

## CHAPTER III

### INTER-STATE SALES TAX

#### 1. Liability to tax on inter-State sales.—

<sup>3</sup>[(1)] Subject to the other provisions contained in this Act, every dealer shall, with effect from such date<sup>4</sup> as the Central Government may, by notification in the Official Gazette, appoint, not being earlier than thirty days from the date of such notification, be liable to pay tax under this Act on all sales<sup>5</sup>[of goods other than electrical energy] effected by him in the course of inter-State trade or commerce during any year on and from the date so notified:

<sup>6</sup>[Provided that a dealer shall not be liable to pay tax under this Act on any sale of goods which, in accordance with the provisions of sub-section (3) of section 5 is a sale in the course of export of those goods out of the territory of India.]

<sup>1</sup>[(1A) A dealer shall be liable to pay tax under this Act on a sale of any goods effected by him in the course of inter-State trade or commerce notwithstanding that no tax would have been leviable (whether on the seller or the purchaser) under the sales tax law of the appropriate State if that sale had taken place inside that State.]

<sup>2</sup>[(2) Notwithstanding anything contained in sub-section (1) or sub-section (1A), where a sale of any goods in the course of inter-State trade or commerce has either occasioned the movement of such goods from one State to another or has been effected by a transfer of documents of title to such goods during their movement from one State to another, any subsequent sale during such movement effected by a transfer of documents of title to such goods to a registered dealer, if the goods are of the description referred to in sub-section (3) of section 8, shall be exempt from tax under this Act:

Provided that no such subsequent sale shall be exempt from tax under this subsection unless the dealer effecting the sale furnishes to the prescribed authority in the prescribed manner and within the prescribed time or within such further time as that authority may, for sufficient cause, permit,—

- (a) a certificate duly filled and signed by the registered dealer from whom the goods were purchased containing the prescribed particulars in a prescribed form obtained from the prescribed authority; and
- (b) if the subsequent sale is made to a registered dealer, a declaration referred to in sub-section (4) of section 8:

Provided further that it shall not be necessary to furnish the declaration referred to in clause (b) of the preceding proviso in respect of a subsequent sale of goods if,—

- (a) the sale or purchase of such goods is, under the sales tax law of the appropriate State exempt from tax generally or is subject to tax generally at a rate which is lower than three percent, or such reduced rate as may be notified by the Central Government, by notification in the Official Gazette, under sub-section (1) of section 8 (whether called a tax or fee or by any other name); and
- (b) the dealer effecting such subsequent sale proves to the satisfaction of the authority referred to in the preceding proviso that such sale is of the nature referred to in this sub-section.]

<sup>3</sup>[(3) Notwithstanding anything contained in this Act, no tax under this Act shall be payable by any dealer in respect of sale of any goods made by such dealer, in the course of inter-State trade or commerce, to any official, personnel, consular or diplomatic agent of—

- (i) any foreign diplomatic mission or consulate in India; or
- (ii) the United Nations or any other similar international body,

entitled to privileges under any convention or agreement to which India is a party or under any law for the time being in force, if such official, personnel, consular or diplomatic agent, as the case may be, has purchased such goods for himself or for the purposes of such mission, consulate, United Nations or other body.

(4) The provisions of sub-section (3) shall not apply to the sale of goods made in the course of inter-State trade or commerce unless the dealer selling such goods furnishes to the prescribed authority a certificate in the prescribed manner on the prescribed form duly filled and signed by the official, personnel, consular or diplomatic agent, as the case may be.]

<sup>4</sup>[(6A) Burden of proof, etc., in case of transfer of goods claimed otherwise than by way of sale.—

- (1) Where any dealer claims that he is not liable to pay tax under this Act, in respect of any goods, on the ground that the movement of such goods from one State to another was occasioned by reason of transfer of such goods by him to any other place of his business or to his agent or principal, as the case may be, and not by reason of sale, the burden of proving that the movement of those goods was so occasioned shall be on that dealer and for this purpose he may furnish to the assessing authority, within the prescribed time or within such further time as that authority may, for sufficient cause, permit, a declaration,

duly filled and signed by the principal officer of the other place of business, or his agent or principal, as the case may be, containing the prescribed particulars in the prescribed form obtained from the prescribed authority, along with the evidence of despatch of such goods <sup>1</sup>[and if the dealer fails to furnish such declaration, then, the

movement of such goods shall be deemed for all purposes of this Act to have been occasioned as a result of sale].

