



LEGISLATIVE ASSEMBLY OF THE STATE OF GOA

**The Goa Value Added Tax
(Fifth Amendment)
Bill, 2011**

(Bill No. 2 of 2011)

~~As~~ introduced in the Legislative Assembly of the State of Goa

GOA LEGISLATURE SECRETARIAT
ASSEMBLY HALL, PORVORIM, GOA
January, 2011

The Goa Value Added Tax (Fifth Amendment) Bill, 2011.

(Bill No. 2 of 2011)

A

BILL

further to amend the Goa Value Added Tax Act, 2005 (Goa Act 9 of 2005).

5 BE it enacted by the Legislative Assembly of
Goa in the Sixty-second Year of the Republic of
India, as follows:-

10 1. Short title and commencement.— (1) This
Act may be called the Goa Value Added Tax (Fifth
Amendment) Act, 2011.

(2) It shall come into force on such date as the
Government may, by Notification in the Official
Gazette, appoint.

15 2. Amendment of section 3.— In section 3 of
the Goa Value Added Tax Act, 2005 (Goa Act 9 of
2005) (hereinafter referred to as the “principal
Act”), after sub-section (8), the following
sub-section shall be inserted, namely:-

20 “(9) Special liability of person organizing or
conducting exhibition.— Any person
organizing or conducting exhibition either for
sale of goods or for promoting goods for sale,
by providing stalls or space to other persons
or dealers under the banner of specific name
25 and style or under a common roof, for a specific
period, shall, notwithstanding that such

participating persons or dealers are individually liable to pay tax under any of the provisions of this section, be liable to pay tax on all taxable sales effected by such participating persons or dealers during such exhibition.”.

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3. Amendment of section 9.— In section 9 of the principal Act, for sub-section (6), the following sub-section shall be substituted, namely:-

“(6) Any registered dealer who has paid entry tax under the Goa Tax on Entry of Goods Act, 2000 (Goa Act 14 of 2000), either on raw material or on capital goods, other than on goods covered by Schedule 'G' and/or sub-section (2) of this section, brought by him into the local area for use or consumption in the manufacture or processing of goods within the State, shall be entitled for input tax credit under sub-section (1) of this section.”.

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4. Amendment of section 10.— In section 10 of the principal Act, after sub-section (4), the following shall be inserted, namely:-

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“Explanation:— (i) For the purposes of sub-sections (1) and (2) of this section, the input tax credit proportionate to the closing stock (other than stock of processed goods) at the end of financial year, shall be reversed and such amount shall be carried forward to the succeeding financial year as input tax credit corresponding to the opening stock. The term “processed goods”, for the purposes of this sub-section, means finished or semi finished goods produced or manufactured by the dealer and such goods shall be separately indicated.”.

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5. Amendment of section 11.— In section 11 of the principal Act, in sub-section (3), for the letters and figures “Rs. 100/-”, wherever they occur, the letters and figures “Rs 250/-” shall be substituted.

5 6. Amendment of section 12.— In section 12 of the principal Act, for sub-section (3), the following sub-section shall be substituted, namely:-

“(3) In case of goods returned or rejected by the purchaser, either a credit note or a written acknowledgement shall be issued by the selling dealer to the purchaser for having received the goods from the purchaser and a debit note shall be issued by the purchaser to the selling dealer containing particulars of the transaction as may be prescribed:

Provided that no such credit note or a written acknowledgement and/or debit note shall be considered for grant of input tax credit if the goods are returned or rejected beyond the period of six months.”.

7. Amendment of section 18.— In section 18 of the principal Act, after sub-section (8), the following sub-section shall be inserted, namely:-

25 “(9) Any person intending to organize or conduct exhibition either for sale of goods or for promoting goods for sale, by providing stalls or space to other persons or dealers under the banner of specific name and style or under a common roof, for a specific period, shall, notwithstanding that such participating persons or dealers are individually registered under this Act, apply in such form as may be

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prescribed, to the Commissioner, for registration under this Act, indicating therein the details of the persons and/or dealers participating in, and the period of, such exhibition alongwith such security deposit as may be prescribed.

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The provisions of sub-sections (4), (5), (6), (7) and (8) of this section shall, mutatis mutandis apply, to this sub-section.”.

