

Levy and collection of tax and penalties.—

- (1) The tax payable by any dealer under this Act on sales of goods effected by him in the course of inter-State trade or commerce, whether such sales fall within clause (a) or clause (b) of section 3, shall be levied by the Government of India and the tax so levied shall be collected by that Government in accordance with the provision of sub-section (2), in the State from which the movement of the goods commenced:

³[Provided that, in the case of a sale of goods during their movement from one State to another, being a sale subsequent to the first sale in respect of the same goods and being also a sale which does not fall within sub-section (2) of section 6, the tax shall be levied and collected—

- (a) where such subsequent sale has been effected by a registered dealer, in the State from which the registered dealer obtained or, as the case may be, could have obtained, the form prescribed for the purposes of ⁴[sub-section (4) of section 8] in connection with the purchase of such goods; and
- (b) where such subsequent sale has been effected by an unregistered dealer in the State from which such subsequent sale has been effected.]

Subject to the other provisions of this Act and the rules made thereunder, the authorities for the time being empowered to assess, re-assess, collect and enforce payment of any tax under general sales tax law of the appropriate State shall, on behalf of the Government of India, assess re-assess, collect and enforce payment of tax, including any ⁵[interest or penalty,] payable by a dealer under this Act as if the tax or ⁶[interest or penalty] payable by such a dealer under this Act is a tax or ⁷[interest or penalty] payable under the general sales tax law of the State; and for this purpose they may exercise all or any of the powers they have under the general sales tax law of the State; and the provisions of such law, including provisions relating to returns, provisional assessment, advance payment of tax, registration of the transferee of any business, imposition of the tax liability of a person carrying on business on the transferee of, or successor to, such business, transfer of liability of any firm or Hindu undivided family to pay tax in the event of the dissolution of such firm or partition of such family, recovery of tax from third parties, appeals, reviews, revisions, references, ⁸[refunds, rebates, penalties,] ⁹[charging or payment of interest,] compounding of offences and treatment of documents furnished by a dealer as confidential, shall apply accordingly:

Provided that if in any State or part thereof there is no general sales tax law in force, the Central Government may, be rules made in this behalf make necessary provision for all or any of the matter specified in this sub-section.

¹[(2A) All the ²[provisions relating to offences, interest and penalties] (including provisions relating to penalties in lieu of prosecution for an offence or in

addition to the penalties or punishment for an offence but excluding the provisions relating to matters provided for in section 10 and 10A) of the general sales tax law of each State shall, with necessary modifications, apply in relation to the assessment, re-assessment, collection and the enforcement of payment of any tax required to be collected under this Act in such State or in relation to any process connected with such assessment, re-assessment, collection or enforcement of payment as if the tax under this Act were a tax under such sales tax law.]

³[(2B) If the tax payable by any dealer under this Act is not paid in time, the dealer shall be liable to pay interest for delayed payment of such tax and all the provisions for delayed payment of such tax and all the provisions relating to due date for payment of tax, rate of interest for delayed payment of tax, of the general sales tax law of each State, shall apply in relation to due date for payment of tax, rate of interest for delayed payment of tax, and assessment and collection of interest for delayed payment of tax under this Act in such States as if the tax and the interest payable under this Act were a tax and an interest under such sales tax law.]

(2) The proceeds in any financial year of any tax, ⁴[including any interest or penalty] levied and collected under this Act in any State (other than a Union Territory) on behalf of the Government of India shall be assigned to the State and shall be retained by it; and the proceeds attributable to Union territories shall form part of the Consolidated Fund of India.]

⁵[9A. Collection of tax to be only by registered dealers.—

No person who is not a registered dealer shall collect in respect of any sale by him of goods in the course of inter-State trade or commerce any amount by way of tax under this Act, and no registered dealer shall make any such collection except in accordance with this Act and the rules made there under.]

⁶[9B. Rounding off of tax, etc.—

The amount of tax, penalty, fine or any other sum payable, and the amount of refund due, under the provisions of this Act shall be rounded off to the nearest rupees and, for the purpose, where such amount contains a part of a rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise, it shall be ignored:

Provided that nothing in this section shall apply for the purpose of collection by a dealer of any amount by way of tax under this Act in respect of any sale by him of goods in the course of inter-State trade or commerce.]

10. Penalties.—

If any person—

⁷[(a) furnishes ⁸[***] a certificate or declaration under sub-section (2) of section 6 or sub-section (1) of section 6A or sub-section (4) ⁹[or sub-section (8)] of section 8, which he knows, or has reason to believe, to be false; or

(aa) fails to get himself registered as required by section 7 or fails to comply with an order under sub-section (3A) or with the requirements of sub-section 3(C) or sub-section (3E) of that section;]

(b) being a registered dealer, falsely represents when purchasing any class of goods that goods of such class are covered by his certificate of registration; or

not being a registered dealer, falsely represents when purchasing goods in the course of inter-State trade or commerce that he is a registered dealer; or

(c) after purchasing any goods for any of the purposes specified in ¹[clause (b) or clause (c) or clause (d)] of sub-section (3) ²[or sub-section (6)] of section 8 fails, without reasonable excuse, to make use of the goods for any such purpose;

(d) has in his possession any form prescribed for the purpose of sub-section (4) ³[or sub-section (8)] of section 8 which has not been obtained by him or by his principal or by his agent in accordance with the provisions of this Act or any rules made thereunder;

⁴[(f) collects any amount by way of tax in contravention of the provisions contained in section 9A;]

he shall be punishable with simple imprisonment which may extend to six months, or with fine or with both; and when the offence is a continuing offence, with a daily fine which may extend to fifty rupees for every day during which the offence continues.