- (2) If the assessing authority is satisfied after making such inquiry as he may deem necessary that the particulars contained in the declaration furnished by a dealer under sub-section (1) are true he may, at the time of, or at any time before, the assessment of the tax payable by the dealer under this Act, make an order to that effect and thereupon the movement of goods to which the declaration related shall be deemed for the purpose of this Act to have been occasioned otherwise than as a result of sale.

**Explanation** — In this section, "assessing authority", in relation to a dealer, means the authority for the time being competent to assess the tax payable by the dealer under this Act.]

## 2. Registration of dealers.—

- (1) Every dealer liable to pay tax under this Act shall, within such time as may be prescribed for the purpose, make an application for registration under this Act to such authority in the appropriate State as the Central Government may, by general or special order, specify, and every such application shall contain such particulars as may be prescribed.

- <sup>2</sup>[(2) Any dealer liable to pay tax under the sales tax law of the appropriate State, or where there is no such law in force in the appropriate State or any part thereof, any dealer having a place of business in that State or part, as the case may be, may, notwithstanding that he is not liable to pay tax under this Act, apply for registration under this Act to the authority referred to in sub-section (1), and every such application shall contain such particulars as may be prescribed.

**Explanation** — For the purposes of this sub-section, a dealer shall be deemed to be liable to pay tax under the sales tax law of the appropriate State notwithstanding that under such law a sale or purchase made by him is exempt from tax or a refund or rebate of tax is admissible in respect thereof.]

- <sup>3</sup>[(2A) Where it appears necessary to the authority to whom an application is made under sub-section

(1) or sub-section (2) so to do for the proper realisation of the tax payable under this Act or for the proper custody and use of the forms referred to in clause (a) of the first proviso to sub-section (2) of section 6 or subsection (1) of section 6A or <sup>4</sup>[sub-section (4) of section 8], he may, by an order in writing and for reasons to be recorded therein, impose as a condition for the issue of a certificate of registration a requirement that the dealer shall furnish in the prescribed manner and within such time as may be specified in the order such security as may be so specified, for all or any of the aforesaid purposes.]

- (3) If the authority to whom an application under sub-section (1) or subsection (2) is made is satisfied that the application is in conformity with the

provisions of this Act and the rules made thereunder 3[and the condition, if any, imposed under sub-section (2A), has been complied with] he shall register the applicant and grant to him a certificate of registration in the prescribed form which shall specify the class or classes of goods for the purposes of sub-section (1) of section 8.

<sup>5</sup>[(3A) Where it appears necessary to the authority granting a certificate of registration under this section so to do for the proper realisation of tax payable under this Act or for the proper custody and use of the forms referred to in subsection (3A), he may, at any time while such certificate is in force, by an order in writing and for reasons to be recorded therein, require the dealer, to whom the certificate has been granted, to furnish within such time as may be specified in the order and in the prescribed manner such security, or, if the dealer has already furnished any security in pursuance of an order under this sub-section or subsection (2A), such additional security, as may be specified in the order, for all or any of the aforesaid purposes.]

<sup>6</sup>[(3B) No dealer shall be required to furnish any security and sub-section (2A) or any security or additional security under sub-section (3A) unless he has been given an opportunity of being heard.

(3BB) The amount of security which a dealer may be required to furnish under sub-section (2A) or sub-section (3A) or the aggregate of the amount of such security and the amount of additional security which he may be required to furnish under sub-section (3A), by the authority referred to therein shall not exceed—

(a) in the case of a dealer other than a dealer who has made an application, or who has been registered in pursuance of an application, under sub-section (2), a sum equal to the tax payable under this Act, in accordance with the estimate of such authority, on the turnover of such dealer for the year in which such security or, as the case may be, additional security is required to be furnished; and

(b) in the case of a dealer who has made an application, or who has been registered in pursuance of an application, under sub-section (2), a sum equal to the tax leviable under this Act, in accordance with the estimate of such authority on the sales to such dealer in the course of inter-State trade or commerce in the year in which such security or, as the case may be additional security is required to be furnished, had such dealer been not registered under this Act.]

(3C) Where the security furnished by a dealer under sub-section (2A) or sub-section (3A) is in the form of a surety bond and the surety becomes insolvent or dies, the dealer shall, within thirty days of the occurrence of any of the aforesaid events, inform the authority granting the certificate of registration and shall within ninety days of such occurrence furnish a fresh surety bond or furnish in the prescribed manner other security for the amount of the bond.

(3D) The authority granting the certificate of registration may by order and for good and sufficient cause forfeit the whole or any part of the security furnished by a dealer,—

- (a) for realising any amount of tax or penalty payable by the dealer;
- (b) if the dealer is found to have misused any of the forms: referred to in sub-section (2A) to have failed to keep them in proper custody:

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

(3E) Where by reason of an order under sub-section (3D), the security furnished by any dealer is rendered insufficient, he shall make up the deficiency in such manner and within such time as may be prescribed.

