



The Rajasthan Tax on Entry of Goods into Local Areas Act, 1999

Act 13 of 1999

Keyword(s):

Business, Dealer, Goods Vehicle, Import, Lease, Local Area, Occasional Dealer, Place of Business, Tax Board, Taxable Market Value of Goods, Taxable Purchase Value of the Goods, Work Contract

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LAW (LEGISLATIVE DRAFTING) DEPARTMENT
(Group-II)

Jaipur, May 14, 1999

No. F. 2(16) Vidhi/2/99.-In pursuance of clause (3) of Article 348 of the Constitution of India, the Governor is pleased to authorise the publication in the Rajasthan Gazette of the following translation in the English language of the Rajasthan Sthaniya Keshetron Mein Maal ke Pravesh Par Kar Adhiniyam, 1999 (1999 ka Adhiniyam Sankhya 13):-

THE RAJASTHAN TAX ON ENTRY OF GOODS INTO
LOCAL AREAS Act, 1999
(Act No. 13 of 1999)

(Received the assent of the Governor on the 14th day of May, 1999)

An
Act

to provide for the levy and collection of tax on entry of goods into local areas of the State for consumption, use or sale therein and matters incidental thereto.

Be it enacted by the Rajasthan State Legislature in the Fiftieth Year of the Republic of India, as follows:-

1. Short title, extent and commencement.-

- (1) This Act may be called the Rajasthan Tax on Entry of Goods into Local Areas Act, 1999.
- (2) It extends to whole of the State of Rajasthan.
- (3) In pursuance of section 3 of the Rajasthan Provisional Collection of Taxes Act, 1958 (Act No. 23 of 1958), it is hereby declared that it is expedient in public interest that this Act shall have immediate effect under the said Act.¹

2. Definitions.-

- (1) In this Act, unless the context otherwise requires,-
 - (a) **"assessee"** means a person by whom tax is payable;
 - (b) **"assessing authority"** means any officer authorised by the State Government to make assessment under this Act;
 - (c) **"business"** includes any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture whether or not such trade, commerce, manufacture, adventure or concern is carried on with a motive to make gain or profit and whether or not any profit accrues from such trade, commerce, manufacture, adventure or concern and any transaction in connection with or incidental or ancillary to such trade, commerce, manufacture, adventure or concern;
 - (d) **"Commissioner"** means a person appointed by the State Government to be the Commissioner of Commercial Taxes Department and includes an Additional Commissioner of Commercial Taxes;
 - (e) **"dealer"** means any person who, in the course of business, whether on his own account or on account of a principal or any other person, brings or causes to be brought into a local area any goods or takes delivery or is entitled to take delivery of goods on its entry into a local area and includes an occasional dealer;
 - (f) **"goods"** means all kinds of movable property (other than newspapers, actionable claims, stocks, shares and securities) and includes livestock;
 - (g) **"goods vehicle"** means any kind of vehicle used for carriage of goods either solely or in addition to passengers and includes push cart, animal drawn cart, tractor, trailer, auto and cycle rickshaw and the like;
 - (h) **"import"** means a process by which goods are brought into a local area from outside;
 - (i) **"lease"** means any agreement or arrangement whereby the right to use any goods for any purpose is transferred by one person to another whether or not for a specified period for cash, deferred payment or other valuable consideration without the transfer of ownership, and includes a sub-lease;
 - (j) **"local area"** means the area within the limits of,-
 - (i) a panchayat established under the Rajasthan Panchayati Raj Act, 1994 (Act No.13 of 1994), or

¹ This Act came into force w.e.f. 26.03.1999, the day it was introduced in the Rajasthan Legislative Assembly.

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- (ii) a municipality established under the Rajasthan Municipalities Act, 1959 (Act No. 38 of 1959), or
 - (iii) a notified area committee or a cantonment board constituted or established under any law for the time being in force;
 - (k) **"occasional dealer"** means any person who, in the course of occasional transactions of business nature, whether on his own account or on account of a principal or any other person, brings or causes to be brought into a local area any goods or takes delivery or is entitled to take delivery of goods on its entry into local area;
 - (l) **"place of business"** means any place where a dealer is doing business and includes,-
 - (i) any warehouse, godown, or other place where the dealer stores or processes his goods;
 - (ii) any place where the dealer produces or manufactures goods;
 - (iii) any place where the dealer keeps his books of accounts;
 - (iv) the Place of business of the agent, where the dealer carries on business through an agent (by whatever name called);
 - (m) **"registered dealer"** means a dealer registered under this Act;
 - (n) **"State"** means the State of Rajasthan;
 - (o) **"tax"** means the tax payable under this Act;
 - (p) **"Tax Board"** means Rajasthan Tax Board constituted under the Rajasthan Sales Tax Act, 1994 (Act No. 22 of 1995);
 - (q) **"taxable market value of goods"** shall mean the value of goods determined by the assessing authority on the basis of such evidence as may be considered necessary;
 - (r) **"taxable purchase value of the goods"** shall mean the purchase price at which a dealer has purchased the goods inclusive of charges borne by him as cost of transportation, packing, forwarding and handling commission, insurance, taxes, duties and the like, or if such goods have not been purchased by him, the prevailing market price of such goods in the local area;
 - (s) **"works contract"** means any agreement for carrying out for cash, deferred payment or other valuable consideration, the construction, fitting out, improvement or repair of any building, road, bridge or any other immovable property, or manufacture, processing, fabrication, erection, installation, fitting out, improvement, modification, repair, conversion or commissioning of any movable property; and
 - (t) **"year"** means the year commencing on the first day of April.
- (2) Words and expression used but not defined in this Act shall have the meanings assigned to them under the Rajasthan Sales Tax Act, 1994 (Act No. 22 of 1995).

3. Levy of Tax.-

- (1) There shall be levied, collected and paid to the State Government a tax on entry of any goods brought into a local area, for consumption, use or sale therein, with effect from such date and at such rates, not exceeding "twenty percent"¹ of the value of the goods, as may be specified by the State Government, by notification in the Official Gazette, and different dates and different rates may be specified in respect of different goods or different class of goods or different local areas.
- (2) The entry tax shall be levied on taxable purchase value of the goods, so however that in case where it is not possible to determine the taxable purchase value of goods, the entry tax shall be levied on taxable market value of goods.
- (3) The tax levied under sub-section (1), shall be paid by every registered dealer or a dealer liable to get himself registered under this Act who brings or causes to be brought into a local area, the goods whether on his own account or on account of his principal or any other person or who takes delivery or is entitled to take delivery of such goods on its entry into a local area.