8. Amendment of section 23.— In section 23 of the principal Act,-

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(i) for sub-section (2), the following sub-section shall be substituted, namely:-

“(2) Every dealer registered under this Act shall furnish the Permanent Account Number (PAN) obtained by him under the Income Tax Act, 1961 (Central Act 43 of 1961) within such period and to such authority, as may be notified by the Commissioner in the Official Gazette, for the purpose of incorporating it in the registration records.”;

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(ii) after sub-section (2), the following sub-section shall be inserted, namely:-

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“(3) Every person or dealer liable to pay tax under this Act and who applies for registration under sub-section (1), sub-section (3) or sub-section (9) of section 18 shall furnish a self-attested photocopy of the card containing his Permanent Account Number (PAN) obtained by him under the Income Tax Act, 1961 (Central Act 43 of 1961) alongwith the application for registration.”.

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9. Amendment of section 25.— In section 25 of the principal Act, in sub-section (4), after the existing proviso, the following proviso shall be inserted, namely:-

5 “Provided further that, subject to the rules made in this behalf, the Commissioner may, at the request of a dealer or person, remit the whole or any part of the penalty and/or interest payable by such dealer or person.”.

10 10. Amendment of section 28.— In section 28 of the principal Act, in sub-section (1), for the figures “1%”, the figures “2%” shall be substituted.

11. Amendment of section 29.— In section 29 of the principal Act, in sub-section (2),-

15 (i) in clause (c), for the expression “amount due,”, the expression “amount due; or” shall be substituted;

20 (ii) after clause (c), the following clause shall be inserted, namely:-

“(d) the Commissioner requires to get satisfied with the correctness of the refund so claimed.”.

12. Amendment of section 65.— In section 65 of the principal Act, in sub-section (1), after the words “in writing” and before the words “any money”, the expression “any immovable or movable property including goods in stock and capital assets of the business or otherwise and/or” shall be inserted.

13. Amendment of section 89.— In section 89 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:-

“(3) Notwithstanding anything contained in this Act, rules or notifications framed or issued thereunder, the Government may, by notification in the Official Gazette, frame Scheme for allowing concession in tax payable under this Act, to new units, on commencing their production, on such terms and conditions as it may deem fit.”

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STATEMENT OF OBJECTS AND REASONS

The Bill seeks to insert a new sub-section (9) to section 3 of the Goa Value Added Tax Act, 2005 (Goa Act 9 of 2005) (hereinafter referred to as the “said Act”), so as to provide that the persons organizing or conducting exhibitions for sale of goods shall be liable to pay tax on all taxable sales effected therein.

The Bill further seeks to substitute sub-section (6) of section 9 of the said Act with a new sub-section so as to make provision relating to input tax credit more effective and also to allow the input tax credit on capital goods.

The Bill also seeks to amend section 10 of the said Act by inserting an explanation after sub-section (4), to defer the input tax credit on the closing stock at the end of the financial year, for fair assessment of tax payable and control on claim of refund for excess Input Tax Credit.

The Bill also seeks to amend sub-section (3) of section 11 of the said Act so as to provide that a bill or memorandum shall be issued on tax collected for every sale involving an amount not less than Rs. 250/-.

The Bill also seeks to amend sub-section (3) of section 12 of the said Act so as to revise the procedure of issue of debit note against return of goods to the seller; by allowing selling dealer to issue an acknowledgement for having received the goods from the purchaser.

The Bill also seeks to insert sub-section (9) to section 18 of the said Act so as to provide that any person intending to organize or conduct

exhibition either for sale of goods or for promoting goods for sale, shall apply for registration under this Act.

The Bill also seeks to amend section 23 of the said Act so as to enable the Commissioner to collect from the registered dealer a copy of the card containing Permanent Account Number (PAN) to incorporate details thereof in the registration certificate and also to make provision requiring to furnish Permanent Account Number alongwith the application, for new registration.

The Bill also seeks to amend sub-section (4) of section 25 of the said Act so as to allow remission of the whole or any part of penalty or interest payable under the said Act.

The Bill also seeks to amend sub-section (1) of section 28 of the said Act so as to enhance the rate of tax deducted at source from existing 1% to 2%.

The Bill also seeks to amend sub-section (2) of section 29 of the said Act so as to allow to carry out assessment of cases claiming refund of excess Input Tax Credit.

The Bill also seeks to amend section 65 of the said Act so as to strengthen the provisions relating to recovery of amount due by allowing attachment of moveable and immoveable property.

The Bill also seeks to insert sub-section (3) to section 89 of the said Act so as to empower the Government to frame a scheme to allow tax concessions to new industries set up in the State.

The Bill seeks to achieve the above objects.

FINANCIAL MEMORANDUM

No financial implications are involved in this Bill.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Government to frame rules specifying the particulars of transactions which debit note shall contain.

Clause 7 of the Bill empowers the Government to frame rules to specify the form of application to be made for registration of persons intending to organize or conduct exhibitions and to specify security deposit for such registration.