(3F) The authority issuing the forms referred to in sub-section (2A) may refuse to issue such forms to a dealer who has failed to comply with an order under that sub-section or sub-section (3A), or with the provisions of sub-section (3C) or sub-section (3E), until the dealer has complied with such order or such provisions, as the case may be.

(3G) The authority granting a certificate of registration may, on application by the dealer to whom it has been granted, order the refund of any amount or part thereof deposited by the dealer by way of security under this section, if it is not required for the purposes of this Act.

(3H) Any person aggrieved by an order passed under sub-section (2A), subsection (3A), sub-section (3D) or sub-section (3G) may, within thirty days of the service of the order on him, but after furnishing the security, prefer, in such form and manner as may be prescribed, an appeal against such order to such authority (hereinafter this section referred to as the "appellate authority") as may be prescribed:

Provided that the appellate authority may, for sufficient cause, permit such person to present the appeal—

- (a) after the expiry of the said period of thirty days; or
- (b) without furnishing the whole or any part of such security.

(3I) The procedure to be followed in hearing any appeal under sub-section (3H), and the fees payable in respect of such appeals shall be such as may be prescribed.

(3J) The order passed by the appellate authority in any appeal under subsection (3H) shall be final.]

<sup>1</sup>[(4) A certificate of registration granted under this section may—

- (a) either on the application of the dealer to whom it has been granted or, where no such application has been made, after due notice to the dealer, be amended by the authority granting it if he is satisfied that by reason of the registered dealer

having changed the name, place or nature of his business or the class or classes of goods in which he carries on business or for any other reason the certificate of registration granted to him requires to be amended; or

- (b) be cancelled by the authority granting it where he is satisfied, after due notice to the dealer to whom it has been granted, that he has ceased to carry on business <sup>1</sup>[or has ceased to exist or has failed without sufficient cause, to comply with an order under sub-section (3A) or with the provisions of sub-section (3C) or sub-section (3E) or has failed to pay any tax or penalty payable under this Act], or in the case of a dealer registered under sub-section (2) has ceased to be liable to pay tax under the sales tax law of the appropriate State or for any other sufficient reason.]
- (5) A registered dealer may apply in the prescribed manner not later than six months before the end of a year to the authority which granted his certificate of registration for the cancellation of such registration, and the authority shall, unless the dealer is liable to pay tax under this Act, cancel the registration accordingly, and where he does so, the cancellation shall take effect from the end of the year.

**3. Rates of tax on sales in the course of inter-State trade or commerce.—**

<sup>2</sup>[(1) Every dealer, who in the course of inter-State trade or commerce, sells to a registered dealer goods of the description referred to in sub-section (3), shall be liable to pay tax under this Act, which shall be three percent, of his turnover or at the rate applicable to the sale or purchase of such goods inside the appropriate State under the sales tax law of that State, whichever is lower:

Provided that the Central Government may, by notification in the Official Gazette, reduce the rate of tax under this sub-section.

- (2) The tax payable by any dealer on his turnover in so far as the turnover or any part thereof relates to the sale of goods in the course of inter-State trade or commerce not falling within sub-section (1), shall be at the rate applicable to the sale or purchase of such goods inside the appropriate State under the sales tax law of that State.

**Explanation—** For the purposes of this sub-section, a dealer shall be deemed to be a dealer liable to pay tax under the sales tax law of the appropriate State, notwithstanding that he, in fact, may not be so liable under that law.];

(2A) <sup>3</sup>[\*\*\*]

(3) <sup>4</sup>[The goods referred to in sub-

section (1)] (a) <sup>5</sup>[\*\*\*]

- (b) <sup>6</sup>[\*\*\*] are goods of the class or classes specified in the certificate of registration of the registered dealer purchasing the goods as being intended for re-sale by him or subject to any rules made by the Central Government in this behalf, for use by him in the manufacture or processing of goods for sale or <sup>7</sup>[in the tele-communications network or] in mining or in the generation or distribution of electricity or any other form of power;
- (c) are containers or other materials specified in the certificate of registration of the registered dealer purchasing the goods, being containers or materials intended for being used for the packing of goods for sale;
- (d) are containers or other materials used for the packing of any goods or classes of goods specified in the certificate of registration referred to in <sup>8</sup>[\*\*\*] clause (b) or for the packing of any containers or other materials specified in the certificate of registration referred to in clause (c).

