



सत्यमेव जयते

GOVERNMENT OF GUJARAT

**LEGISLATIVE AND PARLIAMENTARY
AFFAIRS DEPARTMENT**

**THE GUJARAT VALUE ADDED TAX ACT,
2003.**

(GUJARAT ACT NO. 1 OF 2005)

[As modified upto 31st October, 2018]

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**THE GUJARAT VALUE ADDED TAX ACT, 2003.
CONTENTS**

PREAMBLE		Page
Sections.		No.
CHAPTER I PRELIMINARY.		
1.	Short title, extent and commencement.	1
2.	Definitions.	1
CHAPTER II INCIDENCE AND LEVY OF TAX.		
3.	Incidence of tax.	7
4.	Certain sales and purchases not liable to tax.	8
5.	Exemptions.	9
5A.	[Deleted.]	9
6.	Taxes payable by a dealer.	9
7.	Levy of tax on turnover of sale and rates of tax.	9
7A.	Power to assign HSN Code to goods.	10
8.	Adjustments in tax.	10
9.	[Deleted.]	11
10.	Deeming provision for packing material.	11
11.	Tax credit.	11
12.	[Deleted.]	15
13.	Net amount of Value Added Tax.	15
14.	[Deleted.]	15
14A.	[Deleted.]	15
14B.	[Deleted.]	15
14C.	[Deleted.]	15
14D.	[Deleted.]	15
15.	Burden of proof.	15

PREAMBLE		Page
Sections.		No.

CHAPTER III
COMMERCIAL TAX AUTHORITIES AND
TRIBUNAL.

16.	Commercial tax authorities and jurisdiction.	15
17.	Power to transfer proceedings.	16
18.	Disputes regarding jurisdiction of tax authority.	17
19.	Tribunal.	17
20.	Powers of Tribunal and Commissioner.	18

CHAPTER IV
REGISTRATION.

21.	Registration.	18
22.	Voluntary registration.	19
23.	[Deleted.]	20
24.	Non-transferability of registration.	20
25.	Continuation of certificate of registration of dissolved firm.	20
26.	Amendment of certificate of registration.	20
27.	Suspension or Cancellation of registration.	21
27A.	Dealers deemed to be deregistered.	24
28.	Security from certain class of dealers.	24

CHAPTER V
RETURNS, PAYMENT OF TAX, ASSESSMENT,
RECOVERY OF TAX AND REFUND.

29.	Returns.	25
30.	Periodical payment of tax and interest on non-payment of tax.	26
31.	Collection of tax only by registered dealers.	27
32.	Return scrutiny and provisional assessment.	27
33.	Self-assessment.	28
34.	Audit assessment.	28
34A.	Assessment on basis of fair market price.	31
35.	Turnover escaping assessment.	31

PREAMBLE	Page
Sections.	No.
36. Refund of excess payment.	31
37. Provisional refund.	32
38. Interest on refund.	32
39. Power to withhold refund in certain cases.	33
40. Refund of tax for certain categories.	33
41. Remission of tax, penalty or interest.	33
42. Payment and recovery of tax and interest on delayed payment.	33
43. Continuation of certain recovery proceedings.	34
44. Special mode of recovery.	35
45. Provisional attachment.	36
46. Special powers of tax authorities for recovery of tax as arrears of land revenue.	36
47. Transfer to defraud revenue void.	36
48. Tax to be first charge on property.	36
CHAPTER VI	
LIABILITY TO PAY TAX IN CERTAIN CASES.	
49. Applicability of the Act or earlier law to other persons liable to pay tax.	36
50. Liability of commission agent and principal.	36
51. Liability in case of transfer of business.	37
52. Amalgamation of Companies.	37
53. Liability in case of company in liquidation.	37
54. Liability of partners of firm to pay tax.	38
55. Liability of guardians, trustees etc.	38
56. Liability of Court of Wards etc.	38
57. Special provision regarding liability to pay tax in certain cases.	38

PREAMBLE	Page
Sections.	No.
58. Liability in other cases.	39
59. Service of notice in certain circumstances.	40
CHAPTER VI A	
DEDUCTION AT SOURCES.	
59A. Definitions.	40
59B. Deduction at sources in certain cases.	40
CHAPTER VII	
ACCOUNTS AND RECORDS.	
60. Invoices.	43
61. Credit and debit notes.	43
62. Accounts.	44
62A. Automation.	44
63. Accounts to be audited in certain cases.	44
64. Preservation of records.	45
CHAPTER VIII	
LIABILITY TO PRODUCE ACCOUNTS AND	
SUPPLY OF INFORMATION.	
65. Dealer to declare the name of manager of business.	45
66. Dealer to declare details of bank accounts.	45
66A. Furnishing of specimen signature.	45
67. Production and inspection of accounts and documents and search of premises.	46
68. Inspection of goods in transit, etc.	47
69. Transit pass for transit of goods by road through the State.	49
70. Furnishing of information by owners of cold storage, warehouses, godowns, etc.	49
70A. Furnishing of information by others.	49
71. Power to collect statistics.	51
72. Special powers for reconstitution of records in certain circumstances.	51

PREAMBLE		Page
Sections.		No.

**CHAPTER IX
APPEAL, REVISION, REFERENCE AND
RECTIFICATION.**

73.	Appeal.	52
74.	Non-appealable orders.	53
75.	Revision.	53
76.	Court-fee on appeal and application for revision.	53
77.	Applications of sections 4 and 12 of Limitation Act, 1963.	53
78.	Appeal to High Court.	54
79.	Rectification of mistakes.	54
80.	Determination of disputed questions.	54

**CHAPTER X
PROCEEDINGS.**

81.	Appearance before any authority in proceedings.	55
82.	Power of Commissioner and other authorities to take evidence on oath, etc.	56
83.	Change of an incumbent of an office.	56
84.	Extension of period of limitation in certain cases.	57
84A.	Exclusion of Period in some Cases.	57

**CHAPTER XI
OFFENCES AND PENALTIES.**

85.	Offences and penalties.	57
86.	Offences by companies, etc.	59
87.	Cognizance of offences.	60
88.	Investigation of offence.	60
89.	Compounding of offences.	60

**CHAPTER XII
MISCELLANEOUS.**

90.	Indemnity.	60
-----	------------	----

PREAMBLE		Page
Sections.		No.
91.	Public servants.	60
92.	Disclosure of information by a public servant.	60
93.	Assessment proceedings etc. not to be invalid on certain grounds.	61
94.	Bar of jurisdiction of Civil Courts.	62
95.	Disclosure of information required under section 71.	62
96.	Levy of fees.	62
97.	Publication of information regarding dealers and other persons in public interest.	63
98.	Power to make rules.	63
99.	Power to remove difficulties.	63
100.	Repeal and savings.	63
	SCHEDULE I [Deleted.]	65
	SCHEDULE II [Deleted.]	65
	SCHEDULE III	65

GUJARAT ACT NO. 1 OF 2005*¹.
[THE GUJARAT VALUE ADDED TAX ACT, 2003]

[1ST April, 2005]

(17th January, 2005)

Amended by Guj. 06 of 2006.
Amended by Guj. 25 of 2006.
Amended by Guj. 10 of 2007.
Amended by Guj. 09 of 2008.
Amended by Guj. 12 of 2009.
Amended by Guj. 04 of 2010.
Amended by Guj. 04 of 2011.
Amended by Guj. 09 of 2013.
Amended by Guj. 05 of 2016.
Amended by Guj. 26 of 2017.
Amended by Guj. 10 of 2018.

AN ACT

to consolidate and amend the laws relating to the levy and collection of tax on value added basis in respect of sale²[* *] of goods in the State of Gujarat.

It is hereby enacted in the Fifty-fourth Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY.

1. (1) This Act may be called the Gujarat Value Added Tax Act, 2003.

**Short title,
extent and
commencement.**

(2) It extends to the whole of the State of Gujarat.

(3) This section shall come into force at once and the remaining provisions of this Act shall come into force on such date as the State Government may, by notification in the *Official Gazette*,³[appoint.]

2. In this Act, unless the context otherwise requires,-

Definitions.

⁴[⁵[* * * * *]]

(3) ⁶[“appointed day” means the date on which the remaining provisions of this Act shall come into force under sub-section (3) of section 1];

(4) “business” includes –

(i) any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture, whether or not such trade,

1. For Statement of Objects and Reasons, See Gujarat Government Gazette, Extraordinary, Part V, dated the 17th March, 2003, Pages 77 to 81.

* This Act was assented to by the President on the 17th January, 2005.

2. In the long title, the words “or purchases” were deleted by Guj. 26 of 2017, s.2.

3. In Word “Appoint” was substituted for the word, “appoint, and different dates may be appointed for different provisions” by Guj. 6 of 2006, s.2.

4. Clause (1A) was inserted by Guj. 9 of 2008, s.2(1).

5. Clause (1), (1A) and (2) were deleted by Guj. 26 of 2017, s.3(1).

6. Clause (3) was substituted for original by Guj. 6 of 2006, s.3(1).

commerce, manufacture, adventure or concern is carried on with a motive to make profit or gain and whether or not any profit or gain accrues from such trade, commerce, manufacture, adventure or concern; and

(ii) any transaction of buying, selling or supplying ¹[raw materials, processing materials, consumable stores, waste products or Such other goods] which is ancillary or incidental to or resulting from such trade, commerce, manufacture, adventure or concern;

²[³[* * * * *]]

(6) “Central Act” means the Central Sales Tax Act, 1956;

LXXIV OF 1956.

(7) “commission agent” means a dealer who *bonafidly* buys or sells, for an agreed commission, any goods on behalf of principals;

(8) “Commissioner” means the person appointed to be the Commissioner of Commercial Tax for the purposes of this Act;

⁴[* * * * *]

(10) “dealer” means any person who, for the purpose of or consequential to his engagement in or, in connection with or incidental to or in the course of his business buys, sells, manufactures, makes supplies or distributes goods, directly or otherwise, whether for cash or deferred payment, or for commission, remuneration or otherwise and includes,-

(a) the Central Government or a State Government or any local authority such as municipality or municipal corporation or panchayat, a statutory authority, a company, a partnership firm, a Hindu Undivided Family or any society, club, association or body, incorporated or not, of persons which carries on business;

(b) a casual dealer, that is to say, a person who whether as principal, agent or in any other capacity, undertakes occasional transaction of a business nature in any exhibition-cum-sale or auction or otherwise in the State, whether for cash, deferred payment, commission, remuneration or other valuable consideration;

(c) an auctioneer, who sells or auctions goods belonging to any principal whether disclosed or not and whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of principal;

(d) a factor, broker, commission agent, *del credere agent* or an auctioneer or any mercantile agent, by whatever name called, who carries on business on behalf of any principal whether disclosed or not;

(e) any person who transfers, otherwise than in pursuance of a contract, property in any goods for cash, deferred payment or other valuable consideration;

(f) any person who transfers property in goods (whether as goods or in some other form) involved in the execution of a works contract;

(g) any person who delivers goods on hire purchase or any system of payment by installments;

1. These words were substituted by Guj. 26 of 2017, s.3(2).

2. Clause (5) was substituted for original by Guj. 6 of 2006, s.3(1).

3. Clauses (5) and (9) were deleted by Guj. 26 of 2017, s.3(3).

(h) any person who transfers the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration; and

(i) any person who supplies, by way of or as part of any service or in any other manner whatsoever, goods being food or any other article for human consumption or any drink (whether or not intoxicating) where such supply or service is for cash, deferred payment or other valuable consideration.

Explanation.-- (i) A society (including a co-operative society), club or firm or an association, which, whether or not in the course of business, buys, sells, supplies or distributes goods, directly or otherwise, from or to its members or other persons for cash, deferred payment, commission, remuneration or other valuable consideration, shall be deemed to be dealer for the purposes of this Act.

(ii) The Central Government or a State Government or a local authority or railway administration or port trusts or a statutory body, which, whether or not in the course of business, buys, sells, supplies or distributes goods, directly or otherwise, for cash, deferred payment, commission, remuneration or other valuable consideration, shall be deemed to be dealer for the purposes of this Act.

(iii) Any person or body, which disposes of any goods including unclaimed, confiscated, unserviceable, scrap, surplus, old, obsolete, discarded, waste or surplus product or goods, whether by auction or otherwise, directly or through an agent, for cash deferred payment, commission, remuneration or other valuable consideration, shall be deemed to be dealer for the purposes of this Act.

¹[* * * * *]

²[* * * *]

³[(12) [“earlier law” means any of the following laws, that is to say:—

Bom. LXVI of 1958.

(i) the Bombay Sales of Motor Spirit Taxation Act, 1958,

Guj. 1 of 1970.

(ii) the Gujarat Sales Tax Act, 1969, or

Guj. 11 of 1989.

(iii) the Gujarat Purchase Tax on Sugarcane Act, 1989, as amended from time to time and includes enactments which have validated anything done or omitted to be done under these laws;]

⁴[(13) “goods” means goods as covered under entry 54 of List II of the Seventh Schedule to the Constitution of India;]

⁵[(13A) “HSN code” means harmonized system of nomenclature code“ assigned to the goods specified in the Schedules;]

(14) “manufacture” with its grammatical variations and cognate expressions means includes producing, making, extracting, collecting, altering, ornamenting, finishing, assembling or otherwise processing, treating or adapting any goods; but does not include such manufactures or manufacturing processes as may be prescribed;

1. Exceptions (i) to (iii) were deleted by Guj. 26 of 2017, s.3(4).

2. Clause (11) was deleted, *ibid.*, s.3(5).

3. Clause (12) was substituted for original by Guj. 6 of 2006, s.3(3).

4. Clause (13) was substituted by Guj. 26 of 2017, s.3(6).

5. Clause (13A) was inserted by Guj. 6 of 2006, s.3(4).

(15) “person” includes an individual, a joint family or Hindu Undivided Family, a company, a firm, an association of persons or body of individuals, whether incorporated or not, a society, club or other institution, a local authority, the Central Government or a State Government and every artificial juridical person not falling within any of the preceding descriptions;

(16) “place of business” means any place where a dealer carries on business and includes,--

(a) a warehouse, godown or other place where a dealer stores or processes his goods;

(b) any place where a dealer produces or manufactures goods;

(c) any place where a dealer keeps his books of accounts;

(d) any vehicle or vessel or any other carrier wherein the goods are stored or used for transporting the goods;

(e) any place of business of an agent by whatever name called through whom a dealer carries on business;

(17) “prescribed ” means prescribed by rules;

(18) “purchase price“ means the amount of valuable consideration paid or payable by a person for any purchase made including the amount of duties levied or leviable under the Central Excise Tariff Act, 1985 or the Customs Act, 1962 and any sum charged for anything done by the seller in respect of the goods at the time of or before delivery thereof, other than the cost of insurance for transit or of installation, when such cost is separately charged and includes, -

5 of 1986.

52 of 1962.

(a) in relation to –

(i) the transfer, otherwise than in pursuance of a contract of property in any goods,

(ii) the supply of goods by any unincorporated association or body of persons to a member thereof,

(iii) the supply by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating), the amount of cash, deferred payment or other valuable consideration paid or payable therefor,

(b) in relation to the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract, such amount as is arrived at by deducting from the amount of valuable consideration paid or payable by a person for the execution of such works contract, the amount representing labour charges for such execution,

(c) in relation to the delivery of goods on hire purchase or any system of payment by installments, the amount of valuable consideration payable by a person for such delivery;

(19) “raw materials” means goods used as ingredient in the manufacture of other goods and includes processing materials, consumable stores and ¹[* * * * *] so manufactured but does not include fuels for the purpose of generation of electricity;

1. The words "material used in packing of the goods" were deleted by Guj. 26 of 2017, s.3(7).

(20) “registered dealer“ means a dealer registered under the provisions of this Act, who holds a certificate of registration granted or deemed to have been granted under this Act;

(21) “resale” means a sale of purchased goods,-

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

(ii) without using them in the manufacture of any goods or without doing anything to them which amounts to or results in, a manufacture;

and the word “resell” shall be construed accordingly;

(22) “rules” means the rules made under this Act;

(23) “sale” means a sale of goods made within the State for cash or deferred payment or other valuable consideration and includes,-

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

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

(c) delivery of goods on hire purchase or any system of payment by installments,

(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,

(e) supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration,

(f) supply of goods by a society or club or an association to its members on payment of a price or of fees or subscription or any consideration,

(g) supply of goods by way of or as part of any service or in any other manner whatsoever, of

(h) supply of goods being food or any other article for human consumption or any drink (whether or not intoxicating) where such supply or service is for cash, deferred payment or other valuable consideration,

(i) supply by way of barter of goods,

(j) disposal of goods by a person in the manner prescribed in Explanation (iii) to clause 10 but does not include a mortgage, hypothecation, charge or pledge; and the words “sell”, “buy” and “purchase” with all their grammatical variations and cognate expressions shall be construed accordingly.

Explanation.- (i) - For the purposes of this clause, “sale within the State” includes a sale determined to be inside the State in accordance with the principles formulated in sub-section (2) of section 4 of the Central Act;

(ii) for the purpose of sub-clause (b) of the expression “works contract” means a contract for execution of works and includes such works contract as the State Government may, by notification in the *Official Gazette*, specify;

(iii) every transfer of property in goods by the Central Government, any State Government, a statutory body or a local authority for cash, deferred payment or other valuable consideration, whether or not in the course of business, shall be deemed to be a sale for the purposes of this Act;

(24) “sale price” means the amount of valuable consideration paid or payable to a dealer or received or receivable by a dealer for any sale of goods made including the amount of duties levied or leviable under the Central Excise Tariff Act, 1985 or the Customs Act, 1962 and any sum charged for anything

done by the dealer in respect of the goods at the time of or before delivery thereof, and includes, -

(a) in relation to –

(i) the transfer, otherwise than in pursuance of a contract, of property in any goods,

(ii) the transfer of the right to use any goods for any purpose, whether or not for a specified period,

(iii) the supply of goods by any unincorporated association or body of persons to a member thereof,

(iv) the supply by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating),

the amount of cash, deferred payment or other valuable consideration paid or payable therefor;

(b) in relation to the transfer of property in goods (whether as goods or in some other form) involved in the execution of a 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 charges for such execution;

(c) in relation to the delivery of goods on hire purchase or any system of payment by installments, the amount of valuable consideration payable to a person for such delivery;

(25) “Schedule” means a Schedule appended to this Act;

(26) “the State” means the State of Gujarat;

(27) “tax” means a tax leviable and payable under this Act ¹[on sales of goods;

(28) “tax period” means a calendar month or a quarter as may be prescribed by the State Government;

²[(29) “taxable goods” means goods liable to tax under section 7 excluding the goods on which no tax is payable under section 5;]

(30) “taxable turnover” means the turnover of all sales ³[**]of a dealer during the prescribed period in any year, which remains after deducting therefrom,-

(a) the turnover of sales not subject to tax under this Act;

(b) the turnover of goods declared exempt ⁴[* * * *] under a notification under sub-section (2) of section 5, and

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

Provided that in the cases where the amount of charges towards labour, service and other like charges in such contract are not ascertainable from the terms and conditions of the contract, the amount of such charges shall be calculated in such manner as may be prescribed;

(31) “Tribunal” means the tribunal constituted under section 19;

1. These words were substituted by Guj. 17 of 2017, s.3(8).

2. Clause (29) was substituted, *ibid.*, s.3 (9).

3. The words "or purchased" were deleted, *ibid.*, s.3(10)(i).

4. The words, brackets and figures “under sub-section (1) of section 5 or” were deleted by Guj. 26 of 2017, s.3(10)(ii).

(32) “turnover of purchases” means the aggregate of the amounts of purchase price paid or payable by a dealer in respect of any purchase of goods made by him during a given period after deducting the amount of purchase price, if any, refunded to the dealer by the seller in respect of any goods purchased from the seller and returned to him within the prescribed period;

(33) “turnover of sales” means the aggregate of the amount of sale price received or receivable by a dealer in respect of any sale of goods made during a given period after deducting the amount of sale price, if any, refunded by the dealer to a purchaser, in respect of any goods purchased and returned by the purchaser within the prescribed period;

(34) “total turnover” means aggregate of the following transactions effected by a dealer,

(a) turnover of sales ¹[* *] of goods within the State whether such sales or ¹[* *] of goods are taxable or exempt under this Act;

(b) turnover of sales of goods in the course of inter-State trade or commerce;

(c) turnover of sales of goods in the course of export of goods out of the territory of India;

(d) turnover of sales by a dealer on his own account and also on behalf of his principal;

(35) “value of goods” means the value as ascertained from the purchase invoices or bills and includes insurance charges, excise duties, countervailing duties, value added tax, sales tax, transport charges, freight charges and all other charges incidental to the transaction of the goods:

Provided that where the purchase invoices or bills are not produced or when the goods are acquired or obtained otherwise than by way of purchase, the value of goods shall be the value at which the goods of like kind or quality are sold or are capable of being sold in open market;

(36) ²[“year” means a financial year;].

