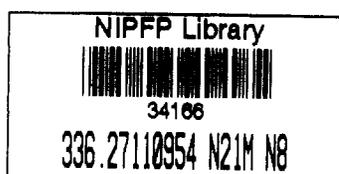




# MODEL STATUTE FOR VALUE ADDED SALES TAX

1998



NATIONAL INSTITUTE OF PUBLIC FINANCE AND POLICY  
NEW DELHI

## FOREWORD

The National Institute of Public Finance and Policy has been involved actively with the process of reform of Domestic Trade Taxes and has been acting as the secretariat for the Committee of State Finance Ministers on Sales Tax Reform.

The task of preparation of Model VAT Law for adoption by the State governments was entrusted to the Institute by the Ministry of Finance, Government of India, at the instance of the conference of State Finance Ministers held on July 4, 1997, to consider several questions relating to the reform of sales taxes. Dr. Raja J. Chelliah, Convenor of the Committee of State Finance Ministers on Sales Tax Reform and Honorary Professor at the Institute was requested (in the absence of a full time Director at that time) to get the Model Law prepared at the Institute. The work of preparation was carried out with the assistance of a Steering Committee with Dr. Raja J. Chelliah as Chairman. Dr. Amaresh Bagchi, Honorary Emeritus Professor, was actively involved in the preparation of the law. At the staff level, Dr. Mahesh C. Purohit was assigned the responsibility for the work. The detailed work of drafting the Model Law was undertaken by a team consisting of Dr. Mahesh C. Purohit and Ms. R. J. Manay, Officer on Special Duty from the Government of Karnataka.

The Institute is happy to present the Model Statute for State Value Added Tax, the preparation of which marks an important step in the process of transforming the internal indirect taxes into a harmonized Value Added Tax System.

New Delhi  
September 11, 1998

Ashok Lahiri  
Director

## **ACKNOWLEDGEMENTS**

As the task of preparation of VAT Manual required the association of academicians, administrators and legal experts, a Steering Committee was constituted, for advice and consultation, under the chairmanship of Dr. Raja J. Chelliah. The other members of the Committee were Dr. Amaresh Bagchi and Dr. Mahesh C. Purohit of the NIPFP; Shri S. S. Dawra, Additional Secretary, Ministry of Finance, Shri Sudhir Krishna and Shri Subodh Kumar, Commissioners of Commercial Taxes Karnataka, Bangalore and Maharashtra, Mumbai, respectively; and Shri N. C. Mehta and Shri Ashok Chandok, Chartered Accountants from Mumbai and Nagpur, respectively. Ms. R. J. Manay, Dy. Commissioner of Commercial Taxes, Government of Karnataka, Bangalore worked as Convenor of the Committee. The help and advice of all the members of the Steering Committee from outside the Institute is gratefully acknowledged.

Help from Canadian experts obtained through financial assistance from CIDA with the approval of the Central Government is gratefully acknowledged. Special thanks are due to Mr. Andrew Marsland, Senior Chief Operations, Sales Tax Division, Tax Policy Branch, Finance Canada, Ottawa and Mr. Stan Farber, Chief, Legislation Policy Division, Revenue Canada, Ottawa, both of whom visited the NIPFP and discussed the draft prepared by the team. Useful comments received from OECD are also acknowledged.

Special thanks are due to Shri C. K. Thanu Pillai, former Member of Kerala Sales Tax Enquiry Committee and Registrar, Kerala Tax Institute for his valuable legal advice on the contents of the Manual.

Thanks are due to Shri Anurodh Sharma who provided able secretarial assistance.

Mahesh C. Purohit

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## ***PREAMBLE***

Placed below is a draft model statute for replacing the existing sales tax systems operating in the States in India with a Value Added Tax (VAT).

It was felt that while some States such as Maharashtra have gone ahead to reform their sales tax structure and move towards a system of VAT, it would be helpful if a model law was available which could provide the statutory framework for ushering in the change. Although VAT, as explained below, is essentially a form of sales tax, the concept of taxing only the value added component embedded in the sales turnover of a dealer is relatively new and so a model showing how to give statutory shape to the idea would facilitate its adoption by all the States. It would also serve to bring about harmony in the structure and procedures of sales taxation in the country.

The need for harmony in domestic trade taxes in federalist economies is now well recognised. In the European Union the tenets of the "Sixth Directive" issued by the European Commission serve as the basis for VAT laws operating in all the member countries. The idea is not to impose absolute uniformity but only to lay down the framework of a system of trade taxation that could operate with some commonality in basic structure and administrative procedures while leaving room for flexibility to suit the needs and preferences of individual States. The objective is to see that the revenue productivity of sales taxes is not eroded by debilitating tax competition among the States and at the same time the tax system does not act as a drag on the functioning of trade and industry in the country, so that all the States reap the benefit of operating in a large common market.

### **Design Feature**

#### *a. VAT vis-a-vis Sales Tax*

Contrary to the commonly held impression, VAT is essentially a form of sales tax only. In fact, it is nothing but a tax on retail sales collected in stages. From

another angle, it is a multi-point sales tax running through different stages of production and trade but levied in such a manner that the value added in each stage is taxed once and only once, in order that there is no "cascading" or "tax-on-tax" effect and the burden to the final consumer is no more than what is intended by the prescribed rate of tax. The VAT in its common form is thus a sales tax levied according to value added and can be called Value Added Sales Tax as well. However it is convenient to call it simply as Value Added Tax and is referred to hereafter as VAT.

*b. From ST to VAT: Alternative Routes*

Conceptually, value added in any activity of manufacturing is the difference between the price at which a commodity is sold and the cost of inputs, and in the case of a trader, the difference between the value of sales and purchases. A straightforward way to compute the base of VAT for a given period, say a month, is, in the case of a manufacturer, to deduct the total cost of the inputs used in production from the amount for which the goods so manufactured are sold.

VAT can be computed by adopting three alternative methods. These are (i) Addition method, (ii) Subtraction method, and (iii) Tax-credit method. These methods can be used to arrive at the VAT liability.

Calculation of value-added can be done by summation of all the elements of value-added (i.e. wages, profits, rent and interest). This method is known as addition or income method. The subtraction method estimates value-added by taking the difference between the value of outputs and inputs. Finally, under the tax credit method the tax on inputs is deducted from the tax on sales to arrive at the VAT payable by the dealer, [i.e.  $t(\text{output}) - t(\text{input})$ ]. In practice, most countries use this method. A comparative picture of the three methods of calculating VAT is presented in Table 1.1.

Although, basically, these are alternative methods of computing and taxing value added, they will not all yield the same revenue unless the tax rates are the

same for inputs and outputs all along the line. As shown in Table 1.2, the yield would be Rs. 30 under the subtraction method while it is Rs.25 only under the invoice method when the tax rate is 15 per cent at the wholesaling stage, keeping it at 10 per cent at all other stages.

The invoice method is used in most VAT countries because of the inherent advantages in the credit method of calculating tax liability. First, it makes cross-checking of tax paid at earlier stages more amenable, as dealers are required to state the amount of tax on invoices. Secondly, tax burden being dependent upon the tax rate at the final stage, dealers at intermediate stages do not have any incentive to seek special treatment in tax rate. And finally, as will be seen later, under this method exports can easily be relieved of domestic indirect taxes through zero-rating of exports.

In view of these advantages, the tax credit method has turned out to be more popular and has been adopted almost universally (with the notable exception of Japan) for implementing VAT.

The sales tax systems now in vogue in India operate by and large as a single point levy collected at the first point of sale in a State. All "dealers" (defined to include traders, manufacturers and importers) having turnover exceeding a specified limit are required to register with the sales tax authorities and file returns. The tax however is levied usually on the "first sales" in the State at rates prescribed in the respective State laws (Inter-State sales are taxed separately under the Central Sales Tax Act, 1956, administered by the States). Second and subsequent sales are excluded from taxable turnover on the strength of evidence to show that the goods in question were indeed purchased from a registered dealer. Intermediate dealers, sometimes called "resellers", are also required to register and file returns if their turnover crosses the threshold but do not have to pay any tax (except where an additional tax is levied, with reference to their total turnover) and are usually not subjected to the processes of detailed assessment and so on.

Table 1.1

## Alternative Methods of Computing Value Added Tax

(Value in Rupees)

Stage of Production	Manufac- turer	Wholesaler	Retailer	Total Economy
	1	2	3	4
<b>1. Addition method</b>				
a. Wages	150	300	200	650
b. Rent	50	100	20	170
c. Interest	25	75	20	120
d. Profit	25	25	10	60
e. Value Added (a+b+c+d)	250	500	250	1000
f. VAT	25	50	25	100
<b>2. Subtraction method</b>				
a. Sales	350	850	1100	2300
b. Purchases	100	350	850	1300
c. Value added (a-b)	250	500	250	1000
d. VAT	25	50	25	100
<b>3. Invoice method</b>				
a. Sales	350	850	1100	2300
b. Tax on sales	35	85	110	230
c. Purchases	100	350	850	1300
d. Tax on purchases	10	35	85	130
e. VAT (b - d)	25	50	25	100

Note: The calculations are based on a uniform rate of 10 per cent tax on value added.