Clause 9 of the Bill empowers the Government to frame rules subject to which remission of interest and/or penalty payable by the dealer/ /person shall be decided by the Commissioner.

Clause 13 of the Bill empowers the Government to frame a scheme for allowing concession in tax, payable under the Act, to new industrial units.

These delegations are of normal character.

Assembly Hall,
Porvorim, Goa.
29.01, 2011.

Shri Digambar V. Kamat
Hon. Chief Minister/
/Finance Minister

Assembly Hall,
Porvorim, Goa.
29.01, 2011.

J. N. Braganza
Secretary to the Legislative
Assembly of Goa

**Governor's Recommendation under Article
207 of the Constitution of India**

In pursuance of Article 207 of the Constitution of India, I, Dr. Shivinder Singh Sidhu, Governor of Goa, hereby recommend the introduction and consideration of the Goa Value Added Tax (Fifth Amendment) Bill, 2011, by the Legislative Assembly of Goa.

RAJ BHAVAN
Date: 24/ 01/2011.

Dr. Shivinder Singh Sidhu
Governor of Goa

ANNEXURE

**Extract of the Goa Value Added Tax Act, 2005
(Act 9 of 2005)**

3. INCIDENCE OF TAX.—

(1) Every dealer, whose turnover of all sales made during—

(i) the year ending on the 31st day of March of the year preceding the year in which this Act is enforced; or

(ii) the year commencing on the 1st day of April of the year during which this Act is enforced;

has exceeded or exceeds the relevant limit specified in sub-section (4), of this section shall until such liability ceases under sub-section (3), be liable to pay tax under this Act on his turnover of sales, made, on or after the appointed day:

Provided that, a dealer to whom clause (i) of sub-section (1) does not apply but clause (ii) applies and whose turnover of all sales first exceeds the relevant limit specified in sub-section (4) of this section after the appointed day shall not be liable to pay tax in respect of sales which take place upto the time when his turnover of sales, as computed from the first day of the year during which this Act is enforced, does not exceed the relevant limit applicable to him under sub-section (4).

(2) Every dealer whose turnover, of all sales made, during any year commencing on the first day of the year, being a year subsequent to the years mentioned in sub-section (1), first exceeds the relevant limit specified in sub-section (4), shall, until such liability ceases under

sub-section (3), be liable to pay tax under this Act with effect from the said date:

Provided that, a dealer shall not be liable to pay tax in respect of such sales as take place during the period commencing on the first day of the said year upto the time when his turnover of sales does not exceed the relevant limit applicable to him under sub-section (4).

(3) Every dealer who has become liable to pay tax under this Act, shall continue to be so liable until his registration is duly cancelled; and upon such cancellation his liability to pay tax, shall cease other than tax, already levied or leviable:

Provided that, if the dealer becomes liable to pay tax again in the same year in which he ceased to be liable as aforesaid, then in respect of such sales as take place during the period commencing on the date of the cessation of liability to tax and upto the time when his turnover of sales does not exceed the relevant limit applicable to him under sub-section (4), no tax shall be payable by him.

(4) For the purposes of this section, the limits of turnover shall be as follows—

(i) Limit of turnover of Rs. 10,000/-	In case of Non-resident dealer and casual trader.
(ii) Limit of turnover of Rs. 1,00,000/-	In case of importer/ manufacturer.
(iii) Limit of turnover of Rs. 5,00,000/-	In any other case.

(5) For the purpose of calculating the limit of turnover for liability to tax,—

(a) except as otherwise expressly provided, the turnover of all sales shall be taken, whether such sales are taxable or not or of taxable goods or not;

(b) the turnover shall include all sales made by the dealer on his own account, and also on behalf of his principals whether disclosed or not;

(c) in the case of an auctioneer, in addition to the turnover, if any, referred to in clauses (a) and (b), the turnover shall also include the price of the goods auctioned by him for his principal, whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of the principal, if the price of such goods is received by him on behalf of his principal;

(d) in the case of a manager or agent of a non-resident dealer, in addition to the turnover, if any, referred to in clauses (a), (b) or (c), the turnover shall also include the sales of the non-resident dealer effected in the State.

(6) Notwithstanding anything contained in any contract or any law for the time being in force, but subject to the provisions of this Act, any person covered by sub-clauses (a), (b) and (c) of clause (k) of section 2 shall be liable to pay tax under this Act, whether or not the principal is a dealer and whether or not such principal is liable to pay tax under this section and whether or not the principals are disclosed.