³[* * * * *]

CHAPTER II

INCIDENCE AND LEVY OF TAX.

3. (1) Subject to the provisions of this Act, every dealer, -

Incidence
of tax.

(i) whose total turnover during the year immediately preceding the appointed day exceeded rupees five lakhs and whose taxable turnover exceeded rupees ten thousand in a year (the aforesaid amounts of total turnover and taxable turnover are hereinafter referred to as “thresholds of turnover”), or

(ii) who was registered under the earlier law or under the Central Act as on the appointed day, or

(iii) whose total turnover and taxable turnover in any year first exceed the thresholds of turnover, or

(iv) who is registered or liable to be registered as a dealer under this Act or under the Central Act at any time after the appointed day shall be liable to pay tax in accordance with the provisions of this Act.

(2) Notwithstanding anything contained in this section, a casual dealer or an auctioneer shall be liable to be registered if his taxable turnover of sales

1. The Words "or purchased" were deleted by Guj. 26 of 2017, s.3(11).

2. Clause (36) was substituted for original by Guj.6 of 2006,s.3(5).

3. Clause (37) was inserted by Guj. 9 of 2008, s.2(2) were deleted by Guj. 26 of 2017, s.3(12).

exceeds ten thousand rupees and he shall be liable to pay tax in accordance with the provisions of this Act.

(3) The dealer shall be liable to pay tax,--

(a) in case of clauses (i) and (ii) of sub-section (1), with effect from the appointed day;

(b) in case of clause (iii) of sub-section (1), with immediate effect when his turnover calculated from the commencement of the year first exceeds the thresholds of turnover;

(c) in case of clause (iv) of sub-section (1), with immediate effect when he becomes so liable or the date of registration under this Act, whichever is earlier:

Provided that the dealer shall not be liable to pay tax in respect of thresholds of turnover as takes place during the period prior to the relevant date of effect under this sub-section.

(4) Every dealer who has become liable to pay tax under this Act shall continue to be so liable until the expiry of one year during which his total turnover and taxable turnover have remained below the thresholds of turnover¹ [* * * *]:

Provided that any dealer whose liability to pay tax under this Act ceases or his total turnover and taxable turnover during the year remains below the thresholds of turnover, may apply for the cancellation of his certificate of registration; and on such cancellation, his liability to pay tax shall cease and such dealer shall remain liable to pay tax till his certificate of registration is cancelled.

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

(6) Where by an order passed under this Act, it is found that any person registered as a dealer ought not to have been so registered, then, notwithstanding anything contained in this Act, such person shall be liable to pay tax for the period commencing with the date of his registration and ending with the date of such order, as if he were a dealer.

Certain sales and purchases not liable to tax.

4. Nothing contained in this Act or the rules made thereunder shall be deemed to impose or authorise the imposition of tax on any sale or purchase of any goods where such sale or purchase takes place-

(a) in the course of inter-State trade or commerce; or

(b) outside the State; or

(c) in the course of the import of goods into or export of goods out of the territory of India,

1. This Portion of the Words "and such further period after the date of such expiry as may be prescribed; and on the expiry of such further period his liability to pay tax shall cease" was deleted by Guj. 6 of 2006, s.4.

and the provisions of this Act and the rules thereunder shall be construed accordingly.

Explanation.- Sections 3, 4 and 5 of the Central Act shall apply for determining whether or not a particular sale or purchase has taken place in the manner indicated in clauses (a), (b) or (c).

¹[* * * * *]

Exemptions.

5. (2) (a) Subject to such conditions as it may impose, the State Government may, if it considers necessary so to do in the public interest, by notification in the *Official Gazette*, exempt any specified class of ³[* *] sales ³[* *] of goods by any specified dealer specified class of dealers from payment or sales of the whole or any part of the tax payable under the provisions of this Act.

(b) Where the State Government considers it necessary so to do in the public interest to continue tax exemption granted to the sales ³[* *] of goods by industrial units under sub-section (2) of section 49 of the Gujarat Sales Tax Act, 1969, it may, by notification in the *Official Gazette*, continue such exemption with such modification, subject to such conditions and for such period, as may be prescribed.];

Guj. 1 of 1970.

(3) Every notification issued ⁴[under ⁵[* * *] sub-section (2)] shall be laid for not less than thirty days before the State Legislature as soon as possible after it is issued and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make, during the session in which it is so laid or session immediately following. Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

⁶[* * * * *]

6. Subject to the other provisions of this Act, every dealer, who is liable to pay tax under this Act, shall pay the tax leviable in accordance with the provisions of this Act.

Taxes payable by a dealer.

7. ⁷[(1) Subject to the provisions of this Act, there shall be levied a tax on the turnover of sale of Motor spirit commonly known as Petrol, High Speed Diesel, Aviation Turbine Fuel, Petroleum Crude, Natural Gas and Alcoholic Liquor for human consumption specified in Schedule III at the rate set out against each of them:

Levy of tax on turnover of sales and rates of tax.

Provided that the Government may levy, from importer or manufacturer or oilmarketing companies, a tax at full rate on the retail price in such manner as may be notified by the Government.];

⁸[* * * * *]

⁹[(2) The State Government may, by notification in the *Official Gazette*,

¹⁰[* * * * *] (ii) add to or omit from, or otherwise amend or modify Schedule III so as to levy tax on the basis of price, weight, volume, measurement or unit, or reduce or enhance the rate of tax payable in respect of any goods specified in Schedule III and thereupon Schedule III shall be deemed to have been amended accordingly.]

1. Sub-section(1) and (2) were substituted for original sub-section(1) and (2) by Guj. 6 of 2006, s.5(1).

2. Sub-section(1) and (1A) were deleted by Guj. 26 of 2017, s.4(1).

3. The words "or purchase " was deleted by, *ibid.*, s.4(2).

4. The words, brackets, figures and letter were substituted for the words, brackets and figure "under sub-section(2) "by Guj. 6 of 2006, s.5(2).

5. The words, brackets, figure and letter "sub-section (1A) and" were deleted by Guj. 26 of 2017, s.4(3).

6. Section 5A was inserted, by Guj. 9 of 2008, s.3 were deleted by Guj. 26 of 2017, s.5.

7. In section 7, sub-section (1) was substituted, *ibid.*, s.6(1).

8. Sub- section (1A) was inserted by Guj.9 of 2008, s.4, was deleted by Guj. 26 of 2017, s.6(2).

9. Sub-section 2 was substituted by Guj. 5 of 2016, s.2(2).

10. Clause (i) was deleted by Guj. 26 of 2017, s.6(3).

(3) Every notification issued under sub-section (2) shall be laid for not less than thirty days before the State Legislature as soon as possible after it is issued and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make, during the session in which it is so laid or session immediately following. Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

Power to assign HSN code to goods.

¹[7A. For the purpose of proper identification of the goods, the State Government may by rules, assign the HSN code to each of the goods specified in the Schedules and different codes may be assigned to different goods covered under the same entry in the Schedules.]

Adjustments in tax.

8.(1) The provisions of sub-section (2) shall apply where, in relation to the sales of taxable goods by any registered dealer-

(a) that sale has been cancelled; or

(b) the consideration previously agreed upon for that sale has been altered by agreement with the recipient, whether due to the offer of a discount or for any other reason; or

(c) the goods or part of the goods sold have been returned to the seller,

and as a result of the occurrence of any one or more of the above mentioned events of such sales, the seller has-

(i) provided a tax invoice in relation to that sale and the amount shown therein as tax charged on that sale is incorrect in relation to the amount properly chargeable on that sale; or

(ii) furnished a return in relation to the period in respect of which tax on that sale is attributable, and has accounted for an incorrect amount of tax on that sale in relation to the amount properly chargeable on that sale.

(2) Where a seller has accounted for either in the tax invoice or in the return an incorrect amount of tax as contemplated in sub-section (1), such seller shall make an adjustment in calculating the tax payable by him in the return for the tax period during which it has become apparent that the tax is incorrect. Such adjustment shall be made in the following manner, namely:-

(a) if the amount of tax chargeable in relation to that sale exceeds the amount of tax actually accounted for by the seller, the amount of that excess shall be deemed to be tax charged by such seller in relation to a taxable sale attributable to the tax period in which the adjustment is to be made, and shall not be attributable to any prior tax period; or

(b) the amount of tax actually accounted for exceeds the amount of tax properly chargeable in relation to that sale, such seller shall reduce the amount of tax attributable to the said tax period in terms of section 7 by that excess amount of tax:

Provided that the reduction in the amount of tax under clause (b) shall not be made-

(a) where the excess tax has been borne by the purchaser of goods, or

¹[(b) If the relevant event as described in sub-section (1) has occurred subsequent to such period as may be prescribed, from the date of such sales made by the dealer.]

²[* * * * *]

³**10.** Notwithstanding anything contained in this Act , the value of goods shall be inclusive of value of packing material unless value of packing material is separately charged and tax is collected under the Gujarat Goods and Services Tax Act, 2017.]

Deeming Provision for packing materials.

Guj. 25 of 2017.

11.(1)(a) A registered dealer who has purchased the taxable goods (hereinafter referred to as the “purchasing dealer”) shall be entitled to claim tax credit equal to the amount of,-

Tax credit.

⁴[(i) tax collected from the purchasing dealer by a registered dealer from whom he has purchased such goods or the tax payable by the purchasing dealer to a registered dealer who has sold such goods to him during the tax period, or];

⁵[* * * * *]

(b)The tax credit to be so claimed under this sub-section shall be subject to the provisions of sub-sections (2) to (12); and the tax credit shall be calculated in such manner as may be prescribed.

(2) The registered dealer who intends to claim the tax credit shall maintain the register and the books of accounts in such manner as may be prescribed.

(3) (a) Subject to the provisions of this section, tax credit to be claimed under sub-section (1) shall be allowed to a purchasing dealer on his purchase of taxable goods which are intended for the purpose of-

- (i) sale or re-sale by him in the State;
- (ii) sale in the course of inter-State trade and commerce;
- (iii) branch transfer or consignment of taxable goods to other States (subject to the provision of sub-clause (b) below);
- (iv) sales in the course of export out of the territory of India;
- (v) sales to export oriented units or the units in Special Economic Zones for sale in the course of export out of the territory of India;
- (vi) use as raw material in the manufacture of taxable goods intended for (i) to (v) above ⁶[* * * * *];

⁷[* * * * *]:

Provided that if purchases are used partially for the purposes specified in this sub-section, the tax credit shall be allowed proportionate to the extent they are used for the purposes specified in this sub-section.

(b) Notwithstanding anything contained in this section, the amount of tax credit in respect of a dealer shall be reduced by the amount of tax calculated at the rate of four per cent. on the ¹[taxable turnover of purchases with in the State].

1. Para(b) was substituted for original by Guj. 6 of 2006, s.8.

2. Section 9 was deleted by Guj. 26 of 2017, s.7.

3. Section 10 was substituted by Guj. 26 of 2017, s.8.

4. Sub-clause (i) was substituted for original by Guj. 6 of 2006, s.10(1)(a).

5. In clause (a), sub-clause (ii) and (iii) were deleted by Guj. 26 of 2017, s.9 (1).

6. The words “or in the packing of goods so manufactured” were deleted by Guj. 26 of 2017, s.9(2)(i)(a).

7. Sub-clause (vii) was inserted by Guj. 6 of 2006, s.10(2)(a) was deleted, *ibid.*, s.9 (2) (i)(b).

(i) of taxable goods consigned or dispatched for branch transfer or to his agent outside the State, or

(ii) of taxable goods which are used as raw materials in the manufacture,²[* * * * *] which are dispatched outside the State in the course of branch transfer or consignment or to his agent outside the State,

³[(iii) of fuel used for the ⁴[manufacture of taxable goods]:]

⁵[Provided that where the rate of tax of the taxable goods consigned or dispatched by a dealer for branch transfer or to his agent outside the State is less than four per cent., then the amount of tax credit in respect of such dealer shall be reduced by the amount of tax calculated at the rate of tax set out in the Schedule on such goods on the ³[taxable turnover of purchases with in the State.]

(4) The tax credit shall not be claimed by the purchasing dealer until the tax period in which he receives from a registered dealer from whom he has purchased taxable goods, a tax invoice (in original) containing particulars as may be prescribed under sub-section (1) of section 60 evidencing the amount of tax.

(5) Notwithstanding anything contained in this Act, tax credit shall not be allowed for purchases-

(a) made from any person other than a registered dealer under this Act;

(b) made from a dealer who is not liable to pay tax under this Act;

⁶[* * * * *]

(c) made prior to the relevant date of liability to pay tax as provided in sub-section (3) of section 3;

(d) made prior to the relevant date of liability to pay tax as provided in sub-section (3) of section 3;

⁷[(dd) made prior to the date of registration;]

(e) made in the course of inter-State trade and commerce;

(f) ⁸[of the goods (not being taxable goods dispatched outside the state in the course of branch transfer or consignment) which are disposed of otherwise than in sale, resale or manufacture;

(g) of the ⁹[* * * * *] the goods exempt from whole of tax by a notification under sub-section (2) of section 5;

(h) of the goods which are used in manufacture of ¹⁰[* * * * *] ¹¹[the goods exempt from the whole of the tax by a notification under sub-section (2) of section 5] ¹²[* * * * *].

¹³[* * * * *].

1. This words were substituted for the words "turn over of purchase" by GJ.9 of 2008, s.6(2).

2. The words "or in the packing of the goods" were deleted by Guj.26 of 2017,s.9(2)(ii)(a).

3. sub-clause(iii) was inserted by Guj. 6 of 2006, s.10(2)(b).

4. These words were substituted for the words "manufacture of goods" by Guj. 26 of 2017, s.9(2) (ii)(b).

5. This proviso was inserted by Guj. 25 of 2006, Part III, s.17.

6. Clause (c) was deleted by Guj. 26 of 2017, s.9 (3) (i)

7. Clause (dd) was inserted by Guj. 6 of 2006, s.10(3)(a).

8. These word were substituted for the words "of the goods" by Guj. 6 of 2006,s.10(3)(b).

9. The words "the goods specified in the schedule I or" were deleted by Guj. 26 of 2017, s.9.(3)(ii).

10. The words "the goods specified in the schedule I or" were deleted by Guj. 26 of 2017, s.9(3)(iii).

11. These words, brackets and figure were added by Guj.6 of 2006, s.10(3)(c).

12. The words "or in the packing of goods so manufactured "were deleted by Guj.26 of 2017,s.9(3)(iii)(b).

13. Clause (i) and (j) were deleted by Guj. 26 of 2017, s.9(3) (iv).

(k) ¹[of the property] or goods not connected with the business of the dealer;

(l) of the goods which are used as fuel in generation of electrical energy meant for captive use or otherwise;

²[(II) of petrol, high speed diesel, ³[and petroleum crude] and lignite unless such purchase is intended for resale;]

(m) of the goods which are used as fuel in motor vehicles;

⁴[* * * * *]

(mmm) of the goods for which right to use is transferred for any purpose (whether or not for a specified period), for cash, deferred payment or other valuable considerations;

(mmmm) made from a dealer after the name of such dealer has been published under sub-section (11) of section 27 or section 97;]

(n) of the goods which remain as unsold stock at the time of closure of business;

⁵[⁶[* * * * *].]

(o) where original invoice does not contain the details of tax charged separately by the selling dealer from whom purchasing dealer has purchased the goods;

(p) where original tax invoice ⁷[or duplicate thereof duly authenticated in accordance with the rules made in this behalf] is not available with purchasing dealer or there is evidence that the same has not been issued by the selling dealer from whom the goods are purported to have been purchased;

⁸[* * * * *]

⁹[(II) Notwithstanding anything contained in clause (d) or (dd) in this sub-section and subject to such conditions and in such manner as may be prescribed, a registered dealer shall be allowed to claim tax credit for the taxable goods held in stock on the date of registration which are purchased after 1st April, 2008 and during the period of one year ending on the date of registration.

⁸[* * * * *]

(6) The State Government may, by notification in the *Official Gazette*, specify any goods or the class of dealers that shall not be entitled to whole or partial tax credit.

(7) Where a registered dealer without entering into a transaction of sale, issues to another registered dealer tax invoice, retail invoice, bill or cash memorandum with the intention to defraud the Government revenue or with the intention that the Government may be defrauded of its revenue, the Commissioner may, after making such inquiry as he thinks fit and giving a reasonable opportunity of being heard, deny the benefit of tax credit, in respect of such transaction, to such registered dealers issuing or accepting such tax invoice, retail invoice, bill or cash memorandum either prospectively or

1. These words were substituted for the word "property" by Guj. 6 of 2006, s.10(3)(e).

2. Clause (II) was inserted, *ibid.*, s.10(3)(f).

3. These words were substituted for the words "crude oil and lignite" by Guj. 26 of 2017, s.9(3)(v).

4. Clause (mm), (mmm) and (mmmm) were inserted by Guj.6 of 2006, s.10(3)(g).

5. Clause (mm) and (nn) were deleted by Guj.26 of 2017, s.9(3)(vi).

6. Clause (nn) was inserted by Guj.6 of 2006,s.10(3)(h).

7. These words were inserted by Guj.6 of 2006,s.10(3)(i).

8. Non-obstant clause (I) and (II) were deleted by Guj. 26 of 2017, s.9(3)(vii).

9. Paragraph (II) and (III) were inserted by Guj. 9 of 2008, s.6 (3).

retrospectively from such date as the Commissioner may, having regard to the circumstances of the case, fix.

¹[(7A) Notwithstanding anything contained in this section, in no case the amount of tax credit on any purchase of goods shall exceed the amount of tax in respect of the same goods, actually paid, if any, under this Act or any earlier law, into Government treasury:

²[* * * * *]

(8) ³[(a)] If the goods purchased were intended for the purposes specified under sub-section (3) and are subsequently used fully or partly for purposes other than those specified under the said sub-section or are used fully or partly in the circumstances described in sub-section (5), the tax credit, if availed of, shall be reduced on account of such use, from the tax credit being claimed for the tax period during which such use has taken place; and such reduction shall be done in the manner as may be prescribed.

⁴[(b) Where the capital goods referred to in sub-clause (vii) of clause (a) of sub-section (3) are not used continuously for a full period of five years in the State, the amount of tax credit shall be reduced proportionately having regard to the period falling short of the period of five years]:

⁵[Provided that, when a dealer migrating to the Gujarat Goods and Services Tax Act, 2017 uses the Capital goods till completion of remaining period of limit of 5 years continuously under the Gujarat Goods and Services Tax Act, 2017, the tax credit shall not be reduced for such period.]

Guj. 25 of 2017.

Guj. 25 of 2017.

⁶[(8A) (1) when a dealer has availed the tax credit for tax paid on purchases of goods in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the date of coming into force of the Gujarat Value Added Tax (Amendment) Act, 2017 and he opts for composition under section 10 of the Gujarat Goods and Services Tax Act, 2017, such tax credit shall stand reversed. Such amount of reversed tax credit shall be adjusted from the present balance of tax credit available. If such dealer does not have in balance the tax credit available for adjustment of reversed tax credit, he shall pay into Government treasury, a sum equal to the amount of unadjusted reversed tax credit.

Guj. 26 of 2017.

Guj. 26 of 2017.

(2) when a dealer has availed the tax credit for tax paid on purchases of capital goods on the date of coming into force of the Gujarat Value Added Tax (Amendment) Act, 2017 and he opts for composition under section 10 of the Gujarat Goods and Services tax Act, 2017, but period of five year has not completed, such tax credit shall stand reversed. Such amount of reversed tax credit shall be adjusted from the present balance of tax credit available. If such dealer does not have in balance the tax credit available for adjustment of reversed tax credit, he shall pay into Government treasury, a sum equal to the amount of unadjusted reversed tax credit.]

Guj. 25 of 2017.

Guj. 25 of 2017.

(9) The registered dealer may claim the amount of net tax credit, which shall be determined in the manner as may be prescribed.

(10) Where any purchaser, being a registered dealer, has been issued with a credit note or debit note in terms of section 61 or if he returns or rejects goods purchased, as a consequence of which the tax credit availed by him in any period in respect of which the purchase of goods relates, becomes either short or excess, he shall compensate such short or excess by adjusting the amount of tax credit allowed to him in respect of the tax period in which the credit note or debit note has been issued or goods are returned, subject to such conditions as may be prescribed.