Table 1.2

## Calculations of VAT under Subtraction and Invoice Methods

(Value in Rupees)

Calculation of VAT	Manufac- turer	Wholesaler	Retailer	Total Economy
a. Sale	100	200	250	550
b. Purchases	-	100	200	300
c. Value Added (a-b)	100	100	50	250
<b>Rate of VAT is 10% on all stages</b>				
Vat under				
Subtraction method	10	10	5	25
Invoice method	10-0=10	20-10=10	25-20=5	55-30=25
<b>Rate of VAT is 15% at wholesaling level and 10% at all other stages</b>				
Subtraction method	10	15	5	30
Invoice method	10-0=10	30-10=20	25-30=-5	65-40=25

The simplest way to transform this system of sales taxation into VAT would be to withdraw the exemption granted to resellers in respect of their intermediate sales, while allowing credit or offset for the tax paid on purchases against the tax payable on their sales. Alternatively, resellers may be required to pay tax only on the difference between their sales and purchases from other registered dealers. Maharashtra, the State that has gone ahead to reform its system of sales taxation and move towards a VAT type sales tax with a clear time frame, has relied on both the methods to start with. Amendments have been made in the law that governs the levy of sales tax in the State ( the Bombay Sales Tax Act ,1959) to provide that credit will be available to manufacturing dealers for the tax paid by them on their purchase of inputs, subject to certain restrictions. Resellers will be liable to pay tax on their turnover after deducting the cost of their purchase. In other words, use is made of tax credit method as well as subtraction method; the former for the manufacturers and both the systems for traders. Eventually, it seems, the system will rely only on the credit method to operate the tax on value added. While the present dual system has the merit of continuity, running a tax on two tracks may be confusing. Moreover, the existing laws of sales tax are dated and carry cobwebs accumulated over the years through changes made from time to time. Instead of carrying on with a legislation that is meant for a different tax regime, it would be advisable to replace the old Act with a new enactment clearly oriented to the concept embodied in VAT, while retaining the elements of the old law that have stood the test of time.

### *c. Sources of Complication*

Drafting a law to implement a VAT type sales tax would be a relatively simple matter if the tax was levied on a comprehensive base embracing all goods and services produced and traded in the economy and the tax charged uniformly at a single rate across all commodities and services. For that would require nothing more than a simple provision in the law stipulating that all dealers, big or small, shall be liable to pay tax on their sales at the specified rate after setting off the tax paid on their purchases. Complications arise when exemption is granted to certain classes

of dealers (e.g., farmers and small traders) who are exempted from any such liability or when concessions are granted in the form of exemption or lower rate to particular categories of products such as the output of new industrial units or units set up in backward areas, etc. With exemption for particular products or special category of producers or traders, it becomes necessary to have special provisions to ensure that the benefit of tax rebate is not available except for the tax paid on inputs used in producing taxable goods. This breaks the chain of tax credit.

Differential treatment of goods traded within the State and those moving outside its jurisdiction also adds to the complications. Where the intention is to see that goods traded internationally are not encumbered with domestic taxes, the credit-invoice based VAT does not pose any acute problem, in fact, as stated earlier, it provides a neat way of achieving the objective of neutrality with what is called "zero-rating" of exported products which in operational terms means applying "nil" rate to the sales while allowing full credit for the tax paid on the related inputs or purchases. Under a harmonised system of VAT in a federalist economy designed to promote the growth of a common market, all cross-border trade whether within the federation (or economic union) or outside is treated similarly. This similarity of treatment ensures that goods or imports coming into a State are taxed on the same footing as goods produced domestically, while goods going out are relieved of all domestic taxes and are left to be taxed by the importing State like its own products. This is the essence of what is called the "destination principle" that forms the basis of the system of VAT now in operation in the EU. Whether inter-State sales between registered dealers should be accorded a similar treatment under the proposed State VAT systems raises issues which have not yet been resolved. This question is brought up in some detail in the epilogue.

Considering the need to ensure that input tax credit does not weaken the revenue productivity of the VAT, the draft law while laying the general rule that tax will be levied on a dealer's taxable turnover after allowing full set-off for the tax on purchases, provides a few safeguards. These are briefly set out below:

#### *d. Safeguards for Revenue*

- (i) Where the turnover of a dealer consists partly of goods exempt from tax and no separate account is kept of inputs or purchases relating to the exempt sales, the law may provide that the input tax credit will be allowed on a *pro rata* basis, that is, in the same proportion as the dealer's taxable turnover bears to his total turnover. In order to facilitate compliance and administration, the same proportion as observed in a year may be used as the basis for claiming tax credit in the immediately following year. For the initial year, an average of the proportion noticed in, say, the first three months, may be applied.
- (ii) Following the practice common in many countries where VAT is in operation, tax credit may be barred in respect of purchases of certain types of capital goods such as cars, room air conditioners and office appliances. No credit may be allowed also for tax on items which cater to personal consumption such as food in hotels/restaurants. There will be no restriction on the admissibility of set-off for tax paid on the purchase of capital goods in general. However, for revenue reasons it is suggested that credit for tax paid on capital goods should be staggered over a period of time.
- (iii) In order that the new tax regime does not discriminate against small or intermediate dealers who do not maintain regular accounts or do not charge tax separately on their sales, a presumptive system of taxation based on turnover would be levied.

#### *e. Registration of Dealers*

All dealers who have turnover or tax liability above a prescribed threshold, would be required to be registered with the department. However, to avoid small dealers getting into the tax net, the tax payers under this tax would have a high

threshold. Only those dealers whose gross turnover in any year is above Rs. 5 lakh (or taxable turnover not less than Rs 3 lakh) would be registered with the department. Any dealer who brings goods into the State or to whom the goods are despatched from any place outside the State even if his turnover is less than Rs.5 lakh, may also get himself registered under the Act, if such a dealer so desires.

In addition to this and notwithstanding anything said above - (a) every casual trader, (b) every dealer registered under the CST Act 1956, (c) every dealer residing outside the State but carrying on business in the State, (d) every manager or agent of a non-resident dealer (e) every commission agent, broker, *del credere* agent, auctioneer or any mercantile agent, by whatever name called, who carries on the business of buying, selling, supplying or distributing goods on behalf of any principal, and (f) every miller whether he is a dealer or not, shall get himself registered under this Act, irrespective of the quantum of his total turnover in such goods.

*f. Tax Base for VAT:*

A registered dealer would be required to pay VAT on the sale value of goods sold by him. No deductions would be allowed for expenses in arriving at the base price upon which VAT is calculated. However, to compute the tax base the price would be exclusive of VAT. A number of other taxes (like excise duty etc.) are nevertheless included in the base.

Expenditure in relation to sale such as freight, insurance etc., incurred by the selling dealer is deductible in arriving at the tax base. On the other hand, where the seller has merely incurred expenditure as an agent on behalf of his purchaser, who subsequently reimburses him, these reimbursements are not deductible .

The treatment of delivery charges will depend on the time at which title to the goods passes.

Under this Act, VAT would be charged on all the transactions of sales which include transfer of property in goods involved in the execution of works contracts and transfer of the right to use any goods. However, there will be some specified exemptions in the law. In such cases, credit of input tax cannot be obtained. However, in the case of zero-rated goods such as exports (where a zero-rate of tax is levied), the tax on inputs is refunded<sup>1</sup>.

Ideally, VAT should be subjected to a single rate of tax. However, for the time being, three floor rates, viz. 4, 8 and 12 per cent, are recommended. Special rates of 1 per cent for gold and 20 percent for petroleum may also be prescribed. Gradually, after gaining some experience with the three-rate system, the States may move to a single rate for VAT.

#### *g. Credit for Input Tax*

It is proposed to adopt the tax credit method for the implementation of State VAT. Under this method, in principle, taxes paid on inputs used for producing taxable goods, unless specifically prohibited, are deductible from the tax payable on the taxable sales. Whether the inputs or purchases are used only partly for the production or sale of taxable goods, credit would be given for a fraction of the input tax equal to the proportion of the taxable sales to total sales.

The Model VAT Statute for the States has been prepared within the framework outlined above. This is intended to provide a guideline for introducing VAT. However, the States would be free to adapt the law to suit their local requirements without affecting the basic framework.

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<sup>1</sup> Thus, under the VAT system, a distinction is made between exemption and zero-rating.

# MODEL VALUE ADDED SALES TAX ACT, 1998

An Act to provide for the levy and collection of value added sales tax. Be it enacted by the State Legislature as follows:

## Chapter I

### PRELIMINARY

1. **Short Title, Extent and Commencement** - (1) This Act may be called the [name of the State] Value Added Sales Tax Act, [year]<sup>1</sup>.
  - (2) It extends to the whole of the State of [name of the State].
  - (3) It shall come into force on such date as the Government may, by notification, appoint.
2. **Definitions<sup>2</sup>** - In this Act, unless the context otherwise specifies,
  - (1) 'Assessee' means a person by whom tax is payable.
  - (2) 'Assessing authority' means an officer of the Commercial Taxes/Sales Tax/VAT Department, authorised to make any assessment under the Act.
  - (3) 'Business' includes,
    - (a) any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture, whether or not such trade, commerce or manufacture, adventure or concern is carried on with a motive to make gain or profit and whether or not any profit accrues from such trade, commerce, manufacture, adventure or concern; and
    - (b) any transaction in connection with, or incidental or ancillary to, such trade, commerce, manufacture, adventure or concern.

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<sup>1</sup> The year could be changed according to the time of introduction of the tax by the State.

<sup>2</sup> This section provides definition of commonly used terms in the Model Statute. As and when a State drafts its own Statute, it could add more items to this section, as required.

