

(2) The ¹[Assistant Commissioner of Agricultural Income-tax]¹ 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. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

(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 assessee and the receipt of the Treasury or of the ¹[Assistant Commissioner of Agricultural Income-tax]¹ shall constitute a good and sufficient discharge of the liability of such person to the extent of the amount referred to in the receipt.

1. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

(4) Any person discharging any liability to the assessee after receipt of the notice referred to in this section shall be personally liable to the ¹[Assistant Commissioner of Agricultural Income-tax]¹ to the extent of the liability discharged or to the extent of the liability of the assessee for the amount due under this Act, whichever is less.

1. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

(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 assessee or that he does not hold any money for or on account of the assessee, then, nothing contained in this section shall be deemed to require such person to pay the sum demanded or any part thereof, to the ¹[Assistant Commissioner of Agricultural Income-tax]¹.

1. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

(6) Any amount which a person is required to pay to the ¹[Assistant Commissioner of Agricultural Income-tax]¹ or for which he is personally liable to the ¹[Assistant Commissioner of Agricultural Income-tax]¹ 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.

1. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

Explanation.—For the purpose of this section the amount due to an assessee or money held for or on account of an assessee by any person shall be computed after taking into account such claims, if any, as may have fallen due for payment by such assessee to such person and as may be lawfully subsisting.]¹

44. Recovery of penalties.— Any sum imposed by way of penalty under the provisions of ¹[clause (b) of sub-section 2A of section 18]¹ section 22, section 26 or section 42 shall be recoverable in the manner provided in this Chapter for the recovery of arrear of tax.

1. Inserted by Act 14 of 1983 w.e.f. 1.12.1982.

CHAPTER VI REFUNDS

45. Refunds.- (1) If any person satisfies the ¹[Assistant Commissioner of Agricultural Income-tax]¹ that the amount of agricultural income-tax paid by him or on his behalf or treated as paid on his behalf for any year exceeds the amount with which such person is properly chargeable under this Act, for that year, he shall be entitled to a refund of any such excess.

1. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

(2) The ¹[Joint Commissioner]¹ in the exercise of his appellate powers, the Commissioner ²[or the ¹[Additional Commissioner]¹]² in the exercise of his ³[x x x]³ revisional powers, if satisfied to the like effect, shall cause a refund to be made by the ¹[Assistant Commissioner of Agricultural Income-tax]¹ of any amount found to have been wrongly paid or paid in excess.

1. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

2. Inserted by Act 14 of 1983 w.e.f. 1.12.1982.

3. Omitted by Act 29 of 1963 w.e.f. 1.1.1964.

(3) Where agricultural income of one person is included under any provision of this Act in the total agricultural income of any other person, such other person only shall be entitled to a refund under this section in respect of such income.

(4) Nothing in this section shall operate to validate any objection or appeal which is otherwise invalid or to authorise the revision of any assessment or other matter which has become final and conclusive or the review by any officer of a decision of his own which is subject to appeal or revision, or where any relief is specifically provided elsewhere in this Act, to entitle any person to any relief other than or greater than that relief.

¹[45A. Power to withhold refund in certain cases (1) Where an order giving rise to a refund is the subject matter of an appeal or further proceedings or where any other proceeding under this Act is pending, and the ²[Assistant Commissioner of Agricultural Income-tax]² is of the opinion that the grant of the refund is likely to adversely affect the revenue, the ²[Assistant Commissioner of Agricultural Income-tax]² may, with the previous approval of the ²[Joint Commissioner]², withhold the refund till such time as the ²[Joint Commissioner]² may determine.

1. Inserted by Act 29 of 1963 w.e.f. 31.10.1963.

2. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

(2) Where a refund is withheld under the provisions of sub-section (1), the State Government shall pay to the assessee simple interest at ¹[twelve per cent]¹ per annum

on the amount of refund ultimately determined to be due as a result of the appeal or further proceedings for the period commencing after the expiry of six months from the date of the order referred to in sub-section (1) to the date the refund is granted.]¹

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

46. Refunds admissible under the Rules.- Refunds shall also be admissible under this Act in such cases, and to such extent as may be prescribed.

47. Power to set off amount of refund against tax remaining payable.- Where under any of the provisions of this Act, refund is found to be due to any person, the ¹[Assistant Commissioner of Agricultural Income-Tax]¹, the ²[¹Joint Commissioner]¹, the ²[Additional Commissioner]¹2 or the Commissioner, as the case may be, may, in lieu of payment of the refund, set off the amount to be refunded, or any part of that amount against the agricultural income-tax, if any, remaining payable by the person to whom the refund is due.

1. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

2. Inserted by Act 14 of 1983 w.e.f. 1.12.1982.

48. Power of representative of deceased person or persons disabled to make claim on his behalf.- Where through death, incapacity, bankruptcy, liquidation or other cause, a person who would but for such cause have been entitled to a refund under any of the provisions of this Act, or to make a claim under section 45, is unable to receive such refund or to make such claim, his executor, administrator or other legal representative or the trustee or receiver, as the case may be, shall be entitled to receive such refund or to make such claim for the benefit of such person or his estate.

49. Limitation of claims for refund.- No claim to any refund of agricultural income-tax under this Chapter shall be allowed, unless it is made within three years from the last day of the financial year commencing next after the expiry of the previous year in which the agricultural income was received or one year from the date on which the assessment is completed, whichever is later.

CHAPTER VII OFFENCES AND PENALTIES

50. False statements in declaration.- If any person makes a statement in a verification mentioned in section 18 or sub-section (3) of section 32 ¹[or sub-section (3) of section 34]¹ or in any application under section 67 which is false and which he either knows or believes to be false or does not believe to be true, he shall be deemed to have committed the offence described in section 177 of the Indian Penal Code, 1860 (Central Act XLV of 1860).

1. Substituted by Act 29 of 1963 w.e.f. 1.1.1964.

51. Failure to furnish return or to supply information.- If any person fails without reasonable cause or excuse,—

(a) to furnish in due time any of the returns specified in sub-section (1) or sub-section (2) of section 18 or in section 39; or

(b) to furnish a certificate required by section 16; or

(c) to grant inspection or allow copies to be taken in accordance with the provision of section 62; or

(d) to produce or cause to be produced on or before the date mentioned in any notice under sub-section (4) or section 18, such accounts or documents as are referred to in the notice, he shall be punishable with fine which may extend to five rupees for every day during which the default continues.

52. Prosecution to be at the instance of the ¹[Joint Commissioner].¹-(1) A person shall not be proceeded against for an offence under section 50 or section 51 except at the instance of the ¹[Joint Commissioner].¹

1. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

(2) Before instituting proceedings against any person under sub-section (1), the ¹[Joint Commissioner]¹ shall call upon such person to show cause why proceedings should not be instituted against him.

1. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

(3) The ¹[Joint Commissioner]¹ may either before or after the institution of proceedings compound any such offences.

1. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

¹53. Disclosure of information respecting assessee.- (1) (a) The Commissioner may furnish or cause to be furnished to,—

(i) any officer, authority or body performing any functions under any other law relating to the imposition of any tax, duty, cess or fee; or

(ii) such officer, authority or body performing any functions under any other law as the State Government, if in its opinion it is necessary so to do in the public interest, may, by notification, specify in this behalf, any such information relating to any assessee in respect of any assessment made under this Act as may, in the opinion of the Commissioner, be necessary for the purpose of enabling such officer, authority or body to perform his or its functions under that law.

(b) Where a person makes an application to the Commissioner for any information relating to any assessee in respect of any assessment made under this Act, the Commissioner may, if he is satisfied that it is in the public interest so to do, furnish or

cause to be furnished the information asked for in respect of that assessment only and his decision in this behalf shall be final and shall not be called in question in any court of law.

(2) Notwithstanding anything contained in sub-section (1) or any other law for the time being in force, the State Government may, having regard to the practices and usages, customary or any other relevant factors, by order notified in the official Gazette, direct that no information or document shall be furnished or produced by a public servant in respect of such matters relating to such classes of assesseees or except to such authorities as may be specified in the order.¹

1. Substituted by Act 29 of 1976 w.e.f. 1.4.1975.

¹[Chapter VIIA x x x]¹

1. Inserted by Act 31 of 1962 w.e.f. 1.4.1962 and omitted by Act 29 of 1976 w.e.f. 1.4.1975.

CHAPTER VIII MISCELLANEOUS

54. Place of assessment.- (1) Subject to any orders passed under sub-section (2), the agricultural income of a person shall be assessed by the ¹[Assistant Commissioner of Agricultural Income-tax]¹ of the area in which is situated the land from which the greater part of the agricultural income is derived:

Provided that where an assessee has made a return under sub-section (1) of section 18 to the ¹[Assistant Commissioner of Agricultural Income-tax]¹ having jurisdiction over the assessee's place of residence or the place where any of his lands is situated or where his accounts are maintained, he shall be deemed to have elected such place as his place of assessment and it shall be accepted by the Officer concerned unless for reasons to be recorded in writing he passes an order that the assessment shall be made in any other place.

1. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

(2) (a) An assessee who has not made a return under section 18 may, before the expiry of the time allowed for the submission of the return, apply to the ¹[Assistant Commissioner of Agricultural Income-tax]¹ of the area in which is situated the land from which the greater part of the agricultural income of the assessee is derived, to be assessed at his usual place of residence or at the place where the accounts relating to his agricultural income are kept, if either of such places is situated in the State and the ¹[Assistant Commissioner of Agricultural Income-tax]¹ shall refer the matter to the ¹[Joint Commissioner]¹ whose decision thereon shall be final.

(b) where an order is passed under clause (a), the assessee shall not be entitled to make any further application to change his place of assessment:

Provided that the ¹[Assistant Commissioner of Agricultural Income-tax]¹ may allow the assessee to be assessed at any other place upon such conditions as he thinks fit.

1. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

(3) Notwithstanding anything contained in this section, every ¹[Assistant Commissioner of Agricultural Income-tax]¹ shall have all the powers conferred by or under this Act on an ¹[Assistant Commissioner of Agricultural Income-tax]¹ in respect of any agricultural income derived from land situated within the area for which he is appointed.

1. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

¹[55. Revision by High Court.- (1) Within ⁴[one hundred and eighty days]⁴ from the date on which he is served with the order, the assessee or the ²[Joint Commissioner]², in the case of an order under sub-section (4) or sub-section (6) of section 34, and the assessee, in the case of an order under section 35, may prefer a petition to the High Court against the order on the ground that the Appellate Tribunal or the Commissioner, ³[or the ²[Additional Commissioner]²]³ as the case may be, has either failed to decide or decided erroneously any question of law:

Provided that the High Court may admit an application preferred after the period of ⁴[one hundred and eighty days]⁴ aforesaid if it is satisfied that the petitioner had sufficient cause for not preferring the petition within that period.

1. Sections 55 and 56 substituted by Act 29 of 1963 w.e.f. 1.1.1964.

2. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

3. Inserted by Act 14 of 1983 w.e.f. 1.12.1982.

4. Substituted by Act 18 of 2012 w.e.f. 1.4.2012

(2) The petition shall be in the prescribed form, shall be verified in the prescribed manner, and shall, when it is preferred by the assessee, be accompanied by a fee of one 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 dismissed unless the petitioner has had 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 parties to the petition a reasonable opportunity of being heard, determine the question or questions of law raised and either reverse, affirm, or amend the order against which the petition was preferred or remit the matter to the Appellate Tribunal or the Commissioner, ²[or the ¹[Additional Commissioner]¹]² as the case may be, with the opinion of the High Court on the question or questions of law raised or pass such other order in relation to the matter as the High Court thinks fit.

1. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

2. Inserted by Act 14 of 1983 w.e.f. 1.12.1982.

(b) Where the High Court remits the matter to the Appellate Tribunal or the Commissioner ²[or the ¹[Additional Commissioner]¹]² under clause (a) with its opinion on the question or questions of law raised, the Appellate Tribunal or the Commissioner ²[or the ¹[Additional Commissioner]¹]² as the case may be, shall amend the order passed by it or him in conformity with such opinion.

1. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

2. Inserted by Act 14 of 1983 w.e.f. 1.12.1982.

(5) Before passing an order under sub-section (4), the High Court may, if it considers necessary so to do remit the petition to the Appellate Tribunal or the Commissioner, ¹[or the ²[Additional Commissioner]²]¹ as the case may be, and direct it or him to return the petition with its or his finding on any specific question or issue.

1. Inserted by Act 14 of 1983 w.e.f. 1.12.1982.

2. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

(6) 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 ¹[Assistant Commissioner of Agricultural Income-tax]¹ to amend the assessment, and on such amendment being made, the amount overpaid 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.

1. Substituted by Act 9 of 1993 w.e.f. 9.11.1992.

(7) (a) The High Court may on the application either of the assessee or of the ¹[Joint Commissioner]¹, review any order passed by it under sub-section (4) on the basis of facts which were not before it when it passed the order.

1. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

(b) The application for review shall be preferred in the prescribed manner within ninety days from the date of communication of the order sought to be reviewed; and where the application is preferred by the assessee, it shall be accompanied by a fee of one hundred rupees.

(8) In respect of every petition preferred under sub-section (1) or sub-section (7), the costs shall be in the discretion of the High Court.

56. Petitions and applications to be heard by the Bench of the High Court.-

Every petition or application preferred to the High Court under section 55 shall be heard by a Bench of not less than two judges, and in respect of such petition or application, the provisions of section 98 of the Code of Civil Procedure, 1908 (Central Act V of 1908) shall, so far as may be, apply.]¹

57. Appearance by authorised representative.- (1) Any assessee who is entitled or required to attend before any Agricultural Income-tax Authority in connection with any proceeding under this Act otherwise than when required under section 38 to attend personally for examination on oath or affirmation, may attend either in person or by any person duly authorised by him in writing in this behalf being a relative or a person wholly or principally employed in the service of the assessee or a lawyer or an accountant or an Income-tax practitioner ¹[or a Sales Tax Practitioner]¹ and not being disqualified on the ground of misconduct by or under any law or under any order of Government.

1. Inserted by Act 14 of 1983 w.e.f. 1.12.1982.

(2) No person who has been dismissed from Government service shall be qualified to represent an assessee under sub-section (1); and if any lawyer or accountant or an Income-tax practitioner is found guilty of misconduct in connection with any proceedings under the ¹[Income-tax Act, 1961 (Central Act 43 of 1961),]¹ or this Act by the authority empowered to take disciplinary action against members of the profession to which he belongs, or if any other person is found guilty of such misconduct by the Commissioner, the Commissioner may direct that he shall be thence forward disqualified to represent an assessee under sub-section (1):

1. Substituted by Act 29 of 1976 w.e.f. 1.4.1975.

Provided that,—

(a) no such direction shall be made in respect of any person, unless he is given a reasonable opportunity of being heard;

(b) any person against whom such direction is made may within one month of the making of the direction, appeal to the prescribed authority to have the direction cancelled; and

(c) no such direction shall take effect until one month from the making thereof, or, when an appeal is preferred, until the disposal of the appeal.

(3) In this section,—

(i) a person regularly employed by the assessee shall include any officer of a Scheduled Bank as defined in the Reserve Bank of India Act, 1934 (Central Act II of 1934), with which the assessee maintains a current account or has other regular dealings;

(ii) "accountant" means a member of an association of accountants recognised in this behalf by the Government;

(iii) "Income-tax practitioner" means an Income-tax practitioner as defined in the ¹[Income-tax Act, 1961 (Central Act 43 of 1961);]¹

1. Substituted by Act 29 of 1976 w.e.f. 1.4.1975.

(iv) "lawyer" means any person entitled to plead in any court of law in the State.

¹[(v) "Sales Tax Practitioner" means any person enrolled in the prescribed manner as Sales Tax Practitioner under clause (c) of section 36 of the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957).]¹

1. Inserted by Act 14 of 1983 w.e.f. 1.12.1982.

58. Receipt to be given.- A receipt shall be given for any money paid or recovered under this Act.

59. Indemnity.- Every person deducting, retaining or paying any tax in pursuance of this Act in respect of any agricultural income belonging to any other person is hereby indemnified for the deduction, retention or payment thereof.

60. Manner of service of notices.- (1) A notice or requisition under this Act may be served on the person therein named either by registered post or, as if it were a summons issued by a Court, under the Code of Civil Procedure, 1908 (Central Act V of 1908).

(2) Any such notice or requisition may, in the case of a firm, Hindu undivided family, an Aliyasanthana family or branch or a Marumakkathayam tarwad or tavazhi be addressed to any member of the firm or to the manager, yajaman or karnavan, or any adult male member of the family branch, tarwad or tavazhi and in the case of any other association of persons be addressed to the principal officer thereof.

61. Power to grant extension of time for returns, etc.,- The ¹[Assistant Commissioner of Agricultural Income-tax]¹ may in his discretion, in the case of any person or class of persons extend the date before which the return under sub-section (1) of section 18 has to be furnished or, on application by an assessee, allow him such extension or extensions of time as the officer thinks fit to furnish the return or comply with the terms of a notice under this Act:

²[Provided that no such extension shall be granted unless the assessee undertakes to pay, in addition to the tax payable, interest at the rate ³[of twenty-four percent]³ on the tax due as per the return from the due date specified in sub-section (1) of section 18 upto the date of actual payment of such tax.]²

1. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

2. Substituted by Act 23 of 1985 w.e.f. 1.4.1985.

3. Substituted by Act 12 of 1991 w.e.f. 1.4.1991.

62. Power to inspect registers of members of company, etc.,- The Agricultural Income-tax Authority or any person authorised by him in writing in that behalf may inspect and, if necessary, take copies or cause copies to be taken of any register of the members, debenture holders or mortgagees of any company or of any entry in such register.

¹62A. 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, managing agent or such other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm, means a partner in the firm.]¹

1. Inserted by Act 29 of 1963 w.e.f. 31.10.1963.

63. Power to make rules.- (1) The State Government may, subject to the condition of previous publication, by notification in the Official Gazette make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the State Government may make rules,—

(a) as to the manner in which and the procedure by which agricultural income of a person shall be computed;

(b) as to the deductions to be made in the computation of agricultural income;

(c) as to the special deductions and allowances where expenditure has to be incurred for a number of years before income is derived therefrom;

(d) as to the form of returns under section 18 and the manner in which they should be verified;

(e) as to the form of the notice of demand mentioned in section 31;

(f) as to the form in which appeals under Section 32 and 34 shall be presented and the manner in which they shall be verified;

(g) as to the form of the notice of demand mentioned in sub-section (3) of section 37;

¹[(h) as to the form in which the petitions and applications under section 55 shall be presented and the manner in which they shall be verified]¹

1. Substituted by Act 29 of 1963 w.e.f. 1.1.1964.

(i) as to the manner in which and the authority to whom applications for refunds shall be made and the procedure to be followed in respect of such applications;

(j) as to the authority by whom and the manner in which refunds shall be made; and

(k) as to all other matters expressly required or allowed by this Act to be prescribed.

¹[(2A) Any rule under this Act may be made to have effect retrospectively and when any such rule is made, a statement specifying the reasons for making such a rule shall be laid before both Houses of the State Legislature along with the rule under sub-section (3). All rules made under this Act shall, subject to any modification made under sub-section (3), have effect as if enacted in this Act.]¹

1. Inserted by Act 29 of 1963 w.e.f. 1.1.1964.

¹[(3) Every rule made under this Act shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, 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.]¹

1. Substituted by Act 29 of 1963 w.e.f. 1.1.1964.

64. Bar of suits in Civil Courts. - No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Act and no prosecution, suit or other proceeding shall lie against any officer of the State Government for anything in good faith done or intended to be done under this Act.

65. Computation of period of limitation.- In computing the period of limitation prescribed for any appeal under this Act or for an application under section 55 the date on which the order complained of was made and the time requisite for obtaining a copy of such order shall be excluded.

¹[66. Composition of Agricultural Income Tax.- (1) Where the total extent of land under plantation crop ²[held by ³[a firm does not exceed one hundred and fifty acres]², ⁴[xxx]⁴ such firm]³ may ⁵[subject to such rules as may be prescribed]⁵ apply to the prescribed Officer for permission to compound the agricultural income tax payable by him and to pay in lieu thereof a lumpsum at the rate specified in 6[in the Tables below]⁶.

1. Section 66 Inserted by Act 23 of 1985 w.e.f. 1.4.1985.
2. Substituted by Act 5 of 2000 w.e.f. 1.4.2000.
3. Substituted by Act 5 of 2006 w.e.f. 1.4.2006.
4. Omitted by Act 10 of 1987 w.e.f. 1.4.1985.
5. Inserted by Act 18 of 1994 w.e.f. 1.4.1994.
6. Substituted by Act 18 of 1994 w.e.f. 1.4.1994.