4. Incidence of Tax.-

- (1) On the commencement of this Act, every dealer whose annual turnover of import of goods, liable to tax under this Act, made,-
 - (i) during the year ending on 31st March, 1999, or
 - (ii) during any year commencing on 1st April subsequent to the year mentioned in clause (i), exceeds rupees one lac, shall be liable to get himself registered as a dealer in the manner as may be prescribed, and be liable to pay tax on the taxable purchase value of the goods.

¹ Substituted by section 11 of the Rajasthan Finance Act, 2002 w.e.f. 22.3.2002 for expression "ten percent".

- (2) Every person who is registered under this Act shall continue to be liable to pay tax until his registration is duly cancelled.
- 5. Bar against collection of tax when not payable.-**
No person who is not a registered dealer or who is not liable to pay tax, shall collect any sum by way of tax from any other person and no registered dealer shall collect any amount by way of tax in excess of the amount of tax payable by him under the provisions of this Act.
- 6. Collection of tax by Central Government or State Government.-**
Notwithstanding anything contained in this Act, the Central Government or the State Government shall be entitled to collect by way of tax any amount which a registered dealer would be entitled to collect by way of tax under this Act.
- 7. Payment and disbursement of amounts wrongly collected by dealer as tax.-**
- (1) Where any amount is collected by way of tax or purported to be collected by way of tax from any person by any dealer in contravention of section 5, whether wrongly or otherwise, such dealer shall pay the entire amount so collected to the assessing authority within twenty days after the close of the month in which such amount was collected, notwithstanding that the dealer is not liable to pay such amount as tax or that only a part of it is due from him as tax under this Act.
- (2) If default is made in payment of the amount in terms of sub-section (1),-
- (i) the whole of the amount outstanding on the date of default shall become immediately due and shall be a charge on the properties of the dealer;
- (ii) the dealer liable to pay the amount shall pay interest at the rate of two percent of such amount for each month of default; and
- (iii) the whole of the amount remaining unpaid along with the interest calculated under clause (ii) of this sub-section shall be recoverable in the manner specified in the Rajasthan Sales Tax Act, 1994 (Act No.22 of 1995) as if it is a tax due and recoverable under the said Act.
- 8. Grant of set off.-**
Subject to the other provisions of this Act, the assessing authority may allow set off to a purchasing registered dealer in the circumstances and the manner as may be prescribed.
- 9. Exemption from tax.-**
Notwithstanding anything contained in this Act, where the State Government is of the opinion that it is necessary in the public interest so to do, it may, by notification in the Official Gazette, exempt from tax payable under the Act on entry of goods into local area fully or partially, whether prospectively or retrospectively.
- 10. Bar to certain proceedings.-**
No Civil Court or any other authority shall stay any proceedings purported to be initiated or already initiated under this Act, and no assessment made and no order passed by any officer or any authority under this Act, shall be called in question except as provided in this Act.
- 11. Registration of dealers.-**
- (1) Every dealer,-
- (a) who buys or receives goods liable to tax under this Act and who is doing business in a local area; and
- (b) who brings or causes to be brought such goods liable to tax into a local area or takes delivery or is entitled to take delivery of such goods, the aggregate value of which is not less than one lac rupees in a year;
- shall get himself registered under this Act in such manner on payment of such fee and within such period as may be prescribed and such registration shall remain in force until the same is cancelled.
- (2) Notwithstanding anything contained in sub-section (1),-
- (i) every dealer undertaking execution of works contract involving the use or consumption of goods entering into a local area; or
- (ii) every dealer not ordinarily resident of a local area; or
- (iii) every manager or agent of a dealer not ordinarily resident of a local area; other than a dealer dealing exclusively in the goods as may be specified; or
- (iv) every lessor or lessee, who brings or causes to be brought goods into a local area;
- shall get himself registered irrespective of the value of his annual turnover of goods brought into a local area.
- 12. Returns and Assessment.-**

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- (1) Every registered dealer and such other person as may be required by notice to do so by the assessing authority shall furnish a return to the assessing authority at such intervals within such period and in such manner containing such particulars as may be prescribed.
- (2) Before any dealer submits any return under sub-section (1), he shall deposit tax payable by him on the basis of his books of accounts reduced by any tax already paid under the provisions of this Act and shall furnish along with the return satisfactory proof of the payment of such tax and after the final assessment is made, the amount of tax so paid shall be deemed to have been paid towards the tax finally assessed.
- (3) If the assessing authority is satisfied that any return submitted under sub-section (1) is correct and complete, he shall assess the dealer on the basis thereof.
- (4) If no return is submitted by the dealer under sub-section (1), before the period prescribed or if the return submitted by him appears to the assessing authority to be incorrect or incomplete, he shall assess the dealer to the best of his judgment recording the reasons for such assessment:
Provided that before taking action under this sub-section, the dealer shall be given reasonable opportunity of proving the correctness and completeness of the return submitted by him.
- (5) While making any assessment under sub-section (4), the assessing authority may also direct the dealer to pay in addition to the tax assessed a penalty not exceeding one and a half times the amount of tax due that was not disclosed by the dealer in his return, or in the case of failure to submit a return one and a half times the tax assessed, as the case may be.
- (6) No assessment under this section for any year shall be made after a period of three years from the date on which return for that year is submitted by a dealer:
Provided further that nothing contained in this sub-section limiting the time within which the assessment may be made shall apply to an assessment made on the assessee or any person in consequence of, or to give effect to any finding, direction or order made under section 23 or section 24 or section 26 or any judgment or order made by any court.
- (7) In computing the period of limitation for assessment under this section,-
 - (a) the time during which the proceedings for assessment in question have been deferred on account of any stay order granted by any court or any other authority shall be excluded,
 - (b) the time during which the assessment has been deferred in any case or class of cases by the Commissioner, for reasons to be recorded in writing shall be excluded.
- (8) The Commissioner may, reasons to be recorded in writing extend such time limit by a period not exceeding six months.
- (9) Where an assessment under this section is not concluded within the time specified under sub-section (6), the amount declared by a dealer in his annual return shall be deemed to have been assessed for that year on the basis of the said return and the provisions of the Act relating to assessment, payment, recovery, appeal and revision shall apply to such deemed assessment.

13. Security deposit.-

- (1) the assessing authority may, for good and sufficient reasons, demand from any dealer liable to pay tax under this Act, security for the proper payment of tax payable by him and on demand such dealer shall furnish the security within seven days from the date of receipt of the order of the aforesaid authority demanding security.
- (2) The amount of security payable under sub-section (1), for any year shall not exceed an amount equivalent to one-half of the tax anticipated to be payable by the dealer for that year:
Provided that the assessing authority shall have power to demand at any time additional security if such authority has reason to believe that the security fixed was too low.
- (3) The security paid under sub-section (2), in any year shall be maintained in full, until it is dispensed with by the assessing authority on being satisfied that the reason for its demand no longer exists or until the registration certificate is cancelled, whichever is earlier.