- (4) 'Capital goods' means plant, machinery and equipment costing not less than Rs. 20,000/- and used for production or manufacturing or processing of goods for sale whether directly or indirectly.
- (5) 'Casual trader' means a person who, whether as principal, agent or in any other capacity, carries on occasional transactions of a business nature involving the buying, selling, supplying or distribution of goods in the State, whether for cash or for deferred payment, or for commission, remuneration or other valuable consideration.
- (6) 'Commissioner' means any person appointed to be a Commissioner of Commercial Taxes/Sales Tax (or Value Added Sales Tax).
- (7) 'Dealer' means any person who carries on the business of buying, selling, supplying or distributing goods, directly or otherwise, whether for cash or for deferred payment or for commission, remuneration or other valuable consideration, and includes -
- (a) an industrial, commercial, banking, or trading undertaking whether or not of the Central Government or any of the State Governments or of a local authority;
  - (b) an advertising concern or agency;
  - (c) a casual trader;
  - (d) a company, firm, club, association, society, trust, or cooperative society, whether incorporated or un-incorporated, which carries on such business;
  - (e) a commission agent, a broker, a *del credere* agent, an auctioneer or any other mercantile agent by whatever name called, who carries on the business of buying, selling, supplying or distributing goods on behalf of any principal;
  - (f) an agent of a non-resident dealer or a local branch of a firm or company or association situated outside the State;
  - (g) a person who sells goods produced by him by manufacture or agriculture or otherwise;
  - (h) a person engaged in the business of transfer otherwise than in pursuance of a contract of property in any goods for cash, deferred payment or other valuable consideration;
  - (i) a person engaged in the business of transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;

- (j) a person engaged in the business of delivery of goods on hire purchase or any other system of payment by instalments;
  - (k) a person engaged in the business of transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or commission or remuneration or any other valuable consideration;
  - (l) a department of the Central Government or any State Government or a local authority by name of any Panchayat, Municipality, Development Authority, Cantonment Board or any autonomous or statutory body including a Port Trust and the like, which, whether or not in the course of business, buys, sells, supplies or distributes goods, directly or otherwise, for cash, or for deferred payment, or for commission, remuneration, or other valuable consideration;
  - (m) a Hindu Undivided Family or any other system of joint family which carries on business.
- (8) 'Document' means title deeds, writing or inscription and includes electronic data, computer programmes, computer tapes, computer discs and the like that furnishes evidence.
  - (9) 'Goods' means all kinds of movable property (other than newspapers) and includes livestock, all materials, commodities, grass or things attached to or forming part of the earth which are agreed to be severed before sale or under a contract of sale, and property in goods (whether as goods or in some other form) involved in the execution of works contract, lease or hire-purchase or those to be used in the fitting out, improvement or repair of movable property but does not include actionable claims, stocks, shares and securities.
  - (10) 'Government' means the State Government;
  - (11) 'Gross turnover' means the aggregate turnover in all goods of a dealer at all places of business in the State.
  - (12) 'Input-tax' means tax charged under this Act by the seller to the purchaser on the sale of goods for business or manufacture.
  - (13) 'Invoice' means a document listing goods, sold with price, quantity etc. as described in Section 12 and Schedule IV and includes a statement of account, a bill and any other similar record, regardless of its form or characteristics and a cash register, slip or receipt.
  - (14) 'Output tax' in relation to any registered person means the tax charged in respect of sale or supply of goods made by that person.

- (15) 'Person' includes any dealer or other individual as defined in clause (7).
- (16) 'Place of business' means any place where a dealer purchases or sells goods and include place where the dealer stores his goods, processes, produces or manufactures goods or keeps his books of accounts or any other place where business activity takes place.
- (17) 'Prescribed' means prescribed by this Act or by the Rules.
- (18) 'Registered dealer' means a dealer registered under this Act.
- (19) 'Recipient' means a person receiving goods, as defined for the purposes of this Act.
- (20) 'Resale' means sale of purchased goods -
- (a) in the same form in which they were purchased; or
  - (b) without doing anything to them, which amounts, or results in a manufacture, and the word 'resale' shall be construed accordingly.
- (21) 'Return' means any return prescribed and/or required to be furnished under this Act or the Rules.
- (22) 'Rules' means rules made under this Act.
- (23) 'Sale' with all its grammatical variations and cognate expressions means every transfer of the property in goods (other than by way of a mortgage, hypothecation, charge or pledge) by one person to another in the course of trade or business for cash or for deferred payment or other valuable consideration, and includes -
- (a) transfer otherwise than in pursuance of a contract for property in any goods for cash, deferred payment or other valuable consideration;
  - (b) transfer of property in goods (whether as goods or in some other form) involved in execution of a works contract;
  - (c) delivery of any goods on hire purchase or any other system of payment by instalments;
  - (d) transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;

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

Explanation -

For the purpose of this clause 'sale price' includes, -

- (a) in relation to the transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract, such amount as is arrived at by deducting from the amount of valuable consideration paid or payable to a person for the execution of such works contract, the amount representing labour and other charge incurred and profit occurred not in connection with transfer of property in goods for such execution;
  - (b) in relation to the delivery of goods on hire purchase or any system of payment by instalments, the amount of valuable consideration payable to a person for such delivery; and
  - (c) in relation to transfer of the right to use any goods for any purpose (whether or not for a specified period) the valuable consideration received or receivable for such transfer.
- (25) 'Tax' means a tax payable under this Act;
- (26) 'Taxable turnover' means the turnover on which a dealer is liable to pay tax.
- (27) 'Tax period' means a calendar month<sup>3</sup>.
- (28) 'Tax point' means the time the seller receives payment for the sale or the time the seller issues a tax invoice covering the sale.
- (29) 'Taxable sale' means sale which is taxable under the provisions of this Act.
- (30) 'Taxable person' means every person who is registered or is liable to be registered and liable to pay tax under this Act.
- (31) 'Turnover' means the aggregate amount for which goods are either bought or sold or supplied or distributed by a dealer, either directly or

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<sup>3</sup> Or a quarter or a year, as the case may be, as prescribed.

through another whether on own account or on account of others, whether for cash or for deferred payment, or other valuable consideration.

Explanation I:

'Turnover' for the purposes of this Act shall include any sum charged for anything done by the dealer in respect of the goods sold or supplied at the time of or before delivery thereof but shall not include the sale value of agricultural or horticultural produce effected by a person who produces it by agriculture or horticulture from lands owned or held by him as lessee, usufructuary mortgagee or in any other capacity recognised and permitted by law, but the expression agricultural or horticultural produce shall not include timber or standing trees, manufactured tea or any other produce which is subjected to manufacture or processing after harvest except mere drying, dehusking, grading or packing to make the product marketable.

Explanation II:

- (a) 'Turnover' in relation to the transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract, such amount as is arrived at by deducting from the amount of valuable consideration paid or payable to a person for the execution of such works contract, the amount representing labour and other charge incurred and profit occurred not in connection with transfer of property in goods for such execution;
  - (b) 'Turnover' in relation to the delivery of goods on hire purchase or any system of payment by instalments, the amount of valuable consideration payable to a person for such delivery; and
  - (c) 'Turnover' in relation to transfer of the right to use any goods for any purpose (whether or not for a specified period) the valuable consideration received or receivable for such transfer.
- (32) 'Year' means twelve month period commencing on the first day of April.

## Chapter II

### INCIDENCE AND LEVY OF TAX

3. **Incidence of Tax** - (1) Tax shall be charged in accordance with the provisions of this Act on every sale made within the State by a dealer.

- (2) When a sale or purchase of goods is determined in accordance with sub-section (3) to take place inside a State, such sale or purchase shall be deemed to have taken place outside all other States.
- (3) A sale or purchase of goods shall be deemed to take place inside a State if the goods are within the State -
  - (a) in case of specific or ascertained goods, at the time the contract of sale is made; and
  - (b) in the case of unascertained or future goods, at the time of their appropriation to the contract of sale by the seller or by the buyer, whether the assent of the other party is prior or subsequent to such appropriation.

Explanation: Where there is a single contract of sale or purchase of goods situated at more places than one, the provisions of this sub-section shall apply as if there were separate contracts in respect of the goods at each of such places.

- (4) When goods are sold in containers or are packed in any packing material, the rate of tax applicable to such containers or packing materials, as the case may be, shall, whether the price of the containers or packing materials is charged separately or not, be the same as those applicable to the goods contained or packed and the turnover in respect of containers and packing materials shall be included in the turnover of such goods.
- (5) Where the sale of goods contained in container or packed in packing material is exempt from tax, then the sale of such containers or packing materials shall also be exempt from tax.

4. **Persons Liable to Pay Tax** - Every person who is registered or is liable to be registered under the provisions of this Act shall be a taxable person and liable to pay tax in manner provided in the Act.

5. **Exempt Sale** - The following sales shall be exempt from tax:

- (a) sales taking place outside the State, or in the course of inter-State trade or commerce.
- (b) sale of goods listed in Schedule III.

6. **Zero-Rating** - (1) A sale or purchase specified under sub-section (1) and sub-section (3) of Section 5 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956) shall be zero-rated - which means there shall be no tax on sales turnover of the transaction and the exporter shall be entitled to a refund of tax on purchase of the goods in any form which is so exported.

- (2) Sale of goods to international organisations specified in Schedule I shall be deemed to be sale of goods in the course of export out of territory of India and shall be entitled to a zero-rating as provided in sub-section (1).

**7. Turnover of a Taxable Sale -** (1) Except as otherwise provided by or under this Act, the turnover of a taxable sale is the total consideration payable or paid in money for that sale.

- (2) Where a taxable sale is made without a separate amount of the consideration being identified as a payment of tax, the taxable turnover of that sale is the total amount of the consideration paid, without reduction for the tax, multiplied by the tax fraction.