¹[66. x x x]¹

1. Omitted by Act 18 of 2012 w.e.f. 1.4.2012.

¹[67. x x x]¹

1. Omitted by Act 14 of 1983 w.e.f. 1.12.1982.

68. Amendment of Madras Act XIX of 1954.- In section 3 of the Madras Land Revenue (Surcharge) Act, 1954 (Madras Act XIX of 1954), Explanation II shall be omitted.

69. Repeal and Savings.- (1) The Coorg Agricultural Income-tax Act, 1951 (Coorg Act 1 of 1951) as in force in the Coorg District, the Hyderabad Agricultural Income-tax Act, 1950 (Hyderabad Act XIII of 1950) as in force in the ¹[Gulbarga Area]¹, the Madras Plantations Agricultural Income-tax Act, 1955 (Madras Act V of 1955) as in force in the ¹[Mangalore and Kollegal Area]¹ and the Mysore Agricultural Income-tax Act, 1955 (Mysore Act 4 of 1955), as in force in the Mysore Area, are hereby repealed:

1. Adapted by Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973.

Provided that such repeal shall not affect ,–

(a) the previous operation of the said enactments or anything duly done or suffered thereunder; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the said enactments; or

(c) any penalty, forfeiture or punishment incurred in respect of any offence

committed against the said enactments; or

(d) any investigation, legal proceeding (including assessment proceeding) or remedy in respect of any such right, privilege, obligation, liability, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

(2) Notwithstanding anything contained in sub-section (1), for the purpose of giving effect to the preceding proviso to the said sub-section (1), the State Government may, by notification, in the Official Gazette make such provision as appears to it necessary or expedient,—

(a) for making omissions from, additions to and adaptations and modifications of the rules, notifications and orders issued under the repealed enactments;

(b) for specifying the authority, officer or person who shall be competent to exercise such functions exercisable under any of the repealed enactments or any rules, notifications or orders issued thereunder as may be mentioned in the said notification.

¹[(3) Notwithstanding anything contained in sub-section (1), nothing contained in any of the repealed enactments 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,—

(i) in consequence of, or to give effect to, any finding, direction or order made under any provision of the relevant repealed enactment or any judgment, or order made by the Supreme Court, High Court or any other court whether before or after the commencement of this Act;

(ii) to rectify any error on account of the assessment of such assessee or person under this Act, instead of under the relevant repealed enactment, provided such assessment or re-assessment under the repealed enactment is made within a period of two years from the date of commencement of the ²[Karnataka]² Agricultural Income-Tax (Amendment) Act, 1962.]¹

1. Inserted by Act 25 of 1962 w.e.f. 1.10.1957.

2. Adapted by Karnataka Adaptations of Laws Order 1973 w.e.f. 1.11.1973.

70. Power to remove difficulties.- (1) If any difficulty arises in giving effect to the provisions of this Act in consequence of the transition to the said provisions from the provisions of the Acts in force immediately before the commencement of this Act, the State Government may, by order published in the Official Gazette, make such

provisions as appear to it to be necessary or expedient for removing the difficulty.

(2) If any difficulty arises in giving effect to the provisions of this Act (otherwise than in relation to the transition from the provisions of the Acts in force before the commencement of this Act), the State Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the purposes of this Act, as appear to it to be necessary or expedient for removing the difficulty.

¹[SCHEDULE

(See section 3)

(Rate of Agricultural Income Tax)

²[Part-I xxx]²

1. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.
2. Omitted by Act 5 of 2006 w.e.f. 1.4.2006.

¹[Part-II xxx]¹

1. Omitted by Act 18 of 2012 w.e.f. 1.4.2012.

¹[PART III

In the case of Company:

On whole of the total agricultural Income thirty five percent]¹

1. Substituted by Act 5 of 2006 w.e.f. 1.4.2006.

¹[SCHEDULE-A

[See section 2(1) (s)]

Modifications subject to which the provisions of this Act shall apply in cases where the previous year in relation to the assessment year commencing on the first day of April, 1989, referred to in the second proviso to clause (s) of sub-section (1) of section 2, exceeds twelve months.

1. Definitions.—In this Schedule, "transitional previous year" means the period reckoned as the previous year for the assessment year commencing on the First day of April, 1989, in the manner specified in the second proviso to clause (s) of sub-section (1) of section 2.

2. Special provisions in case where the transitional previous year is longer than twelve months.—In a case where the transitional previous year is longer than twelve months, the provisions of this Act shall apply subject to the modifications provided in rules 3, 4 and 5 of this Schedule.

3. Modifications pertaining to monetary limits, etc.,—The provisions of this Act

specified in column (1) of the Table below, shall be subject to the modification that the reference therein to the amount or amounts specified in the corresponding entry in column (2) of the said Table shall be construed as a reference to the amount or amounts as increased by multiplying each such amount by a fraction of which the numerator is the number of months in the transitional previous year and the denominator is twelve:

Provided that for the purpose of this rule and rules 4 and 5, where the transitional previous year includes a part of a month, then, if such part is fifteen days or more, it shall be increased to one complete month and if such part is less than fifteen days, it shall be ignored.

TABLE

Provision of the Act (1)	Amount (2)
Section 5 (A) (1)	6,000—00 9,000—00 & 12,000—00

4. Modification in respect of depreciation allowance.—Where the assessee's agricultural income for a period of thirteen months or more is included in his total income for the transitional previous year, the allowance under clause (e) of sub-section (1) of section 5 in respect of depreciation of buildings, machinery, plant, fencing materials, hose-pipes and furniture, calculated in the manner stated therein, shall be increased by multiplying it by a fraction of which the numerator is the number of months in the transitional previous year and the denominator is twelve.

5. Modification in respect of rate of tax.—The tax chargeable on the total agricultural income of the transitional previous year shall be calculated at the average rate of tax on the amount obtained by multiplying such total agricultural income by a fraction of which the numerator is twelve and the denominator is the number of months in transitional previous year, as if the resultant amount were the total income.

6. Power of Government to grant relief in case of hardship.—The Government may, if it considers it desirable or expedient so to do for avoiding genuine hardship, by general or special order, grant appropriate relief in any case or class of cases where the transitional previous year is longer than twelve months.]1

1. Inserted by Act 19 of 89 w.e.f. 1.4.1989.

* * * *

NOTIFICATIONS

I

Bangalore, 30th September 1957 [No. RD 46 AIX 57].

In exercise of the powers conferred by sub-section (3) of Section 1 of the Mysore Agricultural Income-Tax Act, 1957 (Mysore Act No. 22 of 1957), the Government of Mysore hereby appoints the first day of October 1957 as the date on which all the provisions of the said Act (except Section 1 which has already come into force), shall come into force.

By Order an in the name of the Governor of Mysore,
(M. S. SWAMINATHAN)
Secretary to Government,
Revenue Department.

(Published in Gazette Extraordinary dated 30.09.1957 in PART IV—2-C as No. 300.)

II

Bangalore, dated the 30th December, 1963 [No. FD 69 CAX 63].

In exercise of the powers conferred by sub-section (2) of Section 1 of the Mysore Agricultural Income-Tax (Amendment) Act, 1963 (Mysore Act 29 of 1963), the Government of Mysore hereby appoints the first day of January, 1964, as the date on which the remaining provisions of the said Act [Other than clauses (3) and (4) of Section 2 and Sections 3, 4, 6, 7, 14, 16, 18, 20, 21 and 24 which have already come into force] shall come into force.

By Order and in the name of the Governor of Mysore,
(N. S. BHARATH)
Deputy Secretary to Government, F.D

III

Bangalore, dated 31th August, 1999.[No. FD 221 CSL 99.]

In exercise of the powers conferred by sub-section (2) of section 1 of the Karnataka Taxation Laws (Third Amendment) Act, 1999 (Karnataka Act 18 of 1999), the Government of Karnataka hereby appoints the first day of September, 1999 as the date on which all provisions of the said Act shall come into force.

(Published in the Kanataka Gazette (Extraordinary) Part IV-2C (ii) as No. 1091, dated 21-8-1999.)

* * * * *

THE KARNATAKA ANATOMY ACT, 1957.

ARRANGEMENT OF SECTIONS.

Statement of Objects and Reasons:

Sections:

1. Short title, extent and commencement.
2. Definitions.
3. Power of State Government to authorise officers to act under section 4.
4. Unclaimed dead bodies in hospitals, prisons and public places how to be dealt with.
- 4A. Donation of bodies or any part thereof of deceased persons for anatomical examination etc.,.
5. Doubt or dispute as to near relative to be referred to Magistrate of the First Class.
6. Penalty.
7. Duty of Police and other officers to assist in obtaining possession of unclaimed bodies.
8. Protection of persons acting under this Act.
9. Power to make rules.
10. Repeal.

* * * * *

STATEMENT OF OBJECTS AND REASONS

Act 23 of 1957.- Since considerable difficulty is experienced in obtaining bodies of deceased persons for educational purposes in medical institutions it is considered necessary to provide for the supply of unclaimed bodies of deceased persons to hospitals and medical and teaching institutions. Similar Acts are already in force in the areas of the former Madras, Bombay and Hyderabad States which have since integrated with the Mysore State. It is necessary that these Acts are repealed and a new Act is enacted so as to have a uniform law in the matter, applicable to all the areas of the State.

Hence this Bill.

(Obtained from L.A. Bill NO.5661 dated 21st June 1957) (LAW 47 LGN 57).

II

Amending Act 15 of 1999.- It is considered necessary to amend the Karnataka Anatomy Act, 1957 to make provision for enabling a person before his death, to express an intention, in writing in the presence of two or more persons, to donate his body or part of his body for the purpose of anatomical examination or dissection or other similar purpose

Hence the Bill.

(Obtained from L.A. Bill No. 1 of 1998. File No. ಸಂಶ್ಯಶಾಇ 25 ಶಾಸನ 97.)

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सत्यमेव जयते

¹[KARNATAKA ACT]¹ No. 23 OF 1957.

(First published in the ¹[Karnataka Gazette]¹ on the Nineteenth Day of September 1957.)

THE ¹[KARNATAKA]¹ ANATOMY ACT, 1957.

(Received the assent of the Governor on the Thirteenth Day of September 1957.)