14. Summary assessments.-

- (1) Notwithstanding anything contained in sub-section (3) and (4) of section 12, in the case of a dealer, the assessing authority may at his discretion but subject to the provisions of sub-section (2), assess such dealer on the basis of the original return or the revised return, as the case may be, without requiring the presence or the production of books of accounts.
- (2) For the purposes of sub-section (1), the dealer who is eligible for summary assessment under the provisions of this section may,-
 - (a) in respect of the year ending 31st March, 2000 furnish to his assessing authority, the return relating to his turn-over under sub-section (1) of section 12 within a period of sixty days;

- (b) in respect of subsequent accounting years, submit to his assessing authority the return relating to his turn-over under sub-section (1) of section 12:

Provided that the return or revised return to be submitted by a dealer under this sub-section shall be accompanied by the enclosures specified in sub-section (3):

Provided further that no penalty under sub-section (5) of section 12 shall be levied nor any prosecution under clauses (a) and (f) of sub-section (1) of section 35 be instituted or continued in respect of a dealer, who submits a revised return in respect of any completed year of his business in accordance with the requirements of this section.

- (3) Every return or revised return to be submitted by a dealer shall be accompanied by such enclosures as may be prescribed.
- (4) Summary assessments under this section shall not be made in respect of a dealer for any year if,-
- (a) he has not been assessed under section 12 for a period not less than twelve months immediately preceding the commencement of the year under assessment and appeal, revision or other proceedings are pending disposal in respect of such assessment;
 - (b) the assessment of the dealer has been completed under this section continuously for a period of three years immediately preceding the year under assessment;
 - (c) proceedings under sub-section (2) of section 35 of this Act involving suppression of any taxable purchase value of goods or tax liability have been taken up or concluded or are pending finalization in respect of the dealer for the year; and
 - (d) proceedings involving suppression of any taxable purchase value of goods liable to tax in respect of him for any of the three years immediately preceding the year under assessment are concluded either under sub-section (2) of section 35 of the Act resulting in liability to pay tax over and above the tax liability declared in the return filed under sub-section (1) of section 12 for any such year;.

15. Payment of tax for entry of goods escaping assessment.-

- (1) If the assessing authority has reasons to believe that the whole or any part of the turnover of a dealer or the purchase value of taxable goods brought or caused to be brought into a local area by a dealer whether on his own account or on account of his principal or any other person or who has taken delivery or is entitled to take delivery of such goods on its entry into local area in respect of any period has escaped assessment to tax or has been under assessed or has been assessed at a rate lower than the rate at which it is assessable under this Act or any deduction or exemption have been wrongly claimed or allowed in respect thereof, the assessing authority may, notwithstanding the fact that whole or part of such escaped turnover or purchase value of taxable goods, as the case may be, was already before the said authority at the time of original assessment or re-assessment, but subject to the provisions of sub-section (3) at any time ¹[within a period of five years from the expiry of the year to which the tax relates, issue notice and proceed to assess or re-assess to the best of its judgment, the tax payable by a dealer in respect of such turnover or purchase value of such goods, as the case may be, and after making such enquiry as it may consider necessary, shall complete the assessment within eight years from the end of the relevant year.]
- (2) In making an assessment under sub-section (1) the assessing authority may, if it is satisfied that the escape from assessment is due to willful non-disclosure of the entry of such goods by the dealer, direct him to pay, in addition to the tax assessed under sub-section (1), a penalty not exceeding one and a half times the tax so assessed:
- Provided that no penalty under this sub-section shall be directed to be paid unless the dealer affected has had a reasonable opportunity of showing cause against such penalty.
- (3) In computing the period of limitation for assessment under this section, the time during which an assessment has been deferred on account of any stay order granted by any court or other authority or by reason of the fact that an appeal or other proceeding is pending, shall be excluded:
- Provided that nothing contained in this section, limiting the time within which any action may be taken or any order, assessment or re-assessment may be made, shall apply to an assessment or re-assessment made on the assessee or any person in consequence of, or to give effect to, any finding direction or order made under section 23, or section 24 or section 26 or any judgment or order made by the Supreme Court, the High Court, or any other Court or Tax Board.

16. Payment of tax in advance.-

- (1) Subject to such Rules as may be made by the State Government, every registered dealer shall send every month to the assessing authority a statement containing such particulars as may be

¹Inserted by Act No. 4 of 2007

prescribed and shall pay in advance the full amount of tax payable by him on the basis of the goods brought by him during the preceding month into the local area and the amount so payable shall be deemed to be an amount due from such dealer under this Act.

- (2) If at the end of the year it is found that the amount of tax paid in advance by any dealer for any month or for the whole year in the aggregate was less than the tax payable for that month or the tax for the whole year as finally assessed, as the case may be, by more than fifteen percent, the assessing authority may direct such dealer to pay, in addition to the tax, by way of penalty, a sum not exceeding one and a half times the amount of tax so paid falls short of the tax payable for the month or for the whole year, as the case may be:

Provided that no penalty under this sub-section shall be imposed unless the dealer affected has had a reasonable opportunity of showing cause against such imposition.

- (3) If no such statement is submitted by a dealer under sub-section (1) before the prescribed date or if the statement submitted by him appears to the assessing authority to be incorrect or incomplete, the assessing authority may assess the dealer provisionally for that month to the best of his judgment, recording the reasons for such assessment, and proceed, to demand and collect the tax on the basis of such assessment:

Provided that before taking action under this sub-section the dealer shall be given a reasonable opportunity of being heard.

17. Payment and recovery of tax.-

- (1) The tax under this Act shall be paid in such manner and in such instalments, if any, and within such time, as may be prescribed.

- [(2) If default is made in making payment in accordance with sub-section (1), the whole of the amount outstanding on the date of default shall become immediately due and shall be a charge on the property of the person or persons liable to pay tax under this Act.]¹

- (3) [XXX]²

- (4) Any tax assessed, or any other amount due under this Act from a dealer may, without prejudice to any other mode of collection, be recovered-

- (a) as if it were an arrear of land revenue, or
(b) by attachment and sale or by sale without attachment of any property of such dealer or any other person by the prescribed officer in accordance with such rules as may be made under this Act,
(c) on application to any judicial Magistrate having jurisdiction, by such Magistrate, as if it were a fine imposed by him:

Provided that where a dealer who has appealed or applied for revision of any order made under this Act and has complied with an order made by the appellate or the revising authority in regard to the payment of tax or other amount, no proceedings for recovery under this sub-section shall be made or continued until the disposal of such appeal or application for revision.