1. Sub-section (7A) was inserted by Guj. of 9 of 2013, s.4.

2. In Sub-section (7A), the first and second provisos were deleted by Guj. 26 of 2017, s.9(4).

3. Sub-section (8) was renumbered as clause (a) of that sub-section (8) by Guj. 6 of 2006, s.10(4).

4. Clause (b) was inserted, *ibid.*, s. 10(4).

5. This proviso was added by Guj. 26 of 2017, s.9(5).

6. Sub-section (8A) was inserted, *ibid.*, s.9 (6).

(11) A registered dealer shall apply fair and reasonable method to determine, for the purpose of this section, the extent to which the goods are sold, used, consumed or supplied, or intended to be sold, used, consumed or supplied. The Commissioner may, after giving the dealer an opportunity of being heard and for the reasons to be recorded in writing, reject the method adopted by the dealer and calculate the amount of tax credit as he deems fit.

(12) Subject to the exceptions as may be prescribed by the rules, any dealer including the Commission agent shall not be permitted to transfer his tax credit to any other dealer or as the case may be, the principal.

Explanation.—For the purpose of this section the amount of tax credit on any purchase of goods shall not exceed the amount of tax actually paid or payable under this Act in respect of the same goods.

12. [Tax Credit For Stock on 31st March, 2003] was deleted by Guj. 26 of 2017, s.10.

13. The net amount of Value Added Tax for a tax period payable shall be determined after the adjustment of tax credit in the manner as may be prescribed.

Net amount of Value Added Tax.

¹[* * * * *]

15. The burden of proof shall lie on a dealer who claims that he is not liable to pay tax under this Act in respect of any sale effected by him or is eligible for a tax credit under section 11 and section 12.

Burden of proof.

CHAPTER III

COMMERCIAL TAX AUTHORITIES AND TRIBUNAL.

16. (1) For carrying out the purposes of this Act, the State Government shall appoint an officer to be called the Commissioner of Commercial Tax:

Commercial tax authorities and jurisdiction.

Guj.25 of 2017.

²[Provided that, the officers appointed under the Gujarat Goods and Services Tax Act, 2017 shall be deemed to be the officers appointed under the provisions of this Act.]

(2) To assist the Commissioner in the execution of his functions under this Act, the State Government may appoint Special Commissioners, Additional Commissioners and such number of –

- (a) Joint Commissioners,
- (b) Deputy Commissioners,
- (c) Assistant Commissioners,
- (d) Commercial Tax Officers, and

1. Sections 14, 14A, 14B, 14C, and 14D were deleted by Guj. 26 of 2017, s.11.

2. This proviso was added by Guj.26 of 2017, s.12(1).

(e) other officers and persons, and give them such designations, as the State Government thinks necessary:

¹[Provided that, the officers appointed under the Gujarat Goods and Services Tax Act, 2017 shall be deemed to be the officers appointed under the provisions of this Act to assist the Commissioner in the executions under this sub-section]

Guj.25 of 2017.

(3) The Commissioner shall have jurisdiction over the whole of the State, the Special Commissioner and an Additional Commissioner shall have jurisdiction over the whole of the State or where the State Government so directs, over any local area thereof. All other officers shall have jurisdiction over the whole of the State or over such local areas as the State Government may specify.

(4) The Commissioner shall have and exercise all the powers and perform all the duties, conferred or imposed on him by or under this Act. The Special Commissioner and an Additional Commissioner shall, save as otherwise directed by the State Government, have and exercise within his jurisdiction all the powers and perform all the duties, conferred or imposed on the Commissioner by or under this Act.

(5) A Joint Commissioner shall have and exercise, in the area within his jurisdiction all the powers and shall perform all the duties conferred or imposed on the Commissioner by or under this Act. The Commissioner may, by order published in the *Official Gazette*, direct that any or all Joint Commissioners shall not exercise such powers or perform such duties as are specified in the order, and there-upon such Joint Commissioner or, as the case may be, all Joint Commissioners, shall cease to exercise those powers and perform those duties. The Commissioner may in like manner revoke any such direction and thereupon the powers or duties exercisable or performable by such Joint Commissioner, or as the case may be, all Joint Commissioners before such direction was issued, shall be restored to him or them.

(6) The Deputy Commissioners, Assistant Commissioners, Commercial Tax Officers and other officers shall within their jurisdiction exercise such of the powers and perform such of the duties of the Commissioner under this Act, as the Commissioner may, subject to such conditions and restrictions as the State Government may by general or special order impose, by order in writing delegate to them either generally or as respects any particular matter or class of matters.

(7) The State Government may, subject to such restrictions and conditions as it may impose by notification in the *Official Gazette*, delegate to the Commissioner the power (not being powers relating to the appointment of Special Commissioner, Additional Commissioner or Joint Commissioners), conferred on the State Government by sub-sections (2) and (3).

(8) All officers and persons appointed under sub-section (2) shall be subordinate to the Commissioner; and the subordination of officers (other than the Commissioner), and of persons amongst themselves shall be such as may be prescribed.

17. (1) The Commissioner may, after due notice to the concerned parties and by order in writing, transfer any proceedings or class of proceedings under any provision of this Act from himself to any other officer and he may likewise

Power to transfer proceedings.

1. This proviso was added by Guj.26 of 2017, s.12(2).

transfer any such proceedings (including a proceeding already transferred under this section) from one such officer to another or to himself.

(2) The officer to whom any proceeding is transferred under sub-section (1) shall proceed to dispose it of as if it had been initiated by himself.

(3) The transfer of proceedings shall not render necessary the re-issue of any notice already issued before such transfer and the officer to whom the proceeding is transferred may continue it from the stage at which it was left by the officer from whom it was transferred.

Explanation.-- For the purposes of this section, "proceedings" in relation to any person whose name is specified in any order issued thereunder, means all proceedings under this Act in respect of any year which may be pending on the date of such order or which may have been completed on or before such date, and includes also such proceedings which may be commenced after the date of such order in respect of any year.

18. (1) No person shall be entitled to call in question the jurisdiction of any tax authority appointed under section 16, after the expiry of thirty days from the date of receipt by that person of any notice issued by such tax authority under this Act.

Disputes regarding jurisdiction of tax authority.

(2) An objection as to the jurisdiction of any such tax authority may be raised within the periods aforesaid by submitting a memorandum to that tax authority who shall refer the question to the Commissioner and the Commissioner shall after giving the person raising the objection, a reasonable opportunity of being heard, make an order determining the question of jurisdiction and his decision in this behalf shall be final.

19. (1) The State Government shall constitute a Tribunal consisting of as many as members as it thinks fit to discharge the functions conferred on the Tribunal by or under this Act.

Tribunal.

(2) The State Government shall appoint one of the members of the Tribunal to be President thereof.

(3) The qualifications of the members constituting the Tribunal shall be such as may be prescribed and a member shall hold office for such period as the State Government may fix.

(4) The State Government may terminate the appointment of any member of the Tribunal before the expiry of term of his office, if such member, –

(a) is adjudged an insolvent, or

(b) engages during his term of office in any paid employment outside the duties of his office, or

(c) is or becomes in any way concerned or interested in any contract or agreement made by or on behalf of the State Government or participates in any way in the profit thereof or in any benefit or emoluments arising therefrom otherwise than as a member, or

(d) is in the opinion of the State Government, unfit to continue in office by reason of infirmity of mind or body, or

(e) is convicted of an offence involving moral turpitude.

(5) Any vacancy of a member of the Tribunal shall be filled up by the State Government as soon as practicable.

(6) The functions of the Tribunal may be discharged by one or more benches thereof constituted in accordance with the regulations made under sub-section (9).

(7) If the members of the Tribunal or a Bench thereof are divided, the decision shall be the decision of the majority, if there be a majority, but if the members are equally divided they shall state the point or points on which they differ, and the case shall be referred by the President of the Tribunal for hearing on such point or points to one or more of the other members of the Tribunal, and such point or points shall be decided according to the majority of the members of the Tribunal who heard the case including those who first heard it.

(8) Subject to such conditions and limitations as may be prescribed, the Tribunal shall have power to award cost and the amount of such costs shall be recoverable from the person ordered to pay the same as an arrears of land revenue.

(9) Subject to the previous sanction of the State Government, the Tribunal shall, for the purpose of regulating its procedure (including the place or places at which the Tribunal or the Benches thereof shall sit) and the disposal of its business, make regulations consistent with the provisions of this Act and the rules.

(10) The regulations made under sub-section (9) shall be published in the *Official Gazette*.

**Powers of
Tribunal and
Commissioner.**

20. (1) In discharging their functions under this Act, the Tribunal and the Commissioner shall have all the powers of a Civil Court for the purpose of,-

- (a) receiving of proof of facts on affidavit;
- (b) summoning and enforcing the attendance of any person, and examining him on oath or affirmation;
- (c) compelling the production of documents; and
- (d) issuing commissions for the examination of witnesses.

(2) In the case of any affidavit to be made for the purposes of this Act, any officer appointed by the Tribunal or the Commissioner may administer the oath to the deponent.

CHAPTER IV

REGISTRATION.

Registration.

21. (1) No dealer shall, while being liable to pay tax under this Act, carry on business as a dealer unless he possesses a valid certificate of registration as provided by this Act:

Provided that the provisions of this sub-section shall not be deemed to have been contravened if the dealer having applied for such registration, as provided in this section, within the prescribed time carries on such business.

¹[* * * * *]

(3) Every dealer, required by sub-section (1) to possess a certificate of registration, shall apply in such form, to such authority and in such manner as may be prescribed.

(4) If the prescribed authority is satisfied that an application for registration is in order, it shall register the applicant and issue him a certificate of registration in the prescribed form.

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

(6) When a dealer has been subjected or is liable to be subjected to a penalty or is convicted in respect of contravention of the provisions of sub-section (1), the prescribed authority shall register such dealer, if such dealer is not a registered dealer, and issue him a certificate of registration. Such registration shall take effect from the date of the issue of the certificate in every respect as if it had been issued under sub-section (3) on an application of the dealer.

(7) Where –

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

(b) total turnover and taxable turnover of a dealer during the preceding year has not exceeded the thresholds of turnover specified in sub-section (1) of section 3,-

and the dealer applies in the prescribed manner for cancellation of his registration, the prescribed authority shall cancel the registration with effect from such date as it may fix in accordance with the rules.

¹[(7A) Where the dealer changes the place of his business situated in the jurisdiction of one authority to a different place falling under the jurisdiction of another authority, such dealer shall apply for cancellation of registration to that authority which has granted the registration and shall simultaneously apply for registration to another authority within whose jurisdiction the changed place of business is situated.]

(8) Where the Commissioner is satisfied that any business in respect of which a certificate of registration has been issued under this section, has been discontinued and the dealer has failed to apply as aforesaid for cancellation of registration, the Commissioner may, after giving the dealer a reasonable opportunity of being heard, cancel the registration with effect from such date as he may fix to be the date from which the business has been discontinued.

(9) 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, penalty or interest due for any period prior to the date of cancellation whether such tax, penalty or interest is assessed before the date of cancellation but remains unpaid, or is assessed thereafter.

22. (1) A dealer having a fixed or regular place of business in the State and who is not required to be registered under section 21, may apply in the prescribed manner for the certificate of registration to the authority prescribed for the purpose under section 21.

Voluntary registration.

(2) If the prescribed authority is satisfied that the application made by the dealer under sub-section (1) is in order, it may grant him a certificate of registration in the prescribed form:

1. Sub-section (7A) was inserted by Guj. 6 of 2006, s.14.

Provided that no certificate of registration under this section shall be granted to the dealer unless he deposits an amount of rupees twenty-five thousand in the Government treasury. The dealer may, in his return to be furnished in accordance with section 29, adjust the amount so deposited against his liability to pay tax, penalty or interest payable under this Act.

(3) The provisions of sub-section (4) and clause (a) of sub-section (7) and sub-section (8) of section 21 shall apply in respect of the amendment or cancellation of certificate of registration granted under this section.

(4) Notwithstanding anything contained in this Act, every dealer who has been registered under sub-section (2) shall, so long as his registration remains in force, be liable to pay the tax under this Act.

[23. Deemed registration.] was deleted by Guj. 26 of 2017, s.14.

Non-transferability of registration.

24. Save as otherwise provided in section 25, a certificate of registration shall be personal to the dealer to whom it is granted and shall not be transferable.

Continuation of certificate of registration of dissolved firm.

25. Where, -

(a) a registered dealer is a firm and on the death of any partner of such firm, the firm stands dissolved, and

(b) the person who immediately before such dissolution was a partner of the firm carries on business of the dissolved firm, as proprietor, then-

(i) until the certificate of registration granted to the firm prior to its dissolution is amended under sub-clause (ii), the certificate of registration granted to the firm prior to its dissolution shall, subject to section 27, continue to be valid for a period of six months;

(ii) on an application made by such person within a period of six months from the date of dissolution of the firm for amendment of the certificate of registration and on information being furnished in the manner required by section 26, the certificate of registration granted to the firm prior to its dissolution shall be amended accordingly.

Amendment of certificate of registration.

26. (1) Where a registered dealer -

(a) transfers his business, in whole or in part, or transfers his place of business, by sale, lease, leave or licence, hire or in any other manner whatsoever, or otherwise disposes of his business or any part thereof or effects or comes to know of any other change in the ownership of the business;

(b) discontinues his business or changes the place of business thereof or opens a new place of business, or temporarily closes the business for a period more than thirty days;

(c) changes the name, style, constitution or nature of his business; or

(d) enters into partnership or other association in regard to his business or effects any changes in the ownership of the business,

he shall, within the prescribed time inform the prescribed authority accordingly; and if any such dealer dies, his legal representative shall inform of such death or where any such dealer is a firm and there is any change in the constitution of the firm or the firm is dissolved, every person who was a partner thereof, shall in like manner, inform the said authority of the change in the constitution or as the case may be, dissolution of the firm.

(2) The Commissioner may, after considering any information furnished under this Act or otherwise received and after making such inquiry as he may deem fit, amend from time to time, any certificate of registration:

Provided that the Commissioner shall, before amending on his own motion a certificate of registration, give the dealer affected by such amendment an opportunity of being heard.

(3) An amendment of the certificate of registration made under sub-section (1) or (2) shall take effect from the date of contingency, which necessitates the amendment, whether or not information in that behalf is furnished within the time prescribed under sub-section (1).

(4) Any amendment of a certificate of registration under this section shall be without prejudice to any liability for tax, interest or penalty or for any prosecution for an offence under this Act.

(5) If a dealer fails, without sufficient cause, to comply with the provisions of sub-section (1), the Commissioner may after giving the dealer a reasonable opportunity of being heard, direct him to pay, by way of penalty a sum of rupees one hundred per day of default subject to a maximum of rupees five thousand.

(6) For the removal of doubts, it is hereby declared that where a registered dealer-

(a) effects a change in the name of his business;

(b) is a firm and there is a change in the constitution of the firm without dissolution thereof;

(c) is a trustee of a trust and there is a change in the trustees thereof;

(d) is a Hindu Undivided Family and the business of such family is converted into a partnership business with all or any of the co-parceners as partners thereof; or

(e) is a firm or a company or a trust or any other set up and change in the management takes place including the change of the director or the Managing Director of the company;

then merely by reason of the circumstances as aforesaid, it shall not be necessary for the dealer to apply for a fresh certificate of registration and on information being furnished in the manner required by this section, the certificate of registration shall be amended.

27. (1) Where-

(a) any business, in respect of which a certificate of registration has been issued to a dealer under this Act is discontinued;

(b) in the case of transfer of whole business by a dealer, the transferee already holds a certificate of registration under this Act;

(c) an incorporated body has been wound up or it otherwise ceases to exist;

(d) the owner of a proprietorship business dies leaving no successor to carry on the business;

(e) in case of a firm or association of persons, it is dissolved; or

¹[Suspension or cancellation of registration.]

1. This marginal note was substituted for the marginal note "Cancellation of registration" by Guj. 6 of 2006, s.15(7).

¹[(ee) a dealer changes his place of business situated within the jurisdiction of one authority to a different place falling under the jurisdiction of another authority.

Explanation .-- For the purposes of this clause, the "authority" means the authority prescribed under sub-section (3) of section 21;]

(a) a dealer has ceased to be liable to pay tax under this Act;

the Commissioner may cancel the certificate of registration of such dealer or the transferor, as the case may be, from such date, as may be specified by him.

(2) A registered dealer, whose certificate of registration is liable to be cancelled under sub-section (1), may apply for cancellation of his registration to the prescribed authority, in the manner and within the time prescribed.

(3) On receipt of such application from the dealer, if the registering authority is satisfied that the dealer fulfils the conditions specified in sub-section (1), he shall cancel the registration of such dealer.

(4) The certificate of registration shall be deemed to be inoperative-

(a) in case of clause (a) or (b) of sub-section (1), with effect from the date of discontinuance or, as the case may be, transfer of the business;

(b) in case of clauses (c), (d), (e), or (f) of sub-section (1), from the date on which the dealer's liability to pay tax has ceased,

notwithstanding the fact that the order of cancellation is passed or not or that the particulars of the dealer regarding cancellation are published as required under sub-section (11), or not.

(5) If a dealer –

(a) has failed to file three consecutive returns ²[* * * *] under this Act;

(b) knowingly furnishes incomplete or incorrect particulars in his returns; ³[with a view to evade tax;]

(c) has failed ⁴[to pay the tax due for three consecutive tax periods] from him under the provisions of this Act;

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

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

⁵[* * * * *]

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

(h) discontinues his business and has failed to furnish information regarding such discontinuation, ⁶[* *];

1. Clause (ee) was inserted, by Guj. 6 of 2006, s.15(1).

2. These words "within the time prescribed" were deleted by Guj.6 of 2006, s.15(2)(a).

3. These words were added, *ibid.*, s.15(2)(b).

4. These words were substituted., for the words "to pay tax due", *ibid.*, s. 15(2)(c).

5. Clause (f) was deleted by Guj.6 of 2006, s.15 (2) (d).

6. The word "or" was deleted, *ibid.*, s.15 (2) (e).

(i) without entering into a transaction of sale issues to another dealer tax invoice, retail invoice, bill or cash memorandum with the intention to defraud the Government revenue, ¹[or];

²[(j) who has been found evading tax on account of variation in physical stock compared with his regular books of accounts;]

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

³[(5A) (1) If a dealer,—

(a) has failed to inform changes as required under sub-section (1) of section 26;

(b) has failed to furnish return under section 29;

(c) has failed to pay tax under section 30;

(d) has failed to file declaration or intimate the changes as required under section 65 or 66; or

(e) has failed to produce the books of accounts required under section 67,

the Commissioner may, at any time, for reasons to be recorded in writing and after giving the dealer an opportunity of being heard, suspend his certificate of registration from such date not earlier than the date of order of suspension, as may be specified by him in the order.

(2) Where a dealer, whose certificate of registration is suspended for the failure of any of the requirements specified in sub-section (1), fulfils the requirements, the Commissioner shall, by an order in writing, withdraw the suspension order from such date as may be specified therein.

(3) The dealer whose certificate of registration is suspended under sub-section (1) shall not be entitled to claim input tax credit during the period of suspension of registration.]

(6) Every person whose registration is cancelled under sub-section (5) shall pay in respect of every taxable goods held as stock on the date of cancellation an amount equal to the tax that would be payable in respect of the goods if the goods were sold at fair market price on that date or the total tax credit previously claimed in respect of such goods, whichever is higher.

(7) If an order of ⁴[suspension or cancellation] passed under this section is set aside as a result of an appeal or other proceedings under this Act, the certificate of registration of the dealer shall be restored and he shall deemed to be treated as if his registration was not ⁵[suspended or cancelled.]

(8) Every dealer who applies for cancellation of registration shall surrender with his application the certificate of registration granted to him and every dealer whose registration is cancelled otherwise than on the basis of his application shall surrender the certificate of registration within seven days from the date of communication to him of the order of cancellation:

Provided that if a dealer is unable to surrender the certificate of registration on account of loss, destruction or defacement of such certificate, such dealer shall intimate the registering authority accordingly within seven days from the date of communication of order of cancellation of registration.

1. The word "or" was added by Guj. 6 of 2006, s.15 (2) (f).

2. Clause (j) was inserted, *ibid.*, s.15 (2) (g).

3. Sub-section (5A) was inserted, *ibid.*, s.15 (3).

4. These words were substituted for the word "cancellation" by Guj.6 of 2006, s.15(4)(a).

5. Thses words were substituted for the word "cancelled" by Guj.6 of 2006, s.15(4)(b).

(9) If a dealer –

(a) fails without sufficient cause to comply with the provisions of sub-section (2); or

(b) fails to surrender his certificate of registration as provided in sub-section (8),

the Commissioner may, by an order in writing and after giving the dealer an opportunity of being heard, direct that the dealer shall pay, by way of penalty, a sum equal to rupees one hundred for every day of default.

(10) [Suspension or cancellation] of a certificate of registration shall not affect the liability of any dealer to pay tax, penalty or interest due for any period till the date of such ¹[suspension or cancellation] and which has remained unpaid or is assessed thereafter.