- (3) In this section, "tax fraction" means the amount ascertained by the following formula:

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

where -

$P^*$  = is the tax exclusive price;

$P$  = is the tax inclusive price; and

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

**8. Adjustments -** (1) Adjustments as provided under this section shall be made in relation to a taxable sale by a person, when -

- (a) the nature of the sale is fundamentally varied or altered; resulting in a change in the rate of tax applicable to that sale.
- (b) previously agreed consideration for the sale is altered, whether due to an offer of a discount or for any other reason; or
- (c) the goods or part thereof are returned to the supplier and the taxable person making the sale within six months from the date of sale and that person has issued:
- (i) a tax invoice in relation to the sale and the amount shown therein as the tax charged on the supply is incorrect as a result of the occurrence of one or more of the events described in clauses (a) to (c) above; or
- (ii) filed a return for the tax period in which the sale occurred and has accounted for an incorrect amount of output tax on that sale as a result of the occurrence of one or more of the events described in clauses (a) to (c) above.

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

**9. Tax on a Taxable Transaction -** (1) The tax payable on a taxable sale is calculated by applying the rate of tax applicable to the goods as set out in Schedule II on the taxable turnover of the dealer for the tax period.

- (2) Every registered dealer who in the course of his business purchases taxable goods in circumstances in which no tax under Section 4 is leviable on the sale of such goods, and
  - (a) either consumes such goods in the manufacture of other goods for sale or otherwise (or uses or consumes otherwise) or disposes of such goods in any manner other than by way of sale in the State or
  - (b) despatches them to a place outside the State except as a direct result of sale or purchase in the course of inter-State trade or commerce,

shall be liable to pay tax on the purchase price of such goods at the same rate at which it would have been leviable on the sale price of such goods.

10. **Net Tax of a Taxable Person** - (1) Subject to provisions of Section 11, the net tax payable by a taxable person for a tax period is calculated according to the following formula:

$$A - B,$$

where -

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

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

- (2) Where the amount determined by the formula in sub-section (1) is a negative amount, the taxable person may carry forward the amount to the next reporting period and that amount shall be deemed to be an input tax credit, for that period.
- (3) An amount shall not be included in the total for 'A' in the formula at sub-section (1) above, for a tax period of a person to the extent that amount was included in that total for a preceding tax period of the person.
- (4) An amount shall not be included in the total for 'B' in the formula at sub-section (1) above for a particular tax period of a person to the extent that the amount was claimed or, included as an input tax credit or deduction in determining the net-tax for a preceding reporting period.
- (5) Every taxable person shall pay in full the net tax payable by him for the tax period at the time that person is required to file his return pursuant to sub-section (1) of Section 18.
11. **Input Tax Credit** - (1) For the purposes of calculating the net tax payable by a registered person for a tax period, an input tax credit as determined under sub-section (5) shall be allowed to the registered person for the tax payable in respect of all taxable sales other than petroleum and petroleum products or any other goods as prescribed, made to the person during the tax period.
- (2) For the purpose of calculating the net tax payable by a registered person for his first tax period after becoming registered, an input tax credit as determined under sub-section (5) shall be allowed to the registered person for the tax payable in respect of -
- (a) all taxable sale of goods (excluding capital goods) made to the person prior to the person becoming registered; or
- (b) purchases of goods made by the person prior to becoming registered,

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

(3) Subject to the provisions of sub-section (5) input tax credit for a tax period in respect of capital goods shall be calculated in accordance with the following formula -

(a)  $Q \times R$ ,

Where -

$Q$  = the amount of tax paid or payable

$R$  = 10 per cent

(b) no amount calculated in (a) above, shall be treated as input tax credit to the extent that -

(i) an amount in respect of capital goods has been included in calculating the net tax of the taxable person in the tax period ending within twelve months of the beginning of the tax period.

(ii) the total amount claimed as input tax credit in respect of the capital good in prior tax period is equal to or exceeds the tax originally paid or payable in respect of capital goods specified.

(4) An input tax credit -

(a) allowed under sub-section (1) arises on the date the tax is paid; or payable.

(b) allowed under sub-section (2) arises on the date of registration.

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

$M \times N$ ,

where -

$M$  = is the input-tax in respect of the purchases that become payable by the person during the tax period or that is paid by the person during the period without having become payable the

amount determined under sub-section (2) or the amount determined under sub-section (3) as the case may be; and

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

- (6) The methods that are used by a person in a year to determine the extent to which goods are used, consumed or supplied, or intended to be used, consumed or supplied, in the course of making taxable sales, shall be fair and reasonable in the circumstances.
- (7) No amount shall be included in respect of input tax paid on capital goods other than such goods used for manufacturing or processing of goods for sale either directly or indirectly.
- (8) Goods brought from outside the State shall not be entitled to get input tax credit in respect of tax paid in the other State.
- (9) Subject to sub-section (10), an input tax credit allowed under this section can not be claimed by the taxable person in a tax period unless the taxable person has an original tax invoice for the taxable supply.
- (10) Where a taxable person does not have an original tax invoice evidencing the input tax paid, the Commissioner may allow an input tax credit in the tax period in which the credit arises where the Commissioner is satisfied -
  - (a) that the taxable person took all reasonable steps to obtain a tax invoice; and
  - (b) that the failure to obtain a tax invoice was not due to any fault of the taxable person; and
  - (c) that the amount of input tax claimed by the taxable person is correct.
- (11) No person shall be entitled for input tax credit on capital goods if such person is the second or subsequent purchaser of capital goods.
- (12) No person shall be entitled on input tax credit on the stock of goods remaining unsold at the time of stoppage or closure of his business.

**12. Tax Invoice** - (1) A taxable person making a taxable sale to another person shall provide that other person, at the time of sale, with an original tax invoice (which is as described in Schedule IV) for the sale and shall retain one copy thereof.

- (2) An original tax invoice should not be provided to a person in any circumstances other than those specified in sub-section (1), but a copy marked as duplicate may be provided if the person receiving the original invoice so requests for the reason that the original has been lost.

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

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

- (3) The registered person who is the recipient shall repay any input-tax credits claimed in prior tax periods where a credit note is issued - and such repayment is made in the tax period in which the events occurred and shall be considered tax charged.

### Chapter III

#### REGISTRATION

**14. Persons Liable to Register -** (1) Every person who purchases or sells any goods and has a gross turnover exceeding five lakh rupees or a taxable turnover of three lakh rupees shall be liable to be registered -

- (a) within twenty days of the end of any period of twelve months if during that period the person made taxable sale, the value of which exceeded the registration threshold set out above.
- (b) at the beginning of any period of twelve months where there are reasonable grounds to expect that the total value of taxable sales to be made by the person during that period will exceed the registration threshold set out above.

**Provided** that the gross turnover specified in this sub-section in respect of purchase of any goods shall be the turnover liable to tax under sub-section (2) of Section 9.

**Provided** further a dealer dealing exclusively in goods mentioned in Schedule III shall not be liable for registration nor for payment of tax:

- (2) Notwithstanding anything contained in sub-section (1) the following class of dealers shall get themselves registered, irrespective of their turnover at the commencement of their business in the State -
  - (a) every casual trader.
  - (b) every dealer registered under the Central Sales Tax Act, 1956 (Central Act 74 of 1956) within the State.
  - (c) every dealer residing outside the State but carrying on business within the State;
  - (d) every dealer in liquor including beer and every dealer in jewellery;
  - (e) every commission agent, broker, *del credere* agent, auctioneer or any other mercantile agent by whatever name called, who carries on the business of buying, selling, supplying or distributing goods on behalf of his principal.
- (3) A dealer making taxable sales in the course of the business who is not otherwise liable to register may also opt for registration in accordance with Section 15.
- (4) A Central, State or local or public authority or body that carries on business is required to apply for registration on the date of commencement of that business.

**15. Procedure for Registration -** (1) An application for registration under Section 14 shall be in such formats and accompanied with such fee or any further information as the Commissioner may prescribe.

- (2) Registration shall take effect -
  - (a) in the case of an application under sub-section (1) or sub-section (4) of Section 14 from the beginning of the tax period immediately following the period in which the obligation to apply for registration arises; or
  - (b) in the case of an application under sub-section (3) of Section 14 from the beginning of the tax period immediately following the period in which the person applies for registration.
- (3) The Registering Authority shall issue to each person registered a certificate of registration which shall state the name and other relevant details of the taxable person, the date on which the registration takes effect, the taxpayer identification number of the taxable person and such other particulars as the Commissioner may prescribe.

- (4) The Registering Authority shall register a person who, in the opinion of the Commissioner, is liable to apply for registration under this section but who has failed to do so.
- (5) A taxable person shall notify the Registering Authority in writing within fourteen days -
  - (a) of any change in the name, address, or place of business or any temporary closure or discontinuation of the business; or
  - (b) of a change in circumstances of the person because of which he ceases to operate or closes his business.
- (6) Where a person applies for a registration pursuant to sub-section (1) or (3), the Registering Authority shall register the person where the Registering Authority is satisfied that the person is carrying on business, is making or intends to make taxable sales and otherwise meets the requirements of the Act.
- (7) Where the Registering Authority is satisfied that an applicant for registration does not meet the requirements for registration under this Act, the Authority shall refuse to register the applicant. This power would however, be exercised only with the approval of such superior authority as may be prescribed.

**16. Cancellation of Registration -** (1) Where a registered person ceases to carry on business, that person shall apply to the Registering Authority for cancellation of registration:

- (a) within four weeks from the cessation of the business in the case of a Public Authority or body; or
  - (b) within two weeks of the cessation of business in any other case.
- (2) A registered person may apply to have his registration cancelled at any time that he ceases to be liable to be registered under the Act.
  - (3) Every person whose registration is cancelled under this Section shall pay in respect of every taxable goods held as stock or as capital goods on the date of cancellation an amount equal to -
    - (a) the tax that would be payable in respect of that goods, if the goods was sold at fair market value on that date; and
    - (b) the total input tax credit previously claimed in respect of that goods.
  - (4) The Registering Authority may cancel the registration of a dealer who has applied for cancellation under sub-section (1) or sub-section (2) if

he is satisfied that there are reasons for such cancellations of registration.