18. Power to withhold refund in certain cases.-

Where an order giving rise to refund is the subject-matter of an appeal or further proceeding or where any other proceeding under this Act is pending, and the authority competent to grant such refund is of the opinion that the grant of refund is likely to adversely affect the revenue, such authority may with the previous approval of the Commissioner, withhold the refund till such time as the Commissioner may determine.

19. Recovery of tax from certain other persons.-

- (1) The assessing authority may, at any time or from time to time, by notice in writing (a copy of which shall be forwarded to the dealer from whom any tax assessed is due, at his last address known to the assessing authority) require any person from whom money is due to the dealer or any person who holds or may subsequently hold money for or on account of the dealer to pay the assessing authority either forthwith or upon the money becoming due or being held at or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount due by the dealer in respect of arrears of tax or penalty or the whole of the money when it is equal to or less than that amount.
- (2) The assessing authority may, at any time or from time to time, amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.

¹ Inserted by Act No. 15 of 2005 (w.e.f. 24.03.05)

² Deleted by Act No. 15 of 2005 (w.e.f. 24.03.05)

- (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 of the assessing authority shall constitute a good and sufficient discharge of the liability of such person to the extent of the amount referred to in the receipt.
- (4) Any person discharging any liability to the dealer after receipt of the notice to in this section shall be personally liable to the assessing authority to the extent of the liability discharged or to the extent of the liability of the dealer for the amount due under this Act, whichever is less.
- (5) Where any person to whom a notice under this section is sent objects to it on the ground that the sum demanded or any part thereof is not due by him to the dealer or that he does not hold any money for or on account of the dealer, then nothing contained in this section shall be deemed to require such person to pay the sum demanded or any part thereof, to the assessing authority.
- (6) Any amount which a person is required to pay to the assessing authority or for which he is personally liable to the assessing authority under this section shall, if it remains unpaid, be a charge on the properties of the said person and may be recovered as if it were an arrear of land revenue.

Explanation.-For the purposes of this section, the amount due to dealer or money held for or on account of dealer shall be computed after taking into account such claims, if any, as may have fallen due for payment by such dealer to such person and as may be lawfully subsisting.

20. Liability of firms.-

- (1) Where any firm is liable to pay any tax or other amount under this Act, the firm and each of the partners of the firm shall be jointly and severally liable for such payment.
- (2) Where a partner of a firm liable to pay any tax or other amount under this Act retires, he shall, notwithstanding any contract to the contrary, be liable to pay the tax or other amount remaining unpaid at the time of his retirement and any tax or other amount due up to the date of retirement though un-assessed.

21. Tax payable on transfer of business, etc.-

- (1) When the ownership of the business of a dealer liable to pay any tax or penalty or any other amount under the provisions of this Act, is transferred, the transferor and the transferee shall jointly and severally be liable to pay any tax or penalty or any other amount payable but remaining unpaid at the time of transfer, and for the purpose of recovery from the transferee, such transferee shall be deemed to be the dealer liable to pay the tax or penalty or other amount under this Act.
- (2) When a firm liable to pay the tax or penalty is dissolved, the assessment of the tax and imposition of penalty shall be made as if no dissolution of the firm had taken place, and every person who was at the time of dissolution a partner of the firm and the legal representative of any such person who is deceased, shall be jointly and severally liable to pay the tax or penalty assessed or imposed.
- (3) When an Undivided Hindu Family liable to pay the tax or penalty is partitioned, the assessment of the tax and the imposition of penalty shall be made as if no partition of the family had taken place, and every person who was a member of the family before the partition shall be jointly and severally liable to pay the tax or penalty assessed or imposed.
- (4) Where a dealer dies, his administrator or other legal representative shall be deemed to be the dealer for the purposes of this Act, and the provisions of this Act shall apply to him in respect of the business of the said deceased dealer, provided that, in respect of any tax or penalty assessed as payable by any such dealer or any tax or penalty which would have been payable by him under this Act if he had not died, the administrator or other legal representative shall be liable only to the extent of the assets of the deceased in his hands.

22. The tax authorities.-

- (1) The State Government shall, by notification in the Official Gazette authorise the officers of the Commercial Taxes Department to exercise the powers and discharge the duties and perform the functions under this Act.
- (2) The officers authorised under sub-section (1) shall exercise, discharge and perform such powers and duties in respect of such areas or of such dealers or such classes of dealers, such cases or classes of cases as may be specified in the notification.

23. Appeals.-

- (1) Any person objecting to an order affecting him passed under the provisions of this Act may appeal to such authority as may be prescribed (hereinafter referred to as the appellate authority).
- (2) The appeal shall be preferred within thirty days,-
 - (i) in respect of an order of assessment, from the date on which the notice of assessment was served on the appellant, and

- (ii) in respect of any other order, from the date on which the order was communicated to the appellant:

Provided that the appellate authority may admit an appeal preferred after the period of thirty days aforesaid if it is satisfied that the appellant had sufficient cause for not preferring the appeal within that period.

- (3) (a) No appeal against an order of assessment shall be entertained by the appellate authority unless it is accompanied by satisfactory proof of the payment of the tax penalty not disputed in the appeal;
- (b) Notwithstanding that an appeal has been preferred under sub-section (1), the tax or other amount shall be paid in accordance with the order against which the appeal has been preferred:
- Provided that the appellate authority may in its discretion, give such direction as it thinks fit in regard to the payment of tax or other amount payable under clause (b) if the appellant furnishes sufficient security to its satisfaction in such form and in such manner as may be prescribed.
- (4) The appeal shall be in the prescribed form and shall be verified in the prescribed manner.
- (5) In disposing of an appeal, the appellate authority may, after giving the appellant a reasonable opportunity of being heard,
- (a) in the case of an order of assessment or penalty,-
- (i) confirm, reduce, enhance or annul the assessment or penalty or both; or
- (ii) set aside the assessment and direct the assessing authority to make a fresh assessment after such further enquiry as may be directed; and
- (iii) pass such other orders as it may think fit.
- (b) Every order passed on appeal under this section shall, subject to the provisions of sections 24, 25, 27 and 28, be final.