(11) The Commissioner shall publish in the manner as may be prescribed the particulars of dealers whose certificate of registration has been ²[suspended or cancelled] under the provisions of this Act.

Dealers
deemed to be
deregistered.

³[27A All registered dealers not dealing with goods defined under clause (13) of section 2 shall be deemed to be deregistered from the date of coming into force of the Gujarat Value Added Tax (Amendment) Act, 2017 and their registration certificates shall stand cancelled.]

Security from
certain class
of dealers.

28. (1) Where it appears necessary to the authority to which an application is made under section 21 or 22 for issue of certificate of registration, so to do for the proper realization of the tax, penalty and interest payable under this Act, it may by an order in writing and for the reasons to be recorded therein, impose as a condition for the issue of certificate of registration a requirement that the dealer shall furnish in the prescribed manner and within such time as may be specified in the order, such security as may be specified in the order for the aforesaid purpose.

(2) Where it appears necessary to the authority referred to in section 21, or the Commissioner so to do for the proper realization of the tax, interest and penalty payable or which has become due for payment, for any period of any year, he may, at any time, by an order in writing and for reason to be recorded therein, require a registered dealer to furnish in the prescribed manner and within such time as may be specified in the order, such security or if such dealer has already furnished any security, such additional security as may be specified in the order.

(3) No dealer shall be required to furnish any security under sub-section (1) or any security or additional security under sub-section (2) unless he has been given an opportunity of being heard.

(4) The amount of security, which a dealer may be required to furnish under sub-section (1) or sub-section (2), or the aggregate of the amount of such security, and the amount of additional security which he may be required to furnish under sub-section (2) by the authority referred to therein or the Commissioner, shall not exceed the amount of tax, interest and penalty payable or which has become due for payment for a period of any year according to the estimate of the authority referred to in sub-section (1) or the Commissioner, on the turnover of sales or turnover of purchase of goods of such dealer for any period of any year.

(5) Where the security furnished by a dealer under sub-section (1) or sub-section (2) is in the form of a surety bond and the surety becomes insolvent or dies, the dealer shall, within thirty days of the occurrence of any of the

1. These words were substituted for the word "cancellation", by Guj.6 of 2006, s.15(5).

2. These words were substituted for the word "cancelled", *ibid.*, s.15(6).

3. section 27A was inserted by Guj. 26 of 2017, s.15.

aforsaid events, inform the authority referred to in sub-section (1) or sub-section (2) or, as the case may be, the Commissioner and shall within ninety days of such occurrence, furnish a fresh security for the same amount as that of the bond in the form of a bond or in any other prescribed manner.

(6) The authority referred to in sub-section (1) or sub-section (2) or, as the case may be, the Commissioner may, by order and for good and sufficient cause, forfeit the whole or any part of the security furnished by a dealer for realizing any amount of the tax, interest or penalty payable by the dealer:

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

(7) Where by reason of an order under sub-section (6), the security furnished by any dealer is rendered insufficient, he shall make up the deficiency in such manner and within such time as may be prescribed.

(8) The authority referred to in sub-section (1) or sub-section (2) or, as the case may be, the Commissioner may, on an application made by a dealer in that behalf, make an order of refund of any amount or part thereof deposited by the dealer by way of security or for the release of bond under this section, if it is not required for the purpose of realization of tax, interest or penalty.

(9) Where a dealer fails to furnish security as required under sub-sections (1), (2), (5) or (7), the authority referred to in section 21 shall refuse to issue or, as the case may be, shall cancel the certificate of registration:

Provided that the refusal or cancellation of a certificate of registration under this sub-section shall, notwithstanding anything contained in sub-section (3) of section 3, not affect the liability of the dealer to pay the tax, penalty and interest due for any period before or after the date of such refusal or cancellation of the certificate of registration, and accordingly the provisions of this Act shall continue to apply.

CHAPTER V.

RETURNS, PAYMENT OF TAX, ASSESSMENT, RECOVERY OF TAX AND REFUND.

29.(1) Every Registered dealer shall furnish correct and complete returns Returns.
¹[of the goods in respect of his business and the transactions thereof] in such form, for such period, by such dates and to such authority, as may be prescribed.

(2) The Commissioner may, subject to such terms and conditions as may be prescribed, exempt any dealer from furnishing returns or permit any dealer, -

(a) to furnish for such different periods, or

(b) to furnish separate returns relating to various places of business of a dealer in the State for the said period, or for such different period, to such authority, as he may direct.

²[(2A) The Commissioner may, in such circumstances and on such terms and conditions as may be prescribed, extend the date of furnishing the return by any dealer or class of dealers.]

(3) If the Commissioner has reason to believe that the total turnover of any dealer is likely to exceed the thresholds of turnover specified in sub-section (1) of section 3, he may, by notice served in the prescribed manner, require such dealer to furnish returns as if he were a registered dealer, but no tax shall be payable by such dealer, unless he become liable to pay tax under sub-section (1) of section 3.

1. These words were inserted by Guj. 6 of 2006, s.16(1).

2. Sub-Section (2A) was inserted by Guj. 25 of 2006, Part III, s.18.

(4) If any dealer having furnished returns under sub-section (1) or (3) discovers any mistake, error, omission or incorrect statement therein, he may furnish a revised return before the expiry of ¹[one month from] the last date prescribed for furnishing the original return.

(5) If a registered dealer or ²[any other dealer, not being a dealer referred to in sub-section (4)] required to furnish return under this section fails to furnish any return by the prescribed date as required under ³[sub-section (1) or, as the case may be, sub-section (2)] or fails to comply with the requirement of notice issued under sub-section (3), the Commissioner shall direct him to pay, in addition to any tax and interest payable or paid by him, by way of penalty ⁴[such sum as may be prescribed but not exceeding rupees ten thousand per return.] ⁵[The penalties prescribed] under this sub-section shall be imposed by the Commissioner notwithstanding the fact that the assessment proceedings have not been initiated against the dealer under section 32, 33 or 34. Any penalty imposed under this sub-section shall be without prejudice to any prosecution for ⁶[any offence or any other proceedings] under this Act.

Periodical payment of tax and interest on non-payment of tax.

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

(2) Every registered dealer furnishing return as required by sub-section (1) of section 29 shall pay into a Government Treasury, in the manner prescribed, the whole amount due from him according to such return and shall furnish along with the return a receipt showing full payment of such amount.

⁷[(2A) The Commissioner may, in such circumstances and on such terms and conditions as may be prescribed, extend in respect of any dealer or class of dealers, the date of payment of tax payable by the dealer according to his return.]

(3) If the revised return furnished by a registered dealer in accordance with sub-section (4) of section 29, shows a higher amount of tax due than shown in the return earlier furnished by him, he shall pay into a Government Treasury the remaining amount of tax arising from the revised return alongwith interest on delayed payment of such remaining amount, and furnish alongwith the revised return a receipt showing such payment.

(4) If a registered dealer does not pay the amount of tax payable in accordance with the provisions of sub-section (1), (2) or (3), the Commissioner shall forthwith initiate recovery proceedings under this Act.

(5) Where a dealer does not pay the amount of tax within the time prescribed for its payment under this section, then there shall be paid by such dealer for the period commencing on the date of expiry of the aforesaid prescribed time and ending on date of payment of the amount of tax, simple interest at the rate of eighteen per cent, per annum, on the amount of tax not so paid or on any less amount thereof remaining unpaid during such period.

⁸[(6) Where a dealer is liable to pay interest under sub-section (5) or under sub-section (7) of section 42 and he makes payment of an amount which is

1. These words were substituted for the words "three months next following" by Guj. 6 of 2006, s.16 (2).

2. These words, brackets and figures were substituted for the words "any other dealer", *ibid.*, s.16(3)(a).

3. These words, brackets and figure were substituted for the words, brackets and figure" Sub-section (1)", *ibid.*, s.16(3)(b).

4. These words were substituted for the words "a sum of rupees one hundred per month or part thereof for the default period" by Guj. 12 of 2009, s.2 (i).

5. These words were substituted for the words " The Penalties specified", *ibid.*, s.2(ii).

6. These words were substituted for the words "any offence" by Guj. 6 of 2006, s.16(3)(c).

7. Sub-Section (2A) was inserted by Guj. 25 of 2006, Part III, s.19.

8. Sub-Section (6) was added by Guj. 6 of 2006, s.17.

less than the aggregate of the amount of tax, penalty and interest, the amount so paid shall be first applied towards the amount of interest, thereafter the balance, if any, towards the amount of penalty and thereafter the balance, if any, towards the amount of tax.]

31.(1) A person who is not a registered dealer shall not collect in respect of any sale of goods any amount by way of tax under this Act and no registered dealer shall make any such collection except in accordance with the provisions of this Act and the rules made thereunder. **Collection of tax only by registered dealers.**

(2) A registered dealer who has been permitted by the Commissioner to make a lump sum payment under ¹[section 14, 14A, ²[14B, 14C] or 14D] shall not collect from his purchaser any sum by way of tax on the sales of goods during the period the permission for lump sum tax is valid.

(3) The tax collected and deposited under the provisions of this Act to which a dealer may be held not liable shall not be refunded to the dealer and the amount of such tax shall stand forfeited to the Government.

(4) If any person collects any amount by way of tax in contravention of the provisions of this Act, he shall be liable to pay, in addition to any tax payable, a penalty equal to the amount so collected.

32.(1) Returns or revised returns furnished by the dealer in accordance with section 29 shall be subject to scrutiny by the Commissioner. **Return scrutiny and provisional assessment.**

(2) (a) If any dealer has furnished return or revised return according to which,-

(i) net amount of tax payable, in accordance with section 13, is nil,

or

(ii) the amount of tax credit is carried forward for subsequent

return, or

(iii) the amount of refund is claimed there in, or

(iv) the dealer has claimed in his return or the revised return higher amount of tax credit than the admissible amount of tax credit, - then, the Commissioner may, as soon as possible, provisionally assess such dealer for the period of such return or as the case may be, revised return. For the purpose of aforesaid provisional assessment, the Commissioner shall serve on such dealer in the prescribed manner a notice requiring him to explain in writing, on or before the date specified in the aforesaid notice, the basis on which the dealer has furnished such returns or the revised returns. The Commissioner may, after considering such explanation provisionally assess the amount of tax due from such dealer and issue an order in the prescribed form.

(b) If the dealer who has been served the notice under clause (a) fails to comply with requirement of clause (a), the Commissioner shall determine the amount of tax payable in the manner as may be prescribed and serve on such dealer an order of the provisional assessment.

(3) Where a registered dealer has not furnished the return in respect of any tax period within the prescribed time, the Commissioner shall, notwithstanding anything contained in section 34, proceed to assess the dealer provisionally for the period for such default. Such provisional assessment shall be made on the basis of past returns or past records or on the basis of information received by the Commissioner and the Commissioner shall direct the dealer to pay the amount of tax assessed in such manner and by such date as may be prescribed.

1. These words, figures and letters were substituted for the words and figures "Section 14" by Guj.25 of 2006, Part I, s.7.

2. These figures, letters and word were substituted for the figures letters and word "14B or 14C", *ibid.*, Part II, s.15.

(4) Where the Commissioner has reason to believe that the dealer has evaded the tax or has claimed more amount of tax credit than the admissible amount of tax credit, he may, after taking into account all relevant materials gathered by him and after giving the dealer a notice in the prescribed form, provisionally assess to the best of his judgment the amount of tax payable by the dealer.

(5) The provisions of this Act shall *mutatis mutandis* apply to the provisional assessment as if provisional assessment were an audit assessment made under this Act.

(6) Nothing contained in this section shall prevent the Commissioner from making assessment under sections 33 and 34.

Self- Assessment.

33. (1) Every registered dealer shall, by such dates and to such authority as may be prescribed, furnish annual return by way of self-assessment in the prescribed form, containing such particulars and accompanied by supporting documents, as may be prescribed.

(2) The amount of tax credit, exemptions and other claims by the dealer in the annual return for which no supporting tax invoice, declarations, certificates, or evidence required under this Act or the Central Act is furnished, shall be self-assessed by the dealer by disallowing such tax credits, exemptions and other claims and by levying the appropriate rate of tax as if the sales or purchases were taxable.

¹[(3) Where,--

(a) a dealer has furnished all the returns, revised returns, if any, and annual returns by the date prescribed therefor and paid the amount of tax due according to such returns, and

(b) the Commissioner is satisfied that the returns or, as the case may be, revised returns and annual returns furnished by such dealer are correct and complete, and

(c) a notice for audit assessment under sub-section (2) of section 34 has not been served on such dealer within such period as may be prescribed, such dealer shall be deemed to have been assessed for that year:

Provided that the Commissioner of his own motion within a period of three years from the end of the year in respect of which or part of which the tax is assessable, may call for and examine the record of such dealer who has been deemed to have been assessed and after serving notice and giving the dealer an opportunity of being heard, pass such order thereon in accordance with the provisions of section 34, as the Commissioner may think just and proper.]

**Audit
assessment.**

34.(1) Subject to the provisions of sub-section (2), the amount of tax due from a registered dealer shall be assessed in the manner hereinafter provided, separately for each year, during which he is liable to pay tax.

(2) ²[(a)] Where,

³[(i)] the Commissioner is not satisfied with the bonafides of any claim of tax credit, exemption, refund, deduction, concession, rebate; or genuineness of any declaration or evidence furnished by a dealer in support thereof with the self-assessment, or

1. Sub-section (3) was substituted for original by Guj. 6 of 2006, s.18.

2. Sub-section (2) was renumbered as clause (a) of sub-section (2) by Guj. 6 of 2006, s.19(1).

3. Clauses (a) and (b) of original sub-section (2) was renumbered as sub-clauses (i) and (ii), *ibid.*, s.19(1)(a).

¹[(ii)] the Commissioner has reason to believe that detailed scrutiny of the case is necessary,
the Commissioner may, notwithstanding the fact that the dealer may have been assessed under section 33, serve on such dealer in the prescribed manner a notice requiring him to appear on a date and place specified therein, which may be his place of business or a place specified in the notice, either to attend and produce or cause to be produced the books of account and all evidence on which the dealer relies in support of his returns or to produce such evidence as specified in the notice.]

²[(b) in respect of such class of dealers as the State Government may, by rules, specify;]

(3) The dealer shall provide all co-operation and reasonable assistance to the Commissioner as may be required in case the proceedings under this section are required to be conducted at his place of business.

(4) If proceedings under this section are to be conducted at the place of business of the dealer and it is found that the dealer is not functioning from such premises or no such premises exists, the Commissioner shall assess to the best of his judgment the amount of tax due from him.

(5) If the Commissioner is unlawfully prevented from conducting the proceedings under this section, he may assess to the best of his judgment the amount of tax due from the dealer and may further direct that the dealer shall pay, by way of penalty, in addition to the amount of tax so assessed, a sum equal to the tax amount.

(6) If any dealer –

(a) has not furnished returns in respect of any period by the prescribed date;

(b) has furnished incomplete or incorrect returns for any period;

(c) has failed to comply with the terms of notice issued under sub-section (2);

(d) has failed to maintain books of accounts in accordance with the provisions of this Act or rules made there under or has not regularly employed any method of accounting,-

the Commissioner shall assess to the best of his judgment the amount of tax due from him.

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

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

(b) has furnished incomplete or incorrect returns for any period;

(c) has availed tax credit for which he is not eligible;

(d) has employed such method of accounting which does not enable the Commissioner to assess the tax due from him; or

(e) has knowingly furnished false or incorrect self assessment,-
he shall, after giving the dealer an opportunity of being heard, direct that the dealer shall pay, by way of penalty, a sum ³[not exceeding] to ⁴[one and a half

1. Clauses (a) and (b) of original Sub-section (2) was renumbered as sub-clauses (i) and (ii) by Guj.6 of 2006, s.19(1)(a).

2. Clause (b) was inserted, *ibid.*, s.19(1)(b).

3. These words were substituted for the words "equal to" by Guj. 12 of 2009, s.3.

4. These words were substituted for the words "twice the amount" by Guj. 6 of 2006, s.19(2).

times of the amount] of tax assessed on account of the said reason in the audit assessment.

(8) If the Commissioner, upon information which has come into his possession, is satisfied that any dealer who has been liable to pay tax under this Act in respect of any period, has failed to get himself registered, the Commissioner shall proceed to assess to the best of his judgment the amount of tax due from the dealer in respect of such period and all subsequent periods. In making such assessment, he shall give the dealer an opportunity of being heard. The Commissioner may, if he is satisfied that the default was without reasonable cause, direct that the dealer shall pay, by way of penalty, in addition to the amount of tax so assessed, a sum equal to the amount of tax assessed or a sum of rupees five thousand, whichever is more.

¹[(8A)(a) During the course of any proceedings under this Act, if the prescribed authority is satisfied that the tax has been evaded or sought to be evaded or the tax liability has not been disclosed correctly or excess tax credit has been claimed by any dealer in respect of any period or periods by not recording or recording in an incorrect manner, any transaction of sale or purchase, or that any claim has been incorrectly made, then in such a case notwithstanding any notice for assessment has been issued under other provisions of this section or any other section of this Act, the prescribed authority may, after giving such dealer a reasonable opportunity of being heard, initiate assessment of the dealer in respect of such transaction or claim:

Provided that where such proceeding are under section 73 or section 75, the prescribed authority shall transfer the proceeding relating to such transaction or claim directing the concerned assessing authority to assess the dealer in respect of such transaction or claim:

Provided further that the prescribed authority shall, notwithstanding anything contained in section 17, be deemed to have the requisite jurisdiction and power to assess such dealer in respect of such assessment proceedings shall, for all purposes of this Act, be deemed to have been transferred to such authority.

(b) The assessment proceedings under this sub-section shall be without prejudice to the assessment proceedings in respect of the said period or periods under any other provisions of this Act any authority who otherwise has the jurisdiction to assess such dealer in respect of other transactions of sale or purchase or any other claim.

(c) The assessment under this sub-section shall be made separately in respect of the transaction or claim relation to the said period or periods to the best of the judgment of the prescribed authority where necessary and irrespective of any assessment made under this sub-section, the dealer may be assessed separately under the other provisions of this section in respect of the said period or periods:

Provided that, once the dealer is assessed under this sub-section, no tax from such transaction or claim and penalty and interest, if any, shall be levied or demanded from such dealer, at the time of assessment to tax under the other provisions of this section in respect of the said period or periods relating to such transaction or claim.

Explanation.- For the purpose of this sub-section, “prescribed authority”, “the said authority”, “such authority” and “any authority” shall mean, the Commissioner or, as the case may be, the authorities appointed under section 16 and other officers or persons to whom the Commissioner has delegated his power in this behalf.]

(9) No assessment under sub-sections (2), (5), (6) or (7) shall be made after the expiry of four years from the end of the year in respect of which or part of which the tax is assessable.

(10) No assessment under sub-section (8) shall be made after the expiry of eight years from the end of the year in respect of which or part of which the tax is assessable:

Provided that where any assessment is required to be made in pursuance of an order of any court or authority, such fresh assessment shall be made at any time within two years from the date of such order:

1. Sub-section (8A) was inserted by Guj. 9 of 2013, s.6.

Provided further that in computing the period of limitation for the purpose of this section, any period during which assessment proceedings are stayed by an order or injunction of any court or authority shall be excluded.

(11) Any assessment made or penalty imposed under this section shall be without prejudice to prosecution for any offence under this Act.

(12) Where in the case of a dealer, the amount of tax assessed for any period under this section or reassessed for any period under section 35 exceeds the amount of tax already paid under sub-section (1), (2) or (3) of section 30 by the dealer in respect of such period by more than twenty five per cent. of the amount of tax so paid, there shall be levied on such dealer a penalty not exceeding one and one-half times the difference between the tax paid under section 30 and the amount so assessed or reassessed.

¹[34A. Notwithstanding anything contained in this Act, if the Commissioner is of the opinion that any transaction by any dealer during any tax period or a set of transactions by the dealer has been accounted in a manner so as to pay tax less than the tax otherwise payable on such sale or purchase, then the Commissioner shall calculate the tax liability as per fair market price of such transaction or transactions.

Assessment on basis of fair market price.

Explanation.-For the purpose of this section, "fair market price" means the value at which goods of like kind are sold or would be sold in the open market in the State.]

35.(1) Where after a dealer has been assessed under section 32, 33 or 34 for any year or part thereof, the Commissioner has reason to believe that the whole or any part of the taxable turnover of the dealer in respect of any period has,--

Turnover escaping assessment.

