DELHI

Delhi, the Union Territory, administers both the Central Sales Tax Act, 1956 and the Delhi Sales Tax Act, 1975.

1. Structure

Every dealer whose turnover during the previous year exceeded the 'taxable quantum' shall be liable to pay tax under the Delhi Sales Tax Act, 1975. The 'taxable quantum' in relation to any dealer generally making sales is Rs.1,00,000, while for manufacturers it is Rs.30,000, and for 'Halwais' is Rs.75,000. Importers do not have any taxable quantum limit.

Point of Levy: Sales Tax in the Union Territory is leviable on most of the commodities at the first point of sale. The other variety of sales tax is leviable at the last point of sale. (Section 5).

Rate Structure: There are lists of commodities subject to tax at different rates. The tax ranges from 1.5 per cent to 10 per cent. Most of the goods like motor vehicles, refrigerators, liquors, etc. specified in the first schedule (Section 4(1)(a) are subject to tax at 12 per cent. The general rate of tax on unnotified or unspecified items is 7 per cent. Schedule II lists out goods of special importance taxed at a uniform rate of 4 per cent of sale are decided by the Administrator.

A large number of goods are subject to tax at 5 per cent. Such goods are ready-made garments, drugs, medicines, edible oils, washing soaps, optical lenses, plastic goods (of value upto Rs.30), L.P. gas, butter oil etc. Matches are taxable at the rate of 4 per cent. kerosene, khoa, non-tinned, butter, silk fabrics are taxed at the rate of 3 per cent. Silver ornaments, gold ornaments, raw wool, razai, gilafs (costing upto Rs.15 per piece). Non-fur, non-silk ready-made garments (costing upto Rs.30) are taxable at the rate of 2 per cent. In accordance with section 4(1)b, coal including coke, cotton, iron and steel, jute, oilseeds, hides and skins, cotton yarn-declared goods-are subject to tax upto 4 per cent. Hosiery garments (costing less than Rs.30 per piece) are subject to tax at the rate of 1 per cent. Bullion and specie are subject to tax at the rate of 0.5 per cent.

Exemptions: Section 7 lays down that sales of goods specified in Schedule III with certain conditions shall be exempt from tax.

Schedule III lists 43 tax free items like all cereals and pulses, meat and fish, milk, edible oil, school exercise and drawing books, agricultural implements, charkha, scientific goods used in educational institutions, aids for the handicapped, black lead pencils etc.

Taxation of Inputs: Sales of inputs and raw materials are exempted from tax when purchased by registered dealers for use by them in the manufacture of goods in Delhi, subject to the condition that they are sold within Delhi or in the course of inter-state trade, commerce or in the course of export outside India. However the dealers purchasing raw materials falling under Schedule I are required to produce a certificate authorising them to purchase such goods without payment of tax.

2. Registration

Every liable dealer should get himself registered. There are three kinds of registration.

Voluntary: Any dealer, not dealing exclusively in tax-free goods, may voluntarily get registered provided his turnover during a year exceeds Rs.25,000 even though he may not be liable to pay tax ordinarily (Section 15).

Provisional: Any person who bonafidely intends to establish a manufacturing business in Delhi where the value of the output in a year exceeds Rs.30,000 may, on certain conditions, be granted, 'Provisional Registration' even though he may not be registrable under Section 14 (Section 16).

Special: Special registration is granted on fulfilment of certain conditions, to such dealers whose certificate of registration have been cancelled under Section 20(3) for certain defaults and his turnover exceeds the taxable quantum in the same year after the date of cancellation or if his turnover exceeds the table quantum in the subsequent year, (Section 17).

3. Assessment

Returns/Payment of Tax: In accordance with Section 21, every registered, liable dealer has to furnish quarterly return or monthly return as prescribed (under the circumstances of the case); Quarterly returns and taxes have to be filed/paid within a period of 45 days from the end of the quarter along with the proof for having paid the tax.