24. Appeal to the Tax Board.-

- (1) Any officer empowered by the State Government in this behalf or any other person objecting to an order passed by the appellate authority under section 23 may appeal to the Tax Board within a period of sixty days from the date on which the order was communicated to him.
- (2) The Tax Board may admit an appeal preferred after the period of sixty days referred to in sub-section (1), if it is satisfied that the appellant has sufficient cause for not preferring the appeal within that period.
- (3) The appeal or the memorandum of cross-objection shall be in the prescribed form, and be verified in the prescribed manner, and in the case of an appeal preferred by any person other than an officer empowered by the State Government under sub-section (1) shall be accompanied by a fee equal to two percent of the amount of assessment objected to, provided that the sum payable in no case be less than two hundred rupees or more than one thousand rupees.
- (4) Notwithstanding that an appeal has been preferred under sub-section (1), the payment of tax or penalty of any other amount, payable in accordance with any order passed by the appellate authority under section 23 shall not, pending disposal of the appeal, be stayed by the Tax Board.
- (5) The Tax Board shall, after giving both parties to the appeal a reasonable opportunity of being heard, pass such orders thereon as it thinks fit:

Provided that if the appeal involved a question of law on which the Tax Board has previously given its decision in another appeal and either a revision petition in the High Court against such decision or an appeal in the Supreme Court against the order of the High Court thereon is pending, the Tax Board may defer the hearing of the appeal before it, till such revision petition in the High Court or the appeal in the Supreme Court is disposed of:

Provided further that if as a result of the appeal any change becomes necessary in the assessment, which is the subject-matter of the appeal, the Tax Board may authorise the assessing authority to amend the assessment, and the assessing authority shall amend the assessment accordingly and thereupon, any amount over paid by the assessee shall be refunded to him without interest, or as the case may be any additional amount of tax due from him shall be collected in accordance with the provisions of this Act.

- (6) Notwithstanding that an appeal has been preferred under sub-section (1), tax shall be paid in accordance with the assessment made in the case:
- Provided that the Tax Board may except in case of an appeal against an order passed by the appellate authority under section 23, in its discretion, give such directions as it thinks fit, in regard to the payment of tax, if the appellant furnishes sufficient security to its satisfaction in such form and manner as may be prescribed.

- (7) (a) The Tax Board may, on the application either of the appellant or of the respondent, review any order passed by it under sub-section (5) on the basis of facts which were not before it when it passed the order:
Provided that no such application shall be preferred more than once in respect of the same order.
- (b) The application for review shall be preferred in the prescribed manner within six months from the date on which the order to which application relates was communicated to the applicant; and where the application is preferred by any person other than an officer empowered by the State Government under sub-section (1), it shall be accompanied by a fee equal to that which had been paid in respect of the appeal.
- (8) With a view to rectify any mistake apparent from the record, the Tax Board may, at any time, within five years from the date of any order passed by it under sub-section (5) or sub-section (7) amend such order:
Provided that no order under this sub-section shall be made without giving both parties affected by the order a reasonable opportunity of being heard.
- (9) Except as provided in the Rules made under this Act, the Tax Board shall not have the power to award costs to either of the parties to the appeal or review.
- (10) Every order passed by the Tax Board under sub-section (5) or sub-section (7) or sub-section (8) shall be communicated to the appellant, the respondent, the authority from whose order the appeal was preferred, and the Commissioner.
- (11) Every order passed by the Tax Board under sub-section (5) shall, subject to the provisions of sub-section (6) and/or sub-section (7), be final.

25. Revisional powers of Commissioner.-

- (1) The Commissioner may on his own motion call for and examine the record of any proceedings under this Act and if he considers that any order passed therein by any officer subordinate to him is erroneous or is prejudicial to the interests of the State revenue, he may, if necessary, stay the operation of such order for such period as he deems fit and after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such orders thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, or canceling the assessment or directing a fresh assessment.
- (2) The power under sub-section (1) shall be exercisable only within a period of four years from the date of the order, sought to be revised, was passed.

Explanation.- In computing the period of limitation for the purpose of sub-section (2), any period during which any proceeding under this section is stayed by an order or injunction of any court shall be excluded.

26. Revision to the High Court.-

- (1) Within sixty days from the date on which an order under sub-section (5) or clause (a) of sub-section (7) or sub-section (8) of section 24 was communicated to him, the appellant or the respondent may prefer a petition to the High Court against the order on the ground that the Tax Board has either failed to decide or decided erroneously any question of law:
Provided that the High Court may admit a petition preferred after the period of sixty days aforesaid, if it is satisfied that the petitioner has sufficient cause for not preferring the petition within that period.
- (2) The petition shall be in the prescribed form and be verified in the prescribed manner, and shall, when it is preferred by any person other than an officer empowered by the State Government under sub-section (1) of section 25, be accompanied by a fee of five hundred rupees.
- (3) If the High Court, on perusing the petition, considers that there is no sufficient ground for interfering, it may dismiss the petition summarily:
Provided that no petition shall be so dismissed unless the petitioner has a reasonable opportunity of being heard in support thereof.
- (4) (a) If the High Court does not dismiss the petition summarily, it shall, after giving both the parties to the petition a reasonable opportunity of being heard, determine the question or questions of law raised, and it shall, either reverse, affirm or amend the order against which the petition was preferred or remit the matter to the Tax Board with its opinion on the question or questions of law raised, or pass such other order in relation to the matter as it may think fit;
- (b) Where the High Court remits the matter to the Tax Board under clause (a) with its opinion on question of law raised, the latter shall amend the order passed by it in conformity with such opinion;

(c) Before passing an order under sub-section (4), the High Court may, if it considers necessary so to do remit the petition to the Tax Board and direct it to return the petition with its finding on any specific question or issue.

- (5) Notwithstanding that a petition has been preferred under sub-section (1), the tax shall be paid in accordance with the assessment made in the case:

Provided that if as a result of the petition, any change becomes necessary in such assessment, the High Court may authorise the assessing authority to amend the assessment and the assessing authority shall amend the assessment accordingly and thereupon the excess amount paid by the assessee shall be refunded to him without interest or the additional amount of tax due from him shall be collected in accordance with the provisions of this Act, as the case may be.

- (6) With a view to rectify any mistake apparent from the record, the High Court may, at any time, within five years from the date of the order passed by it under sub-section (4), amend such order:

Provided that no order under this sub-section shall be made without giving both the parties affected by the order a reasonable opportunity of being heard.

27. Appeal to High Court.-

- (1) Any assessee objecting to an order passed under section 24 may appeal to the High Court within sixty days from the date on which the order was communicated to him:

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

- (2) The appeal shall be in the prescribed form and be verified in the prescribed manner, and shall be accompanied by a fee of five hundred rupees.
- (3) The High Court shall, after giving both the parties to the appeal a reasonable opportunity of being heard, pass such order thereon as it thinks fit.

28. Rectification of mistakes.-

- (1) With a view to rectify any mistake apparent from the record, the assessing authority, appellate authority or revisional authority may, at any time, within five years from the date of any order passed by it, amend such order:

Provided that an amendment which has the effect of enhancing an assessment or otherwise increasing the liability of the assessee shall not be made unless the assessing authority, appellate authority or revisional authority, as the case may be, has given notice to the assessee of its intention to do so, and has allowed the assessee a reasonable opportunity of being heard.