<sup>9</sup>[(4) The provisions of sub-section (1) shall not apply to any sale in the course of inter-State trade or commerce unless the dealer selling the goods furnishes to the prescribed authority in the

prescribed manner a declaration duly filled and signed by the registered dealer to whom the goods are sold containing the prescribed particulars in a prescribed form obtained from the prescribed authority:

Provided that the declaration is furnished within the prescribed time or within such further time as that authority may, for sufficient cause, permit.]

<sup>1</sup>[(5) Notwithstanding anything contained in this section, the State Government may <sup>2</sup>[on the fulfillment of the requirements laid down in sub-section (4) by the dealer] if it is satisfied that it is necessary so to do in the public interest, by notification in the Official Gazette and subject to such conditions as may be specified therein direct,—

- (a) that no tax under this Act shall be payable by any dealer having his place of business in the State in respect of the sales by him, in the course of inter-State trade or commerce, <sup>3</sup>[to a registered dealer <sup>4</sup>[\*\*\*]] from any such place of business of any such goods or classes of goods as may be specified in the notification, or that the tax on such sales shall be calculated at such lower rates than those specified in sub-section (1) <sup>5</sup>[\*\*\*] as may be mentioned in the notification;
- (b) that in respect of all sales of goods or sales of such classes of goods as may be specified in the notification, which are made, in the course of inter-State trade or commerce <sup>6</sup>[to a registered dealer <sup>7</sup>[\*\*\*]] by any

dealer having his place of business in the State or by any class of such dealers as may be specified in the notification to any person or to such class of persons as may be specified in the notification, no tax under this Act shall be payable or the tax on such sales shall be calculated at such lower rates than those specified in sub-section (1) <sup>8</sup>[\*\*\*] as may be mentioned in the notification.]

<sup>9</sup>[(6) Notwithstanding anything contained in this section, no tax under this Act shall be payable by any dealer in respect of sale of any goods made by such dealer, in the course of inter-State trade or commerce to a registered dealer for the purpose of setting up, operation, maintenance, manufacture, trading, production, processing, assembling, repairing, reconditioning, re-engineering, packaging or for use as packing material or packing accessories in a unit located in any special economic zone or for development, operation and maintenance of special economic zone by the developer of the special economic zone, if such registered dealer has been authorised to establish such unit or to develop, operate and maintain such special economic zone by the authority specified by the Central Government in this behalf.]

(7) The goods referred to in sub-section (6) shall be the goods of such class or classes of goods as specified in the certificate of registration of the registered dealer referred to in that sub-section.

(8) The provisions of sub-sections (6) and (7) shall not apply to any sale of goods made in the course of inter-State trade or commerce unless the dealer selling such goods furnishes to the <sup>10</sup>[prescribed authority referred to in sub-section (4)] a declaration in the prescribed manner on the prescribed form obtained from the authority specified by the Central Government under sub-

**Explanation—** For the purposes of sub-section (6), the expression "special economic zone" has the meaning assigned to it in clause (iii) to Explanation 2 to the proviso to section 3 of the Central Excise Act, 1944 (1 of 1944).]

#### <sup>11</sup>[(8A) Determination of turnover.—

(1) In determining the turnover of a dealer for the purpose of this Act, the following deductions shall be made from the aggregate of the sale prices, namely:—

(a) the amount arrived at by applying the following formula—

$$\frac{\text{rate of tax x aggregate of sale}}{\text{Prices} \times 100 + \text{rate of tax}}$$

Provided that no deduction on the basis of the above formula shall be made if the amount by way of tax collected by a registered dealer, in accordance with the provisions of this Act, has been otherwise deducted from the aggregate of sale prices.

**Explanation—** Where the turnover of a dealer is taxable at different

rates, the aforesaid formula shall be applied separately in respect of each part of the turnover liable to a different rate of tax;

- (b) the sale price of all goods returned to the dealer by the purchasers of such goods,—
  - (i) within a period of three months from the date of delivery of the goods, in the case of goods returned before the 14th day of May, 1966;
  - (ii) within a period of six months from the date of delivery of the goods, in the case of goods returned on or after the 14th day of May, 1966:

Provided that satisfactory evidence of such return of goods and of refund or adjustment in accounts of the sale price thereof is produced before the authority competent to assess or, as the case may be, reassess the tax payable by the dealer under this Act; and

- (c) such other deductions as the Central Government may, having regard to the prevalent market conditions, facility of trade and interests of consumers, prescribe.
- (2) Save as otherwise provided in sub-section (1), in determining the turnover of a dealer for the purposes of this Act, no deduction shall be made from the aggregate of the sale prices.]