Every dealer who is required to furnish the quarterly return and whose turnover has exceeded Rs.10 lakh and the tax payable according to the return was not less than Rs.15,000 in the previous year, shall make monthly payments of the actually due tax, thus enclosing the three Treasury Receipts (challans) with the relevant return by the prescribed date (Rule 24(2)). Monthly returns, in special cases, have to be filed by the fifteenth day of the next month (Rule 21).

Mode of Assessment: Ordinarily, annual assessment is to be made in respect of registered dealers. If the assessing authority is satisfied that the returns furnished in respect of any period are correct and complete, he shall assess the amount of tax due from the dealer on the basis of such returns. (Section 23(2). The summary assessment scheme has been introduced since 1978 to simplify assessment of small scale dealers. To improve the quality of service, a new scheme known as '*Simplified Tax Assessment* *according to the return of traders'*, (START) on the slogan, 'trust in the trader' has been launched w.e.f. 1.8.1990. Under this scheme, all registered dealers with a G.T.O. upto Rs.6 lakh would be allowed. The benefit of Summary assessment acknowledgment-cum assessment order will be issued across the table under Section 23(2). There would be post assessment scrutiny of a small percentage of cases selected at random. If not, he shall complete assessment after having served a proper notice (in form S.T. 13) as per rule 25 on the dealer and after having him or his representative duly heard and after due examination of accounts and evidences (Section 23(3) a, 23(3)b read with rule 26(2)).

There are provisions for best judgement assessment in cases where the dealer fails to comply with the terms of any notice issued under Section 23(3) or fails to furnish return by the prescribed date (Section 23(4), Section 23(5)). The best judgement assessment has also been provided for cases where unregistered dealers are found to have avoided registration, special registration (as the case may be) and if default continues penalty upto twice the amount of tax assessed in addition is imposed (Section 23(6).

Normally, no assessment shall be completed after the expiry of four years and in the cases of unregistered dealers, after the expiry of six years, from the end of the year under consideration for assessment.

For cases where compliance to orders of appellate and revisional authorities result in assessment, the period of limitation is four years or six years, as the case may be, from the date of such order (Section 23(7)).

The best judgement assessment within the limitation of four years or six years, as the case may be, of the date of final assessment has been provided, where the dealer after original assessment, has been proved to have concealed, omitted or partially disclosed his turnover and thus the turnover has escaped original assessment, (Section 24).

In addition, one year time limit has been added to the date of service of notice in such cases.

4. Penalty and Prosecution

Penalty: For failure to file return and pay the tax due as per return by the prescribed date, penalty (in addition) upto twice the amount of tax payable or Rs.2,000 where no tax is payable is imposed (Section 55).

In cases of unregistered dealers' assessment, if there is a deliberate default on the part of the dealers in getting registered, penalty upto twice the amount of tax assessed may also be imposed (Section 23(6)). For (i) concealment of sales/furnishing of inaccurate particulars of sales, (ii) giving, producing or accepting false declarations with regard to tax-free sales, certain sales free at particular points (iii) unregistered dealer taking advantage of the purchase due to registered dealers, registered dealer taking advantage of purchase beyond the registration certificate, penalty in addition to tax payable (or evaded or leviable) upto 2 1/2 times the tax is imposed (Section 56).

Prosecution: There are two categories of offences, as listed here under, for which punishments have been provided depending on the extent of their seriousness:

	Offences	*Penalties*
a.	Deliberate holding, giving, production, acceptance of false declaration in respect of sales of raw materials for manufacture of goods (or in respect of sale of goods) to be sold in intra-state, inter-state or export trade or in respect of sale of containers, material, for the packing of goods meant for sale or resale or in respect of the	The offender shall be punishable with rigorous imprisonment upto 6 months or with fine or with both. If the offence is found to be a continuing one,he shall be punishable with a daily fine upto Rs.200 during the period of continuance of the offence.