(7) Liability of dealers registered under the Central Sales Tax Act, 1956 (Central Act 74 of 1956).—

Every dealer shall, notwithstanding that he is not liable to pay tax under any of sub-sections (1) to (3) of section 3, be liable to pay tax under this Act so long as he is registered under the Central Sales Tax Act, 1956 (Central Act 74 of 1956), on all sales effected by him or on his behalf within Goa, on or after the date of his liability or the date of his registration, whichever is earlier, under the Central Sales Tax Act, 1956 (Central Act 74 of 1956):

Provided that no tax shall be payable in respect of sales in any period prior to commencement of liability under this Act.

(8) Liability of exporters and dealers effecting stock transfers outside the State:-

Every dealer exporting any goods outside India or effecting stock transfers to any States and Union Territories within India, shall, notwithstanding that he is not liable to pay tax under any of sub-sections (1) to (3) of section 3, be liable to pay tax under this Act on all taxable sales effected within the State.

9. INPUT TAX CREDIT.—

(1) Subject to such conditions and restrictions as may be prescribed Input Tax Credit either partially or wholly shall be allowed for the tax paid during the tax period in respect of goods including capital goods purchased and/or taken on hire or leased to him within Goa, other than those specified in Schedule 'G' and/or such other goods as may be notified from time to time by the Government, provided, the goods purchased are for resale in Goa or for sale in course of Inter State Trade or in course of export outside the territory of India or used by him as raw materials/capital goods in the manufacture or processing of taxable goods in Goa or for sale by transfer of right to use.

(2) No input tax credit under sub-section (1) shall be claimed or be allowed to a registered dealer:-

(i) in respect of goods purchased on payment of tax if such goods are not sold because of theft or destruction for any reason;

(ii) in respect of stock of goods remaining unsold at the time of closure of business;

(iii) in respect of any taxable goods under the Act purchased by him from another registered dealer for resale but given away by way of free samples or gifts;

(iv) in respect of capital goods/industrial inputs and packing materials, covered under Schedule 'B' of the Act, if said goods are utilized for the purposes other than those covered in the prescribed declaration;

(v) in respect of goods purchased from a dealer who has opted for composition of tax under sub-section (1) of section 7;

(vi) in respect of capital goods or capital assets:-

(a) purchased or paid prior to appointed day;

(b) capital expenditure incurred prior to the date of registration under this Act;

(c) capital goods not connected with the business of the dealer;

(d) capital goods used in the manufacture of goods or providing services which are not liable to tax under this Act;

(e) capital goods used in generation of energy/power including captive power;

(f) motor cars, its accessories and spare parts.

(vii) in respect of taxable goods sold within the State or in the course of inter-State trade or commerce within the meaning of section 3 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956), exempted from payment of tax under any specific notification issued under this Act or under the said Central Sales Tax Act, 1956;

(viii) in respect of goods used in the manufacture or processing of finished goods dispatched other than by way of sales outside the State.

(ix) in respect of purchase of motor vehicle including car, three wheeler and two wheeler under

this Act or tax paid under the Goa Tax on Entry of Goods Act, 2000 (Act 14 of 2000) on import of such motor vehicle before grant of registration mark under the Motor Vehicles Act, 1988 (Central Act 58 of 1988), when such vehicle is resold as true value vehicle or otherwise by a registered dealer under this Act;

(x) in respect of raw material used in the manufacture of ready mixed concrete;

(xi) in respect of naptha and furnace oil used either as raw material or fuel by chemical fertilizer industry.

(xii) ice cream, alcoholic beverages including beer and wine and non-alcoholic beverages including packed juices, aerated water and soft drinks served in party, factory or industrial canteens, clubs, or served by caterer, for consumption at any place other than hotel/restaurant;

(xiii) condemned vehicles.

(3) If goods purchased are intended for use specified under sub-section (1) and are subsequently used fully or partly, for purposes other than those specified under the said sub-section, or loss of goods arising out of theft or destruction for any reason or the stock of goods remaining unsold at the time of closure of business, the input tax credit availed at the time of such purchase shall be reduced from the tax credit for the period during which the said utilization has taken place provided that if part of the goods purchased are utilized otherwise, the amount of reverse tax credit shall be proportionately calculated.

(4) Input tax credit shall be allowed to the registered dealer, subject to restrictions of sub-section (2), in respect of tax charged to him by a registered seller on taxable sales of goods made to him for the purpose of the business within three months prior to the date of his registration provided that no input tax credit shall be

allowed in respect of goods which have been sold or otherwise disposed of prior to the date of registration.

