax or any other sum payable by him under this Act.
- (2) The Commissioner may, by order in writing and for good or sufficient reason to be accorded therein, demand from any person after than a registered dealer, who imports into Meghalaya any consignment of goods, a reasonable security for ensuring that there is no evasion of tax.
- (3) The Commissioner may, by order in writing and for good and sufficient reason, demand from any person or a dealer a reasonable security for proper use and safe custody

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

(4) The Commissioner may, by order in writing and for good or sufficient reasons to be recorded therein, forfeit the whole or any part of the security or additional security referred to in sub-section (1), sub-section (2), or sub-section (3), as the case may be, furnished by a dealer, registered dealer, undertaking or person as required by sub-section (1) or demanded under sub-section (2), or sub-section (3), for-

(a) Realizing or recovery of tax or any other sum due, or

(b) Recovery of any financial loss caused to the State Government due to negligence or default in not making proper use of, or not keeping in safe custody, blank or unsaved forms of way bill.

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

(6) The Commissioner may, on application by a dealer, registered dealer, undertaking or persons who has furnished security as required by sub-section (1) or demanded under sub-section (2) or sub-section (3), refund in the prescribed manner any amount of security or part thereof if each security is not required for the purposed for which it was furnished.

(7) Security as required by sub-section (1) or demanded under sub-section (2) sub-section (3) or sub-section (5) shall be furnished by a dealer, registered dealer, undertaking or person in such manner and by such time as may be specified in the order requiring to furnish, or demanding such security.

(8) No order shall be passed under this section without giving the dealer, registered dealer undertaking or person an opportunity of being heard.

27. Imposition of penalty for failure to get registered:- (1) If a dealer, who is required to get himself registered within two months from the date from which he is first liable to pay tax, fails to get himself so registered, the prescribed authority may, after giving the dealer an opportunity of being heard, by order impose by way of penalty a sum, not less than five thousand rupees and not exceeding ten thousand, rupees, for each month of default;

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

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

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

CHAPTER VI

RETURN AND PAYMENT OF TAX, ASSESSMENT ETC.

28. Periodical return and payment of tax and interest:- (1) Tax payable under this Act shall be paid in the manner hereinafter provided at such interval as may be prescribed.

(2) Every registered dealer shall in the prescribed manner, furnish such returns by such dates and to such authority as may be prescribed.

(3) Any dealer, other than a registered dealer referred to in sub-section (2), shall if so required by the Commissioner by a notice served in the prescribed manner, furnish returns in accordance with the provisions of sub-section (2).

(4) Before any dealer furnishes a return required by sub-section (2) or sub-section (3), he shall in the prescribed manner pay into a Government Treasury or the State Bank of India the full amount of tax due from him under the Act according to such return, and shall furnish along with such return and receipt from the Treasury or Bank showing the paying of such amount.

Provided that a registered dealer shall be subject to such conditions as may be prescribed in the prescribed manner the tax payable under the Act for any prescribed part of the period for which a return is required to be furnished under sub-section (2) or sub-section (3) by such date as may be prescribed after the expiry of the prescribed part of the period as aforesaid.

Provided further that a dealer may furnish return within the prescribed date without making payment of tax either in full or in part subject to such terms and conditions as may be prescribed.

- (5) If any dealer discovers any omission or any other error in any return furnished by him , he may, at any time before the date prescribed for the furnishing of the next return by him, furnish a revised return and if the revised return shows by greater amount of tax to be due than what was shown in the original return, it shall be accompanied by a receipt showing payment of the extra amount in the manner provided in sub-section (4).

29. Return defaults:- (1) If a dealer required to file return under sub-section (1) or sub-section (2) of section 35

- (a) Fails without sufficient cause to pay the amount of tax as per the return for any tax period; or
- (b) Furnished a revised return under subsection (3) of section 35 showing a higher amount of tax to be done than was shown by him in the originals return; or
- (c) Fails to furnish return;
- (d) Fails to pay tax payable by him according to the return; or
- (e) Fails to pay the different of the amount of tax according to the revised return; or
- (f) Fails to pay tax payable for the period for which he has failed to furnish the return;
- (g) Such dealer shall be liable to pay interest in respect thereof at the rate of 2% per month from the date tax payable has become due to the date of its payment or the date of order of assessment, whichever is earlier.

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

(3) If a registered dealer, without sufficient cause, fails to pay the amount of tax due and interest along with return or revised return in accordance with the provisions of sub-section (1), the Commissioner may, after giving the dealer reasonable opportunity of being heard direct him to pay in addition to the tax and the interest payable by him a penalty, at the rate of 2% per month on the tax and interest so payable from the date it had become date to the date of its payment or to the date of order of assessment, whichever is earlier.

(a) fails to comply with the requirements of the notice issued under sub-section (2) of section 35; or

- (b) fails to furnish any return by the prescribed date as required under sub-section (2) of section 35; or
- (c) being required to furnish revised return, fails to furnish the revised return by the date of prescribed under sub-section (3) of section 35; or
- (d) having paid the tax payable according to a return in time, fails to furnish along with the return proof of payment made in accordance with sub-section (4) of section 35;

(4) the Commissioner may, after giving the dealer reasonable opportunity of being heard, direct him to pay in addition to any tax, interest and penalty under sub-section (3) payable or paid by him, a penalty of a sum of rupees one hundred per day of default subject to a maximum of rupees ten thousand.

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

(6) For the purpose of this Act, any return signed by a person who is not authorised as may prescribe shall be treated as if no return has been filed.

30. Collection of tax only by registered dealers: - (1) No person who is not registered dealer shall collect in respect of any sale of goods by him in the State of Meghalaya any amount by way of tax under this Act and no registered dealer shall make any such collection except in accordance with the provisions of this Act and the Rules made there under and not beyond the rate specified.

(2) Notwithstanding anything contained in sub-section (1), a registered dealer who has been permitted by Commissioner to pay presumptive tax under section 17 shall not collect any sum by way of tax on the sale of goods during the period to which such payment relates.

31. Rounding off of the amount of tax or penalty:- The amount of tax or penalty payable or refundable for any period under the provisions of this Act shall be rounded off to the nearest rupees and, for this purpose. Where such amount contains a part (a rupee, then, if such part is fifty paise or more, it shall be increased to one rupee and, if such part is less than fifty paise, it shall be ignored.

32. Security of Return: - (1) Each and every return in relation to any tax period furnished by a registered dealer to whom notice has been issued by the Commissioner under section 35 shall be subject to scrutiny by the Assessing Authority to verify the correctness of calculation, application of correct rate of tax and interest and input tax credit claimed therein; and full payment of and interest payable by the dealer during such period.

(2) If any mistake is detected as result of such scrutiny made as per the provisions of sub-section (1) the Assessing Authority shall serve a notice in the prescribed form on the dealer to make payment of the extra amount of tax along with the interest as per the provisions of this Act, if it is payable by the date specified in the said notice.

(3) If the Commissioner:-

- (a) Discovers any error or omission in any return furnished by a dealer, or
- (b) Has reasons to believe upon information or otherwise that a dealer has furnished in correct statement of his turnover of sales or turnover of purchases or incorrect particulars of his, sales or purchases in any return, he may required such dealer to produce any accounts register, statements or documents or to furnish any information regarding purchases sales deliveries, stock of goods or payments made or received or any other related or incidental matter for the purpose of verification of such return.

33. Interest payable by dealer:- (1) If any dealer does not pay the full amount of tax payable by him under this Act by the date on which it falls due as per provisions of the Act, simple interest at the rate of two percentum per month from the first day of the month next following the said date shall be payable by him on the amount by which the tax paid, if any, by the foresaid due falls short of the tax payable. No interest under this section shall be payable if the amount of tax paid by the aforesaid due date is not less than ninety percentum of the tax payable.

(2) Where any interest payable by any dealer under the foregoing provisions in not paid in full, the Assessing Officer shall determine the amount payable by an order in writing.

(3) If a result of any proceeding under this Act the amount of tax in respect of which interest is payable by the dealer under the foregoing provisions is varies the Assessing Officer shall corresponding reduce or enhance, as the case may be the interest so payable.

34. Interest:- (1) A registered dealer entitled to refund in pursuance of any order under this Act including assessment under section 52, section 53 or section 54, or in pursuance of any order by any Court, shall be entitled to receive, in addition to the refund simple interest at the rate of eight percent per annum for the period commencing after ninety days of the application claiming refund in pursuance to such order till the date on which the refund is granted.

(2) The interest shall be calculated on the amount of refund due after deducting there from any tax, interest penalty or any other dues under this Act.

(3) If, as a result of any order passed under this Act, the amount of such refund is enhanced or reduced such interest shall be enhanced or reduced accordingly.

(4) When a dealer is in default or is deemed to be in default in making the payment under section 52, section 53 and section 54, he shall be liable to pay simple interest on such amount at the rate of two percent per month from the date of such default for so long as he continues to make default in the payment of the said tax.

(5) Whereas a result of any final order, the amount of tax (including any penalty) due or in default is wholly reduced, the amount of interest, if any paid shall be refunded or if such amount is modified, the interest due shall be calculated accordingly.

(6) Where any amount of tax payable is enhanced by any such order interest shall be payable on the amount by which the tax is enhanced after the expiry of a period of three months from the date of the order.