- (a) escaped assessment; or
- (b) been under-assessed; or
- (c) been assessed at a rate lower than the rate at which it is assessable; or
- (d) wrongly been allowed any deduction therefrom; or
- (e) wrongly been allowed any tax credit therein,

the Commissioner may serve a notice on the dealer and after giving the dealer an opportunity of being heard and making such inquiry as he considers necessary, proceed to determine to the best of his judgment, the amount of tax due from the dealer in respect of such turnover which comes to his notice subsequently, and the provisions of this Act shall, so far as may be, apply accordingly.

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

36. (1) Subject to other provisions of this Act and the rules, the Commissioner may refund to a person the amount of tax, penalty and interest, if any, paid by such person in excess of the amount due from him:

Refund of excess payment.

Provided that, the Commissioner shall first apply such excess towards the recovery of any amount due under this Act or the earlier laws and shall then refund only the balance amount, if any:

Provided further that no such adjustment under the proviso shall be made towards a recovery of an amount due that has been stayed by an appellate authority.

(2) Where any refund is due to any dealer, according to the return furnished by him for any period, such refund may provisionally be adjusted by him against the tax due and payable as per the returns furnished under section 29 for any subsequent period in the year:

Provided that the amount of tax, or penalty, interest or surety forfeited or all or any of them due from and payable by the dealer on the date of such adjustment, shall first be deducted from such refund before making the adjustment.

**Provisional
refund.**

37.(1) If a registered dealer has filed any return as required by or under this Act, and such return shows any amount to be refundable to the dealer, then the dealer may apply in such form and in such manner as may be prescribed, to the Commissioner for grant of provisional refund pending assessment.

(2) Subject to the provisions of sub-section (3), the Commissioner may require the aforesaid dealer to furnish ¹[such] guarantee or other security as may be prescribed, for an amount equal to the amount of refund. On receipt of such guarantee or other security, the Commissioner may, subject to rules, grant provisional refund to the dealer.

(3) The Commissioner may direct that assessment under section 32 of such dealer in respect of the period covered by the said return be taken up as early as practicable and adjust the grant of provisional refund against tax due, if any, as a result of the assessment.

(4) If, on assessment, the provisional refund granted under sub-section (2) is found to be in excess, then such excess shall be recovered as if it is a tax due from the dealer under this Act and the interest on such tax shall be charged at the rate of eighteen per cent per annum, for the period from the date of grant of provisional refund, till the date of assessment.

**Interest on
refund.**

38. (1) Where refund of any amount of tax becomes due to the dealer by virtue of an order of assessment under section 34, he shall subject to the provision of this section be entitled to receive in addition to the amount of tax, simple interest at the rate of six per cent. per annum on the said amount of tax from the date immediately following the date of the closure of the accounting year to which the said amount of tax relates ²[till the date of payment of amount of such refund] :

Provided that where the dealer has paid any amount of tax after the closure of the accounting year and such amount is required to be refunded, no interest shall be payable for the period from the date of closure of such accounting year to the date of payment of such amount.

(2) A registered dealer entitled to refund in pursuance of any order other than referred to under sub-section (1) or in pursuance of any order by any court, shall subject to rules, be entitled to receive, in addition to the refund, simple interest at the rate of six per cent. ³[per annum on the amount of such refund from the date immediately following the date of closure of the accounting year to which the said amount of refund relates] till the date of payment of amount of such refund. The interest shall be calculated on the amount of refund due after deducting therefrom any tax, interest, penalty or any other dues under this Act or under the Central Act. If, as a result of any order passed under this Act, the amount of such refund is enhanced or reduced, such interest shall be enhanced or reduced accordingly:

⁴[* * * * *]

1. This word was substituted for the words "a bank" by Guj. 6 of 2006, s.21.

2. These words were substituted for the words "to the date of order of assessment", *ibid.*, s. 22(1).

3. These words were substituted for the words "for the period commencing after thirty days from the date of such order " by Guj. 6 of 2006, s.22(2)(a).

4. The proviso and explanations under sub-section (2) were deleted, *ibid.*, s.22(2)(b).

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

39.(1) Where an order giving rise to a refund is the subject matter of an appeal or further proceeding or where any other proceeding under this Act is pending, and the Commissioner is of the opinion that grant of such refund is likely to adversely affect the revenue, he may, after giving the dealer an opportunity of being heard, withhold the refund till such time as he may determine.

Power to withhold refund in certain cases.

(2) Where a refund is withheld under sub-section (1), the dealer shall be entitled to interest as provided under section 38, if as a result of the appeal or further proceeding he becomes entitled to refund.

40. (1) Subject to such terms and conditions as it may impose, the State Government may, if it considers necessary so to do in the public interest, by notification in the *Official Gazette*, authorize the Commissioner to grant refund of the amount of tax separately charged by any registered dealer to any class of persons who have purchased the goods from such dealer.

Refund of tax for certain categories.

(2) Every notification issued under sub-section (1) shall be laid for not less than thirty days before the State Legislature as soon as possible after it is issued and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make, during the session in which it is so laid or session immediately following. Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette* and shall thereupon take effect.

(3) Any person, so entitled for refund under sub-section (1) may apply to the prescribed authority in the manner and within the time as may be prescribed. The Commissioner shall subject to provisions of this Act grant such refund to such person.

41.(1) Subject to such conditions as it may impose, the State Government may, if it is necessary so to do in the public interest in case of double taxation or to redress an ¹[inequitable situation, or for sufficient and reasonable cause] remit by an order either generally or specially, the whole or any part of the tax, penalty or interest payable in respect of any period by any dealer or a class of dealers or of any specified class of sales or purchase.

Remission of tax, penalty or interest.

(2) The Commissioner may, in such circumstances and subject to such conditions and within such limit as may be prescribed remit the whole or any part of the tax, penalty or interest payable, in respect of any period, by any dealer.

42. (1) The amount of tax assessed, reassessed or becoming payable for any period under section 32, 33, 34, 35, 75 or 79, less any amount already paid by the dealer in respect of such period, shall together with penalty and interest if any that may become payable under any of the provisions of this Act, be paid by the dealer or the person liable therefor into a Government treasury or in such other manner as may be prescribed within thirty days from the date of service of notice of demand issued by the Commissioner for this purpose.

Payment and recovery of tax and interest on delayed payment.

(2) On an application by the dealer, the Commissioner may in respect of any particular dealer or person and for reasons to be recorded in writing, extend the time for payment or allow payment by installments, subject to such conditions as he may think fit to impose in the circumstances of the case.

1. These words were substituted for the words "inequitable situation" by Guj. 25 of 2006, Part I, s.8.

(3) In a case where payment by installments is allowed under sub-section (2) and the dealer or the person liable for such payment commits default in paying any one of the installments within the time fixed by the Commissioner under that sub-section, the dealer or the person shall be deemed to be in default in respect of the whole of the amount then outstanding and the other installments shall be deemed to have been due on the same date as the installment in default.

(4) Interest at the rate of eighteen per cent. per annum shall be charged for the period as may be extended or the installments as may be granted under sub-section (2).

(5) If the amount of tax and penalty, if any, is not paid within the time specified in sub-section (1) or extended under sub-section (2), as the case may be, the dealer or the person liable therefor shall be deemed to be in default in respect of that amount.

(6) Where the amount of tax assessed or reassessed for any period, under section 34 or section 35, subject to revision, if any, under section 75, exceeds the amount of tax already paid by a dealer for that period, there shall be paid by such dealer, for the period commencing from the date of expiry of the time prescribed for payment of tax under sub-section (1), (2) or (3) of section 30 and ending on date of order of assessment, reassessment or, as the case may be, revision, simple interest at the rate of eighteen per cent. per annum on the amount of tax not so paid or any less amount thereof remaining unpaid during such period.

(7) Where a dealer does not pay the amount of tax falling under sub-section (1) on or before the prescribed date, then there shall be paid by such dealer for the period commencing on the specified date and ending on the date of payment, simple interest at the rate of eighteen per cent. per annum on the amount of tax not so paid or any less amount thereof remaining unpaid during such period :

Provided that where security, other than in the form of surety bond, has been furnished by a dealer under sub-sections (1) and (2) of section 28, the Commissioner may, for good and sufficient reasons to be recorded in writing, realise any amount of tax, penalty or interest remaining unpaid as aforesaid or part thereof by ordering forfeiture of the whole or any part of the security.

**Continuation of
certain recovery
proceedings.**

43.Where any notice of demand in respect of any tax, penalty, interest or any other amount payable under this Act (hereinafter in this section referred to as "Government dues") is served upon any dealer and any appeal, revision application is filed or other proceeding is initiated in respect of such Government dues, then -

(a) where such Government dues are enhanced in such appeal, revision or other proceeding, the Commissioner shall serve upon the dealer another notice of demand only in respect of the amount by which such Government dues are enhanced and any recovery proceeding in relation to such Government dues as are covered by the notice of demand served upon him before the disposal of such appeal, revision application or proceeding may, without the service of any fresh notice of demand, be continued from the stage at which such proceedings stood immediately before such disposal;

(b) where such Government dues are reduced in such appeal, revision or in other proceeding—

(i) it shall not be necessary for the Commissioner to serve upon the dealer a fresh notice of demand;

(ii) the Commissioner shall give intimation of such reduction to him and to the appropriate authority with whom recovery proceeding is pending;

(iii) any recovery proceedings initiated on the basis of the notice of demand served upon him prior to the disposal of such appeal, revision application or other proceeding may be continued in relation to the amount so reduced from the stage at which such proceedings stood immediately before such disposal.

44.(1) Notwithstanding anything contained in any law or contract to the contrary, the Commissioner may, at any time or from time to time, by notice in writing, a copy of which shall be forwarded to the dealer at his last known address, require,--

Special mode of recovery.

(a) any person from whom any amount of monies is due, or may become due, to a dealer on whom notice has been served under sub-section (1), or

(b) any person who holds or may subsequently hold monies for or on account of such dealer,

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

Explanation.-- For the purposes of this sub-section, the amount of monies due to a dealer from, or monies held for or on account of a dealer by any person, shall be calculated by the Commissioner after deducting therefrom such claims, if any, lawfully subsisting, as may have fallen due for payment by such dealer to such person.

(2) The Commissioner may amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.

(3) Any person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the dealer, and the receipt thereof by the Commissioner shall constitute a good and sufficient discharge of the liability of such person to the extent of the amount specified in the receipt.

(4) Any person discharging any liability to the dealer after receipt of the notice referred to in this section, shall be personally liable to the Commissioner to the extent of the liability discharged or to the extent of the liability of the dealer for tax, penalty and interest, whichever is less.

(5) Where a person to whom a notice under this section is sent objects to it by a statement in writing that the sum demanded or any part thereof is not due or payable to the dealer or that he does not hold any monies for or on account of the dealer, the Commissioner shall hold an inquiry and after giving to such person or dealer a reasonable opportunity of being heard, make such order as he thinks fit.

(6) Any amount of monies which the aforesaid person is required to pay to the Commissioner, or for which he is personally liable to the Commissioner under this section shall, if it remains unpaid, be recoverable as an arrears of land revenue.

(7) The Commissioner may apply to the court in whose custody there is monies belonging to the dealer for payment of the amount of such monies towards the outstanding amount of tax, interest and penalty payable by the dealer.

Provisional attachment.

45.(1) Where during the pendency of any proceedings of assessment or reassessment of turnover escaping assessment, the Commissioner is of the opinion that for the purpose of protecting the interest of the Government revenue, it is necessary so to do, he may by order in writing attach provisionally any property belonging to the dealer in such manner as may be prescribed.

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of one year from the date of the order made under sub-section (1).

Special powers of tax authorities for recovery of tax as arrears of land revenue.

46.(1) For the purpose of effecting recovery of the amount of tax, penalty or interest due from any dealer or other person by or under the provisions of this Act or under any earlier law, as arrears of land revenue –

(i) the Commissioner, the Special Commissioner, Additional Commissioner and the Joint Commissioners shall have and exercise all the powers and perform all the duties of the Collector under the Bombay Land Revenue Code, 1879.

Bom.V of 1879.

(ii) the Deputy Commissioners and Assistant Commissioners shall have and exercise all the powers (except the powers of arrest and confinement of a defaulter in a civil jail) and perform all the duties of the Assistant Collector or Deputy Collector under the said Code.

(iii) the Commercial Tax Officers shall have and exercise all the powers (except the powers of arrest and confinement of a defaulter in a civil jail) and perform all the duties of the Mamlatdar under the said Code.

(2) Every order passed in exercise of the powers conferred by sub-section (1) shall, for the purpose of sections 73, 75, 78, 79 or 94, be deemed to be an order passed under this Act.

Transfer to defraud revenue void.

47. Where a dealer after any tax has become due from him creates a charge on or parts with the possession by way of sale, mortgage, exchange or any other mode of transfer whatsoever of any of his property in favour of any other person with the intention of defrauding the Government revenue, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the dealer.

Tax to be first charge on property.

48. Notwithstanding anything to the contrary contained in any law for the time being in force, any amount payable by a dealer or any other person on account of tax, interest or penalty for which he is liable to pay to the Government shall be a first charge on the property of such dealer, or as the case may be, such person.

CHAPTER VI**LIABILITY TO PAY TAX IN CERTAIN CASES.****Applicability of the Act or earlier law to other persons liable to pay tax.**

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

Liability of commission agent and Principal.

50. (1) Where a commission agent purchases or sells any taxable goods on behalf of his principal, such commission agent and his principal shall be jointly and severally liable to pay the tax payable under the Act.

(2) If the commission agent shows to the satisfaction of the Commissioner, in the manner as may be prescribed, that the tax payable by him under this Act in respect of any goods, has been paid by the principal on whose behalf the goods were purchased, the commission agent shall not be liable to pay the tax again in respect of the same transaction.

(3) If the principal, on whose behalf commission agent has sold the goods, shows to the satisfaction of the Commissioner, in the manner as may be prescribed, that the tax payable under this Act in respect of any goods, has been paid by his commission agent, the principal shall not be liable to pay the tax again in respect of the same transaction.

51. (1) Where a dealer, liable to pay tax under this Act, transfers his business in whole or in part, by sale, gift, lease, leave and licence, hire or in any other manner whatsoever, the dealer and the person to whom the business is so transferred shall jointly and severally be liable to pay the tax, interest or any penalty due from the dealer up to the time of such transfer, whether such tax, interest or penalty has been assessed before such transfer, but has remained unpaid or is assessed thereafter.

Liability in case of transfer of business.

(2) Where the transferee or the lessee of a business referred to in sub-section (1) carries on such business either in his own name or in some other name, he shall be liable to pay tax on the sale of goods effected by him with effect from the date of such transfer and shall, if he is an existing dealer, apply within the prescribed time for amendment of his certificate of registration.

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

Amalgamation of companies.

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

1 of 1956.

Explanation.-- Words and expressions used in this section but not defined shall have the respective meanings assigned to them in the Companies Act, 1956.

53. (1) Every person—

(a) who is a liquidator of any company which is being wound up whether under the orders of a court or otherwise; or

(b) who has been appointed as receiver of any assets of a company (hereinafter referred to as the "liquidator"),

shall, within thirty days after his appointment, give intimation of his appointment as such to the Commissioner.

(2) The Commissioner shall, after making such inquiry or calling for such information as he may deem fit, notify the liquidator within three months from the date on which he received intimation of the appointment of the liquidator, the amount which in the opinion of the Commissioner would be sufficient to provide for any tax, interest or penalty which is then, or is likely thereafter to become, payable by the company.

(3) When any private company is wound up and any tax, interest or penalty assessed under this Act on the company for any period, whether before or in the course of or after its liquidation, cannot be recovered, then every person

Liability in case of company in liquidation.

who was a director of the private company at any time during the period for which the tax is due, shall jointly and severally be liable for the payment of such tax, interest or penalty, unless he proves to the satisfaction of the Commissioner that such non-recovery is attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

Explanation.-- For the purposes of this section, the expressions "company" and "private company" shall have the meaning respectively assigned to them under clauses (i) and (ii) of sub-section (1) of section 3 of the Companies Act, 1956.

1 of 1956.

Liability of partners of firm to pay tax.

54. Notwithstanding any contract to the contrary, where any firm is liable to pay any tax, interest or penalty under this Act, the firm and each of the partners of the firm shall jointly and severally be liable for such payment:

Provided that where any partner retires from the firm, he shall intimate the date of his retirement to the Commissioner by a notice in that behalf in writing and he shall be liable to pay tax, interest or penalty remaining unpaid at the time of his retirement and any tax, interest or penalty due up to the date of his retirement whether assessed or not assessed, on that date:

Provided further that if no such intimation is given within one month from the date of retirement, the liability of such partner under the first proviso shall continue until the date on which such intimation is received by the Commissioner.

Liability of guardians, trustees, etc.

55. Where the business in respect of which tax is payable under this Act is carried on by any guardian, trustee or agent of a minor or other incapacitated person on behalf of and for the benefit of such minor or other incapacitated person, the tax, interest or penalty shall be levied upon and recoverable from such guardian, trustee or agent, as the case may be, in like manner and to the same extent as it would be assessed upon and recoverable from any such minor or other incapacitated person, as if he were major and capacitated person and if he were conducting the business himself, and all the provisions of this Act shall, so far as may be, apply accordingly.

Liability of Court of Ward, etc.

56. Where the estate or any portion of the estate of a dealer owning a business in respect of which tax is payable under this Act is under the control of the Court of Wards, the Administrator General, the Official Trustee or any receiver or manager (including any person, whatever be his designation, who in fact manages the business) appointed by or under any order of a court, the tax, interest or penalty shall be levied upon and be recoverable from such Court of Wards, Administrator General, Official Trustee, receiver or manager as the case may be, in like manner and to the same extent as it would be assessed upon and be recoverable from the dealer as if he were conducting the business himself, and all the provisions of this Act shall, so far as may be, apply accordingly.

Special provision regarding liability to pay tax in certain cases.

57. (1) Where a person who is or has been a dealer, liable to pay tax under this Act, dies, then-

(a) if a business carried on by the dealer is continued after his death by his legal representative or any other person, such legal representative or other person, shall be liable to pay tax, interest or penalty due from such dealer under this Act or under any earlier law, and

(b) if the business carried on by the dealer is discontinued, whether before or after his death, his legal representative shall be liable to pay out of the estate of the deceased, to the extent to which the estate is capable of meeting the charge, the tax, penalty or interest due from such dealer under this Act or under any earlier law,-

whether such tax, interest or penalty has been assessed before his death but has remained unpaid or is assessed after his death.

(2) Where a dealer, liable to pay tax under this Act, is a Hindu Undivided Family and the property of the Hindu Undivided Family is partitioned amongst the various members or groups of members then each member or group of members shall jointly and severally be liable to pay the tax, interest or penalty due from the dealer under this Act or under any earlier law upto the time of the partition whether such tax, penalty or interest has been assessed before partition but has remained unpaid or is assessed after the partition.

(3) Where a dealer, liable to pay tax under this Act, is a firm, and the firm is dissolved, then every person who was a partner shall be jointly and severally liable to pay to the extent to which he is liable under section 54 the tax, interest or penalty due from the firm under this Act or under any earlier law, upto the time of dissolution whether such tax, interest or penalty has been assessed before the dissolution, but has remained unpaid or is assessed after dissolution.

(4) Where the dealer liable to pay tax under this Act,-

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

(b) is a trustee who carries on the business under a trust for a beneficiary,

then if the guardianship or trust is terminated, the ward or, as the case may be, the beneficiary shall be liable to pay the tax, interest or penalty due from the dealer upto the time of the termination of the guardianship or trust, whether such tax, interest or penalty has been assessed before the termination of guardianship or trust but has remained unpaid or is assessed thereafter.

(5) Where a person becomes liable to pay tax in the manner described in clause (a) of sub-section (1), then such person shall, (notwithstanding anything contained in section 3), be liable to pay tax on the sales of goods made by him on and after the date of such succession or transfer and shall (unless he already holds a certificate of registration) in the case of succession, within six months and in the case of transfer, within thirty days, thereof apply for registration.

58. (1) Where a dealer is a firm or an association of persons or a Hindu Undivided Family and such firm, association or family has discontinued business—

Liability in other cases.

(a) the tax payable under this Act, by such firm, association or family up to the date of such discontinuance may be assessed as if no such discontinuance had taken place; and

(b) every person who was at the time of such discontinuance, a partner of such firm, or a member of such association or family, shall, notwithstanding such discontinuance be liable jointly and severally for the payment of tax assessed and penalty or interest imposed and payable by such firm, association or family, whether such tax, interest or penalty or has been assessed prior to or after such discontinuance, and subject as aforesaid, the provisions of this Act shall, so far as may be, apply as if every such person or partner or member were himself a dealer;

(2) Where a change has occurred in the constitution of a firm or an association of persons, the partners of the firm or members of association, as it existed before and as it exists after its reconstitution, shall, without prejudice to the provisions of section 54, jointly and severally be liable to pay tax, interest

and penalty due from such firm or association for any period before its reconstitution.