point of levy of sales tax. (Second provisio Section 4(2) a; first proviso Section 5).

b. A liable dealer carrying on business without certificate/ special certificate of registration (Section 14(1), Section 17(1)).

c. An unregistered dealer taking advantages of purchase due to registered dealer.

d. A registered dealer taking advantage of purchases beyond his registration certificate entries.

e. Non-surrender of registration certificate (on application or otherwise) (Section 20(5).

f. Non-submission of return or submission of false return (Section 21).

g. Unregistered dealer collecting tax illegally.

h. Failure to keep true account of purchases and sales or record thereof (Section 38).

i. Failure or neglect to issue cash memo/bills (Section 39).

j. Deliberate maintenance, production of incorrect account, registers, documents; furnishing in correct information (Section 41).

k. Failure to comply with the requirement of production, inspection of accounts and documents, search of premises by competent authorities (Section 41).

l. Closure of place of business with a view to preventing inspection (Section 41).

m. Obstruction to or prevention of inspection, search or seizure (Section 41) or to discharge of such duties in connection with check post, barrier (Section 64).

n. Failure, neglect or refusal by the owner or person incharge of a goods vehicle to comply with any of the requirements of Section 64.

In case, the offences under (a) or (f) or (i) or (k) or (l) or (m) or (n) are found to be wilful, the offender shall be punishable with rigorous imprisonment upto 6 months and with fine. If the offence is found to be a continuing one, he shall be punishable with a daily fine upto Rs.300 during the period of continuance of the offence.

5. Administrative Organisation

The Commissioner of Sales Tax is the head of administration with all the powers and duties prescribed under the Act. To assist him at the headquarters, in the execution of his functions, one Additional Commissioner of Sales Tax is posted.

There are two Deputy Commissioners, one incharge of general administration, accounts, administrative reforms, research and statistical cell, internal audit, revenue, audit and caretaking and the other incharge of appellate functions and the central circle. There are three Assistant Commissioners respectively incharge of law and judicial tribunal cell, enforcement, headquarters (policy and public relations) under the Commissioner. The fourth Assistant Commissioner, is incharge of electronic data processing cell, internal audit, care taking and is under the Deputy Commissioner Sales Tax. There are a few Sales Tax Officers also, posted in headquarters.

There is one Assistant Director, Research and Statistics who collects statistical information from the 18 branches/sections of the headquarters of the department and is under the control of Deputy Commissioner. An Appellate Tribunal consisting of one-member Appellate and an Appellate Registrar to assist him has been set up. The two wings, 'Dealers Assessment Wards' and 'The Judicial Wing' each under the control of the six Assistant Commissioners who look after dealers' registration and assessment on the one hand and judicial work on the other spread up in 50 wards with pecuniary jurisdiction of Rs.50,000 tax in dispute. Wards are looked after by STOs assisted by Assistant Sales Tax Officers who are in turn assisted by Inspectors.

6. Appeal/Revision (Remedial Measures)

The forums of appeal according to pecuniary jurisdiction are as under:

The Assistant Commissioner hears appeals against the orders of S.T.O's and Assistant S.T.O's of cases involving disputed tax upto Rs.2 lakh. The Deputy Commissioner, (appeals) hears appeals for disputed tax between Rs.2 lakh to Rs.4 lakh. The Additional Commissioner/Commissioner hears appeals for disputed tax above Rs.4 lakh.

The second appeal lies to the Appellate Tribunal (Section 43 read with Appellate Tribunal Regulations). The Statement of a case to the High Court can be sought to be made against the order of the Appellate Tribunal only on questions of law (Section 45). The Commissioner has powers of revision of orders prejudicial to the interests of revenue (Section 46). The Commissioner also acts as a revisional authority in cases, other than appealable cases. The period of limitation is 2 years. There are also provisions for rectification of mistakes apparent from the records (Section 48).