(As amended by Act 15 of 1999)

An Act to provide for the supply of unclaimed bodies of deceased persons ²[or donated bodies or any part thereof of deceased persons]² to hospitals and medical and teaching institutions for the purpose of anatomical examination and dissection and other similar purposes.

WHEREAS it is expedient to provide for the supply of unclaimed bodies of deceased persons ²[or donated bodies or any part thereof of deceased persons]² to hospitals and medical and teaching institutions for the purpose of anatomical examination and dissection and other similar purposes:

BE it enacted by the ¹[Karnataka State]¹ Legislature in the Eighth Year of the Republic of India as follows:—

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 01.11.1973.
2. Inserted by Act 15 of 1999 w.e.f. 01.08.20i01 by notification No. HFW 189 PTD 99, dated: 28.7.2001 .

1. Short title, extent and commencement.- (1) This Act may be called the ¹[Karnataka]¹ Anatomy Act, 1957.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 01.11.1973.

(2) It extends to the whole of the ¹[State of Karnataka]¹.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 01.11.1973.

(3) It shall come into force at once in the South Kanara District; and on such ¹[date or dates]¹ and in such other area of the State as the State Government may by notification in the Official Gazette, specify from time to time.

1. The Act has come into force in Mysore and Bellary districts on 04.09.1958, in Bangalore, Coorg, Hasan, Mandya, Chikmagalur, Chitradurga, Tumkur, Kolar, Shimoga, Raichur on 02.08.1960 and in Gulbarga and Bidar district on 01.06.1961. The Act has come into force throughout the State on 11.07.2000 by notification by notification No. HFW 189 PTD 99 dated: 11.7.2000.

2. Definitions.- (1) In this Act, unless there is anything repugnant in the subject or context,—

(a) "approved institution" means a hospital or a medical college or an allied institution as may be declared by the State Government by notification in the Official

Gazette, to be an approved institution for the purpose of this Act;

(b) "authorised officer" means an officer authorised under section 3;

(c) "hospital" means any hospital established or maintained by the State Government or by any municipal corporation, municipal council, municipal borough, district municipality, district board or panchayat, and includes any other hospital which may be declared by the State Government by notification in the Official Gazette, to be a hospital for the purposes of this Act;

(d) "person interested" means a near relative or any other person who is interested in the disposal of the body of the deceased person in accordance with the religious usage or social custom of such deceased.

Explanation.- For purposes of this clause, "near relative" means any of the following relatives of the deceased, namely, wife, husband, parent, son, daughter, brother or sister and includes any other person who is related to the deceased (i) by lineal consanguinity within three degrees or by collateral consanguinity within six degrees, or (ii) by marriage with any of the relatives aforesaid. The expressions "lineal consanguinity" and "collateral consanguinity" shall have the meaning assigned to them in the Indian Succession Act, 1925, (Central Act XXXIX of 1925) and degrees of relationship shall be computed in the manner laid down in that Act;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "unclaimed body" means the body of a person who dies in a hospital, prison or public place or a place to which members of the public have got access and which has not been claimed by any person interested within such time as may be prescribed.

(2) The ¹[Karnataka] General Clauses Act, 1899, (Karnataka Act III of 1899) shall apply for the interpretation of this Act, as it applies for the interpretation of a Karnataka Act.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 01.11.1973.

3. Power of State Government to authorise officers to act under section 4.- (1)

The State Government may, by notification in the official Gazette, authorise for the area in which this Act comes into force or any part thereof, one or more officers to whom a report shall be made under section 4 and such officer or officers shall be competent to act under the said section.

(2) Every officer authorised under sub-section (1) shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act XLV of 1860).

4. Unclaimed dead bodies in hospitals, prisons and public places how to be dealt with.- (1) If a person dies in a hospital or in a prison and his body is not claimed by any person interested within the prescribed time, the authority in charge of such

hospital or prison or any police officer shall, with the least practicable delay report the fact to the authorised officer and the said officer shall take possession of the unclaimed body and except in the case referred to in sub-section (3), hand it over to the authority in charge of an approved institution, if it is required by that authority, for the purpose of conducting anatomical examination and dissection or other similar purpose.

(2) If a person dies in any public place in an area in which he had no permanent place of residence and the body of that person is not claimed by any person interested within the prescribed time, the authorised officer shall take possession of such unclaimed body and except in the case referred to in sub-section (3), hand it over to the authority in charge of an approved institution, if it is required by that authority, for the purposes specified in sub-section (1).

(3) When there is any doubt regarding the cause of death or when for any reason the authorised officer considers it expedient so to do, he shall forward the unclaimed body to the police officer referred to in section 174 of the Code of Criminal Procedure, 1898 (Central Act V of 1898).

(4) Where any unclaimed body taken possession of by the authorised officer under this section is not required by the authority in charge of an approved institution for the purpose specified in sub-section (1) it shall be disposed of in such manner as may be prescribed.

¹[4A. Donation of bodies or any part thereof of deceased persons for anatomical examination etc.,- (1) If any person at any time before his death had expressed an intention in writing in the presence of two or more witnesses, that his body or any part of his body be given to an approved institution for being used after his death for the purpose of conducting anatomical examination and dissection or other similar purpose, any person interested may, unless he has reason to believe that the said intention was subsequently revoked authorised the removal of the dead body or such part thereof to any approved institution for use in accordance with the intention.

(2) Without prejudice to the provisions of sub-section (1) such person interested may authorise the removal of the whole body or any part from the body for use for the purposes specified in sub-section (1) unless he has reason to believe,-

(a) that the deceased had expressed an objection to his body or any part thereof being so dealt with after his death, and had not withdrawn such objection; or

(b) that any near relative of the deceased referred to the explanation to clause (d) of section 2 objects to the body being so dealt with.

(3) Subject to the provisions of sub-section (4) and (5), the removal and use of the whole body or any part of a body in accordance with an authority given in pursuance of this section shall be lawful, and shall be sufficient warrant for the removal of the body

or any part thereof and its use for the purposes of this Act.

(4) The body or any part of the body of any deceased person shall not be removed for any of the purposes specified in sub-section (1) from any place where such person may have died,-

(i) within forty-eight hours from the time of such person's death; or

(ii) until after twenty-four hours notice, (to be reckoned from the time of such death) to the Executive Magistrate of the intended removal of the body; or

(iii) unless a certificate stating in what manner such person came by his death shall, previously to the removal of the body has been signed by the registered medical practitioner who attended such person during the illness whereof he died or, if no such practitioner attended such person during such illness, then by a registered medical practitioner who shall be called in after the death of such person to view his body and who shall state the manner and cause of death according to the best of his knowledge and belief, but who shall not be concerned in dealing with the body for any of the purposes aforesaid removal, and in case of such removal, such certificate shall be delivered together with the body to the authority in-charge of an approved institution receiving the same for any of the purposes aforesaid.

(5) If the person interested has reason to believe that an inquest or a postmortem examination of such body may be required to be held, in accordance with the provisions of any law for the time being in force, the authority for the removal of the body or any part thereof shall not be given under this section except with the consent of the authority empowered to hold an inquest or order postmortem under such law.]¹

1. Section 4A Inserted by Act 15 of 1999 w.e.f. 01.08.2001 by notification.

5. Doubt or dispute as to near relative to be referred to '[x x x]'¹ Magistrate of the First Class.- (1) If any doubt or dispute arises whether a person is or is not a person interested for the purpose of section 4 the matter shall be referred to '[x x x]'¹ a Magistrate of the First Class and the decision of such Magistrate shall be final.

(2) Pending such decision, the body of the deceased person shall be preserved from decay in such manner as may be prescribed.

1. Sertain words in the heading Omitted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 01.11.1973

6. Penalty.- Whoever disposes of, or abets the disposal of, an unclaimed body save as provided by this Act, or obstructs any authority in charge of an approved institution or an authorised officer from handing over, taking possession of, removing or using, such dead body for the purposes specified in section 4, shall be punishable with fine which may extend to five hundred rupees.

7. Duty of Police and other officers to assist in obtaining possession of

unclaimed bodies.-All officers and servants of the Police, Medical and Public Health Departments, all officers and servants in the service of a local authority, and all village officers and servants shall be bound to take all reasonable measures to assist authorised officers in the discharge of their duties under this Act.

8. Protection of persons acting under this Act.- No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act.

9. Power to make rules.- The State Government, may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

10. Repeal.- The Madras Anatomy Act, 1951 (Madras Act XVIII of 1951) in force in Bellary District and the '[Mangalore and Kollegal Area]', the Bombay Anatomy Act, 1949 (Bombay Act XI of 1949) in force in the '[Belgaum Area]' and the Hyderabad Pathology and Anatomy Act, 1955 (Hyderabad Act No. X of 1955) in force in the '[Gulbarga Area]' are hereby repealed:

Provided that, anything done or any action taken (including any appointment or rules made, notification, order, or direction issued) under the said Acts shall be deemed to have been done or taken under the corresponding provisions of this Act and shall continue to be in force accordingly, unless and until superseded by anything done or any action taken under this Act.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 01.11.1973.

* * * *

NOTIFICATIONS

I

Bangalore, dated 1st September 1958. [No. LLH 12 MDR 58]

In exercise of the powers conferred by sub-section (3) of Section 1 of the Mysore Anatomy Act 1957 (Mysore Act No. 23 of 1957), the Government of Mysore hereby specifies 4th September 1958 as the date on which the said Act shall come into force in the Districts of Mysore and Bellary.

By Order and in the name of the Governor of Mysore,

(M. VASUDEVARAO)

Secretary to Government,

Local Self-Government and Public Health Department.

(Published in PART IV—2-C of the Gazette dated 04.09.1958 at p. 591.)

II

Bangalore, dated the 30th May, 1961.[No. PLM 167 MDA 60]

In exercise of the powers conferred by sub-section (3) of Section 1 of the Mysore Anatomy Act, 1957 (Mysore Act No. 23 of 1957), the Government of Mysore hereby specify 1st June 1961 as the date on which the said Act shall come into force in the following Districts namely:—

1. Gulbarga and
2. Bidar.

By Order and in the name of the Governor of Mysore,

(O. V. RAMAIAH)

Under Secretary to Government, P.H. Labour and Municipal
Administrative Department.

(Published in PART IV—2-C of the Gazette dated 04.9.1958 at p. 591.)