- (5) The Registering Authority with permission of the superior authority to be prescribed may cancel the registration of a dealer who has not applied for cancellation of registration if the Registering Authority is satisfied that the person is not entitled for registration under Section 14.
- (6) The Registering Authority shall serve a notice in writing on a registered person before cancelling or refusing to cancel the registration of the dealer under this section.
- (7) The cancellation of registration takes effect from the end of the tax period in which the registration is cancelled unless the Registering Authority orders the cancellation to take effect at an earlier date.
- (8) Where the registration of a dealer is cancelled, the Registering Authority is required to remove the person's name immediately from the register maintained for the said purpose.
- (9) A person dissatisfied with a decision referred to in this section may challenge the decision, as per Part VII.
- (10) The obligations and liabilities under this Act (including the filing of returns required by Section 18) of any person in respect of anything done or omitted to be done by that person while the person is a registered person is not affected by cancellation of the person's registration.

**Provided** that, the cancellation of a certificate of registration on an application of the dealer or otherwise shall not affect the liability of the dealer to pay the tax (including any penalty and interest) due for any period irrespective of such cancellation whether such tax (including any penalty and interest) is assessed before the date of cancellation but remains unpaid or is assessed thereafter.

17. **Quoting of Registration Certificate Number etc.** - Any person registered under this Act shall note the Registration Certificate number issued by the Registering Authority in any of his return, challan, notice, or other document used for the purposes of this Act.

#### **Chapter IV**

#### **ASSESSMENT, PAYMENT, RECOVERY AND COLLECTION OF TAX**

18. **Returns** - (1) Every registered dealer shall file a tax return for each tax period within twenty days after the end of the period in such manner as may be prescribed.

**Provided** that dealers with a turnover not exceeding Rs. 25 lakh in a year shall file their returns, within twenty days after the end of the quarter, as may be prescribed.

- (2) Notwithstanding anything contained in sub-section (1) every registered dealer and every dealer who is liable to get himself registered under sub-section (1) of Section 14, shall submit a return or returns relating to his turnover for that year in such manner as may be prescribed.
- (3) The Commissioner may, on application in writing by a registered dealer for sufficient reasons extend the period in which a tax return is to be filed, after ensuring that the tax due has been paid by the dealer.
- (4) A registered dealer who ceases to carry on business shall file a final tax return within thirty days from date of cessation.

**19. Assessment -** (1) The returns submitted by the dealer shall be accepted as self-assessed. **Provided** prescribed authority may select either at his discretion or as directed by the Commissioner, ten percent of the total number of such dealers for detailed assessment.

- (2) Where -
  - (a) a person fails to file a return as required by Section 18; or
  - (b) the Assessing Authority is not satisfied with the correctness and completeness of a return filed by a person, or
  - (c) the Commissioner has reasonable grounds to believe that a person will become liable to pay tax under this Act but is unlikely to pay the amount due,

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

- (3)
  - (a) whereas in respect of dealers with a turnover below Rs. 25 lakh who are registered at their option for a minimum period of one year, the assessment may be done by levying the tax at the rate of one percent flat rate on the total turnover. **Provided** he submits return under this Act every month.
  - (b) a dealer who is permitted to pay tax under clause (a) above shall not be entitled to input tax credit on goods purchased.
- (4) No assessment under this section for any year shall be made after a period of three years from the end of the year to which the return under sub-section (2) of Section 18 is submitted by a dealer.

- (5) Where a taxable person is not satisfied with the return filed by him under this Act, he may apply to the Commissioner within a period of six months of the close of the year to which the return relates, to make any addition or alteration to that return by filing a revised return
- (6) An application under the above sub-section must be in writing and specify in detail the grounds upon which it is made.
- (7) The Assessing Authority shall make an assessment of the amount that, in his opinion, is the amount of tax payable under this Act, after making necessary enquiries and upon issue of notice on proposed assessment.
- (8) The Assessing Authority shall serve a notice of the proposed assessment on the person to be assessed, which shall state -
  - (a) either the tax payable or the net tax payable in the case of registered dealer and any refund that may be eligible to be claimed;
  - (b) the time, place, and manner of objecting to the proposed assessment; and
  - (c) reasons for the assessment to be made.
- (9) The Assessing Authority shall serve a notice of assessment on completion of assessment under this section and the dealer shall pay the balance of tax in accordance with the terms of that notice.
- (10) An amended assessment is treated in all respects as an assessment under this section.
- (11) No assessment or other proceedings purporting to be made, issued or executed under this Act, shall be -
  - (a) quashed or deemed to be void or voidable for want of form; or
  - (b) affected by reason of mistake, defect or omission therein, if it is in substance and effect, in conformity with this Act or the rules made thereunder and the person assessed, or intended to be assessed or affected by the document is designated in it according to common understanding.

**20. Assessment of Escaped Turnover -** (1) If the prescribed authority has reason to believe that the whole or any part of the turnover of the dealer in respect of any period has escaped assessment to tax or has been under assessed or any deductions or exemptions have been wrongly allowed in respect thereof or the turnover is assessed a lower rate than the one applicable under the law, prescribed authority may subject to sub-section (2), at any time within a period

of five years from the expiry of the year to which the tax relates, proceed to assess or reassess to the best of judgement the tax, payable by the dealer in respect of such turnover after issuing a notice to the dealer and after making such enquiry as it may consider necessary.

(2) In making an assessment under the sub-section (1) the prescribed authority may, if it is satisfied that the escape from assessment is due to wilful non-disclosure of assessable turnover by the dealer, direct the dealer to pay, in addition to the tax assessed, a penalty, not exceeding one and half times the tax so assessed.

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

**21. Assessment in Case of Price Variation** - When a dealer receives in any year any amount due to price variation which would have been in his turnover for any previous tax period if it had been received by him during that period, it shall be deemed to be turnover during the tax period in which such amount was received and he shall, during the tax period in which such amount was received, include such amount in the return separately for the tax period, to the Assessing Authority and the Assessing Authority shall proceed to assess the tax payable on such amount as his turnover of the tax period.

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

**23. Liabilities of Executor, Administrator, Legal Representative** - Where a dealer dies, his executor, administrator or other legal representative shall be deemed to be the dealer for the purposes of this Act and the provisions of this Act shall apply to him in respect of the business of the said deceased dealer.

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

24. **Liability of Partnership Firms and Assessment of Dissolved Firms - (1)**  
Where any firm is liable to pay any tax or other amount under this Act, the firm and each of the partners of the firm shall be jointly and severally liable for such payment.
- (2) Where a partner of a firm liable to pay any tax or other amount under this Act retires, he shall notwithstanding any contract to the contrary, be liable to pay the tax or other amount remaining unpaid at the time of his retirement and any tax or other amount due up to the date of his retirement though unassessed. He shall be jointly and severally liable with the firm and each of the partners of the firm.
- (3) Where any business carried by a firm is discontinued or where a firm is dissolved, the Assessing Authority shall make an assessment on the taxable turnover and determine the tax payable by the firm as if no such discontinuance or dissolution had taken place and all the provisions of this Act including provisions relating to levy of penalty or any other amount payable under any provision of this Act shall apply to such assessment and determination
- (4) Every person who was at the time of such discontinuance or dissolution, a partner of the firm and the legal representative of any such person who is deceased, shall be jointly and severally liable for the amount of tax, penalty or other amount payable, and all the provisions of this Act shall apply to any such assessment or levy of penalty or other amount.
- (5) Where such discontinuance or dissolution takes place after any proceedings in respect of any year have commenced, the proceedings may be continued against the persons referred to in sub-section (4) from the stage at which such proceedings stood at the time of such discontinuance or dissolution and all the provisions of this Act shall apply accordingly.
25. **Collection of Tax by Dealers -** A person who is not a registered dealer, shall not collect any amount by way of tax or purporting to be by way of tax under this Act nor shall a registered dealer collect any amount by way of tax or purporting to be by way of tax at a rate or rates exceeding the rate or rates at which he is liable to pay tax under the provisions of this Act.
26. **Rounding of Tax Liability -** The amount of tax, penalty or any other amount payable and the amount of refund due under this Act shall be rounded off to the nearest rupee and for this purpose, where such amount, contains a part of rupee consisting of paise, then if such part is 50 paise or more, it shall be increased to one rupee and if such part is less than fifty paise, it shall be ignored.
27. **Recovery of Tax, Penalty etc. -** Any tax payable under the provisions of this Act together with interest or penalty, shall be due for payment immediately

when it becomes payable or assessed in the manner provided in this Act or the rules made thereunder and shall become the first charge on the properties of the dealer or other person, on the date on which it becomes due or assessed and shall be recovered:

- (a) as if it were an arrear of land revenue; or
- (b) by attachment and sale or by sale without attachment of any property of such dealer or such other person by the Assessing Authority or the prescribed officer in accordance with the rules; or
- (c) on application to any Magistrate as if it were a fine imposed by him.

**28. Inspections, Seizure and Check-Posts -** (1) Any officer empowered by the Commissioner in this behalf, may for the purpose of this Act, require any person carrying on business in any goods to produce before him the accounts and other documents, and to furnish any information relating to the stocks of goods of, or purchases, sales and deliveries of goods by the dealer and also any other information relating to business.