(7) Where realisation of any amount remains stayed by the order of any court or authority and such order is subsequently vacated, interest shall be payable also for any period during which such order remained in operation.

(8) The interest payable under this Act shall be deemed to be tax due under this Act.

35. Power to withhold refund in certain cases:- (1) Where an order giving to refund in the subject matter of an appeal or further proceeding the Commissioner or where any other proceeding under this Act is pending and is of the opinion that the grant of such refund is likely to adversely affect the revenue and that it may not be possible to recover the amount later, Commissioner may, withhold the refund till such time as he may determine.

(2) Where a refund is withheld under sub-section (1), the dealer shall be entitled to interest as provided under sub-section (1) of section 41 if as a result of the appeal or further proceeding or any other proceeding becomes he entitled to the refund

36. Exemption of certain sales and purchase:- (1) Subject to such conditions as it may impose the Government may, if it is necessary so to do in the public interest, by notification in the Official Gazette, exempt any sales or purchases made to or by a class of dealers or persons specified in the said notification from payment of the whole or any part of any tax payable under the provisions of this Act and any notification issued under this section may be issued so as to be retrospective to any date not earlier than the 1st April, 2003 and such exemption shall take effect from the date of the publication of the notification in the Official Gazette or such other earlier or later date as may be mentioned therein.

(2) Where any dealer or Person has purchased any goods under a declaration or certificate given by him under any notification issued under this section and

(a) Any of the condition subject to which such exemption was granted, or

(b) Any of the recitals or the conditions of the declaration, or certificate are not complied with for any reason whatsoever, then without prejudice to the other provisions of this Act, such dealer or person shall be liable to pay tax on the sale price of the goods at the rate set out against each of such goods in the Schedule notwithstanding that such dealer or person was not liable to pay tax under any other provisions of this Act and accordingly the dealer or the person who has become liable to pay tax under this sub-section shall file a return in the prescribed form to the prescribed authority within a prescribed time and shall include the sale price of such turnover in his return, and pay the tax in the prescribed manner. The tax due from any such dealer or person shall be assessed and recovered as if the person or dealer liable to be proceeded against under the provisions of this Act.

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

37. Composition of tax:- (1) The Government may by a notification published in the Official Gazette provide for a Scheme of composition, subject to such conditions and restrictions as may be provided therein, of tax payable by those dealer who are engaged in the business of selling at retail any goods of merchandise.

(2) For the purpose of this section, a dealer will be considered to be engaged in the business of selling at retail if 9/10th of his turnover of sales consists of sales made to persons who are not dealer and if any question arises as to whether any particular dealer, is a retailer then the officer in charge of the case shall refer the question to the Assistant Commissioner (Appeals who shall, after hearing the dealer if necessary, decide the question).

(3) Nothing in this section will apply to a dealer who is a manufacturer or who is an importer or who has purchased any goods from a registered dealer whose sales of the said goods are not liable to tax under the provisions of this Act.

38. Assessment:- (1) If no returns are furnished by a registered dealer in respect of any period, by the prescribed date, or if the Commissioner is not satisfied that the returns furnished are correct and complete, the Commissioner shall proceed in such manner as may be prescribed to assess to the best of his judgement the amount of tax due from the

dealer and in making such assessment shall give the dealer a reasonable opportunity of being heard; and in the case of failure by a registered dealer to furnish in respect of any period, a return accompanied by a receipt from a Government Treasury or the State Bank of India, as required under sub-section (4) of section 35 by the prescribed date, the Commissioner may if he is satisfied that the default was made without reasonable cause, during that the dealer shall pay by way of penalty, in addition to the amount of tax so assessed, a sum not exceeding one and a half time; that amount.

Provided that where a registered dealer brings to the notice of the Commissioner in writing, within six months from the end of the year that, due to error in fact or in law, an amount of tax has been paid by him in excess of what was payable by him during any return period relating to such year, and request the Commissioner for making assessment under this sub-section in respect of such year, the Commissioner may if he is satisfied on the grounds adouced by such registered dealer making such assessment. Proceed to make assessment in respect of such year immediately on receipt of notice by the dealer.

(2) Where upon search or seizure of any accounts, registers or documents or of any goods of a dealer registered under this Act, or upon enquiry or information received or upon verification of return under section (1) of Section 39 or where refund of any tax, interest or penalty arises or the Commissioner has reasons to believe that the dealer has not accounted for the turnover of sales of goods or purchases of goods as appearing from such accounts registers of documents in the books of accounts referred to in Section 84 or has not shown such turnover in his furnished under section 35 in respect of any return period or has furnished in correct statement of his turnover of sales or turnover of purchases or incorrect particulars of his sales or purchases in any return, the Commissioner shall notwithstanding anything contained in sub-section (1) proceed in such manner as may be prescribed to assess to the best of his judgement the amount of tax payable by the dealer in respect of such return period after giving the dealer a reasonable opportunity of being heard and direct such dealer to pay the amount of tax so assessed in such manner and by such date as may be prescribed; the Commissioner may if he is satisfied that the default was made without reasonable cause, direct that the dealer shall pay by way of penalty in addition to the amount of tax so assessed, a sum not exceeding one and half times that amount.

(3) No penalty under sub-section (1) or sub-section (2) shall be imposed in respect of the same fact for which the prosecution under section 90 has been instituted and no prosecution would lie vice versa.

(4) If interest is payable in terms of section 39 in respect of any period, penalty under sub-section (1) of sub-section (2) for failure to furnish a return by the prescribed date for such period shall not exceed fifty percentum of the amount of tax so assessed.

(5) Subject to others provisions of this section assessment shall also be made in cases where business is closed by a dealer. Tax on goods that remain in stock at the time of cancellation of registration (including capital goods) on which input tax has already been given credit, shall be assessed and collected in the manner as may be prescribed.

39. Assessment of tax payable by dealer other than registered dealers:- If upon information which has come into his possession, the Commissioner is satisfied that any dealer, who has been liable to pay under this Act in respect of any period but has failed to get himself registered or has not been registered the Commissioner shall proceed in such manner as may be prescribed to assess to the best of his judgement the amount of tax due from the dealer in respect of such period and all subsequent period and, in making such assessment shall give the dealer reasonable opportunity of being heard.

40. Assessment of dealer who fails to get himself registered:- (1) If the Commissioner upon information which has come into his possession is satisfied that any dealer who has been liable to pay under this Act, in respect of any period has failed to get himself registered, the Commissioner shall proceed in such as may be prescribed to assess the best of his judgement the amount of tax due from the dealer in respect of such period, has and all subsequent periods and in making assessment shall give the dealer reasonable opportunity of being heard.

(2) The Commissioner may, if he is satisfied that the default was without reasonable cause, direct that the dealer shall pay, by way of penalty, in addition to the amount of tax so assessed, a sum equal to the amount of tax assessed or a sum of rupees ten thousand whichever is more.

41. Payment of tax and penalty:- The amount of tax:-

- (a) Due from a dealer where the returns are furnish without showing full payment of tax, or
- (b) Assessed under section 45 for a period less the sums, if any, already paid by a dealer in respect of the said together with any penalty that may be directed to be paid under section 35 if any, shall be paid by such dealer into a Government Treasury or the State Bank of India by such date as may be specified in a notice issue by the Commissioner in this behalf, and the date to be so specified shall be ordinarily not less than thirty days from the date of service of such notice.

42. Refund:- (1) The Commissioner shall, in the prescribed manner refund to a registered dealer, being an exporter of goods, the amount of tax paid or payable on the purchases of goods, or inputs used directly by him in manufacture in Meghalaya, on being satisfied that goods so purchased or manufactured were sold outside the territory of India from Meghalaya.

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(2) The Commissioner shall, in the prescribed manner, refund to consulates and specialized agencies of the United Nations the amount of tax paid or payable on the purchases of goods in Meghalaya, on being satisfied that goods so purchased were for their personal or official use as may be prescribed.

(3) Subject to other provisions of this Act, if it is found on assessment or re-assessment under section 45 or 46 of the Act, as the case may be that a dealer has paid tax, interest or penalty in excess of what is due from him, the Commissioner shall, in the prescribed manner refund to such dealer the amount of tax, interest or penalty paid in excess by him;

Provided further that such refund shall be made after adjusting any tax interest or penalty due from him under Act for any period on the date of passing of order for such refund.

(4) The Commissioner shall, in prescribed manner, refund to a certified dealer, the amount of inputs tax paid or payable by him under this Act on his purchases of capital goods, including plants and machinery, containers, packing materials and inputs required for direct use in the manufacture of taxable good in Meghalaya for sale in Meghalaya.

(5) The Commissioner shall in the prescribed manner refund to a registered dealer, the amount of tax paid or payable by him on the purchases of goods or input used directly by him in manufacture in Meghalaya, on being satisfied that goods so purchased or manufactured were sold to Special Economic Zones.

(6) The Commissioner shall in the prescribed manner refund to a registered dealer, the amount of tax paid or payable on the purchases of goods or input used directly by him in manufacture in Meghalaya, on being satisfied that goods so purchased or manufactured were sold to export Oriented Units/ Electronic Hardware Technology Park/ Software Technology Park Units for the purpose of export only.