III

Bangalore, dated the 13th July 1960 (Ashadha 22, Saka Era 1882). [No. LLH 23 MDA 60],

In exercise of the powers conferred by sub-section (3) of Section 1 of the Mysore Anatomy Act, 1957 (Mysore Act 23 of 1957), the Government of Mysore hereby specifies 2nd August 1960 as the date on which the said Act shall come into force in the following Districts:—

- | | |
|------------------|-----------------|
| (1) Bangalore | (6) Chitradurga |
| (2) Coorg | (7) Tumkur |
| (3) Hassan | (8) Kolar |
| (4) Mandya | (9) Shimoga |
| (5) Chickmagalur | (10) Raichur |

By Order and in the name of the Governor of Mysore,

(M. CHINNASWAMY)

Under Secretary to Government, L.S.G.
and P.H. Department.

IV

Bangalore dated 11th July, 2000 [No.HEW 189 PTD 99]

In exercise of the powers conferred by sub-section (3) of Section 1 of the Karnataka Anatomy Act 1957 (Karnataka Act No.23 of 1957), the Government of Karnataka hereby specify Eleventh day of July 2000 as the date on which the said Act shall come into force in the State.

By Order and in the name of the Governor of Karnataka

(J. SRINIVASAN)

Under Secretary to Government,
Health & Family Welfare Department.

V

Bangalore dated 28th July, 2001 [No.HFW 189 PTD 99]

In exercise of the powers conferred by sub-section (2) of Section 1 of the Karnataka Anatomy (Amendment) Act ,1999 (Karnataka Act 15 of 1999), the Government of Karnataka hereby appoints the first day of August 2001 to be the day on which the said Act come into force.

By Order and in the name of the Governor of Karnataka

(J. SRINIVASAN)

Under Secretary to Government,
Health & Family Welfare Department.

* * * * *

THE KARNATAKA SALES TAX ACT, 1957

ARRANGEMENT OF SECTIONS

Statements of Objects and Reasons

Sections:

CHAPTER I PRELIMINARY

1. Short title, extent and commencement
2. Definitions

CHAPTER II AUTHORITIES AND APPELLATE TRIBUNAL.

3. Appointment of Commissioner, Additional Commissioner, Joint Commissioners of Commercial Taxes, Deputy Commissioner of Commercial Taxes, Assistant Commissioner of Commercial Taxes, a State Representative and Commercial Tax Officer.
- 3A. Instructions to subordinate authorities.
- 3B. Jurisdiction of officers.
- 3C. Change of incumbent of an office.
4. Provision for clarification and advance rulings.

CHAPTER - IIA SETTLEMENT OF CASES

- 4A. Definitions
- 4B. Constitution of Sales Tax Settlement Commission
- 4C. Place of sitting of Settlement Commission
- 4D. Decision to be by majority
- 4E. Application for settlement of cases
- 4F. Procedure on receipt of an application
- 4J. Powers and procedure of Settlement Commission
- 4K. Inspection, etc., of reports
- 4L. Power of Settlement Commission to grant immunity from prosecution and penalty
- 4M. Power of Settlement Commission to send a case back if the applicant does not co-operate
- 4N. Order of settlement to be conclusive

40. Proceedings before Settlement Commission to be judicial proceedings

CHAPTER III
INCIDENCE AND LEVY OF TAX.

5. Levy of tax on sale or purchase of goods.
- 5A. Taxation of Industrial Inputs.
- 5B. Levy of tax on transfer of property in goods (whether as goods or in some other form) involved in the execution of works contracts.
- 5C. Levy of tax on the transfer of the right to use any goods.
6. Levy of purchase tax under certain circumstances.
- 6A. Burden of proof.
- 6B. Levy of Re-sale tax.
- 6BB. Omitted.
- 6C. Levy of Additional Tax.
- 6D. Levy of Road cess.
- 6E. Levy of Infrastructure cess
7. Liability to taxation under this Act of transactions.
8. Exemption of tax.
- 8A. Power of State Government to notify exemptions and reductions of tax.
9. Act to apply to non-resident dealers with certain modifications and additions.

CHAPTER IV
REGISTRATION AND GRANT OF LICENCES.

10. Registration of dealers, commission agents, etc.
- 10A. Procedure for registration.
- 10B. Suo motu registration.
11. Agents liable to pay tax.

CHAPTER V
RETURNS, ASSESSMENTS, PAYMENT, RECOVERY, COMPOSITION
AND COLLECTION OF TAX

12. Returns and assessment.
- 12A. Assessment of escaped turnover.
- 12AA. Assessment in cases of price variation or price revision.

- 12B. Payment of tax in advance.
- 12C. Self assessment in the case of certain dealers.
- 12D. Cancellation of assessment in certain cases.
- 12E. Re-assessment in certain cases.
- 12F. Assessment of Corporate Bodies.
- 13. Payment and recovery of tax.
- 13A. Payment of interest.
- 13B. Power to withhold refund in certain cases.
- 13C. Purchase by the State Government in auction of property.
- 13D. Special powers for recovery of amounts due to Government.
- 14. Recovery of tax or penalty or any other amount from certain other persons.
- 14A. Issuance of clearance certificates to registered dealers.
- 15. Tax payable on transfer of business, etc.
- 16. Assessment of legal representatives.
- 17. Composition of tax.
- 17A. Rounding off of tax, etc.
- 18. Collection of tax by dealers.
- 18A. Penalty for collection in contravention of section 18.
- 18AA. Payment and disbursement of amounts wrongly collected by dealer as tax.
- 19. Certain dealers to collect and pay tax.
- 19A. Deduction of tax at source (in case of works contract)

CHAPTER V

RETURNS, ASSESSMENTS, PAYMENT, RECOVERY, COMPOSITION AND COLLECTION OF TAX

- 12. Returns and assessment.
- 12A. Assessment of escaped turnover.
- 12AA. Assessment in cases of price variation or price revision.
- 12B. Payment of tax in advance.
- 12C. Self assessment in the case of certain dealers.
- 12D. Cancellation of assessment in certain cases.
- 12E. Re-assessment in certain cases.

- 12F. Assessment of Corporate Bodies.
- 13. Payment and recovery of tax.
- 13A. Payment of interest.
- 13B. Power to withhold refund in certain cases.
- 13C. Purchase by the State Government in auction of property.
- 13D. Special powers for recovery of amounts due to Government.
- 14. Recovery of tax or penalty or any other amount from certain other persons.
- 14A. Issuance of clearance certificates to registered dealers.
- 15. Tax payable on transfer of business, etc.
- 16. Assessment of legal representatives.
- 17. Composition of tax.
- 17A. Rounding off of tax, etc.
- 18. Collection of tax by dealers.
- 18A. Penalty for collection in contravention of section
- 18AA. Payment and disbursement of amounts wrongly collected by dealer as tax.
- 19. Certain dealers to collect and pay tax.
- 19A. Deduction of tax at source (in case of works contract).
- 19AA. Deduction of tax at source in other cases.
- 19B. Power of Government to notify deferred payment of tax, etc., for sick industries and riot affected industries.
- 19C. Power of Government to notify exemption of tax or deferred payment of tax for new industries.

CHAPTER VI

APPEAL AND REVISION

- 20. Appeals.
- 21. Revisional powers of Joint Commissioners.
- 21A. Deferment of refund in certain cases.
- 22. Appeal to the Appellate Tribunal.
- 22A. Revisional powers of Additional Commissioner and Commissioner.
- 22B. Limitation in regard to passing of orders in respect of certain proceedings.
- 23. Revision by High Court in certain cases.

- 24. Appeal to High Court.
- 24A. Objections to Jurisdiction.
- 25. Petitions, applications and appeals to High Court to be heard by a Bench of not less than two Judges.

CHAPTER VII

MISCELLANEOUS

- 25A. Rectification of mistakes.
- 25B. Levy of tax on sugarcane.
- 26. Accounts to be maintained by dealers.
- 26A. Audit of account.
- 27. Certain dealers to issue and obtain Bill or Cash Memorandum.
- 28. Powers to order production of accounts and powers of entry, inspection and seizure.
- 28A. Establishment of checkpost or barrier and inspection of goods while in transit.
- 28AA. Transit of goods by road through the State and issue of transit pass.
- 28AAA. Power to purchase in case of undervaluation of goods to evade tax.
- 28B. Transporter, etc., to furnish information.
- 28C. Omitted.
- 29. Offences and penalties.
- 30. Cognizance of offences.
- 30A. Summary disposal of certain cases.
- 31. Composition of offences.
- 31A. Offences by companies.
- 32. Assessment, etc., not to be questioned in prosecution.
- 33. Bar of certain proceedings.
- 34. Limitation for certain suits and prosecutions.
- 35. Courts not to set aside or modify assessments except as provided in this Act.
- 36. Appearance before any Authority in proceedings.
- 36A. Power to summon persons to give evidence.
- 37. Disclosure of information respecting assesses.
- 38. Power to make rules.

39. Laying of rules and notifications before the State Legislature.
40. Repeal and savings.
41. Power to remove difficulties.
42. Provisions relating to Appellate Tribunal.
43. Assessments to tax or taxes in certain cases.

SCHEDULES

- First Schedule
- Second Schedule
- Third Schedule
- Fourth Schedule
- Fifth Schedule
- Sixth Schedule
- Seventh Schedule
- Eighth Schedule
- Nineth Schedule - Omitted

* * * * *

STATEMENT OF OBJECTS AND REASONS

I

Act 25 of 1957.—Five different sets of laws on Sales Tax are now in operation in the areas forming the new Mysore State. This has led to Administrative inconveniences as well as inconvenience to several dealers. Therefore, the need for unification of the Sales Tax law in the new State is too obvious to require any explanation. In view of these, the Government announced their intention to introduce a uniform law on the subject. The present Bill is the result of Government's decision to have a uniform law on Sales Tax in the new State.

2. In bringing about uniformity, due regard has been paid not only to the revenue aspect, but also to the likely repercussions of the tax on trade and commerce in the new State. This opportunity has also been availed of to remove some of the difficulties in the working of the Sales Tax Acts now in force and to redress the legitimate grievances of the dealers to the extent possible. The Bill has been prepared taking into consideration the pattern of taxation prevailing in the adjoining States, and the provisions of the newly enacted Central Sales Tax Act.

3. Though the taxable annual turnover limit is proposed to be reduced from Rs. 7,500 to Rs. 5,000, provision has been made for composition of tax in regard to annual

turnovers of Rs. 20,000 and below. Exemptions have been limited in the light of the recommendations of the Taxation Enquiry Commission to a few articles essential for the life of the community.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A, as No. 240, p. 59, Notification No. 10415 LA, dated 5.8.1957.)