- (2) The officer enforcing the provisions of sub-section (1) above shall be empowered to seize and retain original or copies of the documents and the goods inspected by them, if found necessary. Upon such seizure/retention, such officer shall give a written acknowledgement to the person of the documents or goods so obtained.

## Chapter V

### APPEALS AND REVISION

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

- (2) Where the Appellate Authority is satisfied that the person assessed has reasonable cause for not preferring to file an appeal within the time specified in sub-section (1) he may accept an appeal, provided it is within one year.
- (3) The appeal shall be in the prescribed form and shall specify in detail the grounds upon which it is made.
- (4) In the case of an appeal against an assessment, the Appellate Authority shall consider it only if -

- (a) the person has paid the tax due as per turnover returned by him, or
- (b) paid the tax which is not disputed by him.

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

- (5) The appellant shall serve a copy of the appeal memo to the authority against whose order the appeal is filed.
- (6) After considering the appeal and after affording an opportunity of hearing, the Appellate Authority may allow it in whole or part and amend the assessment or the decision objected to accordingly, or remand it for fresh disposal or dismiss the appeal or enhance the assessment or penalty or other amount.

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

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

**30. Appeal by Assessee to the Appellate Tribunal - (1) A person dissatisfied with the decision of the Appellate Authority may, within sixty days after being served with notice of the decision -**

- (a) file a second appeal before the Appellate Tribunal, 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 appellant had sufficient reason for not filing the appeal within the time specified in sub-section (1), provided it is within one year.
  - (3) In deciding an appeal, the Appellate Tribunal shall make an order after affording an opportunity to the dealer or other person and the Commissioner
    - (a) affirming, reducing, increasing, or varying the assessment or other order under appeal; or enhance, or

- (b) remitting the assessment or other order under appeal for reconsideration by the Authority concerned with such directions as it may deem fit,
  - (c) a copy of such order shall be served on the Commissioner/ prescribed authority.
- (4) The Appellate Tribunal shall serve the appellant with notice, in writing, of the appeal decision setting forth the reasons for the decisions.

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

**31. Appeal by Commissioner to Appellate Tribunal -** (1) The Commissioner or any officer empowered by him on this behalf if he objects to an order passed by the first Appellate Authority, may appeal to the Appellate Tribunal within a period of sixty days from the date on which the order was communicated to him.

- (2) Power of Review - The Appellate Tribunal may, on the application either by the appellant or by the respondent made within one year from the date of receipt of the order under sub-section (4) of Section 30 review any order passed by it on the basis of facts which were not before it when the order was passed.

**32. Revision to High Court -** (1) An assessee who is dissatisfied with the decision of the Appellate Tribunal or Commissioner may, within sixty days after being notified of the decision, file a revision with the High Court; and the assessee so appealing shall serve a copy of the notice of revisions on the respondent to the proceeding.

- (2) A revision to the High Court may be made on question of law or an erroneous decision or failure to decide a question of fact. A notice of the revision shall state the questions of law that will be raised in the revision.
- (3) The Commissioner shall also be made a party to the proceedings before the High Court where appeal is filed by the dealer or other person.
- (4) Power to Review - The High Court may on application either by the petitioner or by the respondent review any order passed by it provided such application is made within one year from the date of receipt of the judgement.

**33. Hearing of Revision and Review by High Court -** A revision or review application presented before the High Court under Section 32 shall be heard by a bench consisting of not less than two Judges.

34. **Revision by Commissioner** - The Commissioner may, on his own motion, call for and examine the record of any proceeding under this Act and if he considers that any order passed therein by any officer other than the first Appellate Authority and the Appellate Tribunal, is erroneous in so far as it is prejudicial to the interest of the revenue, after giving the assessee an opportunity of being heard, pass such order as it deems fit.

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

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

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

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

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

## Chapter VI

### OFFENCES AND PENALTIES

37. **Offences Related to Registration** - A person who fails -

- (a) to apply for registration as required under Section 14; or
- (b) to notify the Registering Authority of a change in circumstances as required by Section 16;

is guilty of an offence and liable on conviction to-

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

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

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

**39. Failure to File a Return** - (1) A person who fails to file a return or other document as required by this Act or the Rules made thereunder, is guilty of an offence and liable on conviction to a fine not exceeding fifty thousand rupees or to imprisonment for a term not exceeding six months, or both.

- (2) If a person convicted of an offence under sub-section (1) fails to file the return or other prescribed documents within the period specified by the Court, that person is guilty of an offence and liable on conviction to a fine of five thousand rupees for each day during which the failure continues and to imprisonment for three months without the option of a fine in lieu of imprisonment.

**40. Failure to Comply with Recovery Provisions** - (1) A person who fails to pay any tax in the manner provided in Section 10 or in terms of a notice issued under sub-section (9) of Section 19 is guilty of an offence and liable on conviction to a fine not exceeding fifty thousand rupees or to imprisonment for a term not exceeding one year, or both.

- (2) Where a person is convicted of an offence under sub-section (1), the appropriate Court may, in addition to imposing a penalty, order the convicted person to pay to the Commissioner an amount not exceeding the amount which the person failed to pay as if it were a fine imposed by the court.

**41. Failure to Maintain Proper Records** - A person who fails to maintain true and complete accounts and other records in accordance with the requirements of this Act is guilty of an offence and liable on conviction to-

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

42. **Improper Use of Taxpayer Identification Number** - A person who knowingly uses a false taxpayer identification number, including the taxpayer identification number of another person with a view to evade or avoid or shift the liability to pay the tax in a return or other document prescribed or used for the purposes of this Act, is guilty of an offence and liable on conviction to a fine not exceeding Fifty Thousand rupees or to imprisonment for a term not exceeding one year, or both.
43. **False or Misleading Statements** - (1) A person who knowingly -
- (a) makes a statement to a taxation officer which is false or misleading in a material particular; or
  - (b) omits from a statement made to a taxation officer any matter or thing without which the statement is misleading in a material particular,
- is guilty of an offence and liable on conviction to -
- (c) where the statement or omission was made knowingly or repeatedly, a fine not exceeding fifty thousand rupees or to imprisonment for a term not exceeding one year, or both; or
  - (d) in any other case, a fine not exceeding thirty thousand rupees or to imprisonment for a term not exceeding six months, or both.
- (2) A reference in this section to a statement made to a taxation officer is a reference to a statement made orally, in writing, or in any other form to that officer acting in the performance of his duties under this Act, and includes a statement made -
- (a) in an application, certificate, declaration, notification, return, appeal, or other document made, prepared, given, filed, or furnished under this Act; or
  - (b) in information required to be furnished under this Act; or
  - (c) in a document furnished to a taxation officer otherwise than pursuant to this Act; or
  - (d) in answer to a question asked of a person by a taxation officer; or
  - (e) to another person with the knowledge or reasonable expectation that the statement would be conveyed to a taxation officer.
44. **Obstructing Taxation Officers** - A person who obstructs the Commissioner or an authorised officer in the performance of his duties under this Act is guilty

of an offence and liable on conviction to a fine not less than rupees five thousand and not exceeding rupees fifty thousand and imprisonment for a period not less than fifteen days and not exceeding one year.

**45. Offences by Officers** - Any person employed in carrying out the provisions of this Act, who -

- (a) directly or indirectly asks for, or takes in connection with any of the official duties any payment or reward, whether pecuniary or otherwise, or any promise or security for any such payment or reward, not being a payment or reward which the officer was lawfully entitled to receive; or
- (b) enters into or acquiesces in any agreement to do or abstain from doing or permit or conceal, or connive at any act or thing whereby the tax revenue is or may be defrauded or which is contrary to the provisions of this Act or to the proper execution of the officer's duty, is guilty of an offence and liable on conviction to a fine not exceeding fifty thousand rupees in addition to the forfeiture of amount of reward received or other undue enrichment received, to imprisonment for a term not exceeding one year, or both, in accordance with the gravity of the offence.

**46. Offences by Companies** - (1) Where an offence under this Act has been committed by a company, every person who, at the time of the commission of the offence -

- (a) was a nominated officer, director, general manager, secretary, or other similar officer of the company; or
- (b) was acting or purporting to act in such capacity, is deemed to have committed the offence.

(2) Sub-section (1) does not apply where -

- (a) the offence was committed without such person's consent or knowledge; and
- (b) the person exercised all due diligence to prevent the commission of the offence as ought to have been exercised having regard to the nature of the person's functions and all the circumstances.

**47. Compounding of Offences** - (1) Where any person has committed an offence under this Act, the Commissioner may, on admission by such person in writing and upon his option for compounding at any time prior to the commencement of the court proceedings relating thereto, compound such offence and order the person to pay such sum of money as specified by the Commissioner, not

exceeding the amount of the fine prescribed for the offence in addition to the tax due.

(2) Where the Commissioner compounds an offence under this section, the order referred to in sub-section (1) -

(a) shall be in writing and specify the offence committed, the sum of money to be paid, and the due date for the payment;

(b) shall be served on the person who committed the offence; and

(c) shall be final and not subject to any appeal; and

(d) may be enforced in the same manner as a decree of a court for the payment of the amount stated in the order.

(3) When the Commissioner compounds an offence under this section, the person concerned shall not be liable for prosecution in respect of such offence or for penal tax.

**48. Penal Tax for Failure to Register** - A person who fails to apply for registration as required by sub-section (1) of Section 14 or sub-section (5) of Section 15 is liable for penal tax equal to double the amount of tax payable from the time the person becomes a taxable person until either the person files an application for registration with the Commissioner or the Commissioner registers the person under the provisions of sub-section (5) of Section 17.