(3) The provisions of sub-section (1) shall, so far as may be, apply where the dealer, being a firm or association of persons is dissolved or where the dealer, being a Hindu Undivided Family, has effected partition with respect to the business carried on by it and accordingly references in that sub-section to discontinuance shall be construed as reference to dissolution or, as the case may be, to partition.

Service of notice in certain circumstances.

59. (1) Where a Hindu Undivided Family has been partitioned, notice under this Act shall be served on the person who was the last manager of the Hindu Undivided Family, or if such person cannot be found, then on all adults who were members of the Hindu Undivided Family, immediately before the partition.

(2) Where a firm or an association of persons is dissolved, notice under this Act may be served on any person who was a partner (not being a minor) of the firm, or member of the association, as the case may be, immediately before its dissolution.

(3) Where the business of a firm, an association of persons or company has been discontinued, a notice under this Act shall be served in the case of a firm or an association of persons on any person who was a member of such firm or association at the time of its discontinuance and in the case of a company, on the principal officer thereof.

¹[CHAPTER VIA

DEDUCTION AT SOURCE.

Definitions.

59A. For the purposes of this Chapter, unless the context otherwise requires,--

(a) “contractor” or “sub-contractor” means the dealer referred to in sub-clause (f) of clause (10) of section 2;

(b) “specified sale” means the sale referred to in sub-clause (b) of clause (23) of section 2;

(c) “specified sale price” in relation to the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract, means such amount as is arrived at by deducting from the amount of valuable consideration paid or payable to a person for execution of such works contract, the amount representing labour charges for such execution and the price paid or payable for the goods purchased in the course of inter-state trade or commerce or in the course of import of goods into the territory of India for the use in execution of such works contract; and

(d) “specified works contract” means a works contract, the specified sale price of which exceed one crore rupees.

Deduction at source in certain cases.

59B. (1) Notwithstanding that the assessment in respect of the specified sales is to be made for a year or part of a year, the tax on such sales, shall be payable at source in accordance with the provisions of this section.

(2) Nothing in sub-section (1) shall prejudice the levy of tax on the specified sales under section 7.

(3) (a) Any person responsible for paying specified sale price to a contractor for carrying out any work in pursuance of a specified works contract,

1. Chapter VIA was inserted by Guj. 6 of 2006, s.23.

shall at the time of payment of the whole or part of the specified sale price, deduct from such price an amount ¹[at the rate as may be specified by the state Government by notification in the *Official Gazette*] of such payment as a tax on specified sales.

(b) Any person being a contractor responsible for paying specified sale price to a sub-contractor in pursuance of a contract with the sub-contractor for carrying out the whole or part of the work undertaken by the contractor in respect of a specified works contract, shall at the time of payment of the whole or part of the specified sale price deduct from such price an amount ¹[at the rate as may be specified by the State Government by notification in the *Official Gazette*] of such payment as a tax on specified sales.

(c) The contractor, or as the case may be, sub-contractor shall furnish the prescribed statement to the person or, as the case may be, the contractor responsible for paying specified sale price and thereupon such person or contractor shall deduct the amount referred to in clause (a) or (b) on the basis of such statement.

(4) If a person has entered into works contract with a contractor and the contractor has entered into a contract with a sub-contractor entrusting to the sub-contractor the carrying out of the whole or part of the work (hereinafter referred to as "the sub-contract") relating to the said works contract and the contractor has at the time of payment of the specified sale price in respect of the said sub-contract to the sub-contractor deducted an amount as a tax under clause (b) of sub-section (3) and has paid the same under sub-section (7), then notwithstanding anything contained in clause (a) of the said sub-section (3), the person shall not at the time of payment of the specified sale price to the contractor deduct an amount under clause (a) of sub-section (3) equal to the amount of tax paid by the contractor under sub-section (7).

²[4A) Every person referred to in clause (a) or, as the case may be, clause (b) of sub-section (3) responsible for paying specified sale price, shall within the prescribed time limit apply in the Form as may be prescribed, to the Commissioner for allotment of a Tax Deduction Account Number (TDN). The Tax Deduction Account Number shall be quoted in such documents, statements and returns as may be prescribed.

(4B) If the Commissioner is satisfied that a person who is liable to obtain Tax Deduction Account Number under sub-section (4A) has failed to obtain Tax Deduction Account Number without reasonable cause, he shall direct the person to pay, by way of penalty, a sum not exceeding rupees ten thousand after giving the person an opportunity of being heard.]

(5) (a) Where the contractor or sub-contractor is not liable to pay tax under this Act on specified sales involved in any specified works contract, he shall make an application to the Commissioner in this behalf.

(b) On receipt of the application under clause (a), if the Commissioner is satisfied that the contractor or sub-contractor is not liable to pay tax under this Act on specified sales involved in any specified works contract, he shall give a certificate to that effect in such form as may be prescribed.

(c) Where any such certificate is given under clause (b), the person responsible for paying any specified sale price under clause (a) or clause (b) of

1. These words were substituted for the words "equal to two paise in a rupee" by Guj. 9 of 2009, s.9(1).

2. Sub-Sections (4A) and (4B) were inserted by Guj.12 of 2009, s.4.

sub-section (3) shall not deduct any amount as tax in respect of the specified works contract mentioned in the certificate.

(6) Any amount deducted as tax in accordance with the provisions of sub-section (3), shall be deemed to be an amount received by the contractor or the sub-contractor as part of the specified sale price in pursuance of the specified works contract.

(7) Any person deducting the amount as tax in accordance with the provisions of sub-section (3) shall --

(a) pay such amount into Government treasury in such manner and within such period as may be prescribed,

(b) obtain a treasury receipt therefor, and

(c) furnish a copy of such receipt to the contractor or, as the case may be, the sub-contractor within thirty days from the date on which he obtains the receipt.

(8) Every person deducting the amount as tax in accordance with the provisions of sub-section (3) shall, at the time of payment of the whole or part of the specified sale price, furnish to the contractor or, as the case may be, the sub-contractor a certificate specifying the amount so deducted and such other particulars as may be prescribed.

(9) Any deduction made in accordance with the provisions of sub-section (3) and paid into the Government treasury under sub-section (7) shall be treated as a payment of tax or, as the case may be, of lump sum by way of composition under section 14A on behalf of the contractor or, as the case may be, the sub-contractor, and, on the production of a certificate furnished to him under sub-section (8) along with a copy of a treasury receipt given to him under sub-section (7), credit shall be given to him for the amount so deducted in the assessment of tax, if any, made under this Act for the relevant year or, as the case may be, in the payment of lump sum.

(10) Where an amount as tax on specified sales has not been deducted in accordance with the provisions of this section, the tax on specified sales shall be payable by the contractor or, as the case may be, the sub-contractor directly.

(11) Where any amount deducted under sub-section (3) remains unpaid after expiry of the time specified in sub-section (7), such amount shall be recoverable as an arrear of land revenue and the Commercial Tax Authorities shall, for the purpose of effecting recovery of the amount, exercise the powers conferred on them under section 46.

(12) If any person does not deduct an amount under sub-section (3) or after deducting the amount under that sub-section, fails to pay the same into the Government treasury under sub-section (7), within the time specified therein, the Commissioner may, after giving an opportunity of being heard to such person, impose, by way of penalty, a sum not exceeding twenty-five per cent. of the amount required to be deducted by him under sub-section (3).

(13) Where a person deducting the amount of tax in accordance with the provisions of sub-section (3) does not pay the amount so deducted into the Government treasury under sub-section (7) within the time specified therein, there shall be paid by such person, in addition to the penalty imposed on him under sub-section (12), for the period commencing on the date of expiry of the time specified in sub-section (7) and ending on the date of payment of the amount into the Government treasury, simple interest at the rate of eighteen per cent. per annum on the amount of tax not so paid into Government treasury or any less amount thereof remaining unpaid during such period.

(14) Every person deducting tax under this section shall furnish or cause to be furnished returns in such form and within such period as may be prescribed,

to the Commercial Tax Officer within whose jurisdiction the person resides or carries on his business.

¹[* * * * *]

CHAPTER VII

ACCOUNTS AND RECORDS.

60.(1) A registered dealer who sells taxable goods to another registered dealer, ²[shall provide him] at the time of sale, with a tax invoice containing such particulars as may be prescribed and retain a copy thereof: **Invoices.**

Provided that a tax invoice shall not be issued by a dealer-

(a) in respect of the goods ³[* * * * *] exempt by notification under sub-section (2) of section 5;

⁴[* * * * *]

(c) for sale in the course of inter-State trade or commerce or export out of the territory of India; ⁵[*]

(d) to a person who is not a registered dealer; ⁶[or]

⁷[(e) in such other cases as the State Government may, by notification in the *Official Gazette*, specify.]

(2) Except when tax-invoice is issued under sub-section (1), if a registered dealer sells any goods exceeding rupees one hundred in value in any one transaction to any person, he shall issue to the purchaser a retail invoice, containing such particulars as may be prescribed and retain a copy thereof.

⁸[(3) if any registered dealer contravenes the provisions of sub-section (1) or (2), the Commissioner may, after giving him an opportunity of being heard, direct him to pay by way of penalty a sum not exceeding ten per cent. of the amount of the transaction of sale in respect of which such contravention has been made.]

61. Subject to the provisions of sections 8 and 60, where a tax invoice has been provided as contemplated in sub-section (1) of section 60, and- **Credit and debit notes.**

(a) the amount shown as tax charged in the tax invoice exceeds the actual tax charged in respect of the sale concerned, the seller shall provide ⁹[within such period as may be prescribed, the purchaser, with a credit note] of the sales of goods involved in the transaction, containing such particulars as may be prescribed;

(b) the actual tax charged in respect of the sale concerned exceeds the tax shown in the tax invoice as charged, the seller shall provide the purchaser with a debit note, containing such particulars as may be prescribed:

1. Sub-Section (15) was deleted by Guj. 9 of 2008, s.9(2).

2. These words were substituted for the words "shall, at the request of purchaser, provide to him" by Guj. 6 of 2006, s.24(1).

3. This word was "Specified in schedule I or" were deleted by Guj. 26 of 2017, s.16(i).

4. Clause(b) was deleted by Guj.26 of 2017,s.16(ii).

5. This word was deleted by Guj.25 of 2006, Part 1, s.9 (ii).

6. The word "or" was added, *ibid.*, Part 1, s.9 (iii).

7. Clause(e) was added, *ibid.*, Part 1, s.9(iv).

8. Sub-section (3) was added by Guj.6 of 2006, s.24(2).

9. These words were substituted for the words "the purchaser with a credit note within three months" *ibid.*, s.25(1).

¹[Provided that not more than one credit note or, as the case may be, debit note shall be issued for the amount in excess.].

Accounts.

62. (1) Every dealer liable to pay tax under this Act, and every other dealer on whom a notice has been served to furnish returns under sub-section (2) of section 29 shall maintain at his place of business a true account of the value of goods purchased, sold, supplied and delivery of goods made by him in such form and in such manner as may be prescribed.

(2) If the Commissioner considers that such account is not sufficiently clear and intelligible to enable him to make a proper scrutiny of the returns referred to in section 29, he may require such dealer by notice in writing to keep such accounts (including records of purchases and sales) in such form and in such manner as may be specified therein.

(3) The Government may, direct any class of registered dealers generally to keep such accounts (including records of purchases and sales) in such manner as may be prescribed.

Automation.

²**62A.** (1) The State Government may, by notification in the *Official Gazette*, provide that the provisions contained in the Information Technology Act, 2000 and the rules made thereunder and directions given under that Act, including the provisions relating to digital signatures, electronic governance, attribution acknowledgement and dispatch of electronic records, secure electronic records and secure digital signatures and digital signature certificates as are specified in the said notification, shall, in so far as they may as far as feasible, apply to the procedures under this Act.

21 of 2002.

(2) Where any notice or communication is prepared on any automated data processing system and is properly served on any dealer or person, then the said notice or communication shall not be required to be personally signed by any officer or person and the said notice or communication shall not be deemed to be invalid merely on the ground that it is not personally signed by any such officer.]

Accounts to be audited in certain cases.

63.(1) If in respect of any particular year, total turnover of a ³[dealer exceeds such amount, not being less than one crore, as may be prescribed] then such dealer shall get his accounts verified and audited by a specified authority ⁴[within ⁵[nine months]] from the end of that year and obtain within that period a report of such audit in the prescribed form duly signed and verified by such specified authority alongwith such particulars as may be prescribed. A true copy of such report shall be furnished by such dealer to the Commissioner within such period as may be prescribed.

Explanation.-- For the purposes of this section, "specified authority" means,-

38 of 1949.

(i) a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949 and includes persons who by virtue of the provisions of sub-section (2) of section 226 of the Companies Act, 1956, is entitled to be appointed to act as an auditor of companies;

1 of 1956.

23 of 1959.

(ii) a Cost Accountant within the meaning of the Cost and Works Accountants Act, 1959;

1. This proviso was substituted for the existing proviso, by Guj. 6 of 2006., s.25(2).

2. Section 62A was inserted by Guj. 6 of 2006, s.26.

3. These words were substituted for the words "dealer exceeds rupees one crore", by Guj. 6 of 2006, s.27(1).

4. These words were substituted for the words "within one year", *ibid.*, s.27(2).

5. These words were substituted for the words "Six months" by Guj. 12 of 2009, s.5.

(iii) a legal practitioner or a Sales Tax Practitioner whose name is entered in the list maintained by the Commissioner in accordance with the provisions of section 81:

Guj. 25 of 2017. ¹[Provided that registered dealer whose taxable turnover is more than twenty five lakh shall file a final return for the period ending on the last day before the appointed day of the coming into force of the Gujarat Goods and Services Tax Act, 2017 in such manner as may be prescribed, reflecting such details as may be prescribed from the books of Account.:]

Provided further that where the amount of tax credit is carried forward for more than rupees five lakhs, the books of accounts related to such final return shall have to be duly audited by a chartered Accountant or cost accountant.]

(2) If any dealer liable to get his accounts audited under sub-section (1) fails to furnish a true copy of such report within the prescribed time, the Commissioner shall, after giving the dealer a reasonable opportunity of being heard, impose on him, in addition to any tax payable, a sum by way of penalty not exceeding rupees ten thousand, as he may determine.

64. The dealer shall preserve his books of accounts and the records relevant for the purpose of this Act till the period of ²[six years] from the end of the accounting year to which the books of accounts and the records relate: **Preservation of records.**

³[Provided that where the dealer is a party to an appeal or revision under this Act, he shall preserve the books of accounts and the records pertaining to the subject matter of such appeal or revision until the appeal or revision is finally disposed of.]

CHAPTER VIII.

LIABILITY TO PRODUCE ACCOUNTS AND SUPPLY OF INFORMATION.

65. Every registered dealer shall within the period prescribed, file a declaration in the manner prescribed stating the name of the person or persons who shall be deemed to be the manager or managers of business of such dealer, for the purposes of this Act and in the event of change of manager, the dealer shall revise the declaration within thirty days from the date of such change. **Dealer to declare the name of manager of business.**

66. ⁴[(1)] Every dealer, who is liable to pay tax shall send a declaration in such form, within such period and to such authority as may be prescribed, stating therein the particulars of the Bank accounts operated by him in connection with his business and shall within the period prescribed, intimate to the authority the changes in the particulars in the declaration. **Dealer to declare details of bank accounts.**

⁵[(2) If the dealer fails to intimate to the authority the changes in the particulars in the declaration referred to sub-section (1), the Commissioner may, after giving an opportunity of being heard to such dealer, by order in writing, impose a penalty of a sum not exceeding rupees ten thousand.]

⁶**66A.** (1) Every registered dealer who is liable to pay tax under this Act shall furnish the specimen signature of himself or the person authorised to sign the cash memo, tax invoice, retail invoice, credit/debit note, delivery *chalan* **Furnishing of specimen signature.**

1. These provisos were inserted by Guj. 26 of 2017, s.17.

2. These words were substituted for the words "eight years" by Guj. 25 of 2006, Part 1, s.10(1).

3. This Proviso was added, *ibid.*, Part 1, s.10(2).

4. Section 66 was renumbered as sub-section (1) by Guj. 6 of 2006, s.28.

5. Sub-section (2) was inserted, *ibid.*, s.28.

6. Section 66A was inserted, *ibid.*, s.29.

and any form prescribed or appended to the notification, within such period as may be prescribed.

(2) Any change in the particulars submitted under sub-section (1) shall be intimated to the registering authority within fifteen days of such change.

(3) If a registered dealer fails to submit particulars or intimate the change as required under this section, the Commissioner may, by order in writing and after giving opportunity of being heard to such dealer, impose by way of penalty a sum not exceeding the amount of tax payable on the transaction declared in the concerned cash memo, tax invoice, retail invoice, credit/debit note, delivery *chalan* or any form prescribed or appended to the notification.

(4) Where the signature appearing on any of the documents referred to in this section is not matching with the specimen signature furnished by the dealer under this section, such document shall not be considered as a valid document for the purposes of this Act or rules made thereunder:

Provided that where the specimen signature on any document is not matching with the specimen signature furnished by the dealer, the signature may be authenticated by such dealer in accordance with the rules made in this behalf.]

**Production and
inspection of
accounts and
documents and**

¹[67. (1) The Commissioner may, subject to such conditions as may be prescribed, require any dealer to produce before him any accounts or documents, or to furnish any information relating to stocks of goods of, or to sales, purchases and deliveries of goods by the dealer or any other information relating to his business, as may be necessary for the purposes of this Act.

(2) All accounts, registers and documents relating to stocks of goods of or to sales, purchases and deliveries of goods by, any dealer and all goods kept in any place of business of any dealer, shall at all reasonable times be open to inspection by the Commissioner, and the Commissioner may take or cause to be taken such copies or extracts therefrom or may place or cause to be placed such marks of identifications thereon, as appear to him necessary for the purposes of this Act.

(3) The Commissioner may, for the purposes of this Act, impound and retain in his custody for such period as he considers necessary any books of accounts or other documents produced before him in any proceeding under this Act.

(4) If the Commissioner has reason to believe that any dealer has evaded or is attempting to evade the payment of any tax due from him he may, for reasons to be recorded in writing, seize such accounts, registers or documents of the dealer as may be necessary, and shall grant a receipt for the same, and shall retain the same for so long as may be necessary, in connection with any proceeding under this Act or for a prosecution.

(5) For the purposes of sub-section (2) or sub-section (4), the Commissioner may enter and search any place of business of any dealer, or any other place where the Commissioner has reasons to believe that the dealer keeps or is for the time being keeping any accounts, registers or documents of his business or stocks of goods relating to his business and may make a note or an inventory of any articles or things found in the course of any search which in his opinion will be useful for, or relevant to, any proceeding under this Act, or for a prosecution.

(6) Where—

1. Section 67 was substituted for original, by Guj. 6 of 2006, s.30.

(a) a carrier or bailee or any person to whom goods were delivered for transport has kept the said goods in any vehicles, vessel or place; and

(b) the Commissioner has reason to believe that tax on such goods is or is likely to be evaded :

the Commissioner may stop the vehicle or the vessel carrying such goods and enter and search the vehicle, vessel or place and inspect the goods and records relating to such goods and elicit such information from the carrier, bailee or any person as is relevant.

2 of 1974.

(7) The provisions of the Code of Criminal Procedure, 1973 relating to searches shall apply, so far as may be, to a search made under sub-sections (5) and (6).]

68. (1) If the State Government considers that with a view to preventing evasion of tax in any place or places in the State, it is necessary to so do; it may, by notification in the *Official Gazette*, direct that such number of check-posts shall be set up or such number of barriers shall be erected at such places as may be specified in the notification.

Inspection
of goods in
transit, etc.

(2) At every check-post or barrier set up or erected under sub-section (1), the driver or any other person in-charge of any vehicle, boat or animal shall stop the same, and keep it stationary so long as may reasonably be necessary, and allow the officer-in-charge of the check-post or barrier to examine the contents in the vehicle or boat or on the animal and inspect all records relating to the goods carried in the vehicle or boat or on the animal which are in the possession of such driver or other person in-charge who shall, if so required, give his name and address and the names and addresses of the owner of the vehicle, boat or animal as well as of the consignor and consignee of such goods; and where any of the consignors or consignee is a dealer registered under this Act or the Central Sales Tax Act, 1956 or relevant Act in any other State, the driver or any other person in-charge of the vehicle, boat or animal shall also give the number and place of issue of the certificate of registration, if any, of such dealer.

LXXIV of 1956.