43. Provisional refund:- (1) If a registered dealer has filed any return as required under this Act and return shows any amount to be refundable to the dealer on account of sales in course of export out of the territory of India, then the dealer may apply in the manner and form prescribed to the Commissioner for grant of provisional refund pending Audit and investigation to establish the correctness of the claim and consequent assessment, if any;

(2) Subject to the provisions of sub-section (3), the Commissioner may require the dealer to furnish a bank Guarantee or other security as may be prescribed for an amount equal to the amount of refund and on receipt of such guarantee or other security, the Commissioner shall grant the dealer a provisional refund that may be determined as refundable.

(3) The Commissioner may direct the assessment under section 57 of such dealer in respect of the year containing the period covered by the said return to be taken up as early as practicable and adjust the grant of provisional refund against tax due, if any, as a result of that assessment.

(4) If, on assessment the provisional refund granted under sub-section (2) is found to be an excess than the excess shall be recovered as if it is tax free from the dealer under this Act.

(5) Interest will be charged on such excess amount at the rate of two percent per month from the date of grant of provisional refund till the date of assessment.

44. Rectification of assessment:- (1) The authority, which made an assessment or passed an order on appeal or revision in respect thereof may, at any time within three years from the date of such assessment or order and of its own motion, rectify any mistake apparent from the record of the case, and shall, within the like period, rectify any such mistake as has been brought to its notice by a dealer.

Provided that no such rectification shall be made having the effect of enhancing the assessment unless the authority concerned has given notice to the dealer of its intention so to do and has allowed him a reasonable opportunity of being heard.

(2) Where any such rectification has the effect of reducing the assessment, a refund shall be due to the dealer.

(3) Where any such rectification has the effect of enhancing the assessment, a notice of demand shall be issued for the sum payable.

45. Tax Audit:- (1) The Commissioner or any tax officer as directed by him shall undertake tax audit of the records, stock in trade and the related documents of the dealer, who are selected by the Commissioner in the manner as may be prescribed for the purpose.

(2) The tax audit shall be generally taken up in the office, business premises, or warehouse of the dealer.

(3) For the purpose of tax audit and the sub-section (1) the Commissioner or any other tax officer directed by him shall examine the correctness of returns held and admissibility of various claims including input tax credit.

46. Self assessment:- (1) Subject to provisions of sub-section (2) the amount of tax due from a registered dealer liable to be registered under this Act shall be assessed in the manner hereinafter provided for each tax period or tax periods during which the dealer is so liable.

(2) Notwithstanding anything contained in the section of a registered dealer has failed to furnish return or returns under sub-section (1) of section 35 and specify of the tax period or periods, the Commissioner shall proceed to make provisional assessment under section 54.

(3) If a registered dealer have filed the return and respect of any tax period within the prescribed time and the return so filed is found to be in order, it shall be accepted as self assessment subject to adjustment of any arithmetical: error apparent on the case to the said return.

(4) Nothing contained in this section shall prevent the Commissioner from making assessment under section 55 and any tax, interest or penalty paid against provisional assessment shall be adjusted against tax, interest and penalty payable on final assessment under that section.

47. Self assessment:- (1) When a registered dealer fails to furnish the return in respect of any tax period within the prescribed time, the Commissioner shall notwithstanding anything contained in section 55, proceed to assess the dealer provisional or the period for such default.

(2) The provisional assessment under sub-section (1), shall be made on the basis of past returns, or past records where no such returns are available or on the basis of information received by the Commissioner and the Commissioner shall direct the dealer to pay the amount of tax assessed in such manner and by such date as may be prescribed.

(3) If the dealer furnishes return along with evidence full payment of tax, interest and penalty, if any, on or before the date of payment specified under sub-section (2), the provisional assessment made under sub-section 1, shall revoked to the extent of the tax demanded, interest levied and penalty imposed on the date on which such return is filed by the dealer.

(4) Nothing contained in this section shall prevent the Commissioner from making assessment under section 55 and any tax, interest or penalty paid against provisional assessment shall be adjusted against tax, interest and penalty payable on the final assessment under that section.

48. Audit assessment:- (1) Where:-

- (a) A registered dealer has failed to furnish any return under sub-section (1) of section 35 in respect of any period; or
- (b) A registered dealer is selected for audit assessment by the Commissioner on the basis or of any criteria or on random basis; or
- (c) The Commissioner is not satisfied with the correctness of any return filed under section 35; or confides of any claim of exemption, deduction, concession, input the creditor genuineness of any declaration, evidence furnished by a registered dealer in support thereof; or
- (d) The Commissioner has reasons to believe that detailed scrutiny of the case is necessary, the Commissioner may notwithstanding the fact that the dealer may already have been assessed under section 54, serve on such dealer in the prescribed manner a notice requiring him to appear on a date and place specifies therein, which may be in the business premises or at a place specified in the notice, to either attend and procedure or cause to be produced the books of account and all evidence on which the dealer relies in support of his return including tax invoice, if any, or to produce to such evidence, specified in the notice.

(2) The dealer shall provide full co-operation and assistance to the Commissioner to conduct the proceedings under this section at his business premises.

(3) If proceedings under this section are to be conducted at the business premises of the dealer and it is found that the dealer or his authorised representative is not available or not functioning from such premises, the Commissioner shall access to the best of his judgement the amount of tax due from him.

(4) If the Commissioner is prevented from conducting the proceedings under this section, the Commissioner may demand a sum equal to the amount of tax so assessed, by way of penalty after considering all the evidence produced in course of the proceedings or collected by him.

(5) If any dealer:-

- (a) has not furnished returns in respect of any period by the prescribed date; or
- (b) has furnished incomplete and incorrect returns for any period; or
- (c) has failed to comply with any notice under sub-section (1) or sub-section (3); or
- (d) has failed to maintain accounts in accordance with the provisions of this Act or has not regularly employed any method of accounting
the Commissioner shall access to the best of his judgement the amount of tax due from such dealer.

(6) If the Commissioner is satisfied that the dealer, in order to evade or avoid payment of tax.

- (a) has failed to furnished without reasonable cause, returns in respect of any period by the prescribed date;

- (b) has furnished incomplete and incorrect returns for any period; or
- (c) has availed tax credit to which he is not entitled to; or
- (d) has employed such method of accounting which does not enable the Commissioner to assess the tax due from hi;
he shall, after giving the dealer reasonable opportunity of being heard, direct that the dealer shall pay, by way of penalty, a sum equal to twice the amount of additional tax assessed on account of the said reasons under this section.

49. **Assessment of dealers who fails to get himself registered:-** (1) If the Commissioner upon information which has come into his possession, is satisfied that any dealer who has been liable to pay tax under this Act, in respect of any period, has failed to get himself registered, the Commissioner shall proceed in such manner as may be prescribed to assess to the best of his judgement the amount of tax due from the dealer in respect of such period and all subsequent periods and in making such assessment shall give the dealer reasonable opportunity of being heard.

(2) The Commissioner may, if he is satisfied that the default was without reasonable cause direct that the dealer shall pay, by way of penalty in addition to the amount of tax so assessed, a sum equal to the amount of tax assessed or a sum of rupees ten thousand whichever is more.

50. **No assessment after five year:-** (1) No assessment under Section 55 or 57 shall made after the expiry of five years from the end of the tax period to which the assessment relates;

Provided that in case of offence under this Act for which proceeding for prosecution has been initiated, the limitation as specified in this sub-section shall not apply.

Any assessment made or penalty imposed under this Chapter shall be without prejudice to prosecution for any offence under this Act.

51. **Turnover escaping Assessment:-** (1) Where after a dealer is assessed under Section 53 or section 51 for any year or part thereof, the Commissioner has reason to believe that the whole or any part of the turnover of the dealer in respect of any period has;

- (a) Escaped assessment; or
- (b) Been under-assessed; or
- (c) Been assessed at a rate lower than the rate of which it is assessed, or
- (d) Been wrongly allowed any deduction there from; or
- (e) Been wrongly allowed any credit therein, the Commissioner may, serve a notice on the dealer and after giving the dealer reasonable opportunity of being heard and making such enquiries as he considers necessary, proceed to assess to the best of his judgement, the

amount of tax due from the dealer in respect of such turnover, and the provisions of this Act shall, so far as may be apply accordingly.

(2) No order of assessment and reassessment shall be made under sub-section (1) after expiry of five years from the end of the year in respect of which or pasts of which the tax is assessable.

52. Exclusion of time period for assessment:- (1) In computing the period of limitation specified for assessment or reassessment as the case may be the time during which an assessment or reassessment proceeding remained stated under the order of a competent Courts shall be excluded.

53. Special mode of recovery:- Notwithstanding anything contained in any law or contract to the contrary, the Commissioner may at any time or from time to time, by notice in writing (a copy of which shall be forwarded to the dealer at his last known address) required any person who holds or may subsequently hold any money for, or on account of such dealer to pay into Government Treasury in the manner specified in the notice, either forthwith or upon the money becoming due or bring held, or at or within the time specified in the notice not being before money becomes due or is held, so much of the money as is sufficient to pay the amount of tax due from the dealer or penalty or both, as the case may be, under this Act, or the whole of the money when it is less than that amount.