II

Amending Act 9 of 1958.— 1. At the Conference of Finance Ministers held at Delhi in November 1957, it was agreed that the States should discontinue the levy of State Sales Tax on textiles (Other than pure silk cloth), tobacco and its products and sugar, so as to enable the Central Government to levy additional excise duties on these commodities and to distribute the proceeds to the various States. As the Central Government proposed to bring new arrangement into force from 14th December 1957 this Government had to exempt those commodities from sales tax from that date. To give effect to these decisions, Ordinance No. 9 of 1957 was promulgated by the Governor on 13th December 1957. By the same Ordinance electrical energy was included in the list of goods exempted from sales tax and gur, garlic, onion, potatoes, turmeric, sweet potatoes and products of pulses were included among the commodities subject to one per cent turnover tax. The present Bill is mainly for replacing the Ordinance.

2. Since the promulgation of the Ordinance, a copy of the Additional Duties of Excise (Goods of Special Importance) Act, 1957, has been received from the Government of India. This Act lays down that a State Government will not be entitled to its share of additional excise duties if the State levies any sales or purchase tax on any form of tobacco or on cotton or artificial silk or woolen fabrics. It has become necessary, therefore, to remove licence fee on handloom cloth and sales tax on cigarette and pipe tobacco as well as on beedies and snuff and other products of tobacco, mentioned in item 42 in Second Schedule to the Mysore Sales Tax Act, 1957. The Bill provides for exemption from licence fee and sales tax of these commodities also.

(Published in the Gazette (Extraordinary) Part IV-2A dated 4-3-1958 as No. 53)

III

Amending Act 31 of 1958.— This Bill is intended to implement the decisions of the Conference of Finance Ministers held at Delhi in November 1957, regarding uniform taxation of certain luxury goods and to remove certain difficulties which have been felt in implementing the Mysore Sales Tax Act, 1957. The main provisions of the Bill are :-

(1) Turmeric power and dals, flour and husk of pluses will be taxed at one per cent in the same way as turmeric and pluses.

- (2) The rate of tax on bullion and specie and certain luxury articles is enhanced.
- (3) Voluntary payment of sales tax by Commission Agents is provided for.
- (4) Coccoanut and copra are brought within the definition of oil-seeds.
- (5) Books meant for reading, canteen stores, fresh fruits, hosiery cloth in lengths and all cloth (including pure silk) made on handlooms, are exempted from sales tax.
- (6) Provision is made for validating the rules already made and for the reduction of registration fee in particular classes of cases and for presiding fees for the grants of copies documents.
- (7) The point of levy of purchase tax is changed from the last purchase point to first purchase point, in the case of declared goods.

(Published in the Gazette (Extraordinary) Part IV-2A dated 5-5-1958 as No 99.)

IV

Amending Act 32 of 1958.— Not Available

V

Amending Act 11 of 1961.—In order to have a uniform law in the State in respect of the levy of cess on sugarcane the Mysore Sugarcane Cess Act was passed in the year 1958. Under this Act, the cess is levied on the entry of sugarcane into the factory the area comprised in which is treated as a local area. The cess is in the nature of octroi falling under entry 52 of the State List, that is, taxes on the entry of goods into a local area for consumption, use or sale therein. The Allahabad and the Mysore High Courts had held that this levy was valid. But the Supreme Court has held that the local area referred to in entry 52 of the State List means the area within the jurisdiction of a local authority, and that therefore a State Act imposing a tax on entry of sugarcane into a factory, is unconstitutional. They have accordingly held the U.P. Sugarcane Cess Act, 1956, and the Madras Sugar Factories Control Act, 1949, as amended by the Madras Sugar Factories Control (Mysore Amendment and Validation of Levy of Cess) Act, 1959, as invalid.

Since under entry 97 of the Union List, Parliament can impose any tax not enumerated in any of the Lists, the levy and collection of cess under the U.P. Acts have been validated by Parliament by the enactment of the U.P. Sugarcane Cess Validation Act, 1961. The Government of India have been requested to undertake similar legislation for the validation of the levy and collection of sugarcane cess under the State Acts.

As regards the future levy, it is proposed to levy a tax at the rate of fifteen per cent on the turnover of the last dealer in the State in respect of the purchase of sugarcane, by amending the Third Schedule to the Mysore Sales Tax Act, 1957.

Hence this Bill.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 14-4-1961 as No. 59 at page 2 & 3.)

VI

Amending Act 12 of 1961.—Under the Mysore Sales Tax Act, 1957, pure silk fabrics are taxable at the first stage of sale at 9 per cent in respect of cloth other than cloth woven by powerlooms and handlooms and 4 per cent on cloth woven on powerlooms. The Government of India have decided that the sales-tax on pure silk fabrics may be replaced by additional duties of excise, the proceeds thereof being distributable to the States according to the formulae of distribution of net proceeds on the same lines as applicable to duties on other varieties of textiles. They have accordingly levied excise duty on pure silk fabrics with effect from the first March 1961. It is therefore necessary for the State Government to exempt pure silk fabrics on which excise duty is levied from sales-tax from first March 1961. The excise duty is not payable on the stocks with the dealers, and on this stock it is considered necessary to levy sales-tax. Since there is no provision in the Act empowering the State Government to grant exemption by notification and for assessing the floating stocks, sections 5, 8 and 18 of the Act are proposed to be amended.

At present sub-section (8) of section 5 of the Mysore Sales Tax Act, 1957, provides for making provisional assessment. In the light of the observations of the High Court in a batch of writ petitions challenging provisional assessments, the Advocate-General suggested the omission of sub-section (8) and inserting a separate section relating to provisional assessments. Provision has accordingly been made in clauses 2 (2) and 4 of the Bill.

Section 43 of the Act provides for payment of tax on the turnover or turnovers during the assessment year ending on the date of commencement of the Act. As the Act came into force on 1st October 1957, assessments have been made on the basis of the turnover of dealers up to that date. In respect of the turnover of dealers from 1st October 1957 up to the commencement of the next assessment year also, it is necessary to make specific provision for assessment. Provision has therefore been made in clause 6 of the Bill.

The assessments made on the basis of rule 6 of the Mysore Sales Tax Rules, as amended in May 1959, have been questioned, and it is considered necessary to declare that the amendment is valid. Provision for this purpose is made in clause 7. It is also considered necessary to validate the assessments already made.

Necessary provision for this purpose has been made in clause 8.

(Published in Karnataka Gazette (Extraordinary) Part IV 2-A dated 14th April 1961 as No. 60, at page. 6.)

VII

Amending Act 28 of 1961.— It is generally felt that there is much scope for evasion of Sales tax and that effective action is required to be taken to prevent evasion.

The question of setting up of Intelligence and Enforcement Section in the Commercial tax Department and establishing check posts at key points to detect and prevent evasion has been under consideration. One of the effective methods of minimizing evasion is to keep track of goods coming into and going out of the State. For this purpose, check posts are required to be set up as has been done in the neighbouring States of Madras, Kerala and Andhra Pradesh. The Offices of the department would require legal sanction for stopping the vehicles and checking the goods and the relevant documents in order to satisfy themselves that sales tax leviable on those transactions is not evaded. There is no provision in the existing law for such a check. It is therefore, proposed to amend the Act to enable Government to establish check posts wherever necessary and to authorise the officers of the Department to stop the vehicle and check the goods and relevant documents carried by them. Hence the Bill.

(Published in the Mysore Gazette (Extraordinary) Part IV-2A dated 10-11-1961 as No 142 at page 4.)

VIII

Amending Act 29 of 1961.—It is considered necessary to designate "Inspecting Officers" as "Assistant Commissioners of Commercial Taxes" and empower them to hear appeals against the orders of Assistant Commercial Tax Officers. Provision has accordingly been made in clauses 2, 3, 6, 7 and 8 of the Bill.

Under the Central Sales Tax Act, 1956, certain goods like cotton and oil seeds have been declared to be of special importance in inter-State trade or commerce. According to section 15 of the said Act, the tax payable by any dealer under the State Sales Tax Act, in respect of any sales or purchases in respect of declared goods, shall not exceed two per cent and such tax shall not be levied at more than one stage in the State. Under the Mysore Sales Tax Act, cotton and groundnut including groundnut seed are subject to a purchase tax and the purchase tax has to be paid by the last dealer in the State liable to tax under the Act. Since tax cannot be levied in respect of declared goods at more than one stage in the State, it is necessary to provide for refund of tax paid by a dealer in a year in respect of purchase of such goods, if such goods are subsequently sold to any other dealer in the State, who is liable to pay the tax. Provision has accordingly been made in item (i) of clause 4. By item (ii) of clause 4, the first proviso to section 5(4) of the Act is proposed to be amended to prescribe by

rules the manner and conditions subject to which the tax paid under section 5(4) shall be refunded.

The High Court of Mysore has recently held sub-section (3) of section 18 of the Mysore Sales Tax Act to be unconstitutional and invalid as it does not provide for refund of tax to a customer, who though not required by law to pay the tax, has paid the tax. It is therefore considered necessary to provide for refund of tax in such cases and also to specify the period within which the customer should claim refund. Provision has accordingly been made in clause 5 of the Bill. In another case the High Court has held that beer manufactured in India does not fall under entry 38 of the Second Schedule to the Act and that the tax collected at 25 per cent on the sale of such beer is not valid. Since the intention was that beer whether manufactured in India or abroad should be subjected to tax at 25 per cent, entry 38 and Explanation II of the Second Schedule are proposed to be amended. The levy and collection of tax at 25 per cent on such beer and the tax forfeited under section 18(3) are also proposed to be validated. Provision for this purpose has been made in clause 10 of the Bill.—

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 20th November 1961 as No. 151, at page. 5.)

IX

Amending Act 26 of 1962.—In the light of certain decisions of the Mysore High Court, it has become necessary to amend sections 7, 12A and 40 of the Mysore Sales Tax Act, 1957. It is also necessary to validate rule 6 of the Mysore Sales Tax Rules with retrospective effect. Hence this Bill.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 27th April 1962 as No. 82, at page. 8.)