(5) (a) where a registered dealer has availed of the input credit on any goods and the same goods are not used in the course of his business, input tax credit so availed becomes repayable in the tax period following the date on which these goods were put to such other use;

(b) where such goods were wholly or mainly used or are intended for use in sale of taxable goods prior to change of use, tax shall be calculated on the prevailing market value of such goods at the time of change of use.

(6) A registered dealer shall be eligible for input tax credit in respect of entry tax paid by him under the Goa Tax on Entry of Goods Act, 2000 (Act 14 of 2000) on goods other than those covered by Schedule 'G' and capital goods, brought by him in the local area for use or consumption in the manufacture or processing of goods within the State:

Provided that in respect of finished products dispatched by way other than sales, the input tax credit on goods other than those covered by Schedule 'G' and capital goods shall be to the extent it exceeds the rate specified under sub-section (1) of section 8 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956).

(7) Balance unclaimed input tax credit of capital goods shall not be allowed in case of closure of business.

(8) The registered dealer shall be eligible for input tax credit on stock held on the appointed day, towards the tax paid under the earlier law subject to such conditions as may be prescribed. The period and the date from which such input tax credit is to be apportioned shall be as notified.

(9) The deduction of input tax credit on capital goods under this section shall be allowed in two equal annual instalments after the close of the respective year as under:

- (i) in case of existing units, upon installation of such capital goods, and
- (ii) in case of new units, upon commencement of commercial production.

10. INPUT TAX CREDIT EXCEEDING TAX LIABILITY.—

(1) Subject to the provisions of sub-section (2), if the input tax credit of a registered dealer, determined under section 9 of this Act for a period exceeds the tax liability for that period, the excess credit shall be set off against any outstanding tax, penalty or interest under this Act or earlier law or under the Goa Tax on Entry of Goods Act, 2000 (Act 14 of 2000) or under the Central Sales Tax Act, 1956 (Central Act 74 of 1956).

(2) After adjustment under sub-section (1), the excess input tax credit of a registered dealer other than those covered under sub-section (3) shall be carried over as an input tax credit to the subsequent period upto the end of the respective financial year and if there is any unadjusted input tax credit thereof, the same shall be refunded in the prescribed manner within three months, from the date of filing of the last quarterly return of the respective financial year or from the date of filing an application by the dealer claiming such refund, whichever is later.

(3) In case of exporter selling goods outside the territory of India, the excess input tax credit, if any, admissible as per provision of this Act, proportionate to the goods exported and carried over at the end of any quarter shall be refunded in the prescribed manner within 3 months from the date of filing of application claiming the refund.

(4) Notwithstanding anything contained in sub-section (2), the Government may allow, carry forward of excess input tax credit, if any, to such shorter period and grant refund of unadjusted portion thereof in respect of such goods to such registered dealer on such conditions and at such proportion as may be specified by the Notification in the Official Gazette.

11. TAX INVOICE, SALE BILL OR CASH MEMORANDUM.—

(1) A registered dealer making taxable sale to another registered dealer shall provide registered dealer, at the time of sale, with an original tax invoice (as described in Schedule 'F' hereto) for the sale and shall retain one copy thereof.

(2) An original tax invoice should not be provided to a registered dealer in any circumstances other than those specified in sub-section (1), but a copy marked as duplicate may be provided if such registered dealer receiving the original invoice so request for the reason that the original has been lost. A statement showing the details of such duplicate invoices issued shall be submitted alongwith the returns provided under section 24.

(3) Every taxable person other than one covered by sub-section (1) shall issue a bill or cash memorandum in such form and with such details, of tax collected, if any, as may be prescribed, for every sale involving an amount not less than Rs.100/-:

Provided, however, that when sale price for sale in any one transaction is below Rs.100/-, the taxable person may, except when demanded by a customer, refrain from issuing a sale bill or cash memorandum as aforesaid but shall instead prepare a consolidate sale bill or cash memorandum at the close of the day in respect of such sales by recording them separately as and when they are effected.

12. CREDIT AND DEBIT NOTES.—

(1) Where a tax invoice has been issued and the amount shown as tax charged in that tax invoice exceeds the tax properly chargeable in respect of the sale, the taxable person making the sale shall provide the recipient of the sale with a credit note containing the requisite particulars as specified in Schedule F hereto.

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

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

Provided that no such credit note or/and debit note shall be considered for grant of input tax credit if the goods are returned or rejected beyond the period of six months.

18. REGISTRATION.—

(1) No dealer shall, while being liable to pay tax under section 3 or under sub-section (6) of section 19, be engaged in 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 in this section provided, within the prescribed time or, as the case may be, within the period specified in sub-section (6) of section 19, while he is engaged in such business.