(3) The driver or other person in-charge of a vehicle, boat or animal carrying goods shall –

(a) carry with him a log book, a bill of sale or delivery note and such other documents relating to the goods carried in the vehicle or boat or on the animal and containing such particulars as may be prescribed and the driver or person in-charge of a transport vehicle shall, in addition, carry a goods vehicle record and a trip sheet;

(b) produce the same when requested to do so by the officer-in-charge of the check-post or barrier;

(c) give to the officer-in-charge of the check-post or barrier a declaration relating to particulars of the goods carried in the vehicle or boat or on the animal in such form as may be prescribed and keep one copy of declaration with him.

(4) ¹[(a)] If the officer-in-charge of the check-post or barrier is of the opinion that –

(i) goods under transport are not covered by goods vehicle record, trip-sheet or log book, or

1. Sub-section (4) was renumbered as clause (a) of sub-section (4) by Guj. 6 of 2006, s.31(1).

(ii) goods under transport are not in accordance with the documents prescribed under clause (a) of sub-section (3), or

(iii) a declaration relating to particulars of goods as made under clause (c) of sub-section (3) is false, ¹[or]

²[(iv) the signature appearing in any of the documents referred to in clause (a) of sub-section (3) does not match with the signature furnished by the registered dealer under section 66A ;]

he may, after recording the reasons, seize such goods ³[and detain the vehicle] and give receipt thereof to the person from whose possession or control, the goods ⁴ [* *] are seized.

⁵[(b) if the driver or other person in charge of a vehicle, boat or animal carrying goods does not make a declaration or if he makes a declaration, he does not keep a copy thereof with him as required by clause (c) of sub-section (3) ;]

(5) (a) The officer-in-charge of the check-posts or barrier may, after giving the owner, driver or person-in-charge of goods, a reasonable opportunity of being heard and after holding such further inquiry, as he deems fit, impose on him penalty, in addition to tax payable under this Act, not exceeding one and one-half times of the tax for possession of goods ⁶ [* *] so seized.

(b) The officer-in-charge of the check-post or a barrier may release any of the ⁷[goods,] or documents so seized under sub-section (4) on payment of tax, interest and penalty or on furnishing such security in such form as may be prescribed.

(6) The officer-in-charge of the check-post or barrier may, during inspection and verification of goods under transport including the documents and records relating thereto, direct the carrier not to part with the goods including re-transporting or re-booking until verification of goods, records and documents is done or inquiry, if any, is completed.

⁸[(7) Where the person from whose possession or control the goods are seized under sub-section (4) fails to establish the ownership of the goods so seized or the payment of tax, interest or penalty is not made or security is not furnished, the Commissioner may direct that the goods so seized may be sold by public auction and sale proceeds thereof shall be deposited in the Government treasury.]

Explanation.-- In this section,-

59 of 1988.

(a) “goods vehicle record” means the documents required to be carried by the dealer of a transport vehicle under the Motor Vehicle Act, 1988 or the rules made thereunder;

(b) “log book” means a register, statement or other record containing particulars of the goods under transport;

(c) “trip sheet” means a sheet or other document containing particulars relating to the trip-wise use of a transport vehicle, required to be carried by the driver under the Act referred to in clause (a);

1. This word was added by Guj. 6 of 2006, s.31 (1)(a)(i).

2. Sub-clause (iv) was added, *ibid.*, s.31(1)(a)(ii).

3. These words were substituted for the words "and vehicles", *ibid.*, s.31(1)(c).

4. The words "or vehicles" were deleted, *ibid.*, s.31(1)(d).

5. Clause (b) was inserted, *ibid.*, s.31(1)(b).

6. The words "or vehicles" were deleted, *ibid.*, s.31(2)(a).

7. These words were substituted for the words "Goods, vehicle", *ibid.*, s.31(2)(b).

8. Sub-section (7) was added, *ibid.*, s.31(3).

(d) “goods under transport” means goods which have been handed over to a carrier and complete delivery thereof has not been taken from such carrier;

(e) “carrier” means any person or agency who undertakes to carry or transport goods from one place to another.

69. (1) Where a vehicle, boat or animal carrying goods coming from any place outside the State is bound for any other place outside the State, the driver or any other person in-charge of such vehicle, boat or animal shall obtain in the prescribed manner a transit pass for such vehicle, boat or animal from the officer-in-charge of the first check-post or barrier after his entry into the State and deliver the same to the officer-in-charge of the last check-posts or barrier before his exit from the State.

Transit pass for transit of goods by road through the State.

¹[(1A) The driver or the person in-charge of such vehicle, boat or animal fails to carry with him such transit pass throughout the State, he shall be liable to pay such penalty not exceeding one and one-half times the amount of tax of goods carried by him, as may be determined, after giving a reasonable opportunity of being heard.]

(2) If the driver or person-in-charge of such vehicle, boat or animal fails to deliver such transit pass, or goods in vehicle, boat or animal are not found in accordance with the transit pass, at the place of exit from State, it shall be presumed that goods carried thereby are sold within the State and he shall be liable to pay tax and penalty not exceeding one and one-half times the amount of tax as may be determined, after giving a reasonable opportunity of being heard, on such sale in accordance with provisions of this Act.

70.(1) Notwithstanding anything to the contrary contained in any law for the time being in force every owner or lessee of a cold storage, warehouse, godown or any such place, who stores therein taxable goods for hire or reward shall maintain or cause to be maintained a correct and complete account indicating the full particulars of the person whose goods are stored in such places and the quantity, value and date of delivery of such goods.

Furnishing of information by owners of cold storage, warehouses, godowns, etc.

(2) Such accounts shall, on demand, be produced before the Commissioner or any officer authorised in this behalf who may take or cause to be taken such extracts therefrom or require such extracts to be furnished as he may consider necessary.

(3) If any owner or lessee of a cold storage, warehouse, godown or any other such place, who stores goods for hire or reward, contravenes any of the provisions of sub-section (1) or sub-section (2) in a manner likely to lead to evasion of any tax payable under this Act, the Commissioner may, without prejudice to any other action which may be taken against such owner or lessee under any other provision of this Act direct, after giving an opportunity of being heard, that such owner or lessee shall pay by way of penalty not exceeding the amount of tax leviable on the goods in respect of which default is committed under sub-section (1) or (2).

²[**70A.** (1) The Commissioner may, for the purpose of this Act, by an order in writing-

Furnishing of information by others.

(a) require any person including an officer of a Bank, Post Office or such other institution, to furnish information in relation to such matters which in his opinion is likely to be useful or relevant in proceedings under this Act;

1. Sub-section (1A) was inserted by Guj. 6 of 2006, s.32.

2. Section 70A was inserted by Guj. 6 of 2006, s. 33.

(b) require any person,--

(i) who has custody of goods of a dealer for the purpose of delivery or transports, to furnish information in respect of such goods, or to permit inspection thereof,

(ii) who maintains or has in his possession any books of accounts, registers or documents relating to the business of a dealer, to produce such books of accounts, registers, or documents for inspection.

(2) Where a person who is required to furnish information or permit inspection of goods or to produce books of accounts, registers or documents for inspection under clause (a) or (b) of sub-section (1), fails to furnish information or to permit inspection or to produce books of accounts, registers or documents, the Commissioner may after giving the person an opportunity of being heard, make an order of detention or seizure of the goods or, as the case may be, the books of accounts, registers or documents.

(3) The order of detention or seizure made under sub-section (2) shall remain in force so long as the person concerned does not furnish information or permit inspection or, as the case may be, produce books of accounts, registers or documents for inspection.

(4) Where for any reason it is not feasible to make an order of detention or seizure under sub-section (2), the Commissioner may by an order direct the owner or the person who is in possession or control of the goods or the books of accounts, registers or documents, not to remove or part with or otherwise deal with the goods or the documents except with the previous permission of the Commissioner.

(5) Where a person fails to act as required under sub-section (1), the Commissioner may, without prejudice to any other action which is liable to be taken against such person under any other provision of this Act, after giving an opportunity of being heard to such person, impose on him a penalty of a sum not exceeding rupees twenty- five thousand.

(6) The Commissioner may release the goods or documents detained or seized under sub-section (2), if the person concerned pays by way of penalty such sum, not exceeding one and a half times the amount of tax leviable on such goods under this Act, as he may direct.

(7) Where,-

(a) no claim is made by any person in respect of the goods detained or seized under sub-section (2), within a period of one month from the date of such detention or seizure,

(b) the person fails to pay penalty imposed on him under sub-section (5) or to pay a sum as directed under sub-section (6), within the prescribed period,

the Commissioner may, by an order in writing, direct that the goods may be sold by auction:

Provided that if the goods detained or seized are of the perishable nature or subject to speedy or natural decay or if the expenses of keeping them in custody are likely to exceed their value, the same may be ordered to be sold by auction as soon as it is practicable after such detention or seizure and an amount realized by sale by auction of the goods shall be remitted in the Government treasury.

(8) The auction of goods under the sub-section (7) shall be made in such manner as may be prescribed.

(9) Any person who is entitled to the proceeds of the sale of goods by auction under the sub-section (7) shall, on application made to the Commissioner, be paid such proceeds of the goods so auctioned after deducting from them the expenses of the sale by auction or other incidental charges and the amount of tax, interest and penalty leviable under this Act.]

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

Power to collect statistics.

(2) Upon such direction being made, the Commissioner may, by notice in any newspaper or in such other manner as he deems fit to bring to the notice of dealers, call upon any class of dealers to furnish such information or statements as may be stated in such notice relating to any matter in respect of which statistics are to be collected. The form in which, the persons to whom or, the authorities to which, such information or returns should be furnished and the intervals at which such information or returns should be furnished, shall be such as may be prescribed.

(3) Without prejudice to the generality of the provisions of this Act, the State Government may by rules provide that every registered dealer or any class of registered dealer shall furnish such statements as may be prescribed.

72. (1) If the Commissioner is satisfied that any records pertaining to a dealer have been destroyed as a result of fire or any natural or other calamity or event, he may by notice in writing, require the dealer to appear before him on a date and at such place specified in the notice, or to produce before him any accounts or registers or documents or copies thereof or to furnish fresh returns under this Act or earlier law for such period, by such dates and to such authority as may be specified in the notice (being returns for a period for which the dealer has not yet been assessed), or to furnish true copies of or extracts from any documents already submitted to the Commissioner, on or before the date specified in the notice, or to furnish any other information relating to the business of the dealer as may be specified in the notice, being information which the Commissioner considers necessary for facilitating the work of assessment or reassessment or the collection of the tax from such dealer under this Act or under earlier law.

Special powers for reconstitution of records in certain circumstances.

(2) Without prejudice to the generality of the powers conferred by subsection (1), the Commissioner may require the dealer to produce for inspection to or furnish copies of or extracts from all or any of the following, namely:-

(a) application for the issue of a certificate of registration made under this Act;

(b) certificate of registration granted to the dealer;

(c) returns furnished by the dealer;

(d) proof of payment of tax and penalty by the dealer;

(e) a certified copy of the assessment order given to the dealer;

(f) any notice of demand served on the dealer;

(g) specimen signature furnished by a dealer;

(h) any nomination made by a dealer.

(3) For securing compliance with any notice given under this section, the Commissioner shall have all the powers specified in section 67.

(4) Where any person is prosecuted for failure to comply with any requirement made of him under this section, the burden of proving that he had reasonable excuse for such failure shall be on him.

CHAPTER IX

APPEAL, REVISION, REFERENCE AND RECTIFICATION.

Appeal. 73. (1) An appeal from every original order, not being an order mentioned in section 74, passed under this Act or the rules, shall lie,-

(a) if the order is made by an Assistant Commissioner or Commercial Tax Officer, or any other officer subordinate thereto, to the Deputy Commissioner;

(b) if the order is made by a Deputy Commissioner, to the Joint Commissioner;

(c) if the order is made by a Joint Commissioner, Additional Commissioner, or Commissioner, to the Tribunal.

(2) In the case of an order passed in appeal by a Deputy Commissioner or, as the case may be, by a Joint Commissioner, a second appeal shall lie to the Tribunal.

(3) Subject to the provisions of section 84, no appeal shall be entertained unless it is filed within sixty days from the date of communication of the order appealed against.

(4) No appeal against an order of assessment shall ordinarily be entertained by an appellate authority, unless such appeal is accompanied by satisfactory proof of payment of the tax in respect of which an appeal has been preferred:

¹[Provided that an appellate authority may, if it thinks fit, for reasons to be recorded in writing, entertain an appeal against such order—

(a) without payment of tax with penalty (if any) or, as the case may be, of the penalty, or

(b) on proof of payment of such smaller sum as it may consider reasonable, or

(c) on the appellant furnishing in the prescribed manner, security for such amount as the appellate authority may direct.]

(5) The Commissioner, on receipt of notice that an appeal against the order passed in appeal by the Deputy Commissioner or, as the case may be, by the Joint Commissioner has been preferred by the other party to the Tribunal may, within thirty days of receipt of the notice, file a memorandum of cross objection against any part of the order passed in appeal by the Deputy Commissioner or, as the case may be, by the Joint Commissioner and such memorandum shall be disposed of by the Tribunal as if it were an appeal.

(6) Subject to such rules of procedure as may be prescribed, an appellate authority may pass such order on appeal as it deems just and proper.

1. This proviso was substituted for the original by Guj. 6 of 2006, s.34.

(7) Every order passed in appeal under this section shall, subject to the provisions of sections 75, 78 and 79, be final.

74. No appeal or no application for revision shall lie against,—

Non-appealable orders.

(a) a notice issued under this Act calling upon a dealer for assessment or asking a dealer to show cause as to why he should not be prosecuted for an offence under this Act; or

(b) an order of the Commissioner under sub-section (1) of section 17;

(c) an order pertaining to the seizure or retention of books of account, register and other documents; or

¹[(d) an order sanctioning prosecution under this Act.]

75. (1) Subject to the provisions, of section 74 and to any rules made there under,- **Revision.**

(a) the Commissioner of his own motion within three years or on an application made to him within one year from the date of any order passed by any officer appointed under section 16 to assist him, may call for and examine the record of any such order and pass such order thereon as he thinks just and proper ²[within five years from the date of the said order of the officer appointed under section 16 to assist him.]

(b) the Tribunal, on application made to it against an order of the Commissioner (not being an order passed under sub-section (2) of section 73 in second appeal or under clause (a) in revision on an application) within four months from the date of the communication of the order may call for and examine the record of any such order, and pass such order thereon as it thinks just and proper.

(2) Where an appeal lies under section 73 and no appeal has been filed, no proceedings in revision under this section shall be entertained upon application:

Provided that the proceedings in revision may be entertained upon an application where the applicant satisfies the Commissioner that he had sufficient cause for not preferring an appeal against the order in respect of which an application for revision is made.

(3) No order shall be passed under this section which adversely affects any person, unless such person has been given reasonable opportunity of being heard.

(4) Where the Commissioner or the Tribunal rejects any application for revision under this section, the Commissioner or, as the case may be, the Tribunal shall record the reasons for such rejection.

Guj. 4 Of 2004. **76.** Notwithstanding anything contained in the ³[Gujarat Court-fees Act, 2004], an appeal preferred under section 73 and an application for revision made under section 74 shall bear a court-fee stamp of such value as may be prescribed. **Court-fee on appeal and application for revision.**

63 of 1963. **77.** In computing the period laid down under sections 73, 75 and 78, the provisions of sections 4 and 12 of Limitation Act, 1963 shall, so far as may be, apply. **Application of sections 4 and 12 of Limitation Act, 1963.**

1. Clause(d) was substituted for original clause (d) and clause (e) was deleted by Guj.6 of 2006, s.35.

2. These words and figures were substituted for the words "within two years from the date of service of notice for revision" *ibid.*, s.36.

3. These words and figures were substituted for the words and figures "Bombay Court Fees Act, 1959" by Guj.6 of 2006, s.37.

Appeal to High Court.

¹[78. (1) An appeal shall lie to the High Court from every order passed in appeal by the Tribunal, if the High Court is satisfied that the case involves a substantial question of law.

(2) In an appeal under this section, the memorandum of appeal shall precisely state the substantial question of law involved in the appeal.

(3) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.

(4) The appeal shall be heard on the question so formulated and the respondent shall, in the hearing of the appeal, be allowed to argue that the case does not involve such question:

Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the Court to hear, for reasons to be recorded, the appeal on any other substantial question of law, not formulated by it, if it is satisfied that the case involves such question.

(5) The High Court, upon hearing of such case, shall decide the question so formulated or involved and deliver the judgment thereon containing the grounds on which such decision is founded.

(6) An appeal under this section may be filed within ninety days from the date of communication of the order of the Tribunal and shall be accompanied with a fee of rupees two hundred.

(7) In respect of such matters not provided in this section, the provisions of Code of Civil Procedure, 1908, which applies to the second appeal to High Court under section 100 of the said Code shall, so far as may be, apply to the second appeal under this section.]

5 of 1908.

Rectification of mistakes.

79. (1) The Commissioner may at any time within two years from the date of the communication of the order passed by him, to the person affected by such order, on his own motion, rectify any mistake of fact apparent from the record, and shall within a like period rectify any such mistake which has been brought to his notice by any person affected by such order :

Provided that, no such rectification shall be made if it has the effect of enhancing the tax or reducing the amount of refund or tax credit, unless the Commissioner has given notice in writing to such person of his intention to do so and has allowed such person a reasonable opportunity of being heard.

(2) The provisions of sub-section (1) shall apply to the rectification of a mistake by the Tribunal or an appellate authority under section 73 as they apply to the rectification of a mistake by the Commissioner.

(3) Where any such rectification has the effect of reducing the amount of the tax, interest or penalty, the Commissioner shall, in the prescribed manner, refund any amount due to such person.

(4) Where any such rectification has the effect of enhancing the amount of the tax or penalty or reducing the amount of refund, the Commissioner shall recover the amount due from such person in accordance with the provisions of the Act.

Determination of disputed questions.

80. (1) If any question arises, otherwise than in proceedings before a court, or proceedings under section 33, 34 or 35, whether for the purposes of this Act-

1. Section 78 was substituted for the original, by Guj. 6 of 2006., s.38.

(a) any person, society, club or association or any firm or any branch or department of any firm is a dealer, or

(b) any particular thing done to any goods amounts to or results in the manufacture of goods within the meaning of that term, or

(c) any transaction is a sale or purchase, or

(d) any particular dealer is required to be registered, or

(e) any tax is payable in respect of any particular sale or purchase or if tax is payable the rate thereof, or

(f) any tax credit is admissible under section 11 or section 12,

[the Commissioner, Special Commissioner, Additional Commissioner or Joint Commissioner] shall make an order determining such question.

(2) ¹[The Commissioner, Special Commissioner, Additional Commissioner or Joint Commissioner] may direct that the determination shall not affect the liability of any person under this Act, with respect to any sale or purchase effected prior to the determination.

²[(2A) The Commissioner on his own motion may call for and examine the record of any order passed by the Special Commissioner, Additional Commissioner or Joint Commissioner under sub-section (1) and pass such order thereon as he thinks just and proper within two years from the date of service of notice for revision of such order:

Provided that the order passed by the Commissioner under this sub-section shall not affect the liability of any person under this Act, with respect to any sale or purchase effected prior to such order.]

(3) If any such question arises from any order already passed under this Act or under the earlier law, no such question shall be entertained for determination under this section; but such question may be raised in appeal against, or by way of revision of such order.

CHAPTER X

PROCEEDINGS.

81. (1) Any person, who is entitled or required to attend before any authority in connection with any proceedings under this Act, may attend,—

Appearance
before any
authority in
proceedings.

(a) by a person authorised by him in writing in this behalf, being a relative or a person regularly employed by him; or

(b) by a legal practitioner or Chartered Accountant or Cost Accountant who is not disqualified by or under sub-section (2) ; or

(c) by a sales tax practitioner who possesses the prescribed qualifications and is entered in the list, which the Commissioner shall maintain in that behalf, and who is not disqualified by or under sub-section (2).

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

1. These words were substituted for the words "the Commissioner" by Guj. 6 of 2006, s.39(1).

2. Sub-section (2A) was inserted, *ibid.*, s.39(2).

(d) who has been removed or dismissed from Government service; or

(e) who being a legal practitioner or Chartered Accountant or Cost Accountant is found guilty of misconduct in connection with any proceedings under this Act by an authority empowered to take disciplinary action against the members of the profession to which he belongs; or

(f) who being a sales tax practitioner is found guilty of such misconduct by the Commissioner.

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

(4) Any person against whom an order of disqualification is made under this section may, within one month of the date of communication of such order, appeal to the State Government and the State Government may pass such order in appeal as it may think fit.

(5) The order of the Commissioner shall not take effect until one month of the making thereof or when an appeal is preferred, until the appeal is decided.

(6) The Commissioner may at any time *suo-motu* or on an application made to him in this behalf, revoke any order made against any person under sub-section (2) and thereupon such person shall cease to be disqualified.

Power of
Commissioner
and other
authorities to take
evidence on oath,
etc.