⁵[10A. Imposition of penalty in lieu of prosecution—

⁶[(1)] If any person purchasing goods is guilty of an offence under clause (b) or clause (c) or clause (d) of section 10, the authority who granted to him or, as the case may be, is competent to grant to him a certificate of registration under this Act may, after giving him a reasonable opportunity of being heard, by order in writing, impose upon him by way of penalty a sum not exceeding one and a half times ⁷[the tax which would have been levied under sub-section (2) of section 8 in respect of the sale to him of the goods, if the sale had been a sale falling within that sub-section]:

Provided that no prosecution for an offence under section 10 shall be instituted in respect of the same facts on which a penalty has been imposed under this section.

⁸[(2) The penalty imposed upon any dealer under sub-section (1) shall be collected by the Government of India in the manner provided in sub-section (2) of section 9—

- (a) in the case of an offence falling under clause (b) or clause (d) of section 10, in the State in which the person purchasing the goods obtained the form prescribed for the purposes of ⁹[sub-section (4) of section 8] in connection with the purchase of such goods;
- (b) in the case of an offence falling under clause (c) of section 10, in the State in which the person purchasing the goods should have registered himself if the offence had not been committed.]

11. Cognizance of offences.—

- (1) No court shall take cognizance of any offence punishable under this Act or the rules made thereunder except with the previous sanction of the Government within the local limits of whose jurisdiction the offence has been committed or of such officer of that Government as it may, by general or special order, specify in this behalf; and no court inferior to that of a presidency magistrate or a magistrate of the first class shall try any such offence.
- (2) All offences punishable under this Act shall be cognizable and bailable.

12. Indemnity.—

No suit, prosecution or other legal proceeding shall lie against any officer of Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

13. Power to make rules.—

- (1) The Central Government may, by notification in the Official Gazette, make rules providing for—
 - (a) the manner in which application for registration may be made under this Act, the particulars to be contained therein, the procedure for the grant of such registration, the circumstances in which registration may be refused and the form in which the certificate of registration may be given;
 - ¹[(aa) the manner of determination of the sale price and the deductions from the total consideration for a works contract under the proviso to clause (h) of section 2;]
 - ²³[(ab)] the form and the manner for furnishing declaration under sub-section (8) of section 8;]
 - (b) the period of turnover, the manner in which the turnover in relation to the sale of any goods under this Act shall be determined, and the

deductions which may be made ⁴[under clause (c) of sub-section (1) of section 8A] in the process of such determination;

(c) the cases and circumstances in which, and the conditions subject to which, any registration granted under this Act may be cancelled;

⁵[(d) the form in which and the particulars to be contained in any declaration or certificate to be given under this Act ⁶[the State of origin of such form or certificate and the time within which any such certificate or declaration shall be produced or furnished];

(e) the enumeration of goods or class of goods used in the manufacture or processing of goods for sale or in mining or in the generation or distribution of electricity or any other form of power;

(f) the matters in respect of which provision may be made under the provision to ⁷[sub-section (2)] of section 9;

(g) the fees payable in respect of applications under this Act.]

⁸[(2) Every rule made by the Central Government under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule 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 under that rule.]

(3) The State Government may make rules, not inconsistent with the provisions of this Act and the rules made under sub-section (1), to carry out the purposes of this Act.

(4) In particular and without prejudice to the powers conferred by sub-section (3), the State Government may make rules for all or any of the following purposes, namely:—

(a) the publication of lists of registered dealers, of the amendments made in such lists from time to time, and the particulars to be contained in such lists;

⁹[(aa) the manner in which security may be furnished under sub-section (2A) or sub-section (3A) or sub-section (3C) of section 7 and the manner in which and the time within which any deficiency may be made up under sub-section (3E) of that section;]

(b) the form and manner in which accounts relating to sales in the course of inter-State trade or commerce shall be kept by registered dealers;

(c) the furnishing of any information relating to the stocks of goods of

purchases, sales and deliveries of books by, any dealer or any other information relating to his -business as may be necessary for the purposes of this Act;

- (d) the inspection of any books, accounts or documents required to be kept under this Act, the entry into any premises at all reasonable times for the purposes of searching for any such books, accounts or documents kept or suspected to be kept in such premises and the seizure of such books, accounts or documents;
 - ¹⁰[(e) the authority from whom, the conditions subject to which and fees subject to payment of which any form of certificate prescribed under clause (a) of the first proviso to sub-section (2) of section 6 or of declaration prescribed under sub-section (1) of section 6A or sub-section (4) of section 8 may be obtained, the manner in which such forms shall be kept in custody and records relating thereto maintained and the manner in which any such form may be used and any such certificate or declaration may be furnished;
 - (e) the form and manner in which, and the authority to whom, an appeal may be preferred under sub-section (3H) of section 7, the procedure to be followed in hearing such appeals and the fees payable in respect of such appeals;]
 - (f) in the case of an Undivided Hindu Family, association, club, society, firm or company or in the case of a person who carries on business as a guardian or trustee or otherwise on behalf of another person, the furnishing of a declaration stating the name of the person who shall be deemed to be the manager in relation to the business of the dealer in the State and the form in which such declaration may be given;
 - (g) the time within which, the manner in which and ¹[the authorities to whom] any change in the ownership of any business or in ²[the name, place or nature] of any business carried on by any dealer shall be furnished.
 - ³[(h) the proper functioning of the Authority constituted under section 19;
 - (i) the salaries and allowances payable to, and the terms and conditions of service of, the Chairman and Members under sub-section (3) of section 19;
 - (j) any other matter as may be prescribed.]
- (5) In making any rule under this section ⁴[the Central Government or as the case may be, the State Government] may direct that a breach thereof shall be punishable with fine which may extend to five hundred rupees and when the offence is a continuing offence, with a daily fine which may extend to fifty rupees for every day during which the offence continues.