(2) Every dealer, required by sub-section (1) to possess a certificate of registration, shall apply in the prescribed manner, to the Commissioner.

(3) A person or a dealer who intends to be engaged in business, but is not liable to pay tax under the provisions of this Act may, if he so desires, apply in the prescribed manner under this sub-section for the grant of certificate of registration to the Commissioner and if the certificate is granted, then so long as it is not duly cancelled, the person or dealer shall remain liable to pay tax:

Provided that if the person or dealer to whom such certificate of registration is granted becomes liable to pay tax under any other provisions of the Act, then the certificate of registration so granted shall cease to be valid unless amended after payment of prescribed fee.

(4) Certificate of registration and its renewal shall not be granted to a dealer unless he has deposited in Government treasury prescribed fee in the prescribed manner and within the prescribed time.

(5) The Commissioner may conduct such inquiry as he deems fit and may call for such evidence and information as he may deem necessary and after the inquiry, if any, and after considering the evidence and information, if any, he is satisfied that the application for registration made under this section is in order, he shall register the applicant and issue to him a certificate of registration in the prescribed form:

Provided that if the Commissioner is satisfied that the particulars contained in the application are not correct or complete or that any evidence or information prescribed for registering the applicant is not furnished, the Commissioner may, after giving the applicant a

reasonable opportunity of being heard, reject the application for reasons to be recorded in writing.

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

(7) If a person or a dealer upon an application made by him has been registered under this section and thereafter it is found that he ought not to have been so registered under the provisions of this section, he shall be liable to pay tax during the period from the date on which his registration certificate took effect until it is cancelled, notwithstanding that he may not be liable to pay tax under this Act.

(8) Where,—

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

(b) the turnover of sales of a registered dealer has during any year not exceeded the relevant limit specified in sub-section (4) of section 3,—

then, in the case covered by clause (a), the dealer shall apply in the prescribed manner and within the prescribed time for cancellation of his registration to the Commissioner, and in the case covered by clause (b), the dealer may apply in the prescribed manner for cancellation of his registration to the Commissioner; and thereupon the Commissioner may, after such inquiry as he deems fit and subject to rules framed, cancel the registration with effect from such date including any date earlier to the date of the order of cancellation as he considers fit having regard to the circumstances of the case.

23. DEALER TO DECLARE THE NAME OF THE MANAGER OF BUSINESS AND PERMANENT ACCOUNT NUMBER.—

(1) Every dealer, who is liable to pay tax, and who is a Hindu undivided family, or an association of persons, club or society or firm or company, or who is engaged in business as the guardian or trustee or otherwise on behalf of another person, shall, within the period prescribed send to the authority prescribed, 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 such dealer's business for the purposes of this Act. Such declaration may be revised from time to time.

(2) Every dealer liable to pay tax under this Act and who is liable to obtain a Permanent Account Number under the Income Tax Act, 1961(Central Act 43 of 1961), shall communicate within the prescribed time and in prescribed manner to the prescribed authority, the said number if he has obtained the same and in any other case shall state whether he has applied for the same.

25. PAYMENT OF TAX, ETC.—

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

(2) A registered dealer furnishing returns as required by sub-section (2) of section 24 shall pay into the Government treasury or any Bank so notified by the Government, in such manner and at such intervals as may be prescribed, the amount of tax due from him after adjusting the amount of tax covered by the Certificate of Tax Deduction at Source, if any, for the period covered by a return which he is required to file under the rules alongwith the amount of penalty, interest and any other sum payable by him.

(3) A registered dealer furnishing a revised return in

accordance with sub-section (3) of section 24, which shows a larger amount of tax payable than already paid, shall first pay into the Government treasury or notified Bank, the differential amount of tax.

(4) (a) The amount of tax due where the return or revised return has been furnished without full payment thereof shall be paid forthwith alongwith interest on defaulted amount @ 12% per annum or at such higher or lower rate as the Government may notify from time to time.

(b) (i) The amount of tax due as per any order passed under any provision of this Act, for any period less any sum already paid in respect of the said period; and

(ii) the amount of interest or penalty or both, if any, levied under any provision of this Act; and

(iii) the sum, if any, forfeited and the amount of fine, if any, imposed under the Act or rules; and

(iv) any other amount due under this Act,

shall be paid by the person or dealer or the person liable thereof into the Government treasury or notified Bank within thirty days from the date of service of the notice issued by the Commissioner in respect thereof:

Provided that, the Commissioner may, in respect of any particular dealer or person, and for reasons to be recorded in writing, allow him to pay the tax, penalty, interest or the sum forfeited, in instalments. The grant of this facility to pay tax in instalments shall be without prejudice to the other provisions of this Act including levy of penalty, interest, or both.