(2) The notice under sub-section (1) may, from time to time amend or revoke any such notice or extend the time for making such payment in pursuance of the notice.

(3) Any person making any payment in compliance with a notice issued sub-section (1) shall be deemed to have made the payment under the authority of the dealer and the receipt from the Government Treasury shall construct a good and sufficient discharge of the liability of such person to the dealer to the extent of the amount specified in the receipt.

(4) Any person discharging liability to the dealer, after service on him of the notice issued under sub-section (1) shall, if the liability as discharged in any manner other than that required under the said notice, be personally liable to the State Government to the extent of the liability discharged or to the extent of the liability of the dealer for tax or penalty, or both whichever is less.

(5) Where a person on whom a notice is served under sub-section (1) proves to the satisfaction of the Commissioner that the money demanded or any part thereof were not due to the dealer, or that he did not hold any money for or on account of the dealer, at the time the notice was served on him nor is the money demanded or any part thereof is likely

to become due to the dealer or to be held for or on account of the dealer, then such person shall not be liable to pay into Government treasury any such money or part thereof.

(6) Any amount of money, which a person is required to pay under sub-section (1) or for which he is personally liable under sub-section (4), shall, if it remains unpaid, be recoverable in the same manner as provided under Section 107;

Provided that nothing in this Section shall operate to affect any action taken or prevent any action that may be or is being taken under section 48 for recovery from the dealer the amount due from him.

54. Collection of tax by dealer:- (1) If any person-

- (a) Not being a dealer liable to pay tax under this Act, collects any sum by way of tax, or
- (b) Being a registered dealer, collects any amount by way of tax in excess of the tax payable by him shall be liable in addition to the tax for which he may be liable to a penalty of an amount equal to twice the sum so collected by way of tax.

(2) If the Commissioner in the course of any proceeding under this Act or otherwise has reason to believe that any person has become liable to a penalty, or forfeiture or both, under sub-section (1), he shall serve on such person a notice in the prescribed form requiring him to appear and show cause as to why a penalty or forfeiture or both of any sum as provided under sub-section (1) should not be imposed on him. The Commissioner shall thereupon hold an inquiry as he deems necessary and shall make such order as he deems fit.

55. Sales not liable to tax:- (1) notwithstanding anything contained in this Act, a value added tax shall not be imposed under this Act-

- i) Where such sales or purchase takes place outside the State of Meghalaya
- ii) Where such sales or purchase takes place in the course of interstate trade and commerce, or
- iii) Where such sales or purchase takes place in the course of import of goods into the territory of India or export of goods out of the territory of India.

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

- i) Outside the State of Meghalaya, or
- ii) In the course of interstate trade or commerce; or
- iii) In the course of import of goods into the territory of India or export of goods out of the territory of India, shall be determined in accordance with the provision of section 3, section 4, and Section 5 of the Central Sales Tax Act, 1956.

56. Tax to the first charge on property: - Notwithstanding anything to the contrary contained in any law for the time being in force, any amount payable by a dealer under this Act on account of tax penalty or interest or any amount which a person is required to pay under this Act shall be first charge on the property of the dealer or such person.

57. **Period of limitation of recovery for tax:** - Notwithstanding anything contained in any law for the time being in force, no proceeding for recovery of any amount under sub-section (1) (b) of section 61 shall be initiated after the expiry of five years from the date of the relevant assessment: Provided that when an appeal or revision has been filed, the period of limitation shall run from the date on which the amount due is finally determined.

CHAPTER VII APPEAL REVISION AND REVIEW

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

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

(2) Subject to such rules of procedure as may be prescribed, the appellate authority, in disposing of any appeal under sub-section (1), may:-

(a) Confirm, reduce, enhance or annual the assessment, or

(b) When such authority is satisfied, for reasons to be recorded in writing, that it is not practicable or desirable to act in according with the provisions of clause (a) set aside the assessment and direct the assessing authority to make a fresh assessment after such further inquiry as may be directed.

(3) While acting in accordance with the provisions of clause (b) of sub-section (2), the appellant authority may set aside any part or parts of an assessment and, if he does so, the assessing authority shall make a fresh assessment in respect of such part or parts only, and the remaining part or parts of the previous assessment shall remain unaltered and valid.

(4) Pending disposal of an appeal referred to in such section (2), the appellate authority may, on application, at his discretion and subject to such conditions and restrictions as may be prescribed stay realization of the amount of tax, penalty or interest in dispute wholly or in part.

Explanation: - For the purpose of this section.

(a) "Assessment" includes:-

- i) Assessment of tax and imposition of penalty under section 45.
- ii) Assessment of tax under section 46
- iii) Determination of interest under section 40.

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

59. Suo moto revision and revision by Commissioner upon application:- (1) Subject to such rules as may be made and for reasons to be recorded in writing, the Commissioner may on his own motion, revise any assessment made or order passed by a person appointed under sub-section (1) of section 25 to assist him.

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

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

61. Appeal to the High Court: - (a) any assesses objecting to an order passed by the Commissioner under section 66 or 67 may appeal to the High Court within sixty days from the date on which the order was communicated to him.

(b) The High Court may admit an appeal preferred after the period of sixty days aforesaid if it is satisfied that the assessee had sufficient cause for not preferring the appeal within that period.

(c) The appeal shall be in the prescribed term, shall be verified in the prescribed manner and shall be accompanied by a fee of live hundred rupees.

(d) The High Court shall, after giving both the parties to the appeal, a reasonable opportunity of being heard, pass such order thereon as it thinks fit.

62. Appeal to the Appellate Tribunal:- (1) A person dissatisfied with the decision of the Appellate Authority and Revisional Authority may, within sixty days being served with notice of the decision.

(a) File a second appeal before the Appellate Tribunal; and

- (b) Serve a copy of the notice of appeal on the Commissioner as well as the authority whose original order is under second appeal before the Appellate Tribunal.
- (2) The Appellate Tribunal may admit an appeal after expiry of sixty days if it is satisfied that the appellate had sufficient reason for not filling the appeal within the time specified in subsection (1), provided it is within one year.
- (3) In deciding an appeal, the Appellate Tribunal shall made 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;
- (b) remitting the assessment or other order under appeal for reconsideration by the Appellate Authority concerned with such directions as it may deem fit; and
- (c) a copy of such order shall be served on the Commissioner/ prescribed authority;
- (4) The Appellate Tribunal shall serve the appellate with notice, in writing of the appeal decision setting forth the reasons for decision;

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.

63. 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 revision on the respondent to the proceeding.

(2) A revision to the High Court may be made on the question of law or an erroneous decision or failure to decide a question 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 person.

(4) 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 judgement.

64. Hearing of revision and Review by the High Court: - A revision or review application presented before the High Court under section 70 shall be heard by the consisting of not less than two judges.

65. Burden of proof: - The burden of providing that any turnover of goods is exempt from or that there is no liability or obligation under Act shall be on the person objecting.

66. **Persons appointed under section 25 and members of Appellate Tribunal to be public servants:** - The Commissioner and all officers appointed under section 25 including the members of the Appellate Tribunal shall be deemed to be servants within the meaning of section 21 of Indian Penal Code.
67. **Identity of Government Servants:** - No suit prosecution or other legal proceedings shall lie against any Government servant for anything which is in good faith done or intended to be done under this Act or the rules made there under.

CHAPTER VIII MEASURES TO REGULATE TRANSPORT OF GOODS

68. **Restriction on movement of goods:-** (1) To ensure that there is no evasion of tax, no person shall transport from any railway station airport, port, post office or any checkpoint set up under section 76 or from any other place any consignment of goods in accordance with such restrictions and conditions as may be prescribed.
- (2) Subject to the restrictions and conditions prescribed under sub-section (1) or sub-section (2), any consignment of good may be transported by any person after he furnishes in the prescribed under manner such particulars in such form obtainable from such authority or in such other form as may be prescribed.
- (3) Subject to such restriction and conditions as may be prescribed, nothing in sub-section (1) shall apply to:-
- (a) Duly accredited diplomatic personnel attached to foreign consulates or other diplomatic officer.
 - (b) Organisations and specified agencies of the United Nations;
 - (c) Such other persons, organisations or institutions as may be prescribed.
69. **Erection of check post:-** (1) The Government may, with a view to prevent or check avoidance or evasion of tax by notification in the official Gazette direct the establishment of the check post or barrier at such places as may be specified in the notification and every officers who exercises powers and discharges his duties at such check post by way of inspection of documents produced and goods being moved, shall be in charge.
- (2) The driver or person in charge of vehicle or carries of goods in movement shall

- (a) Carry within him the records of the goods including "Challan" bills of sale or dispatch memos and prescribed declaration form or way bill duly filled in and signed by the consignor of goods carried.
- (b) Stop vehicle or carrier at every check post set under sub-section (1) or at any other place by an officer authorised by the Commissioner in this behalf;
- (c) Produce all the documents including the prescribed way bill relating to the goods before the officer in charge of the check post or the authorised officer;
- (d) Give all the information in his possession relating to the goods; and
- (e) Allow the inspection of the goods for search of the vehicle by the officer in charge of the check post or any authorised officer.

(3) Where any goods are in movement within the territory of the State of Meghalaya, officer empowered by the State Government on this behalf may stop the vehicle or the carrier or the person carrying such goods, for inspection at any place within his jurisdiction and provisions of sub-section (2) shall mutatis mutandis apply.