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

**50. Penal Tax for Failure to Pay Tax when Due** - (1) A person who fails to pay tax on or before the due date is liable for penal tax on the unpaid tax at the rate of three per cent for each month or for part of a month the tax is outstanding.

(2) If a person pays penal tax under sub-section (1) and the tax to which it relates is found not to have been due and payable by the person and/or is refunded, then so much of the penal tax as relates to the amount of the refund shall also be refunded to that person and when the tax is found not to have been due or payable the penal tax shall also be proportionately reduced.

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

- 52. Penal Tax in Relation to Records** - A person who fails to maintain proper records in a tax period in accordance with the requirements of this Act is liable for penal tax equal to double the amount of net tax payable by the person for the tax period.
- 53. Penal Tax in Relation to False or Misleading Statements** - Where a person without reasonable cause,
- (a) makes a statement to a taxation officer that is false or misleading in a material particular; or
  - (b) omits from a statement made to a taxation officer any matter or thing without which the statement is misleading in a material particular, and the tax properly payable by the person exceeds the tax that would be payable if the person were assessed on the basis that the statement is true,
- the person is liable for penal tax equal to double the amount of the excess.
- 54. Remission of Penal Tax** - (1) Where good and sufficient reason is shown, in writing, by the person liable for penal tax, the Commissioner may remit in whole or part any penal tax payable.
- (2) Subject to sub-section (3), the imposition of penal tax is in addition to any penalty imposed as a result of a conviction for an offence.
  - (3) No penal tax is payable under Sections 48, 52, 53 where the person has been convicted of an offence under Sections 37, 41, or 43 respectively in respect of the same act or omission.
  - (4) If penal tax under Sections 48, 52, 53 has been paid and the Commissioner institutes a prosecution proceeding under Sections 37, 41 or 43 respectively in respect of the same act or omission, the Commissioner shall refund the amount of penal tax paid; and that penal tax shall not become payable unless and until the prosecution is withdrawn.
  - (5) Penal tax is treated as tax for all purpose under this Act and is payable in addition to the tax payable or net tax payable as the case may be and is payable in and for the tax period to which it relates.
- 55. Power to Summon Witness and Production of Records etc.** - (1) The Commissioner or the assessing, appellate or revising authority, for securing the attendance of any person or for production of any document for the purposes of this Act, shall have all the powers conferred on a civil court under the provisions of the Civil Procedure Code, 1908 (Central Act 5 of 1908) for securing the attendance of witness or production of documents which include

the powers to issue summons and to examine such persons on oath and affirmation.

- (2) No suit or other proceedings shall be entertained by any court except as expressly provided under this Act to set aside or modify any assessment or other proceedings made under this Act and no such court can question the validity of any assessment or levy of penalty or interest or shall grant any stay for the continuation of the proceedings under the Act or for recovery of any amount due under the Act.
- (3) No suit or other proceedings shall be instituted against the Government or any officer of the Government for anything done or purporting to be done under the provisions of the Act except with the previous permission of the Government.

## Chapter VII

### AUTHORITIES AND APPELLATE TRIBUNAL

56. **Appointment of Authorities** - (1) Appointment of Commissioners, Additional Commissioners, Joint Commissioners, Deputy Commissioners, Assistant Commissioners, State representatives and other VAT officers -
- (a) the Government may appoint a Commissioner of VAT and as many Additional Commissioners, Joint Commissioners, Assistant Commissioners, State representatives and VAT officers as they think fit for the purpose of performing the functions, respectively conferred on them by or under this Act or by or under any other law for the time being in force.
  - (b) the Commissioner may, empower an officer not below the rank of Deputy Commissioner of VAT to perform the functions of State Representative before the Appellate Tribunal.
  - (c) in proceedings before the Appellate Tribunal, the State Representative shall be competent -
    - (i) to prepare and sign applications, appeals and other documents;
    - (ii) to appear, represent, act and plead;
    - (iii) to receive notices and other processes; and
    - (iv) to do all other acts connected with such proceedings, on behalf of the Government or any officer appointed under this Act.

- (2) Instructions to Subordinate Authorities - The Government and the Commissioner may from time to time, issue such orders, instructions and directions to all officers and persons employed in the execution of this Act as may deem fit for the administration of this Act, and all such officers and persons shall observe and follow such orders, instructions and directions of the Government and the Commissioner, provided that no such orders, instructions, or directions shall be issued as to interfere with the discretion of any Appellate Authority in the exercise of its appellate functions.
- (3) Jurisdiction of Officers -
- (a) the Additional Commissioners, the Joint Commissioners, the Deputy Commissioners, the Assistant Commissioners and the VAT officers shall perform their functions in respect of such areas or of such dealers or classes of dealers or such cases or classes of cases as the Commissioner may direct.
- (b) they shall perform their function in accordance with any order which the Commissioner may make for the distribution and allocation of the work to be performed.

## Chapter VIII

### MISCELLANEOUS

- 57. Accounts to be Maintained by Dealers** - (1) Every person registered under this Act and every dealer or other person liable to get himself registered under this Act shall keep and maintain true and correct accounts and such other records, as may be prescribed, by the Commissioner by notification, in the principal place of business in the State.
- (2) The Commissioner may, subject to such conditions or restrictions as may be prescribed in this behalf, by notice in writing direct any dealer or by notification direct any class of dealers to maintain accounts and records showing the details regarding their purchases, sales or deliveries of goods in such form and in such manner as may be specified by him.
- 58. Payment of Interest** - When any amount refundable to any person under an order made under any provisions of this Act, is not refunded within ninety days-
- (a) of the date of such order is made by the prescribed authority; or
- (b) of the date of receipt of such order by the prescribed authority, if such order is made by an authority other than the prescribed authority,

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

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

- 59. Delegation of Powers** - (1) The Government may delegate any of its powers and functions under this Act to the Commissioner or to any other authority under this Act;
- (2) The Commissioner may delegate any of his powers and functions under this Act to any officer subordinate to him;
- (3) Such delegation shall be notified in the Gazette.
- 60. Power to Remove Difficulties** - If any difficulty arises in giving effect to the provisions of this Act in consequence of the transition to the said provisions from the provisions of the Act in force immediately before the commencement of this Act, the Government may, by notification in the Gazette, make such provisions as appear to it to be necessary or expedient for removing the difficulty.
- 61. Power to Make Rules** - (1) The Government may make appropriate rules to carry out the purposes of this Act.
- (2) All the Rules and Notifications issued under the provision of this Act shall be published in the Gazette and shall be laid before the Legislature, for approval with or without modification in its ensuing session;

**Provided** that any modification or a rejection of a rule or a notification by the Legislature shall have prospective effect only.

## Chapter IX

### TRANSITION, REPEAL AND SAVINGS

- 62. Transition** - (1) A dealer is entitled to input tax credit in respect of any goods held as stock as on the date of coming into force of this Act -
- (a) on the amount of tax actually paid on the purchase of the goods held as stock if it is ascertainable from the records of the dealer or,

(b) in other cases, on the amount of tax calculated at the rate to which the goods are subjected to tax under the repealed Act on the estimated taxable turnover of such goods.

(2) Input tax credit as provided under sub-section (1) shall be allowed as and when sale of such goods take place after the commencement of this Act.

(3) Any dealer who claims input tax credit under the provisions of this Section shall file statement of such claim within thirty days from the commencement of this Act, furnishing therein such details as may be prescribed along with an inventory of such stock.

63. **Repeal and Savings** - (1) The \_\_\_\_\_ General Sales Tax Act \_\_\_\_\_ (Act \_\_\_\_\_ of \_\_\_\_\_) is hereby repealed.

**Provided** that such repeal shall not affect the previous operation of the said Act or any right, title, obligation or liability already acquired, accrued or incurred there under and subject there to, anything done or any action taken including any appointment, notification, notice, order, rule, form, regulation, certificate, license or permit in exercise of any power conferred by or under the said Act, shall be valid and always as deemed to have been valid, during the period that Act was in force notwithstanding the repeal of the Act.

(2) Notwithstanding the Repeal of the Act,

(a) any action or proceedings already initiated under that Act shall validly be continued under the provisions of this Act which relates to the period prior to the coming into force of this Act.

(b) any person liable to pay any tax, fee, penalty, interest or other amount under that Act for any period before coming into force of this Act, shall be levied assessed and collected under the provisions of this Act as if this Act were in force during the period.

(3) All arrears of tax, interest, penalty, fee or other amount due at the commencement of this Act, whether assessed or levied before such commencement or assessed or levied after such commencement, may be recovered as if such tax, penalty, interest, fee or other amount is assessed or levied under the provisions of this Act and all methods of recovery including levy of penal interest, penalty or prosecution

provided under this Act, shall apply to such arrears as if such amounts are assessed, levied and demanded under this Act.

- (4) Notwithstanding anything contained in sub-section (1), any application, appeal, revision or other proceedings made or preferred to any authority under the said Act, and pending at the commencement of this Act, shall, after such commencement, be transferred to and disposed of by the officer or authority who would have had jurisdiction to entertain such application, appeal, revision or other proceedings under this Act as if it had been in force on the date on which such application, appeal, revision or other proceedings was made or preferred.

## *EPILOGUE*

The Manual on VAT law attempts to enumerate all the possible details relating to levy of VAT by a State. It, however, leaves out of its purview the issues related to inter-State transactions. This is primarily because in the Indian context it has not yet been resolved whether similar treatment should be accorded in the proposed State VAT systems to sales outside the State - "inter-State sales". It, however, constitutes a key question in the formulation of a legal framework for VAT in all federation. As of now, inter-State sales are taxed under the CST Act of 1956 and is administered by the States of origin, that is in the State where the goods are sold, and the revenue is also retained by them.