- (2) Where an order has been considered and decided in any proceeding by way of appeal or revision relating to an order referred to in sub-section (1), the authority passing such order may, notwithstanding such decision, rectify the order in relation to any matter other than the matter which has been so considered and decided.
- (3) An order passed under sub-section (1), shall be deemed to be an order passed under the same provision of law under which the original order, the mistake in which was rectified, has been passed.

29. Maintenance of accounts by dealers and issue of sale bills or cash memorandum.-

- (1) Every registered dealer and every dealer liable to get himself registered for the purposes of this Act shall maintain and keep true and complete accounts relating to his business as well as such other registers or records as may be prescribed in this regard and all such accounts, registers or records shall be retained by the dealer in his safe custody till his assessment or re-assessment, as the case may be, for the relevant year is completed or, in cases where any appeal, revision or other proceedings in respect of such year has been filed and is pending, the same is disposed of.

- (2) Every registered dealer and every dealer liable to get himself registered for the purposes of this Act shall issue, in respect of all goods sold by him a bill or cash memorandum signed and dated by him or his servant, manager or agent, showing particulars of his name, address, registration number, if any, and description, quantity and value of the goods sold, and shall keep counterfoil or duplicate of such bill or cash memorandum with him and retain it in his custody for the period mentioned in sub-section (1):

Provided that the selling dealer shall also obtain and record in the sale bill or cash memorandum, the name and full address of the buyer, together with his registration number, if any, where the buyer is a dealer, in cases where the sale price of goods is one thousand rupees or more.

- (3) Every sale bill or cash memorandum to be issued as per sub-section (2) shall be duly serially numbered by a numbering machine and maintained in the form of bounded book.

30. Powers to order production of accounts and powers of entry, inspection and seizure.-

- (1) Any officer empowered by the State Government in this behalf, may for the purpose of this Act, require any dealer carrying on business in any goods to produce before him the accounts and other documents and to furnish any information relating to the stocks of the goods of or purchases, sales and deliveries of the goods brought into the local area and also any other information relating thereto.
- (2) (i) All accounts and registers maintained by dealer in the ordinary course of their business and documents relating to the stock of the goods, or purchase, sales deliveries of the goods brought into the local area, the goods in their possession and their offices, shops, godowns, vessel, receptacles or vehicles, shall be open to inspection at all reasonable times by such officers as may be authorised by State Government in this behalf.
(ii) For the purpose of inspection referred to in clause (i), any such officer shall have power to enter and search any office, shop, godown, vessel, receptacle, vehicle or any other place of business or any building or place where such officer has reason to believe that dealer keeps or is for the time being keeping, any accounts, registers or documents of his business:
Provided that no residential accommodation (not being a place of business-cum-residence) shall be entered into and searched by such officers except on the authority of the Commissioner or any other authority authorised by him and all searches under this sub-section shall, so far as may be, made in accordance with the provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).
- (3) If any such officer has reason to suspect that any dealer is attempting to evade the payment of any tax, fee or other amounts due from him under this Act, he may, for reasons to be recorded in writing, seize such accounts, register, records, or other documents of the dealer as he may consider necessary and shall give the dealer a receipt for the same and the accounts, registers, records and documents so seized shall be retained by such officer only for so long as may be necessary for their examination and for any inquiry or proceeding under this Act:
Provided that accounts, registers, records and other documents so seized shall not be retained by such officer for a period exceeding one hundred and eighty days from the date of seizure, unless the reasons for retaining the same beyond the said period are recorded by him.
- (4) It shall be open to the State Government to authorise different classes of officers for the purpose of taking action under clause (i) of sub-section (2).

31. Establishment of check-post and inspection of goods while in movement.-¹

- (1) The check-posts set up, and the incharge of check posts as specified under sub-section (1) of section 78 of the Rajasthan Sales Tax Act, 1994 (Act No. 22 of 1995) shall, respectively, be the check posts and incharge of check posts for the purposes of this Act.
- (2) The driver or the person incharge of a vehicle or carrier or of goods in movement shall-
 - (a) carry with him a goods vehicle record including "challans" and "bilties", bills of sale or despatch memos and prescribed declaration forms;
 - (b) stop the vehicle or carrier at every check-post, and while entering and leaving the limits of the State, bring and stop the vehicle at the nearest check-post, set up under sub-section (1);]
 - (c) produce all the documents including prescribed declaration forms relating to the goods before the Incharge of the check-post;
 - (d) give all the information in his possession relating to the goods; and
 - (e) allow the inspection of the goods by the Incharge of the check-post or any other person authorised by such Incharge.

Explanation. - For the purposes of this chapter-

- (i) "vehicle or carrier" shall include any means of transportation including an animal to carry goods from one point to another point;
- (ii) "goods" shall include animals also; and
- (iii) "goods in movement" shall mean,-
 - (a) the goods which are in the possession or control of a transporting agency or person or other such bailee;
 - (b) the goods which are being carried in a vehicle or carrier belonging to the owner of such goods; and
 - (c) the goods which are being carried by a person.

¹ Substituted by Act No. 15 of 2005 (w.e.f. 24-03-05)