(4) Where any goods in movement are without documents, or are not supported by documents as referred to in sub-section (2), or document produced appears to be false or forged the officer in charge of the check post or the officer empowered under sub-section (3) may

(a) direct the driver or the person in charge of the vehicle or carrier or of the goods not to part with the goods in any manner including by transporting or re-booking, till a verification is done or an injury is made, which shall not take more than seven days; and

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

(5) The officer in charge of the check post or the officer empowered under sub-section (3), after given the person in charge of the goods a reasonable opportunity of being heard and after having held such enquiry as he may deem fit, shall impose for possession or movement of goods, whether seized or not in violation of the provisions of clause (a) of sub-section (2) or for submission of false or forged documents or way bill, a penalty equal to the amount of five times of the tax leviable on such goods, or twenty percent of the value of goods, whichever is higher.

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

(7) The officer in charge of the check post or the officer empowered under sub-section (3) may release the goods to the owner of the goods or to any person duly authorised by such owner on payment of the penalty imposed under sub-section (5).

(8) Where the driver or person in charge of the vehicle or the carrier is found guilty for violation of the provisions of sub-section (2), subject to the provisions of sub-section (4), the officer in charge of the check post or the officer empowered under sub-section (3), may detain such vehicle or carrier and affording an opportunity of being heard to such driver or person in charge of the vehicle or the carrier, may impose a penalty on him as provided under sub-section (5).

(9) Where a transporter while transporting goods, is found to be in collusion with a dealer to avoid or evade tax, the officer in charge of the check post or the officer empowered under sub-section (3) shall detain the vehicle or carrier of such transporter and after affording him an opportunity of being heard with prior approval in writing of the Commissioner may confiscate such vehicle or carrier.

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

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

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

71. Automation:- (1) The Government shall endeavour to introduce and establish and automated data processing system for complementing the purpose of the Act, and for incidental and allied matters.

(2) In order to make effective the said system, the State Government may from time to time make Resolutions for regulating the interactions between the dealers, authorities appointed or constituted under the Act and the Government Treasury.

(3) The Regulations shall be published in the Official Gazette and may be made retrospective in any day not earlier than 1st April, 2003.

72. Power to collect statistics:- (1) If the Commissioner considers that for the purpose of better administration of this Act it is necessary so to do, he may by notification in the

Official Gazette, direct that statistics be collected relating to any matter dealt with, by or in connection to this Act.

(2) Upon such direction being, the Commissioner or any person or persons authorised by him in this behalf may be notification in the Official Gazette, and if found necessary by notice in any newspaper or in such manner as in the opinion of the Commissioner or the said person, is less calculated to bring the notice to the attention of dealers other persons, 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 generally of the foregoing provisions, the Government may by rules provided that every registered dealer or, as the case may be, any class of registered dealer shall furnish, in addition to any other return 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.

73. **Registration of transporters:** - For carrying out the purpose of section 75 and 76 every transporter, carrier on transporting agent, operating it's transport business relating to taxable goods in Meghalaya, shall be required to obtain a Certificate of Registration in the prescribe manner from the Commissioner or any Officer appointed under Section 25 to assist him, on payment of such fess as may be prescribed.
74. **Maintenance of accounts by transporter, carrier or transporting agent:-** Notwithstanding anything contained in any other law for the time being in force any transporter, carrier or transporting agent shall maintain, in the prescribed form proper accounts of taxable goods transported by him into, or outside, or within Meghalaya on account of any person or dealer, being a consignee or consignor as the case may be, and shall, on demand by the Commissioner furnish such information as may be required by him in relation to transport of such goods by such transporter, carrier or transporting agent.
75. **Inspection, search and seizure of records or documents:-** (1) The account referred to in Section 81, and goods referred to in that section and stored in a go down or warehouse in Meghalaya, shall be open to inspection by the Commissioner at all reasonable times.

(2) Where any transporter, carrier or transporting agent fails to maintain proper account in the prescribed form or fails to furnish information to the Commissioner as required by sub-section (1), the Commissioner may enter and search any place of transporting business or any other place where such transporter, carrier or transporting agent for the time being keeps any records or documents in relation to transport of goods, and the Commissioner may, for reasons to be recorded in writing seize such record or documents.

(3) Where any transporter, carrier of transporting agent has:-

- (a) Received any consignment of taxable goods from any person or dealer in Meghalaya for transport of such consignment to any place outside, or within Meghalaya, or
- (b) Transported into Meghalaya any consignment of taxable goods on account of any person or dealer, and the Commissioner has information that such person or dealer is not in existence at the address given in the way bill, tax invoice, consignment note or any document of like nature in respect of any consignment of goods referred to in clause (a), or clause (b), the Commissioner may direct the transporter carrier or transporting agents, by order in writing, that-

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

(4) Where the Commissioner, after giving the person or dealer referred to in clause (a), or clause (b), as the case may be, of sub-section 4, a reasonable opportunity of being heard or after causing an enquiry about the existence of such person, or dealer, is satisfied that such person or dealer-

- (a) Is in existence at the address given in the way bill, tax invoice, invoice consignment note or any document of like nature, the Commissioner shall forthwith withdraw, by an order in writing, his direction issued under this sub-section (4) to the transporter, carrier or transporting agent, or
- (b) Is not in existence at the address given in the way bill, tax invoice, invoice consignment note or any document of like nature, the transporter of the consignment of taxable goods by such person or dealer to any place outside, or within or into, Meghalaya shall be deemed to be contravention of the provisions of Section 76 as the case may be, and the Commissioner shall seize such consignment of goods under sub-section (1) (c) of Section 84

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

(2) For the purpose of the survey, the Commissioner may by general or special notice require any dealer or class of dealers to furnish the names, address 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 surveys, the Commissioner may call for detail 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 identity 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 the certificate of registration, whether such place will be principal place of business or not of such business and require and proprietor, employee or any other person who may at that time and place 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 for things which may be found there in, and
- iii) to furnish such information as he may require as to any matter which may be useful or of relevant to any proceedings under this Act.

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

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

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

CHAPTER IX

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

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

(5) The Commissioner or any Officer authorised by the Commissioner may, by notice in writing require any person, whether or not liable to pay tax under this Act:-

(a) to furnish any information that may be required by the notice; or

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

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

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

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

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

78. Disposal of seized goods. (1) If any goods are seized under section 82 or 84, the Commissioner or any Officer authorised by the Commissioner, by an order in writing upon the person from whom such goods are seized, or the owner of such goods, where the particulars of the owner of such goods are available, or possession, after giving reasonable opportunity of being heard a penalty not exceeding fifty per centum of the value of such goods as may be determined by him in accordance with rules made under this Act.

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

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

(a) Of perishable nature.

(b) Required to be used by specified date.

(c) Sell such goods in open auction before the occurrence of, or expiry of such period as may be considered fit and proper or, if he is of the opinion that such may become unusable, un-saleable on detention destroy such goods, if the said goods become un-saleable before the sale in open auction actually take place.

(4) The proceeds of sale of the goods under sub-section (2) and (3) shall be applied in the prescribed manner for payment in the following order of priority;

(a) first for incidental charges, if any, relating to auction sale of such goods;

(b) secondly, for expenses, if any, for storage of such goods;

(c) thirdly, for penalty imposed under sub-section (1); and

(d) the balance of the proceeds of the sale, if any, shall be paid to the owner of the goods or, if his particulars are not available, to the person from whom such goods were seized upon application within one year from the date of sale or within such further period as may be allowed by the Commissioner for cause shown to his satisfaction.

(5) Notwithstanding anything contained under sub-section (1), (2) or (3) the Commissioner or any Officer authorised by him may, for reason to be recorded in writing, direct release of the goods seized on such terms and conditions as he may deem fit.

79. **Audit of accounts.** (1) Where in any particular year, the gross turnover of a dealer exceeds such other amount as the Commissioner may by a notification in the Official Gazette specify, then such dealer shall get his accounts in respect of that year audited by an Accountant within six months from the end of that year and obtain a report of such audit in the prescribed or duly signed and verified by such Accountant and setting forth such particulars as may be prescribed.

(2) A true copy of such report shall be furnish by such dealer to the Commissioner by the end of the month after expiry of the period of six months during which the audit would have been completed.

(3) If any dealer liable to get his accounts audited under sub-section (1) fails to get his accounts audited and furnish a true copy of the audit report with the time specified in sub-section (2), the Commissioner shall, after giving the dealer a reasonable opportunity of being heard impose on him, in addition to any tax payable, a sum by way of penalty equal to 0.1% of the turnover as he may determine the best of his judgement in his case in respect of the said period.

Explanation: - For the purpose of this section, "Accountant", means a Chartered Accountant within the meaning of the Chartered Accountant's Act, 1919 and includes a person who by virtue of the provisions of sub-section (2) of Section 226 of the Companies

Act, 1956, is entitled to be appointed to Act as an auditor of Companies registered under the said Act.

80. Dealer to declare the name of his business manager. (1) Every dealer, who is liable to pay, tax and who is a Hindu Undivided Family or an association of person, club or society, firm or company, or who is engaged in business as the guardian or trustee or otherwise on behalf of another person, shall within the period prescribed, furnish a declaration in the manner prescribed stating the name of the person or persons who shall be deemed to be manager or managers of such dealer's business for the purposes of this Act.