X

Amending Act 30 of 1962.— The State Government are committed to raise a sum of Rs. 42 crores for the Third Five-Year Plan by additional taxation. In order to meet the commitments of the schemes in the Second Five-Year Plan and implementation of schemes in the Third Five-Year Plan, the resource of the State have to be augmented. The Mysore Resources and Economy Committees have made certain recommendations for this purposes, With reference to levy of sales tax, they have inter alia made the following recommendations:-

- (i) the removal of exemption of cereals from payments of sales tax and subjecting them to tax one per cent to multi point;
- (ii) chillies, now taxed at single point of first purchased, may be taxed to multi point;
- (iii) the present rate of tax on timber at three per cent at first point of sale, be raised to four per cent;

- (iv) raw silk may be taxed at point of last purchase at one half per cent;
- (v) tamarind seeds may be taxed at the point of last purchase;
- (vi) certain commodities, such as, aerated water, heavy chemical, granite slabs, mosaic tile and chips, cement and asbestos sheets and chicory now taxed at two per cent at multi point under section 5(1) may be brought under single point levy at three per cent at the point of first sale in the State;
- (vii) all kinds of yarn, except cotton yarn covered by the Fourth Schedule may be taxed at two per cent, the rate of three-fourths per cent being made applicable only to pure silk yarn;
- (viii) exemption of firewood and charcoal for domestic use may be removed;
- (ix) exemption of dried vegetables may be removed;
- (x) existing rates of tax in the case of certain commodities may be slightly enhanced to the level of those prevailing in the neighbouring States;
- (xi) the rate of tax on pluses and on gold and silver articles may be raised from one to two per cent;
- (xii) concessions allowed under the second and third provisions to section 5(4) of the Sales tax Act may be withdrawn; and
- (xiii) the rate of sales tax on hotel turnover under section 5(1) be raised from two to three per cent.

With certain variations, it is proposed to implement the recommendations of the Committee. Hence this Bill. In the case of timber, instead of levy of tax at the first point of sale at four per cent as recommended by the Committee, it is proposed to levy multi point tax at two per cent. In respect of raw silk it is proposed to levy tax at one per cent at the point of last purchase instead of one half per cent as recommended by the Committee. In respect of mosaic tiles and chips and chicory, it is proposed to levy tax at the point of first sale at the rate of four per cent and five per cent, respectively, instead of three percent recommended by the Committees. In respect of yarn, a uniform rate of two per cent has been proposed in respect of both mill yarn and thrown silk, instead of three-fourths per cent as at present. The recommendation of the Committee to enhance the rate of tax leviable in respect of certain commodities is proposed to be implemented by levy of slightly higher rate in respect of some of those commodities. The rate of tax on pluses has not been enhanced to two per cent as recommended by the Committee, as this commodity has to be treated in the same manner as cereals. Similarly the rate of tax on hotel turnover has not been enhanced to three per cent as recommended by the Committee, since it will increase the tax burden on persons who have to take food and other eatables in hotels.

(Published in the Mysore Gazette (Extraordinary) Part IV-2A dated 27-8-1962 as No. 166 at page 5-6.)

XI

Amending Act 9 of 1964.— The Select Committee which considered the Mysore Sales Tax (Second Amendment) Bill, 1962 had recommended inter alia that, Government might consider separate legislation for enhancing the rates of tax on certain goods. It was decided early this year that the States should revise the rates of tax on certain luxury goods uniformly from seven per cent to ten per cent. In the Budget Speech the enhancement of rates on luxury goods was also mentioned. There have been several representations for replacement of the existing levy of licence fee on food grains by tax in view of the inconveniences involved in the present levy. It is therefore proposed to levy tax on the sale of food grains in section 5 (1) of the Act. This is also considered necessary for increasing the State's resources.

2. The existing rates of tax on electrical earthen porcelain goods and toilet soaps are likely to produce adverse effects on the industries manufacturing these goods in the State. It is, therefore, proposed to reduce the rates of tax suitably in respect of the goods affected. Several representations are being received that the sale of potatoes, sweet potatoes, green chillies, gotta and nakki may be exempted from tax. As it is proposed to levy tax on sale of food-grain under section 5 (1), it is proposed to exempt sale of these goods from tax.

3. At present appeals are provided only against orders objecting to assessment. It is proposed to enlarge the scope of the relevant provisions so as to make all orders appealable and to provide for second appeals against orders not relating to the assessment also. At present a large number of orders applicable to the Tribunal are being questioned by revision petition before the Commissioner, thereby considerably increasing the quasi-judicial functions to be performed by the Commissioner and making it difficult for him to give the attention and time necessary for the proper administration and enforcement of the Acts dealt with by the Commercial Taxes Department. It is therefore considered that in cases in which assesses can prefer appeal to the Tribunal, the alternative procedure of filing revision petitions before the Commissioner should be deleted, retaining power with the Commissioner to revise orders only when he considers that such order are prejudicial to the revenue.

4. Provision is made in sub-section (5A) and (5B) of section 5 of the Act for levy of tax on the sale or purchase of the goods held by a dealer on 14-12-1957 and 1-3-1961 on which excise duty or additional excise duty levied by the Central Government from those dates had not been levied. In a recent decision, the High Court has held that sub-section (5A) as worded has not the effect of making such goods liable to tax. It is considered necessary to ensure that the tax payable on those goods are realised by the State.

5. In another decision, it has been held by the High Court that where a dealer who is not himself liable to pay tax collects any amount from the purchaser as tax, such

amount cannot be considered to be amount collected 'by way of the tax' as contemplated by sub-section (3) of section 18 as the dealer himself is not liable to tax. Consequently in such cases, the amount will neither be refunded to the purchaser nor paid to the State. It is therefore, necessary to provide that the amount will be payable to the State whether it is collected by way of tax or purporting to be by way of tax. Sub-section (3) of section 18 is accordingly proposed to be amended.

6. The other amendments proposed to be made intended to remove certain difficulties experienced in the working of the Act.

7. The provisions made in the Bill do not involve additional expenditure from the Consolidate Fund of the State.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 6-9-1963 as No. 114)

XII

Amending Act 29 of 1964.—In accordance with the decision at a conference of Chief Ministers, the rate of tax leviable on certain luxury goods has already been raised from seven per cent to ten per cent. It is now proposed to raise the rate of tax leviable under the Second Schedule to the Mysore Sales Tax Act, 1957, in respect of cigar and cigarette cases, lighters and holders of cigar and cigarettes from seven per cent to ten per cent.

Under the Fourth Schedule to the Act, a tax at the rate of two per cent on the point of first purchase is leviable on hides and skins. In view of representations made in this behalf, it is now proposed to levy tax at the rate of one per cent at the point of last purchase.

The Government of India had suggested exemption being given to food grains sold by the Central Government and by a wholesale Central Co-operative Society. On an earlier occasion, the Government of India had also suggested exemption being given in respect of goods sold to Indian Aid Mission, Nepal. It is also considered necessary to grant exemption to goods sold by canteens run under the auspices of the Central Government or State Government Offices for the benefit of the members of the staff. It is therefore proposed to amend the Fifth Schedule to the Act.

Hence this Bill.

As no expenditure is involved, financial memorandum is not given. There is also no delegated legislation.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 16th June 1964, as No. 147, at page 4.)

XIII

Amending Act 3 of 1966.—With a view to augmenting the resources of the State, it is considered necessary to rationalise and remove the differences in the rate structure as compared to rates of tax in the neighbouring State. The opportunity has been taken to make certain other amendments considered necessary.

Hence this Bill.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 16th October 1965 as No. 200, at page. 7.)

XIV

Amending Act 7 of 1966.— For the implementation of Fourth Five-Year Plan, the State has to raise sufficient resources. These resource have to be raised mostly by additional taxation and it has therefore become necessary to make an upward revision of the rates of sales tax so as to get more revenue from this source. Many other States in India have already taken steps to enhance the rates of sales tax. The present Bill is mainly intended to enhance the rate of sale tax on luxury goods from 10% to 12% and on goods liable to multi -point tax and also on most of the goods other than luxury goods coming under the Second Schedule by 1/2%. It is also proposed to give a rebate of 1% in respect of luxury goods imported from outside the State as they will have been subjected to Central Sales Tax during the course of import.

Some of the lacunae notice in the course of implementing the Act are also proposed to be rectified. Industrial, Commercial or trading undertaking of the State Government are getting themselves registered as dealers under Mysore Sales Tax Act, to become eligible for registration under the Central Sales Tax Act also and get the benefit of concessional rates applicable to registered dealers in respect of inter-state transaction. The definition of "dealer" is proposed to be amplified to include such undertakings also. The minimum turnover which would render a dealer liable to registration and to payment of tax is proposed to be enhanced from Rs. 7,500 to Rs.10,000.

Hence this Bill.

XV

Amending Act 16 of 1967.—Consequent on the amendment of the Central Sales Tax Act by the Parliament providing for the enhancement of the rates of tax applicable to the declared goods under the local sales tax laws, it has become necessary to amend the IV Schedule which specifies the declared goods and the rates of tax applicable to them. The rates of tax applicable to the declared goods specified therein are now being enhanced accordingly.

The Government was considering the question of granting certain concessions to new industries with a view to encourage development of industries in the State. The Government recently took a decision that in respect of new industries exemption from

the payment of Sales Tax should be provided for an initial period of two years. The manner in which that exemption should be provided was examined and it was thought that it can be best done by means of Notifications issued from time to time whenever occasion arises. Since the Act did not contain a provision empowering the State Government to issue such notifications it is now intended to insert a provision empowering the Government to notify exemptions and reduction of tax rates. Such a provision exists in the Sales Tax Laws of the Neighbouring States also.

This occasion is also utilised to make certain minor amendments relating to procedural matters and also to provide for concessional rate of tax for vermicelli and to reduce the rates of tax on sugarcane and to exempt Amber Charkas, Druggets, Durries and Carpets. The benefit of exemption granted to bona fide producers under item 28 of the V Schedule is proposed to be limited to persons who produce goods exclusively coming under village industry.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 12th December 1967 as No. 278, at page. 10.)