When the first-point tax is combined with CST, the effect of cascading is compounded. When a commodity crosses a State border, it carries the burden of all the input taxes and the CST. If it is used for manufacture in the importing State, the cost includes the earlier input taxes plus the CST. The cost to the consumer in that State will include the final tax paid by the manufacturer plus the CST plus the earlier input taxes. If the commodity concerned is exported to another State for further processing, then the tax burden continues to increase in the same way.

It is obvious that this kind of cascading of costs contributes to un-competitiveness in the export market and also puts the domestic products at a disadvantage as against imports.

It is, therefore, important to bear in mind that ultimately some solution should be adopted to make it a destination based system. However, in the absence of a firm decision in regard to CST, it is assumed for the present purposes that the status quo will continue and inter-state sales will in general be taxed in the originating States without any offset to the importer. This being so, to reduce the extent of cascading it is recommended that a set-off for input tax be provided against the CST payable. When this is done the input credit given in the Manual would be applicable to the inter-State tax.

Where inter-state sales to registered dealers are granted relief for the tax paid on purchases, the incentive to camouflage such transactions as "consignment" or branch transfer will diminish. When an acceptable solution is found for the problem of treatment of inter-State sales, such as zero rating, combined with set-off for input tax, consignments should be treated on parity with inter-state sales for this purpose,

cross-border movement of goods between branches of an enterprise on consignment may be taxed in the same way as sale provided the branches concerned are registered with the sales tax authorities in both the States. At present consignments do not attract tax but the sales tax laws of some States contain a "claw-back" provision whereby the concession extended to manufacturers for their purchase of inputs in the State is withdrawn unless their product bears some sales tax in the State either in the form of general sales tax or CST. If brought under taxation like straight forward inter-state sales but with set-off for input taxes, there would in all probability be no additional burden on trade and industry and the phenomenon of bogus branch transfers will disappear. At the same time the States may not suffer any revenue loss as the revenue forgone by abrogating the 'claw-back' provision will in all likelihood be made up through the tax on consignments. Sales to an unregistered dealer however should continue to be taxed at the local rate or 10 per cent whichever is higher as at present.

## **Schedule I: List of International Public Organisations**

ICRISAT  
UNESCO  
UNO  
WHO  
FAO

*[To be enumerated further]*

## **Schedule II(a): List of goods taxable at the rate of 4%.**

Agricultural implements  
Beedi leaves  
Bicycles  
Bone meal  
Bran oil  
Branded bread

Charcoal  
Chemical fertilisers, Pesticides, Weedicides and Insecticides  
Chillies  
Cumin seed

De-oiled powder  
Declared goods  
Edible oils and Oil cake  
Firewood

Galvanized Iron Pipes  
Garlic and Ginger  
Gingili oil

Hosiery goods  
Ice  
Kerosene

Maize products  
Ores and Minerals except those specified in II(b)

Packing materials, including Gunny bags, HDPE bags and packs, Corrugated boxes & Containers

Pasteurised milk

Poultry feed and Cattle feed, including Prawn feed

Processed salt, Vegetables, Fish and Meat, sold in sealed containers

Raw silk

Raw wool

Readymade garments

Renewable energy devices

Safety matches

Solvent oils

Sponge iron

Staple yarn

Starch

Tamarind

Turmeric

Utensils and Kitchenware

Vanaspati

Vegetable oil

**Schedule II(b): List of goods taxable at the rate of 12%**

ACSR conductors

Adhesives

Aerated drinks and Non-alcoholic drinks

Aeronautics

Air conditioners

Arms and Ammunition

Articles of Stainless steel

Asphaltic Roofings

Cables

Calculating machines

Carpets

Cigarette cases and Lighters

Cinematographic equipment

Cosmetics and Soaps  
Cushions and Mattresses  
Cutlery

Diesel oil  
Dry fruits  
Electronic toys

Fancy leather goods  
Fans and Air circulators  
Fire works  
Furs and Skins with fur

Glassware, other than Bangles  
Hair oils  
Ivory products  
Laminated sheets  
Lifts and Elevators

Marble and Marble tiles  
Motor vehicles, except Tractors  
Moulded furniture  
Musical instruments  
Naphtha  
Oxygen & Gas except Therapeutic Oxygen

Paints, Colours etc.  
Plastic goods  
Preserved food articles  
PVC articles

Refrigerators  
Rubber goods

Sandalwood and Oil  
Silk and Silk fabrics  
Spark Plus  
Steel furniture  
Synthetic gems

Telephones, parts thereof  
Teleprinter  
Transformers  
Transmission wires and towers  
TVs & VCRs  
Typewriters

Vacuum cleaner  
Voltage stabilizers

Washing machines  
Watches and Clocks  
Weather proofing compounds  
Wireless equipment

**Schedule II(c)(i): List of goods taxable at the rate of 20%**

Liquor  
Molasses  
Narcotics  
Petroleum products other than diesel  
Rectified Spirit

**Schedule II(c)(ii): List of goods taxable at the rate of 1%**

Bullion  
Ornaments of gold, silver or platinum whether or not studded

**Schedule II(d): Residuary Entry\***

Agarbatti  
Aluminium

Barytes  
Batteries and parts thereof  
Bearings  
Blades, Razors etc.

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This is given for illustration purposes. In the law this could be called a residuary entry.

Building materials such as Wood, Bricks, Bamboo and Plywood including Cement  
Butter and Ghee

Cakes, Pastries etc.

Castings

Caustic Soda

Ceramics

Computers

Cooked food

Cooking gas

Diesel locomotive

Drugs and Medicines and Therapeutic oxygen

Dyes and Chemicals

Electric motors

Electric bulbs

Electrical goods

Electrodes

Electronic goods

Explosives

Ferro Silicon

Ferro alloys and Super alloys

Filters

Flasks

Foam

Footwear

Hand pumps

Hose pipes

Hydrogen Peroxide

Leasing and all other forms of transfer of right to use goods

Lime

Machinery of all kinds, except Earth moving machinery and Agricultural implements

Magnets

Milk food and Milk products

Napa slabs  
Nut powder  
Nutrition food

Oil engines  
Paper  
Photographic goods  
Polystyrene  
Printing ink  
Pulp

R.C.C. Sleepers  
Refractory bricks

Sanitaryware  
Saree falls  
Sewing machines  
Sewing thread  
Ship building  
Silicon carbide  
Stainless steel  
Suitcases  
Sulphur  
Surgicals  
Sweets and Khara

Tanned leather and Leather goods  
Tea and Coffee  
Tiles  
Timber  
Toffees, Chocolates, Biscuits and Confectionary  
Tooth pastes  
Tractors and Attachments and Earth moving machinery  
Tyres and Tubes

Water chemicals  
Wooden furniture  
Works contract

Zinc  
Items not specified elsewhere

### **Schedule III: Exempted goods**

Betel leaves

Books, Periodicals and Journals meant for reading

Bread (Unbranded)

Condoms and Contraceptives

Curd, Lussi and Butter milk

Eggs

Electrical Energy

Fresh Meat, Fish and Livestock

Fresh Vegetables & Fruits

Fresh Flowers

Fresh Milk

Gur and Jaggery

Handlooms other than Silk fabrics

Khandasari

Organic Manure

Plain Water

Pulses

Seeds, Planting materials like seed, seedlings, suckers, nursery plants used for rising crops

Unprocessed cereals, including Rice and Wheat

Unprocessed salt

### **Schedule IV: Tax Invoices, Credit Notes, and Debit Notes**

1. A tax invoice as required under this Act shall, unless the Commissioner provides otherwise, contain the following particulars:
  - (a) the words "tax invoice" written in a prominent place;
  - (b) the commercial name, address, place of business, and the taxpayer identification number of the taxable person making the supply;
  - (c) the commercial name, address, place of business, and the taxpayer identification number of the recipient of the taxable supply;

- (d) the individualised serial number and the date on which the tax invoice is issued;
  - (e) a description of the goods or services supplied and the date on which the supply is made;
  - (f) the quantity or volume and the unit price of the goods supplied; and
  - (g) the rate and total amount of the tax charged, the consideration for the supply exclusive of tax and the consideration inclusive of tax.
2. A credit note as required under this Act shall, unless the Commissioner provides otherwise, contain the following particulars:
- (a) the words "credit note" in a prominent place;
  - (b) the commercial name, address, place of business, and the taxpayer identification number of the taxable person making the supply;
  - (c) the commercial name, address, place of business, and the taxpayer identification number of the recipient of the taxable supply;
  - (d) the date on which the credit note was issued;
  - (e) the taxable value of the supply shown on the tax invoice, the correct amount of the taxable value of the supply, the difference between those two amounts, and the tax charged that relates to that difference;
  - (f) a brief explanation of the circumstances giving rise to the issuing of the credit note; and
  - (g) information sufficient to identify the taxable supply to which the credit note relates.
3. A debit note as required under this Act shall, unless the Commissioner provides otherwise, contain the following particulars:
- (a) the words "debit note" in a prominent place;

- (b) the commercial name, address, place of business, and the taxpayer identification number of the taxable person making the supply;
- (c) the commercial name, address, place of business, and the taxpayer identification number of the recipient of the taxable supply;
- (d) the date on which the debit note was issued;
- (e) the taxable value of the supply shown on the tax invoice, the correct amount of the taxable value of the supply, the difference between those two amounts, and the tax charged that relates to that difference;
- (f) a brief explanation of the circumstances giving rise to the issuing of the debit note; and
- (g) information sufficient to identify the taxable supply to which the debit note relates.

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