(2) Such declaration shall be furnished at the time of registration, wherever applicable and shall be revised from time to time.

(3) The statement furnished under this sub-section shall also contain the name and address with designation in relation to the business of such persons who are authorised to receive notice and other documents under this Act and such service on whom shall be binding on the dealer.

81. Compulsory issue of tax invoice, cash memo or bill. (1) If a registered dealer sell any goods to any person, he shall issue to the purchaser a serially numbered tax invoice in the prescribed form, signed and dated by him or his regular employee showing such particulars as may be prescribed, and he shall also keep a counterfoil or duplicate of such cash memorandum or bill, duly signed and dated; or

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

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

83. Electronic record. Every dealer who maintains the records electronically shall retain them in electronically readable format for the period specified in Section 84.

CHAPTER X

OFFENCES AND PENALTIES

84. **Offences.** If a person or dealer-

- (a) Being liable to pay tax under this Act, fails to get himself registered;
 - (b) Not being a registered dealer, represents, when purchasing goods, that he is a registered dealer; or
 - (c) Being a registered dealer, represent when purchasing good or class of goods not covered by his certificate of registration that such goods are recovered by his certificate of registration that such goods are covered by such certificate; or
 - (d) Contravenes the terms of any declaration made by him under the provisions of this Act or violates any condition of furnishes in accurate particulars in any document furnished by him under this Act.
 - (e) Fails to furnish without reasonable cause any return or re-statement as required under section 35 in the prescribed manner and within the prescribed time; or
 - (f) Fails to pay without reasonable cause the tax payable by him under sub-section (1) of section 35 or under any notice of demand issued under section 47 within the time allowed for such payment; or
 - (g) Conceals any part of his gross turnover or taxable turnover of any particulars thereof or furnishes incorrect particulars of such turnover in any return or statement furnished under section 35 or make any incorrect claim for exemption, reduction in the tax payable or other relief under any provision of this Act, or
 - (h) Transports any goods in contravention of the provision of section 75;
 - (i) Violates the provisions of section 88.
 - (j) Violates the provisions of sub-section (i) of section 105.
- (1) **Penalties. 91:-** Whoever, not being a registered dealers falsely represent that he is r was a registered dealer at the time when he sells or buys goods shall, on conviction, be punished with rigorous imprisonment for a terms which shall not be less than six months but which may extend to three years and with fine.
- (2) Whoever, knowingly furnishes a false return shall, on conviction, be punished-

- i) In case where the amount of tax, which could have been evaded, if the false return had been accepted as true, exceeds Rs. 10,000/- with rigorous imprisonment for a term which shall not be less than six months but which may extend to three years and with a fine;
 - ii) In any other case with rigorous imprisonment for a term, which shall not be less than three months but which may extend to one year and with fine.
- (3) Whoever, knowingly produces before the Commissioner, false bill, cash memorandum, voucher declaration certificate or other document for evading tax payable under this Act shall on conviction, be punished:-
- i) In case where the amount of tax, which could have been evaded, if the documents referred to above had been accepted as true, exceeds Rs. 50,000/- during the period of a year with rigorous imprisonment for a term which shall not be less than six months but which may extend to three years and with a fine;
 - ii) In any other case with rigorous imprisonment for a term, which shall not be less than three months but which may extend to one year and with fine.
- (4) Whoever, knowingly keeps false account of the value of the goods bought or sold by him in contravention of the provision of this Act, shall on conviction, be punished with rigorous imprisonment for a term which shall not be less than three months but which may extend to one year and with a fine.
- (5) Whoever, knowingly produces false accounts, registers or documents or knowingly furnishes false information, shall, on conviction, be punished-
- i) In case where the amount of tax, which could have been evaded, if the account, registers or documents or information referred to above had been accepted as true, exceeds Rs. 50,000/- during the period of a year, with rigorous imprisonment for a term which shall not be less than six months but which may extend to three years and with a fine;
 - ii) In any other case with rigorous imprisonment for a term, which shall not be less than three months but which may extend to one year and with fine.
- (6) Whoever, issues to any person certificate or declaration under the Act, rules or notifications of a fails bill, cash memorandum, voucher, delivery Challan, lorry receipt or other document which he know or has reason to believe to be false, shall on conviction, be punished rigorous imprisonment for a term which shall not be less than six months but which may extend to three years and with a fine;

(7) Whoever:-

- i) Wilfully attempts, in any manner whatsoever, to evade any tax leviable under this Act, or
- ii) Wilfully attempts, in any manner whatsoever, to evade any payment of any tax, penalty on interest or all of them under this Act or shall on conviction, be punished.
 - (a) In case where the amount involved exceeds Rs. 50,000/- during the period of a year, with rigorous imprisonment for a term which shall not be less than six months but which may extend to three years and with fine;
 - (b) In any other case with rigorous imprisonment for a term, which shall not be less than three months but which may extend to one year and with fine.

(8) Whoever, aids or abets or induces any person in commission of any act specified in sub-section (1) to (7) shall, on conviction, be punished with rigorous imprisonment which shall not be less than three months but which may extend to one year and with fine;

(9) Whoever:-

- (a) Is engaged in business as a dealer without being registered in wilful contravention of section 31, or
- (b) Fails without sufficient cause, to furnish any returns as required by section 31, by the date and in the manner prescribed.
- (c) Fails without sufficient cause, when directed to keep any accounts or record, in accordance with the provisions of this Act, or
- (d) Fails without sufficient cause, to comply with any requirements made of him under section 84, or
- (e) Voluntarily obstructs any Officer making inspection or search or seizure under section 84. Shall, on conviction, be punished with imprisonment for a term which may extend to one year and with fine.

(10) Whoever fails, without sufficient cause, to furnish any returns by the date and in the manner prescribed under this Act shall on conviction, be punished with simple imprisonment for a term which may extend to one year and with fine which shall not be less than.

- i) Rupees two thousand, if the tax due for the period covered by the return does not exceed rupees twenty thousand;
- ii) Rupees five thousand, if the tax due for the period covered by the return exceeds rupees twenty thousand but does not exceed rupees one lakh;

- iii) Rupees ten thousand, if the tax due for the period covered by the return exceeds rupees one lakh;
- (11) Whoever commits any of the acts specified in Sub-Section (1) to Sub-Section (10) and the offence is a continuing one under any of the provisions of the sub-section, shall, on conviction, be punished with daily fine not less than rupees one thousand during the period of the continuance of the offence in addition to the punishments provided under this section.
- (12) Notwithstanding anything contained in sub-sections (1) to (11), no person shall be proceeded against this sub-section for the acts referred to therein if the total amount of tax evaded is less than Rs. 200/- during the period of a year.
- (13) Where a dealer is accused of an offence specified in sub-sections (1) to (11) the person deemed to be the manager of the business of such dealer shall also be deemed to be guilty of such offence, unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission thereof.
- (14) In any prosecution for an offence under this section, which requires a capable mental state on the part of the accused, the court shall presume the existence of such mental state, but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

Explanation:- Culpable mental state includes intention, motive or knowledge of fact or belief in, or reason to believe a fact and a fact is said to be proved only when the court believe it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability.

85. Offences by Companies: - (1) where an offence under this Act or the rules has been committed by a company, every person who at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided, that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

- (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of all its attributes to any neglect on the part

of any Director, Manager, Secretary or other Officer of the company such Director, Manager, Secretary or other Officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation:- For the purpose of this section-

“Company” means a body corporate, and includes a firm or other association of individuals; and

“Director” in relation of a firm means a partner in the firm.

- (3) Where an offence under this Act has been committed by a Hindu Undivided Family, the Kart there of shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly

Provided, that nothing contained in this sub-section shall render the Karto liable to any punishment if he proves that the offence was committed without his knowledge or that he exercise all due diligence to prevent the commission of such offence.

Provided further that, where an offence under this Act has been committed by a Hindu Undivided Family, and it is proved that the offence has been committed with the consent or connivance of, or is attribute to any neglect on the part of, any adult member of the Hindu Undivided Family, such member shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

86. Cognizance of offences. Notwithstanding anything contained in the Court of Criminal Procedure, 1973, all offences punishable under this Act or Rules made there under shall be cognizable and bailable.

87. Imposition of fine. Notwithstanding anything contained in the Court of Criminal Procedure, 1973, it shall be lawful for the Metropolitan Magistrate of the First Class in pass on any person convicted of an offence under section 76 or Section 100 a sentence of fine as provided in the relevant section, in excess of his powers under section 29 of the said Code.

88. (1) Investigation of offence subject to conditions, if any, as may be prescribed, the Commissioner may be authorised either generally or in respect of a particular case or class any Officer or person subordinate to him to investigate all or any of the offences punishable under this Act.

(2) Every Officer so authorised shall, in the conduct of such investigation, exercise the power conferred by the Code of Criminal Procedure, 1973 upon an Officer in charge of a police station for the investigation of a cognizance offence.

89. Compounding of offences. (1) The Commissioner may either before or after the institution of proceedings for any offence punishable under section 90 or under any rules made under this Act, accept from any person charged with such offence by way of composition of offence a sum not exceeding five thousand rupees or double the amount of tax which would have been payable on the purchase turnover to which the said offence relates, whichever is greater.