- (3) The State Government may require by notification that the documents required to be furnished under sub-section (2), shall be furnished by means of such electronic devices, and be accompanied by such processing fee, as may be prescribed.
- (4) Where any goods are in movement within the territory of the State of Rajasthan, an officer empowered by the State Government in this behalf under the Rajasthan Sales Tax Act, 1994, may stop the vehicle or the carrier or the person carrying such goods, for inspection, at any place within his jurisdiction and the provisions of sub-section (2) shall mutatis mutandis apply.
- (5) Where any goods in movement, other than exempted goods are without documents, or are not supported by documents as referred to in sub-section (2), or documents produced appear false or forged, the Incharge of the check-post or the officer empowered under sub-section (4), may-
 - (a) direct the driver or the person incharge of the vehicle or carrier or of the goods not to part with the goods in any manner including by re-transporting or rebooking, till a verification is done or an enquiry is made, which shall not take more than seven days;
 - (b) seize the goods for reasons to be recorded in writing and shall give a receipt of the goods to the person from whose possession or control they are seized;
 - (c) release the goods seized in clause (b) to the owner of the goods or to anybody else duly authorised by such owner, during the course of the proceeding if adequate security of the amount equal to the estimated value of the goods is furnished.
- (6) The Incharge of the check-post or the officer empowered under sub-section (4), after having given 1[the owner of the goods or a person authorised in writing by such owner or the person in-charge of the goods a reasonable opportunity of being heard and after having held such enquiry as he may deem fit, shall impose on him for possession or movement of goods, whether seized or not, in violation of the provisions of clause (a) of sub-section (2) or for submission of false or forged documents or declaration, a penalty equal to thirty percent of the value of such goods.
- (7) During the pendency of the proceeding under sub-section (6), if anybody appears before the Incharge of the check-post or the officer empowered under sub-section (4) and prays for being impleaded as a party to the case on the ground of involvement of his interest therein, the said Incharge or the officer on being satisfied may permit him to be impleaded as a party to the case; and thereafter, all the provisions of this section shall mutatis mutandis apply to him.
- (8) The Incharge of the check-post or the officer empowered under sub-section (4) may release the goods to the owner of the goods or to anybody else duly authorised by such owner, if seized and not already released under clause (c) of sub-section (5), on payment of the penalty imposed under sub-section (6) or on furnishing such security for the payment thereof, as such Incharge or officer may consider necessary.
- (9) Where the driver or the person incharge of the vehicle or the carrier is found guilty for violation of the provisions of sub-section (2), subject to the provisions of sub-section (11), the Incharge of the check-post or the officer empowered under sub-section (4) may detain such vehicle or carrier and after affording an opportunity of being heard to such driver or person incharge of the vehicle or the carrier, may impose a penalty on him as provided in sub-section (6).
- (10) The Incharge of the check-post or the officer empowered under sub-section (4) may release the vehicle or the carrier on the payment of the amount of penalty imposed under sub-section (9) or on furnishing such security as may be directed by such Incharge or officer.
- (11) Where a transporter, while transporting goods, is found to be in collusion with a trader to avoid or evade tax, the Incharge of the check-post or the officer empowered under sub-section (4) shall detain the vehicle or carrier of such transporter and after affording him an opportunity of being heard and with the prior approval in writing of the Deputy Commissioner (Administration) having jurisdiction, may confiscate such vehicle or carrier.
- (12) Notwithstanding anything contained in this section, where the driver or the person in-charge of the vehicle or the carrier abstains from bringing or stopping the vehicle or carrier at the nearest check-post as provided under clause (b) of sub-section (2), the in-charge of the check-post or the officer empowered under sub-section (4) may detain such vehicle or carrier and, after affording an opportunity of being heard to the owner or a person duly authorised by such owner or the driver or the person in-charge of the vehicle or carrier, may impose a penalty equal to fifty percent of the value of such goods.]
- (13) If a transporter fails to give information as required from him under clause (d) of sub-section (2) about the consignor, consignee or the goods within such time as may be specified or transports the goods with forged documents, besides imposing the penalty under sub-section (6), it shall be presumed that the goods so transported have been sold in the State of Rajasthan by him and he shall be deemed to be a dealer for those goods under this Act.

- (14) The provisions of this Act shall, for the purpose of levy, collection and assessment of tax, determination of interest, payment and recovery of tax and interest, appeal, review or revision, apply to the transporter deemed to be a dealer under sub-section (13).

32. Transit of goods by road through the State and issue of Transit pass.-

- (1) When a vehicle coming from any place outside the State and bound for any other place outside the State and carrying goods taxable under this Act, passes through the State, the owner, driver or any other person-in-charge of the Goods vehicle shall obtain in the prescribed manner a transit pass for such goods from the in-charge of the first checkpost or barrier after his entry into the State.
- (2) The owner, the driver or the person in-charge of the vehicle shall deliver within the stipulated time a copy of transit pass obtained under sub-section (1) to the officer-in-charge at last checkpost or barrier before his exit from the State.
- (3) If for any reason the goods carried in a goods vehicle are, after entry into the State not moved out of the State within the time stipulated in the transit pass, the owner or person in-charge of the goods vehicle shall furnish to the officer empowered in this behalf the reasons for such delay and other particulars if any thereof and such officer shall after due enquiry extend the time of exit by suitably amending the transit pass:

Provided that where the goods carried by a vehicle are, after their entry into the State, transported outside the State by any other vehicle or conveyances the onus of proving that the goods have actually moved out of the State shall be on the owner of the vehicle who originally brought the goods into the State.

- (4) If the driver or any other person in-charge of the vehicle does not comply with sub-section (2), it shall be presumed that goods carried thereby have been sold within a local area in the State by the owner of the vehicle and shall, notwithstanding anything contained in this Act, be assessed to tax, by the officer empowered in this behalf, in the prescribed manner.
- (5) If owner, driver or the person in-charge of the vehicle fails to obtain the transit pass as provided under sub-section (1), or fails to deliver the same as provided under sub-section (2), the owner of the goods vehicle shall be liable to pay by way of penalty a sum not exceeding double the amount of tax leviable on the goods transported.
- (6) The amount of tax and the penalty levied under this section shall be recovered in the prescribed manner.

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

- (7) The system of transit pass as provided by sub-section (1) to (6) shall come into force from such date and at such check posts as may be notified by the Government from time to time.

33. Forwarding agency etc., to submit returns.-

Every clearing or forwarding house or transporting agency in the State shall submit to the assessing authority of the area such return as may be prescribed of all goods cleared, forwarded or transported by it into the concerned local area and the assessing authority concerned shall have the power to call for and examine the books of accounts or other documents in the possession of such agency with a view to verify the correctness of the return submitted.

34. Submission of certain records, by owners, etc., of vehicles and boats.-

The owner or other person-in-charge of a goods vehicle or boat shall, in respect of the goods transported by him in such vehicle or boat submit, such return as may be prescribed, to the assessing authority having jurisdiction over the local area in such time and manner as may be prescribed.

¹[34A Interest on failure to pay tax or other sum payable.-

- (1) Where a dealer or a person commits default in making the payment of any amount of tax leviable or payable or of any amount of tax, fee, interest or penalty assessed or determined or of any amount or demand otherwise payable, within the specified time under the provisions of this Ordinance or the rules made or notifications issued under thereunder, such dealer or person shall be liable to pay interest on such amount at such rate, not exceeding twenty four percent per annum, as may be notified by the State Government from time to time, for the period starting from the day immediately succeeding the date specified for such payment and ending with the day on which such payment is made.
- (2) The liability to pay interest under the provisions of this section shall also arise from a period which is less than a month.]