(5) Any tax, penalty, interest, fine or sum forfeited, which remains unpaid after the service of notice under

sub-section (4), or any instalment not duly paid, shall be recoverable as an arrear of land revenue.

28. TAX DEDUCTION AT SOURCE.—

(1) Notwithstanding anything contained in this Act, any employer namely, the Central Government, the State Government, or an industrial, or a commercial or trading undertaking of the Central Government or of the State Government, any Company registered under the Companies Act, 1956, any local authority or any dealer registered under this Act or such other persons as may be notified shall deduct tax from, and out of the amounts payable by such employer to a dealer to whom a Works Contract has been awarded involving transfer of property in goods (whether as goods or in some other form), at the rate of 1% on the value of the Works Contract undertaken by such dealer which shall be deemed to be on account of transfer of property in goods in the execution of such Works Contract:

Provided that, no such deduction shall be made where the amount or the aggregate of the amount payable to a dealer by such employer is less than one lakh rupees during a year or when the cost of material used in execution of the works contract is less than 10% of the contract value.

Explanation: (i) The deduction of tax under this section shall be effected when the payment is made to the contractor or his account is credited towards such payment, as the case may be.

(ii) The employer effecting such deduction shall be deemed to be a dealer for the purposes of this section and shall get himself registered in the manner as prescribed.

(2) The tax deducted under sub-section (1) shall be remitted to the Government Treasury in the prescribed manner and within the prescribed time by the said employer making such deduction:

Provided that the employer shall remit into the Government Treasury the full amount of tax due and deductible by him under sub-section (1) from the dealer irrespective of the actual amount of tax deducted by him from such dealer.

(3) Any such employer making such deduction under sub-section (1) shall in respect of every quarter in which such deduction is made, send to the prescribed authority the receipt from Government treasury showing the payment of such amount deducted alongwith a statement in the prescribed form containing details of the Works Contract under execution and tax deducted thereon, within the prescribed time, and shall furnish a certificate in the prescribed form to the dealer specifying the amount so deducted and such other particulars as may be prescribed.

(4) Any such employer who remits the tax into the Government Treasury under sub-section (2) shall be deemed to have made payment of tax under the authority of the said dealer.

(5) If any such employer fails to remit into the Government Treasury the amount due and deductible as required by sub -section (2) within the specified time, the Assessing Authority, on being satisfied that the said employer has failed to discharge the liability under sub-section (2), shall levy and recover from the employer interest at the rate of 15% per annum or at such rate as the Government may notify from time to time, on the amount due and deductible, by an order in writing directing such employer to pay the interest in addition to such amount.

(6) (a) No such deduction shall be made under sub-section (1) in respect of such dealers, as may be notified by the Commissioner from time to time;

(b) subject to the conditions and the circumstances as may be prescribed, the Commissioner may certify,

on an application made by any registered dealer, that no deduction or deduction at such lower rate as he may decide, shall be made in respect of such registered dealer.

(7) If any Works Contract for execution for the authorities specified in sub-section (1), involves only labour or services but does not involve transfer of property in goods and it is certified to be so by the Appropriate Assessing Authority or by the Assessing Authority of the area on an application made by any dealer, the provisions of sub-section (1) shall not apply and every such application shall be disposed off by the Assessing Authority within one month from the date of receipt, either by issue of certificate as aforesaid or by endorsement, intimating ineligibility to such a certificate to the dealer, as the case may be.

(8) Payment by way of deduction in accordance with the provisions of this section shall be without prejudice to any other mode of recovery of tax due under this Act from the dealer executing the Works Contract.

29. ASSESSMENT.—

(1) The returns submitted by the dealer shall be accepted as self-assessed:

Provided the Commissioner, as per the procedure prescribed, shall select upto twenty percent of the total number of such dealers or such percentage as may be notified by Government from time to time for detailed assessment:

Provided further when any dealer applies for cancellation of his registration certificate on the ground of closure or stoppage of his business, his last assessment shall be finalized on the basis of books of accounts and other records maintained by him after giving him an opportunity of being heard.

(2) Where —

- (a) a person fails to file a return as required by section 24; or
- (b) the Commissioner has reason to believe that the returns filed by a person are not correct and complete; or
- (c) the Commissioner has reasonable grounds to believe that a person will become liable to pay tax under this Act but is unlikely to pay the amount due,

the Commissioner may make an assessment of the amount of tax payable by the person to the best of his judgement after giving him an opportunity of being heard.