(2) On payment of such sum as may be determined by the Commissioner under sub-section (1), no further proceedings shall be taken against the accused person in respect of the same offence and proceedings, if already taken, shall stand abated.

90. Remission. (1) The State Government, for reasons to be recorded in writing, may remit the whole or part of the amount of the tax or penalty payable in respect of any period by any registered dealer who has suffered heavy loss due to any natural calamity.

(3) The State Government, may, by rules, provide that in such circumstances and subject to such conditions as may be prescribed, a draw back; set off, or a refund of the whole or any part of the tax paid in respect of any purchase of raw materials under this Act for use by any dealer in the manufacture of goods for sale, be granted to such dealer.

CHAPTER XI MISCELLANEOUS

91. Power of taking evidence on oath, etc. (1) The authorities specified in Chapter III of this Act shall, for the purpose of this Act, have the same power as are vested in a court under the Code of Civil Procedure 1908 (Act No. 5 of 1908) when trying a suit in respect of the following matters namely:

- (a) Discovery inspection;
- (b) Enforcing the attendance of any person including any officer of a banking company and examining him on oath or affirmation.
- (c) Compelling the production of books of account or other documents;
- (d) Issuing commission.

(2) Subject to any rules made in this behalf; any authority referred to in sub-section (1) may impound or retain in his custody for such period as he may think fit any books of account or other documents produced before him in proceeding under this Act;

Provided that a person appointed to assist the Commissioner under sub-section (1) of section 26 shall not

- (a) Impound any books of account of other documents without recording his reasons for doing so or a
- (b) Retain in his custody for such books or documents for a period exceeding thirty days (exclusive of holidays) without obtaining the approval of the Commissioner thereof.

92. **Returns etc. To be confidential.** (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 this course of any proceedings under this Act. Other than the proceeding before a criminal court, shall save as provided in sub-section (3) be treated as confidential and notwithstanding anything contained in the Indian Evidence Act, 1872 (I of 1872) no court shall save as foreshaid be entitled to require any Government Servant to produce before it any such statement returns, accounts documents, 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 Government Servant discloses any of the particulars, referred to in sub-section (1). He shall be punishable with imprisonment which may extend to six months and shall also be liable to fine.

(3) Nothing in this Section shall apply to the disclosure of any of the particulars referred to in sub-section (1)

- (a) For the purposes of any prosecution under the Indian Penal Code (45 of 1860), the Prevention of Corruption Act 1988 (49 of 1988) of this Act, or any preliminary inquiry for ascertaining whether such prosecution lies.
- (b) In connection with any such or proceeding in a civil court to which the State Government or any person appointed under this Act is a party and when relates to any matter arising out of any proceeding under this Act.
- (c) Where it is necessary to make such disclosure for the purposes of this Act.
- (d) To an officer of Government to levy or realize any tax or duty imposed by it.
- (e) To an officer of Government for the audit of receipt and refunds of tax, penalty or interest under this Act.
- (f) In connection with an enquiry concerning allegations of corruption or official misconduct against any Government for the audit of receipt and refund of tax. Penalty or interest under this Act.

- (g) In any inquiry of misconduct in connection with any proceeding under this Act. Against any legal practitioner, chartered accountant or other person entitled to appeal on behalf of a dealer or person before the talking authorities under this Act, to the authority competent to take disciplinary action against such legal practitioner chartered accountant or other person.
- (h) To any officer of the State Government to enable such, officer to perform his executive functions in relation to the affairs of the State.
- (i) To any person for purposes other than those referred to in clause (a) clause (b) clause (c) clause (d) clause (g) and clause (h), if the State Government considers such disclosure necessary in the public interest.

93. Disclosure of information required under Section 79 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 79 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 computerization 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 79.

(a) Wilfully refuses or without lawful excuse neglects to furnish such information or return as may be by that section required, or

(b) Wilfully furnishes or causes to be furnished any information or return which he knows to be incorrect or false.

(c) 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 79 or compilations or computerisations thereof wilfully disclosures any information or the contents of any return given or made under that section, otherwise than in execu-

tion of his duties under that section or for the purposes of the prosecution of an offence under, this Act or under any other Act, 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. Nothing in this section shall 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.

94. Publication and disclosure of information respecting dealers and other persons in public interest, (1) Notwithstanding anything contained in this Act, if the State Government is of the opinion that it is necessary or expedient in the public interest to published or disclosure the name of any dealers or other persons and any of the particulars relating in any Proceedings under this disclosure or Act in respect of such dealers and persons, it may publish or cause to the Published or disclosure 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 on 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 person, 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 Government, the circumstances of the case justify it.

95. Statement to be furnished by dealer, transporter, owner or lessees of warehouse, etc:-

If, in the opinion of the State Government, there is appreciable evasion of tax in respect of any goods, the State Government may, every person dealing in transporting, carrying, shipping of clearing, forwarding, or warehousing, whether as owner or lessees of warehouse, such goods, shall furnish a statement or declaration in such form, within such time, in such manner, and for such period, as may be specified in the notification.

96. Information to be furnished by dealers regarding changes of business:- If any dealers:-

(a) Sells or otherwise disposes of his business or any part of his business or effect or comes to know of any change in the ownership of his business, or discontinues his business or changes his place of business or opens a new place of business, or

(b) Discontinues or changes his warehouses or opens new warehouses, or changes the name or nature of his business or effects any change in the class or classes of goods in which he carries on his business and which is or are specified in the certificate of registration, or

- (c) In the case of a company, effect any change in the constitution of its board of directors he shall, within the prescribed time and in the prescribed manner, inform the prescribed authority accordingly and in such dealer dies, his legal representative shall, in the like manner, inform the said authority.

97. Statement, accounts or declarations to be furnished by dealers:- (1) Every registered dealer shall, in the manner as may be prescribed, submit before the prescribed authority such statements, accounts or declarations within such time as may be prescribed and shall verify that such statements, accounts or declaration are true to the best of his knowledge and belief.

(2) If a registered dealer fails to submit statements, accounts or declarations referred to in sub-section (1), he shall be liable to pay a penalty not exceeding Rupees twenty five thousand for each time of default, in the manner as may be prescribed.

98. Information to be furnished by dealers in respect of transfer of goods otherwise than by way of sales:- If, in the opinion of the State Government, it is necessary to obtain information relating to transfer of goods otherwise than by way or Sale in Meghalaya it may by notification call upon dealers or such class or classes of dealers as may be specified in the notification to furnish such information relating to such goods, in such manners, at such intervals for such period and to such authority as may be specified in the notification.

99. Special provisions relating to deduction of tax at source:- Notwithstanding anything contained in any other provisions of this Act-

- (1) Every person (excluding an individual, Hindu undivided family, a firm or a company not under the control of the Government) responsible for making any payment or discharging any liability on account of any amount payable for the transfer of property in goods (whether as goods or in some other form) involved in a work contract for the transfer of the right to use any goods for any purpose, or.
- (2) Every person responsible for paying sale price or consideration or any amount purporting to be the full or part payment of sale price or consideration in respect of any sale or supply of goods liable to tax under this Act to the Government or to a company, corporation, board, authority. Undertaking or any other body by whatever name called, owned, financed or controlled wholly or substantially by the Government shall at the time of credit to the account of or payment to the payee of such amount in cash, by cheque, by adjustment or in any other manner whatsoever, deduct tax there from in the prescribed manner at the rate specified in the Schedule to the Act in respect of sale or supply of goods or transfer of the right to use any goods and at the rate of four percentum of such sum being paid in respect of works contracts:

Provided that no deduction shall be made under this sub-section where the amount paid or credited by such person in any financial year does not exceed the prescribed amount.

- (3) Any tax deducted under sub-section (1) shall be paid to the account of the State Government in such manner and within such time as may be prescribed.
- (4) The person making any deduction of tax under sub-section (1) and paying it to the account of the State Government shall issue a certificate of tax deduction to the payee in such manner, in such form and within such time as may be prescribed.
- (5) Any tax deducted under sub-section (1) and paid to the account of the State Government shall, on production of the certificate of tax deduction under sub-section (3) by the payee be deemed to be tax paid by the payee for the relevant period and shall be given credit in his assessment accordingly.
- (6) No interest or penalty shall be imposed or no recovery proceedings against the dealers/payee shall be initiated in respect of tax deducted under sub-section(1);

Provided that the recovery proceeding under sub-section (2) of Section 41 against the person concerned who has deducted the tax but not deposited into Government Treasury shall be drawn up by the Assessing Officer under whose jurisdiction the office of the person falls with prior approval of the Commissioner.

100. **Application of the Meghalaya Land Revenue Regulation Act for Recovery of tax recoverable as arrear of land revenue:-** Where the amount of tax, interest, penalty or other sum payable under sub-section (1) of Section 48 remains unpaid, it may be recovered as an arrear of land revenue and for this purpose the State Government may by notification in the Official Gazette empower the Commissioner or any person appointed to assist the Commissioner under Sub-section (1) of Section 25 to exercise the power under the Meghalaya Land and Revenue Regulation Act (Assam Land and Revenue Regulation, 1886 as adapted) for the purpose of recovering the sums.