82. (1) The Commissioner or any person appointed under sub-section (2) of section 16 to assist him shall, for the purposes of this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely, -

5 of 1908.

(a) enforcing the attendance of any person and examining him on oath or affirmation; and

(b) compelling the production of accounts and documents; and

(c) issuing commissions for the examination of witnesses.

(2) Any proceeding under this Act before the Commissioner or any person appointed under sub-section (2) of section 16 to assist him shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code, 1860.

XLV of 1860.

(3) Subject to any rules made in this behalf, any authority referred to in sub-section (1) may impound and retain in its custody for such period as it thinks fit, any books of account or other documents produced before it in any proceedings under this Act:

Provided that a person appointed under sub-section (2) of section 16 to assist the Commissioner shall not impound any books of account or other documents without recording his reasons for doing so and retain in his custody any such books or documents for a period exceeding thirty days without obtaining the approval of the Commissioner therefor.

Change of an
incumbent of an
office.

83. Whenever in respect of any proceeding under this Act, the Commissioner or any person appointed under sub-section (2) of section 16 to assist him, ceases to exercise jurisdiction and is succeeded by another person who has and exercises jurisdiction, the person so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor:

Provided that the dealer concerned may demand that before the proceeding is so continued, the previous proceeding or any part thereof be reopened or that before any order of assessment is passed against him, he shall be reheard.

84. An appellate authority may admit any appeal or permit the filling of a memorandum of cross objections under section 73 and the Tribunal may admit an application under section 75 or under section 78 after the period of limitation laid down in the said sections, if the appellant or the applicant satisfies the appellate authority or the Tribunal, as the case may be, that he had sufficient cause for not preferring the appeal or filing a memorandum of cross objections or making the application, within such period.

Extension of period of limitation in certain cases.

¹**[84A.** (1) Notwithstanding anything contained in this Act, an issue on which the Appellate Authority or the Appellate Tribunal or the High Court has given its decision which is prejudicial to the interest of revenue in some other proceedings and an appeal to the Appellate Tribunal or the High Court or the Supreme Court against such decision of the Appellate Authority or the Appellate Tribunal or the High Court is pending, the period spent between the date of the decision of the Appellate Authority and that of the Appellate Tribunal or the date of decision of the Appellate Tribunal and that of the High Court or the date of the decision of the High Court and that of the Supreme Court shall be excluded in computing the period referred to in section 34 or section 35.

Exclusion of period in some cases.

(2) Notwithstanding anything contained in this Act, if any decision or order under section 73 or section 75 involves an issue on which the Revision Authority or Appellate Authority or the High Court has given its decision which is prejudicial to the interest of revenue in some other proceedings and an appeal to the High Court or the Supreme Court against such decision of the Appellate Tribunal or the High Court is pending, the period spent between the date of the decision of the Appellate Tribunal and the date of the decision of the High Court or the date of the decision of the High Court and the date of the decision of the Supreme Court shall be excluded in computing the period of limitation referred to in section 73 or section 75.]

CHAPTER XI

OFFENCES AND PENALTIES.

85. (1) Whoever,-

Offences and penalties.

(a) not being a registered dealer, falsely represents that he is or was a registered dealer at the time when he sells or purchases goods;

(b) knowingly furnishes a false return where the amount of tax, which could have been evaded if the false return had been accepted as true, exceeds Rs. 1000;

(c) knowingly produces before the Commissioner, false tax invoice, bill, voucher, cash-memorandum, declaration, certificate or other document for claiming deduction or tax credit, the value of which exceeds Rs. 1000;

(d) fails to pay tax as per the returns filed by him;

(e) knowingly keeps or produces false account;

(f) issues to any person certificate or declaration under this Act, or a invoice, bill, cash-memorandum, voucher or other document which he knows or has reason to believe to be false;

1. Section 84A was inserted with effect from 1st day of April, 2006 by Guj.10 of 2018, s.2.

(g) willfully attempts, in any manner whatsoever, to evade tax leviable under this Act;

shall on conviction, be punished with imprisonment for a term which ¹[may extend to six months or with fine not exceeding rupees twenty thousand or with both:

Provided that in absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than one month and such fine shall not be less than rupees ten thousand.]

(2) Whoever-

(a) carries on business as a dealer without being registered in contravention of section 21; or

(b) fails without sufficient cause to furnish any information required by section 26; or

(c) fails to surrender his certificate of registration as provided in sub-section (9) of section 27; or

(d) fails without sufficient cause to furnish any returns as required by section 29 by the date and in the manner prescribed; or

(e) without reasonable cause, contravenes any of the provisions of section 31; or

²[(ee) contravenes the Provisions of section 60; or]

(f) fails without sufficient cause, when directed so to do under section 62 to keep any accounts or record, in accordance with the directions; or

(g) fails without sufficient cause, to comply with any requirements made of him under section 67, or obstructs any officer making inspection or search or seizure under that section; or

(h) obstructs or prevents any officer performing any function under this Act; or

(i) being owner or in-charge of a goods vehicle fails, neglects or refuses to comply with any of the requirements contained in section 67 or 68,

(j) issues to another registered dealer tax invoice, retail invoice, bill or cash memorandum with the intention to defraud the Government revenue or with the intention that the Government may be defrauded of its revenue,

shall, on conviction, be punished with imprisonment for a term which may extend to ³[six months or with fine not exceeding rupees twenty thousand or with both:

Provided that in absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than one month and such fine shall not be less than ten thousand.]

(3) Subject to the provision of section 97, if any Government servant discloses any particulars referred to in sub-section (1) of section 92, he shall, on conviction, be punished with imprisonment for a term which may extend to six months and with fine.

1. These words were substituted for the words "shall not be less than six months but which may extend to three years and with fine of rupees twenty thousand" with proviso thereunder by Guj. 6 of 2006, s.40(1).

2. Clause (ee) was inserted *ibid.*, s.40(2)(a).

3. These words were substituted for the words "one year and with fine of rupees twenty thousand" with proviso there under, *ibid.*, s.40(2)(b).

¹[(4) Whoever aids or abets any person in commission of an offence specified in sub-section (1) or (2) shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine not exceeding rupees twenty thousand or with both.]

(5) Whoever commits any of the acts specified in sub-sections (1) to (3) and the offence is a continuing one under any of the provisions of these sub-sections, shall, on conviction, be punished with daily fine which ²[not exceeding rupees one hundred] during the period of the continuance of the offence, in addition to the punishments provided under this section.

(6) Where a dealer is guilty of an offence specified in sub-sections (1) and (2), the person to be the manager of the business of such dealer under section 65 shall also be deemed to be guilty of such offence, unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission thereof.

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

Offences by
companies, etc.

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

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

Explanation.—For the purpose of this section,—

(a) “company” means a body corporate, and includes a firm or other association of persons; and

(b) “director” in relation to a firm means a partner in the firm.

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

Provided that nothing contained in this sub-section shall render the *karta* liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence:

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

1. Sub-section (4) was substituted for the original by Guj.6 of 2006, s.40(3).

3. These words were substituted for the words "which shall not be less than rupees five hundred", *ibid.*, s.40(4).

Cognizance of offences.

87. (1) No court shall take cognizance of any offence under this Act or the rules except with the previous sanction of the Commissioner, and no court inferior to that of a Metropolitan Magistrate shall try any such offence.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences punishable under this Act or the rules shall be cognizable and bailable. **2 of 1974.**

Investigation of offences.

88. (1) Subject to such conditions as may be prescribed, the Commissioner may authorise either generally or in respect of a particular case or class of cases any officer or person subordinate to him to investigate all or any of the offences punishable under this Act.

(2) Every officer or person so authorized shall, in the conduct of such investigation, exercise the powers conferred by the Code of Criminal Procedure, 1973 upon an officer in-charge of a police station for the investigation of a cognizable offence. **2 of 1974.**

Compounding of offences.

89. (1) The Commissioner may, either before or after the institution of proceedings for any offence punishable under section 85 or under any rules accept from any person charged with such offence, by way of composition of offence a sum of rupees five thousand or where the offence charged is under section 85 not exceeding double the amount of tax, but not less than the amount of tax, which would have been payable on the turnover of sale or purchase to which the said offence relates, whichever is greater.

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

CHAPTER XII**MISCELLANEOUS.****Indemnity.**

90. (1) No suit, prosecution or other legal proceedings shall lie against the Commissioner or any officer of the Government for anything which is in good faith done or intended to be done under this Act or the rules.

(2) No action shall lie for damages or for any other claim by any person against the Commissioner or any officer of the Government for anything done in good faith in discharge of their duties under this Act.

Public servants.

91. The Commissioner and all officers and persons appointed under section 16 and all members of Tribunal appointed under section 19 shall be deemed to be public servants within the meaning of section 21 of Indian Penal Code, 1860. **XLV of 1860.**

Disclosure of information by a public servant.

92. (1) All particulars contained in any statement made or return furnished or accounts or documents produced in accordance with the provisions of this Act, or any record of evidence given in the course of any proceedings under this Act (other than proceedings before a criminal court), shall, save as provided in sub-section (3) be treated as confidential and no court shall save as aforesaid, be entitled to require any servant of the Government to produce before it any statement, declaration, return, accounts, document or record or any part thereof, or to give evidence before it in respect thereof.

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

(a) of any such particulars in respect of any such statement, return, account, document, evidence, affidavit or deposition for the purpose of any

**XLV of 1860.
49 of 1988.**

prosecution under the Indian Penal Code, 1860 or the Prevention of Corruption Act, 1988, or this Act, or

(b) of any such particulars to the State Government or to any person acting in the execution of this Act, for the purpose of carrying out the object of this Act, or

(c) of any such particulars when such disclosure is occasioned by the lawful employment under this Act, of any process for the service of any notice or the recovery of any demand, or

(d) of any such particulars to a civil court in any suit, to which the Government is a party, which relates to any matter arising out of any proceedings under this Act, or

(e) of any such particulars to any officer appointed to audit, receipt or refund of the tax imposed by this Act, or

(f) of any such particulars where such particulars are relevant to any inquiry into the conduct of an official of the Sales Tax Department to any person or persons appointed to hold such inquiry, or

(g) of such facts to an officer of the Central Government or a State Government as may be necessary for the purpose of enabling the Government to levy or realise any tax or duty imposed by it, or

**Bom. XL of 1958.
II of 1899.**

(h) of any such particulars, when such disclosure is occasioned by the lawful exercise by a public servant of his powers under the Bombay Stamp Act, 1958 or the Indian Stamp Act, 1899 to impound an insufficient stamped document, or

(i) of any such particulars where such particulars are relevant to any inquiry into a charge of misconduct in connection with sales tax proceedings against a legal practitioner, sales tax practitioner, Chartered Accountant or Cost Accountant to the authority empowered to take disciplinary action against members practising the profession of a legal practitioner, sales tax practitioner, Chartered Accountant or Cost Accountant, as the case may be, or

(j) of any such particulars to the Director, Bureau of Economic and Statistics or to any person or persons authorized under sub-section (2) of section 71 as may be necessary to enable the Director or such person or persons to work out the incidence of tax on any commodity, or

(k) of any such particulars to an officer of the Central Government for the purpose of investigation or prosecution under any law for the time being in force, as the State Government may direct in any specific case.

93.(1) No assessment (including re-assessment, revision or rectification), notice, summons or other proceedings made or issued or taken or purported to have been made or issued or taken in pursuance of any of the provisions of this Act or under the earlier law shall be invalid or shall be deemed to be invalid merely by reason of any mistake, defect or omission in such assessment, notice, summons or other proceedings, if such assessment, notice, summons or other proceedings are in substance and effect in conformity with or according to the intent and purposes of this Act or any earlier law.

Assessment proceedings, etc. not to be invalid on certain grounds.

(2) The service of any notice, order or communication shall not be called in question if the said notice, order or communication, as the case may be, has already been acted upon by the dealer or person to whom it is issued or which service has not been called in question at or in the earliest proceedings

commenced, continued or finalized pursuant to such notice, order or communication.

(3) No order of assessment, re-assessment, revision or rectification passed under the provisions of this Act shall be invalid merely on the ground that the action could also have been taken by any other authority under any other provision of this Act.

Bar of jurisdiction of civil courts.

94. Save as provided by section 78,-

(i) no civil court shall have jurisdiction to deal with or decide any question which the Tribunal, the Commissioner or any officer appointed to assist him is empowered to deal with or decide by or under this Act and no injunction shall be granted by any civil court in respect of any action taken or to be taken in pursuance of any power by or under this Act;

(ii) no assessment made and no order passed under this Act or the rules made thereunder by the Tribunal, the Commissioner or any officer appointed to assist him shall be called in question in any civil court.

Disclosure of information required under section 71.

95.(1) No information of any individual return or part thereof with respect to any matter given for the purposes of section 71 shall without the previous consent in writing of the owner for the time being or his authorised agent, be published in such manner as to enable any particulars to be identified as referring to a particular dealer and no such information shall be used for the purpose of any proceedings under the provisions of this Act.

(2) Except for the purpose of prosecution under this Act, or under the Indian Penal Code, 1860 no person who is not engaged in the collection of statistics under Section 71 or in the administration of this Act shall be permitted to see or have access to any information or any individual return referred to in that section. **XLV of 1860.**

(3) If any person required to furnish any information or return under section 71,--

(a) without reasonable cause fails to furnish such information or return as may by that section be required, or

(b) willfully furnishes or causes to furnish any information or return which he knows to be false,

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

(4) If any person engaged in connection with the collection of statistics under section 71 willfully discloses any information or the contents of any return given or, made under that section, otherwise than in execution of his duties under that section or for the purposes of the prosecution of an offence under this section or for the purposes of the prosecution of an offence under this Act or under the Indian Penal Code, 1860 he shall on conviction be punished with imprisonment for a term which may extend to six months or with fine which may be extend to one thousand rupees or with both. **XLV of 1860.**

Levy of fees.

96. On every application,--

(a) for a certified or duplicate copy of a certificate of Registration, or

(b) for a certified copy of an order of assessment or any order passed or any document produced or filed in any proceeding under this Act, or

(c) for the determination of any question under section 80, or

(d) for a copy of order or document under this Act, there shall be paid such fee in court fee stamps as may be prescribed.

97. (1) Notwithstanding anything contained in section 92, if the Commissioner is of the opinion that it is necessary or expedient in the public interest to publish or disclose the names of any dealers or other persons and any other particulars relating to any proceedings under this Act in respect of such dealers and persons, he may publish or disclose or cause to be published or disclosed such names and particulars in such manner as ¹[may be prescribed].

Publication of information regarding dealers and other persons in public interest.

²[* * * * *]

98. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters expressly required or allowed by this Act to be prescribed by rules.

³[(2A) Any rule made under this Act, may be made so as to have retrospective effect.]

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

(4) The power to make rules conferred by this section shall be subject to the condition of the rules being made after previous publication:

Provided that if the State Government is satisfied that circumstances exist which render it necessary to take immediate action, it may dispense with the previous publication of any rule to be made under this section.

(5) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as may be after they are made and shall be subject to rescission by the State Legislature or to such modifications as the State Legislature may make during the session in which they are so laid or session immediately following. Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

99. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by general or special order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for the removal of the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiration of two years from the commencement of this Act.

**Guj. 1 of 1970.
Bom. 66 of 1958.
Guj. 11 of 1989.**

100. (1) ⁴[The Gujarat Sales Tax Act, 1969, the Bombay Sales of Motor Spirit Taxation Act, 1958] and the Gujarat Purchase Tax on Sugarcane Act,

Repeal and savings.

1. These words were substituted for the words "he thinks fit" by Guj. 6 of 2006, s.41(1).

2. Sub-Section (2) and explanation thereunder was deleted, *ibid.*, s.41(2).

3. Sub-Section (2A) was inserted by Guj. 25 of 2006, Part 1, s.11.

4. These words and figures were substituted for the words and figures "Gujarat States Tax Act, 1969" by Guj. 6 of 2006, s.42.

1989 are hereby repealed:

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

(2) Notwithstanding the repeal of the ¹[Gujarat Sales Tax Act, 1969, the **Guj.1 of 1970.** Bomby Sales of Motor Spirit Taxation Act, 1958.] or as the case may be, the **Bom. 66 of 1958.** Gujarat Purchase Tax on Sugarcane Act, 1989, (hereinafter in this section **Guj. 11 of 1989.** referred to as the "said Act") –

(a) all rules, regulations, orders, notifications, forms and notices issued under the said Act and in force immediately before the appointed day shall continue to have effect for the purposes of the levy, assessment, reassessment, collection, refund or set-off of any tax, or the granting of a drawback in respect thereof or the imposition of any penalty, which levy, assessment, reassessment, collection, refund, set-off, drawback or penalty relates to any period before the appointed day or for any other purpose whatsoever connected with or incidental to any of the purposes aforesaid;

(b) any registration certificate issued under the said Act and in force immediately before the appointed day shall be deemed to be the registration certificate issued under this Act, and accordingly such registration certificate shall be valid and effectual as a registration certificate under this Act until such certificate is issued, substituted, suspended or cancelled under the provisions of this Act ;

(c) any appointment, notification, order, rule, regulation, form or notice made or issued under the said Act shall, so far as it is not inconsistent with the provisions of this Act, continue in force, and be deemed to have been made or issued under the provisions of this Act, unless and until it is superseded by any appointment, notification, order, rule, regulation, form or notice made or issued under the provisions of this Act;

(d) any person entitled to appear before any authority under the said Act shall be deemed to be entitled to appear before any authority under this Act, and accordingly if such person be a sales tax practitioner he shall be entitled to have his name entered in the list maintained under section 81.

¹[(2A) The amendment of the Gujarat Value Added Tax (Amendment) **Guj. 26 of 2017.** Act, 2017 shall not---

(a) revive anything not in force or existing at the time of such amendment of repeal; or

(b) affect the previous operation on this Act prior to the coming into **Guj. 26 of 2017.** force of the Gujarat Value Added Tax (Amendment) Act, 2017 and orders or anything duly done or suffered thereunder; or

(c) affect any right, privilege, obligation, or liability acquired, accrued **Guj. 26 of 2017.** of incurred under this Act prior to the coming into force of the Gujarat Value Added Tax (Amendment) Act, 2017 or orders made thereunder :

1. Sub-section (2A) was added by Guj. 26 of 2017, s.18.

Provided that any tax exemption granted as an incentive against investment through a notification shall not continue as privilege if the said notification is rescinded on or after the coming into force of the Gujarat Value Added Tax (Amendment) Act, 2017; or

Guj. 26 of 2017.

(d) affect any tax, surcharge, penalty, fine, interest as are due or may become due or any forfeiture or punishment incurred or inflicted in respect of any offence or violation committed against the provisions of this Act prior to the coming into force of the Gujarat Value Added Tax (Amendment) Act, 2017; or

Guj. 26 of 2017.

(e) affect any investigation, inquiry, verification (including scrutiny and audit), assessment proceedings, adjudication and any other legal proceedings or recovery of arrears or remedy in respect of any such tax, surcharge, penalty, fine, interest, right, privilege, obligation, liability, forfeiture or punishment, as aforesaid, and any such investigation, inquiry, verification (including scrutiny and audit), assessment proceedings, adjudication and other legal proceedings or recovery of arrears or remedy may be instituted, continued or enforced, and any such tax, surcharge, penalty, fine, interest, forfeiture or punishment may be levied or imposed; or

Guj. 26 of 2017.

(f) affect any proceedings including that relating to an appeal, revision, review or reference, instituted under this Act prior to the coming into force of the Gujarat Value Added Tax (Amendment) Act, 2017 and such proceeding shall be continued under the said amending Act]

Bom. I of 1904.

(2) Without prejudice to the provisions contained in sub-section (2) and subject thereto, section 7 of the Bombay General Clauses Act, 1904 shall apply in relation to the repeal of said Act as if the said Act had been enacted within the meaning of the said section 7.

[Schedule I and II] were deleted by Guj. 26 of 2017, s.19.

¹[SCHEDULE III

[See section 7]

GOODS, THE SALE OF WHICH IS SUBJECT TO TAX AND RATE OF TAX

Sr. No	Description of Goods.	Rate of tax
1.	High Speed Diesel	Twenty-four paise in the rupee
2.	Motor spirit (commonly known as petrol)	Twenty-six paise in the rupee
3.	Petroleum Crude	Five paise in the rupee
4.	Aviation turbine fuel (Duty paid)	Thirty paise in the rupee
5.	Aviation turbine fuel (Bonded)	Thirty-eight paise in the rupee
6.	Natural Gas	Fifteen paise in the rupee
7.	Alcoholic Liquor for human consumption	Sixty-five paise in the rupee.]

Government Central Press, Gandhinagar.

1.Schedule III which was added by Guj. 6 of 2006, s.45 was substituted by Guj. 26 of 2017, s.20.