35. Offences and penalties.-

¹ Inserted by Act No. 5 of 2004 (w.e.f. 12-07-04)

- (1) [Where any person]¹ -
- (a) being a dealer in goods fails to submit a return as required by the provisions of this Act or the Rules made thereunder; or
 - (b) being a person obliged to get himself registered under this Act does not get himself so registered; or
 - (c) fails to pay within the time allowed any tax assessed on him or any penalty levied on him under this Act; or
 - (d) fails to keep true and complete accounts of import of goods into the local areas; or
 - (e) fails to comply with any notice issued under the Act; or
 - (f) fails to submit a statement as required under the Act; or
 - (g) fails to issue a sale bill or cash memorandum in accordance with the provisions of section 29;

[the assessing authority may direct such person to pay a penalty, which shall not be less than rupees one thousand but which may extend to rupees five thousand.]²

- (2) Any person who,-
- (a) willfully submits an untrue return, or not being already an assessee under this Act, fails to submit a return as required by the provision of this Act or the rules made thereunder; or
 - (b) willfully submits an untrue statement, required under the Act; or
 - (c) fraudulently evades the payments of any tax assessed on him or other amount due from him under this Act; or
 - (d) willfully acts in contravention any of the provisions of this Act or the rules made thereunder;

shall on conviction, in addition to the recovery of any tax that may be due from him, be punishable with simple imprisonment which may extend to twelve months and with fine which shall not be less than five thousand rupees but which may extend to fifty thousand rupees or with

both and when the offence is continuing one with a daily fine not exceeding one hundred rupees during the period of the continuance of the offence.

36. Cognizance of offences.-

- (1) No court shall take cognizance of any offence punishable under sub-section (2) of section 35 except with the previous sanction of the Commissioner.
- (2) All offences punishable under section 35 shall be non- cognizable and bailable.

37. Composition of offences.-

³[(1)] The prescribed authority may accept from any person who has committed or is reasonably suspected of having committed an offence punishable under this Act, by way of composition for such offence,-

- (a) where the offence consists of the failure to pay or the evasion of any tax or other amount recoverable under this Act in addition to the tax or amount so recoverable, ten thousand rupees or double the amount of the tax or amount recoverable, whichever is greater, and
- (b) in other cases, a sum of money not exceeding ten thousand rupees.

⁴[(2)] Notwithstanding anything contained in sub-section (1) on an application by a person admitting the offence committed by him under sub-section (5), (9) and 12 of section 31, the officer authorised under sub-section (4) of section 31 or Incharge of a check-post, as the case may be, may accept composition money from such person in lieu of penalty or prosecution, which shall,-

- (i) in case of offence committed by him under sub-section (6) of section 31, be equal to the amount of four times of the tax leviable on the goods involved or twenty five³ percent of the value of such goods, whichever is less;
- (ii) in case of offence committed by him under sub-section (9) of section 31, be equal to the amount of fifteen percent of the value of the goods;
- (iii) in case of offence committed under sub-section (9) of section 31, be equal to the amount of twenty five percent of the value of the goods.

¹ Substituted by Act No. 6 of 2003 (w.e.f. 31-03-03)

² Substituted by Act No. 6 of 2003 (w.e.f. 31-03-03)

³ Renumbered and Added by Act No. 15 of 2005 (w.e.f. 24-03-05)

⁴ Renumbered and Added by Act No. 15 of 2005 (w.e.f. 24-03-05)

- (3) On the payment of the amount of composition determined under sub-section (1) or (2), no further proceeding under the provisions of this Act for imposition of penalty or launching of prosecution for the same offence shall be initiated.
- (4) Notwithstanding anything contained in this Act, no appeal shall lie or subsist against an order of composition made under this Act.
- (5) Notwithstanding anything contained in the Act, no amount of composition accepted and no amount interest levied under this section, shall be waived or reduced.]

38. Offences by companies.-

- (1) If the person committing an offence under this Act is a company, the company as well as every person-in-charge of, and responsible, to the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:
Provided that nothing contained in this sub-section shall render any such person liable to any punishment 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 that the commission of the offence is attributable to any neglect on the part of, any director, manager, managing agent or any other officer of the company, such director, manager agent or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

39. Assessment, etc., not to be questioned in prosecution.-

The validity of the assessment of any tax or of the levy of any fee or other amount, made under this Act, or the liability of any person to pay any tax, fee or other amount so assessed or levied shall not be questioned in any criminal Court in any prosecution or other proceedings whether under this Act or otherwise.

40. Indemnity.-

- (1) No suit, prosecution or other proceedings shall lie against any officer or servant of the State Government, for any act done or purported to be done under this Act without the previous sanction of the State Government.
- (2) No officer or servant of the State Government shall be liable in respect of any such act in any civil or criminal proceeding if the act was done in good faith in the course of the execution of duties or the discharge of the functions imposed by or under this Act.

41. Burden of proof.-

- (1) For purposes of assessment of tax under this Act the burden of proving that goods brought into or caused to be brought into local area or taken delivery of by a dealer, is not liable to tax under this Act shall be on such dealer.
- (2) Where a dealer furnishes, issues or produces bill of sale, voucher, the declaration, certificate or any other document which he knows or has reason to believe to be false with a view to support or make any claim that he or any other dealer is not liable to be taxed under this Act, the assessing authority shall on detecting such facts, direct the dealer furnishing, issuing or producing such a bill of sale, voucher, the declaration, the certificate or other documents to pay as penalty.-
 - (i) in the case of first detection three times the tax levied or leviable in respect of such goods; and
 - (ii) in the case of second or subsequent detection, five times the tax levied or leviable in respect of such goods:

Provided that before issuing any direction for payment of penalty under this sub-section, the assessing authority shall give to the dealer an opportunity of being heard against the levy of such penalty.

42. Assignment of proceeds of the tax.-

Subject to such condition as may be prescribed, there shall be paid to each local authority every year such sums of money, as may be determined by the State Government, from time to time, out of the tax collected under this Act.

43. Power to make Rules.-

- (1) The State Government may make rules, by notification in the Official Gazette to carry out the purpose of this Act;

- (2) All rules made under this Act shall, be laid, as soon as may be, after they are so made, before the State Legislature, while it is in session, for a period of not less than fourteen days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which they are so laid or of the session immediately following, the State Legislature makes any modification in any of such rules, or resolves that any such rules should not be made, such rules shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

44. Power to remove difficulties.-

If any difficulty arises in giving effect to the provisions of this Act, the State Government may by notification in the Official Gazette, make such provisions as appear to it to be necessary or expedient for removing the difficulties:

Provided that no action under this section shall be taken after a period of three years has elapsed after the commencement of this Act.

45. Applicability of the Provisions of the Rajasthan Sales Tax Act, 1994 and the Rules made thereunder.-

Subject to the provisions of this Act and the rules made thereunder, provisions of the Rajasthan Sales Tax Act, 1994 (Act No.22 of 1995), shall apply mutatis mutandis, for all other incidental and miscellaneous matters not provided for in this Act.