101. **Bar to proceeding in Civil courts:-** No suit shall be brought in any civil court to set aside or modify any assessment made on any order passed under this Act or the rules made there under and no prosecution, suit or other proceeding shall lie against the Government or any officer of the Government for anything in good faith done or intended to be done under this Act or the rules made there under

102. **Power of State Government to prescribed rates of fees:-** (1) Fees payable a memorandum of appeal or application for review or revision, or upon any other miscellaneous application or petition for relief shall be such as may be prescribed;

Provided that any fees prescribed under this section not exceed one thousand rupees.

(2) the fees as aforesaid shall be paid in court-fee stamps to be affixed to the memorandum of appeal, application for review or revision or other miscellaneous application or petition, as the case may be, referred to in sub-section (1).

103. **Application of Section 4 and 12 if Limitation Act:-** In computing the period of limitation under Chapter X, the provisions of sections 4 and 12 of the limitation Act, 1963 shall, so far as may be, apply.

104. **Appearance before any authority in proceedings:-** (1) Any person who is entitled or required to attend before any authority including the Appellate Tribunal in connection with any proceeding under this Act, otherwise than when required to attend personally for examination on oath or affirmation, may attend by a relative or a person regularly employed by him, or by a legal practitioner, or Chartered Accountant who is not disqualified by or under sub-section (2), or by a sale tax practitioner who possesses the prescribed qualification and is entered in the list which the Commissioner shall maintain in that behalf, and who is not disqualified by or under sub-section (2).

Any person who, immediately before the commencement of this Act was a sale tax practitioner under any earlier law only if such relative, before employed, legal practitioner, Chartered Accountant, or sale tax practitioner is authorized by such person in the prescribed form, and such authorized 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 sale tax practitioner:-

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

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

(4) Any person against whom any order of disqualification is made under this section within one month of the date of communication of such order appeal to the Tribunal to have the order cancelled or modified. The order of the Commissioner shall not take effect until one month of the making thereof or when an appeal is preferred until the appeal is decided.

(5) The Commissioner may, at any time suo moto or on application made to him in this behalf, revoke or modify any order made against a person under sub-section (2) and there

upon such person shall cease to be disqualified subject to such conditions or restrictions that may be contained in such order.

105. Power of State Government to amend schedules- (1) If the State Government is of the opinion that it is expedient in the interest of general public so to do, it may, by notification in the Official Gazette, add to, or omit from, or otherwise amend, the First, the Second, the Third, the Fourth, the Fifth, or the Sixth Schedule retrospectively and thereupon the said schedule shall be deemed to have been amended accordingly.

(2) The State Government may amend the said schedules retrospectively if such amendment does not prejudicially affect the interest of any dealer and it does not violate the principle of equity.

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

(2) In particular and without prejudice to the generally of the foregoing power, such rules may provide for all or any of the matters which under any provision of this Act are required to be prescribed or to be provided for by the rules.

(3) In making any rules under this section, the State Government may direct that a breach thereof shall be punishable with fine not exceeding five hundred rupees and, when the offence is a continuing one, with a daily fine not exceeding twenty-five rupees during the continuance of such offence.

107. Power of State Government to remove difficulties- If any difficulty arises in giving effect to any of the provisions of this Act, the State Government may, by order, not inconsistent with the provision of this Act, remove the difficulty.

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

108. Clearance certificate:- (1) Notwithstanding anything contained in any other law for the time being in force no Government, local authority, educational institution, or corporation or body corporate established by or under a Central or State Act shall enter into any works contract or place order with, or make purchases of any goods from, any dealer or make any payment to such dealer for such purchase, unless the Commissioner certifies in the prescribed manner that such dealer-

- i) Has no liability to pay tax or has not defaulted in furnishing any return or returns together with the receipted challan or challans showing payment of all taxes payable under this Act or the Central Sales Tax Act, 1956 (74 of 1956)

- ii) Has not defaulted in making payment of tax otherwise payable by, or due from, him under this Act or the Central Sales Tax Act, 1956 (74 of 1956), or
- iii) Has made satisfactory provision for securing the payment of tax by furnishing bank guarantee favour of the Commissioner or otherwise, as the case may be.

(2) The application for the certificate required under sub-section (1) shall be made by the dealer referred to in that sub-section to the Commissioner and shall be in such form and shall contain such particular as may be prescribed.

CHAPTER XII

Transition, repeal and savings

109. **Transition-** (1) Any registration certificate issued under the Meghalaya (Sale Tax) Act, the Meghalaya Purchase Tax Act, being a registration certificate in force immediately before the appointed day shall in so far as the liability to tax under sub-section (1) of Section 3 of this Act exists, be deemed on the appointed day to be the certificate or registration issued under the Act, and accordingly the dealer holding such registration certificate immediately before the appointment day, shall until the certificate is duly cancelled, be deemed to be a dealer liable to pay tax under this Act and to be registered dealer under this Act and all the provisions of this Act shall apply to him as they apply to a dealer liable to pay under this Act.

(2) Notwithstanding anything contained elsewhere in this Act-

- (a) Any person appointed as the Commissioner, Deputy Commissioner or Assistant Commissioner, or any person appointed to assist the Commissioner, under the repealed Act and continuing in the office immediately before the appointed day, shall on and from the appointed day, be deemed to have been appointed under this Act shall continue in office as such till such person ceases to be the Commissioner, Joint Commissioner or Assistant Commissioner or ceases to be the Person appointed to assist the Commissioner.
- (b) Any dealer liable to furnish return under the repealed Acts immediately before the appointed day shall notwithstanding that a period, in respect of which he is also liable furnish return, commences on and day before such appointed day and ends on any day after such appointed day, furnish such return in respect of tax payable for sales or purchases made up to the day immediately before such appointed day and pay tax in accordance with the provisions of repealed Act and shall furnish a separate return in respect of the remaining part of the period which commences on such appointed day and pay tax due on such return for sales or purchases made on and from such appointed day in accordance with the provisions of this Act.

- (c) Any order delegating any power under any Act or the rules made there under by the Commissioner to a person appointed, by any designation, to assist him before the appointed day shall, on and from such appointed day, continue in force on the day immediately before such appointed day, on and from such appointed day, continue in force until the Commissioner amends, varies or rescinds such order after such appointed day under this Act.
- (d) Any dealer, who is no longer liable to pay tax under the repealed Act and whose account, registers or documents has been seized under that Act, shall, continue to be retained in accordance with provisions of that Act on or after appointed day.
- (e) All forms of waybill under the repealed Act or the Rules made there under and continuing in the force on the day immediately before the appointed day shall, with effect from such appointed day, continue in force and shall be used mutatis mutandis for the purpose for which they were being used before such appointed day until the State Government directs, by notifications, the discontinuance of the use of such forms till such time as the State Government may, by notification, specify in this behalf.
- (f) All rules, regulations, notifications or orders made or issued under any of the repealed Act and continuing in force on the day immediately before the appointed day shall continue to be in force on or after such appointed day in so far as they are not inconsistent with the provisions of this Act or the rules made there under until they are repealed or amended;
- (g) Where a tax has been levied under any of the provisions of the repealed Act in respect of the sale or purchase of declared goods within the meaning of the section 14 of the Central Sales Tax Act, 1956 (74 of 1956), or any goods specified in Schedule IV before the appointed day, no tax shall be levied under this Act on sale or purchase of such goods on or after appointed day;
- (h) Any waybill obtained or obtainable by the dealer from any prescribed authority or any declaration furnished or to be furnished by or to the dealer under any of the Acts so repealed or the rules made there under in respect of any sale of goods before the appointed day shall be valid where such waybill is obtained or such waybill is furnished on or after such appointed day.
- (i) Any application for review or reference arising from any order passed before the appointed day or any appeal arising from any assessment of tax or determination of interest made before such appointed day or any application for refund, or for waybill, in respect of any period before such appointed day under the repealed Act it made before such appointed day and pending on such appointed day or it made on or such appointed day shall be disposed or in accordance with the provisions of the repealed Act.

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

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

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

Provided that such repeal shall not affect the previous operation of the said Act or any right, title, obligation or liability already acquired, or incurred there under and subject thereto, anything done or any action taken including any appointment, notification, notice order, rule, form or certificate in the exercise of any powers, conferred by or under this Act, as if this Act were in force on the date on which such thing was done or action was taken, and all arrears of tax and other amounts due at the commencement of this Act may be recovered as if they had accrued under this Act.

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

Certified that this Bill unanimously passed by the Meghalaya Legislative Assembly on March 28th, 2003

Shillong

April 3rd, 2003

Speaker,

Meghalaya Legislative Assembly

I reserve the Bill for the consideration of the President

Raj Bhavan Shillong,

The 17th April, 2003

M. M. Jacob

GOVERNOR OF MEGHALAYA

I assent to this Bill.

Dated _____ 2003

PRESIDENT OF INDIA

.....

THE MEGHALAYA VALUE ADDED TAX BILL, 2003

I assent to this Bill.

A. P. J. ABDUL KALAM
PRESIDENT OF INDIA
Dated 25th February, 2005

Dated Shillong
4th March, 2005

L. M. SANGMA,
Deputy Secretary
Government of Meghalaya
Law Department