(3) No assessment under this section for any year shall be made after a period of two years from the end of the year to which the return under section 24 is submitted by a dealer and no assessment under sub-section (9) shall be made after the expiry of five years from the end of the year in respect of which or part of which such assessment is to be made:

Provided that where assessment is made in consequence of or to give effect to, any order of an Appellate Authority or Revisional Authority or of a Court, the said period of two years shall be reckoned from the date of such order:

Provided further that in computing the period laid down in this sub-section, any period during which assessment proceedings are stayed by an order or injunction of any Court or authority such period shall be excluded:

Provided also that the Commissioner may, if it is considered necessary by him so to do, by notification published in the Official Gazette, extend the period specified in this sub-section by a further period not exceeding one year.

(4) The Commissioner shall make an assessment of the amount that in his opinion, is the amount of tax payable under this Act, after making necessary enquiries and upon issue of notice on proposed assessment.

(5) The Commissioner shall serve a notice of the proposed assessment in the prescribed manner on the person to be assessed, which shall state —

- (a) either the tax payable or the net tax payable in the case of registered dealer and any refund that may be eligible to be claimed;

- (b) the time, place and manner of objecting to the proposed assessment; and

- (c) reasons for the assessment to be made.

(6) The Commissioner shall serve a notice on completion of assessment under this section and the dealer shall pay the balance of tax in accordance with the terms of that notice.

(7) An amended assessment shall be treated in all respects as an assessment under this section.

(8) No assessment or other proceedings purporting to be made, issued or executed under this Act, shall be —

- (a) quashed or deemed to be void or voidable for want of form; or

- (b) affected by reason of mistake, defect or omission therein, if it is in substance and effect, in conformity with this Act or the rules made thereunder and the person assessed, or intended to be assessed or affected by the document is designated in it according to common understanding.

(9) Where, the Commissioner has reason to believe that a dealer is liable to pay tax in respect of any period, but has failed to apply for registration or has failed to apply for registration within the time as required by or under this Act, the Commissioner shall proceed to assess, to the best of his judgement, wherever necessary, the amount of tax due from the dealer in respect of such period and all subsequent periods and, in making such assessment, he shall give the dealer reasonable opportunity of being heard; and if he is satisfied that the default is without reasonable cause, direct the dealer to pay by way of penalty, in addition to tax assessed, a sum not exceeding the amount of tax assessed.

65. PROVISIONAL ATTACHMENT TO PROTECT REVENUE IN CERTAIN CASES.—

(1) If, during the course of inquiry in any proceedings including proceedings related to recovery of any amount due, in respect of any person or dealer or during any inspection or search in relation to the business of any person or dealer under this Act, the Commissioner is of the opinion that for the purpose of protecting the interests of the revenue it is necessary so to do, then he may, notwithstanding anything contained in any law for the time being in force or any contract to the contrary, attach provisionally by notice in writing any money due or which may become due to such person or dealer from any other person or any money which any person holds or may subsequently hold for or on account of such person or dealer:

Provided that, the Commissioner may, by an order, revoke such notice if the dealer furnishes, to the Commissioner, in such time, such security, for such period, as may be specified in the order.

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of one year

from the date of service of the notice issued under sub-section (1):

Provided that, the Commissioner may, for reasons to be recorded in writing, extend the aforesaid period by such further period or periods as he may think fit, so however that, the total period of extension shall not in any case exceed two years.

(3) The powers under this section shall be exercised by the Commissioner himself or the Additional Commissioner having jurisdiction over the area under this Act.

(4) Where a notice under sub-section (1) is served upon any person provisionally attaching any money, then, such person shall be personally liable, so long as the attachment notice is not revoked or has not ceased to have effect, to pay to the Commissioner, the amount of money so attached.

89. THE GOA SALES TAX DEFERMENT-CUM-NET PRESENT VALUE COMPULSORY PAYMENT SCHEME, 2001.—

(1) Notwithstanding anything contained in this Act, Rules or Notifications, but subject to such conditions as the Government may by general or special order in Official Gazette, specify, where the dealer to whom the benefit under the Goa Sales Tax Deferment-cum-Net Present Value Compulsory Payment Scheme, 2003 has been granted and when respective Net Present Value as provided in the said Scheme has been deposited in accordance with the provision of this Act or earlier law or rules made thereunder, the balance amount of net tax payable/output tax payable, shall be deemed to have been paid.

(2) The Government may modify the Goa Sales Tax Deferment-cum-Net Present Value Compulsory Payment Scheme, 2003 or replace it by a new scheme as the circumstances may require and in that eventuality of modifying or replacing the said scheme, the benefit conferred on the eligible unit shall continue unless such eligible unit opt to be out of the Scheme.