XVI

Amending Act 17 of 1969.—Clause (j) of sub-rule (4) of Rule 6 of the Mysore Sales Tax Rules, 1957 provided for the exclusion of excise duty paid by a dealer from the computation of his taxable turnover. By Government Notification No. GSR 882, dated 16th March 1966, this clause was deleted from the rules with the object of recovering sales tax even on the excise duty portion of the turnover of dealers. In respect of arrack which falls under entry relating to Sl. No. 39 of the Schedule, sales are made by Government to licensed contractors and sales tax was recovered from them at 6½% on the total amount payable by them including the excise duty from 1st April 1966. The Mysore High Court in W. P. No. 644/66 D. Cawasji & Co., and others vs. the State of Mysore (1968 16 LR 64) held that on the sales of arrack, the sales tax cannot be collected on the total amount but has to be collected only on the basic price excluding excise duty on the ground that the duty in such a case does not form part of the sale price but is a separate "levy" made by the Government at the time of releasing the stocks from the Government Bonded Warehouse. Consequently, a considerable amount already recovered may become refundable. In order to get over the effects of the High Court decision and retain the money already recovered by the Government, it is proposed to enhance the rate of tax on arrack to 45% with retrospective effect from 1st April 1966. The enhanced rate of tax on the basic price would be absorbed in the price already recovered, and no additional tax is expected to be realised from this Bill. Since the Legislature was not in session and in view of urgency, an Ordinance was promulgated. The Bill is to replace the Ordinance.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 14th August 1969, as No. 400, at page. 4.)

XVII

Amending Act 27 of 1969.—In sub-sections (4) to (7) of Section 28-A of the Mysore Sales Tax Act, 1957, a provision was made to confiscate the goods by the Check-post Officer, whenever the goods under transport are not covered by proper documents to show that the goods in question have already been subjected to sales tax. If the party desired to release the goods on the spot itself, he was to pay ten per cent of the estimated value of the goods. The High Court of Mysore in Venkatachalpathy vs. Commercial Tax Inspector and other (1965_16 S.T.C. 894), while upholding the validity of sub-sections (1), (2) and (3) of the said section, have struck down the provisions of sub-sections (4), (5), (6) and (7).

It is, therefore, proposed to substitute new sub-sections (4), (5), (6) and (7) providing for,—

- (1) levy of penalty;
- (2) the limits upto which the penalty may be levied;
- (3) the procedure to be followed when the penalty is not paid; and
- (4) an appeal by the aggrieved person.

Provision has also been made that the officer-in-charge of the check post or barrier shall be an officer not below the rank of an Assistant Commercial Tax Officer and not higher in rank than an Assistant Commissioner of Commercial Taxes.

In order to ensure that there is no evasion of tax, a new section 28C is also proposed to be incorporated in the Act, requiring submission of the documents referred to in sub-section (2) of Section 28A or copies thereof by the owner or other person in charge of a goods vehicle or boat in respect of the goods under transport to the Commercial Tax Officer.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 14th August 1969 as No. 398, at page. 5.)

XVIII

Amending Act 31 of 1969.—While considering methods by which delays in the disposal of cases can be reduced and the time of the courts can be saved in trying a large volume of petty cases, the Law Commission of India in their fourteenth Report recommended the adoption of the procedure laid down in section 130 of the Motor Vehicles Act, 1939. Section 130 of the Motor Vehicles Act, 1939 provides for the summary disposal of cases arising under that Act in respect of specific class of offences thereunder. In accordance with that section, the accused person can plead guilty to the charge by registered letter and remit to the court as fine such sum as the court may specify. The Commission has recommended that this procedure may be

extended to minor offences under other Acts.

After examining the suggestion of the Law Commission of India, it has been decided to make a provision in the Mysore Sales Tax Act, 1957 (Mysore Act 25 of 1957) and the Mysore Entertainments Tax Act, 1958 (Mysore Act 30 of 1958) similar to section 130 of the Motor Vehicles Act, 1939 to deal with the offences prescribed under section 29 (1) of the Mysore Sales Tax Act, 1957 and section 12 (1) (b) (ii) of the Mysore Entertainments Tax Act, 1958.

Hence this Bill.

(Published in Karnataka Gazette Part IV-2A dated 13th February 1969, at page. 32.)

XIX

Amending Act 9 of 1970.—In the Budget speech it was indicated that the Mysore Taxation and Resources Enquiry Committee's Report on Sales Tax, copies of which were already circulated among the members of the Legislature, has been accepted by the Government with certain modifications. This Bills is intended to implement these decisions. The more important of these decisions are:—

- (1) Enhancement of the minimum limit of turnover for tax liability from Rs. 10,000 to Rs. 25,000.
- (2) Raising the maximum limit of turnover for composition benefits to Rs. 75,000.
- (3) Repeal of the Mysore Sales of Motor Spirit Taxation Act, 1957 and bringing the sales of Motor Spirits within the preview of the Mysore Sales Tax Act, 1957.
- (4) Rationalisation of the tax rates.

This opportunity is also being availed of to include in this Bill certain other amendments which are found necessary.

Hence the Bill.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 26th March 1970, as No. 105, at page 21.)

XX

Amending Act 15 of 1970.—Consequent upon the amendment of the Central Sales Tax Act, 1956 by the Central Sales Tax (Amendment) Act, 1969, proceedings for the rectification of assessment and appellate orders were taken under rule 38 of the Mysore Sales Tax Rules. In respect of rectification proceedings taken by the appellate authorities, the validity of rule 38 was questioned in certain writ petitions. In view of the decision of the High Court with reference to section 12A in Lakshmi Bags Manufacturing Co., v. State of Mysore [1969 (1 Mys L.J. 425)], it was considered necessary to make specific provision for appeals against orders of rectification of the

appellate authorities. As there are many cases in which the rectification proceedings have been challenged and the collection of tax had to be expedited, it was considered necessary to make provision in the Act itself for rectification of assessment and appellate orders. As the matter was urgent and as both the Houses of Legislature were not in Session, the Mysore Sales Tax (Amendment) Ordinance was promulgated on 9th June 1970, Provision was made by this amendment empowering the assessing authority, appellate authority, the revising authority, the Appellate Tribunal and the High Court to rectify any mistake apparent from the record.

This Bill is intended to replace the Ordinance.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A, dated 11th September 1970 as No. 389, at page. 7.)

XXI

Amending Act 18 of 1971.— In order to raise additional resources to be utilised exclusively for the relief of Bangla Desh refugees, the Government of Mysore has proposed to levy an additional tax at the rate to two paise in the rupee on the sales tax or purchase tax or both payable by all dealers liable to pay tax under the Mysore Sales tax Act, 1957. The present measure is being enacted to give effect to the said proposed.

2. The Committee constituted under the proviso to sub-section (2) of section 3 of the Mysore State Legislature (Delegation of Powers) Act, 1971 (23 of 1971), has been consulted before enactment of this measure as a President's Act.

XXII

Amending Act 5 of 1972.—In the budget speech, certain changes in the sales tax rates and rationalisation of composition rates have been announced. The Bill is intended to give effect to these changes. Opportunity has been taken to make other amendments with a view to remove certain difficulties and also tighten up the procedure regarding collections.

Hence this Bill.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 19th July 1972, as No. 285, at page 9.)

XXIII

Amending Act 7 of 1972.—Section 13 (3) (b) of the Mysore Sales Tax Act, 1957, authorises recovery of the tax assessed or any other amount due under that Act, on application to any Magistrate, by such Magistrate as if it were a fine imposed by him. Accordingly, for purposes of expeditious recovery of arrears proceedings were being taken by making applications to Magistrates.

In a recent case, namely, Messrs, Mohanlal Premchand Vs. Commercial Tax Officer and another [1971 (1) Mysore Law Journal 72], the High Court of Mysore held that under section 32 of the Code of Criminal Procedure, a Magistrate of the First Class has jurisdiction to impose a fee not exceeding two thousand rupees, that the power of the Magistrate under section 386 of the Code of Criminal Procedure to recover the fine was circumscribed by the limits of the power to impose a fine, and that therefore, by assorting to the procedure under section 386 of the Code of Criminal

Procedure, a Magistrate under section 13 (3) (b) of the Act, in the absence of any other provisions, cannot recover any amount as if it were a fine, in excess of the limit prescribed under section 32 of the Code of Criminal Procedure; and consequently, quashed the recovery warrants issued by the Magistrate for recovery of the tax exceeding two thousand rupees. Similar orders were passed in other cases.

Appeals have been preferred to the Supreme Court questioning the correctness of the decision of the High Court. As the disposal of the appeals by the Supreme Court may take some time, and as the recovery of arrears has to be effected as expeditiously as possible, it is considered necessary to amend the Act to make it clear.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 19th July 1972 as No. 286, at page. 3.)

XXIV

Amending Act 4 of 1973.—President's Acts 14 of 1971, 16 of 1971, 17 of 1971 and 18 of 1971 had been enacted to raise additional resources for the relief of Bangla Dosh Refugees. They expire on 24th March 1973.

It is proposed that while the additional levies for the relief of Bangla Dosh Refugees may cease, the levies may be retained till 31st March 1974 to raise additional resources to meet the cost of 'People's Housing Programme' to be undertaken by the State Government.

Hence the Bill.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 13th March 1973 as No. 253, at page. 5.)

XXV

Amending Act 7 of 1973.—Sections 14 and 15 of the Central Sales Tax Act 1956 which have a bearing upon sub-section (4) of section 5 of and the Fourth Schedule to the Mysore Sales Tax Act 1957 have been amended by the Central Sales Tax (Amendment) Act, 1972 (Central Act No. 61 of 1972). The gist of the amendments is:—

(1) items which are considered as coming within the scope of iron and steel and oilseeds which are declared goods have been exhaustively enumerated;

(2) Charcoal is excluded from the purview of coal;

(3) the refund of the State tax paid in respect of declared goods which are subsequently sold in the course of inter-State trade have been made subject to the payment of sales tax on the inter-State sale.

Sub-section (4) of section 5 and the Fourth Schedule of the Mysore Sales Tax Act 1956 have to be suitably modified to bring them in conformity with the amended provisions of sections 14 and 15 of the Central Sales Tax Act 1956. It is proposed to bring into effect the proposed amendment with effect from 1st April 1973, the date on which the amendments to the Central Sales Tax Act 1956 will come into force.

Amendments consequential to the proposals made in the budget speech are also included.

Hence the Bill.

(Published in Karnataka Gazette (Extraordinary,) Part IV-2A dated 19th March 1973, as No. 279 at page. 7.)

XXVI

Amending Act 14 of 1974.—It is proposed to raise the rate of sales tax for various commodities in II and IV Schedules of the Karnataka Sales Tax Act, 1957 to augment the revenues of the State.

Hence this Bill.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 21st March 1974, as No. 582 at page 8.)

XXVII

Amending Act 5 of 1975.—Purchase tax on sugarcane purchased by sugar factories was levied on advalorem basis. The rate was ten percent. For purposes of fixing the levy price of sugar, Government of India would take the purchase tax as an item of cost of processing sugarcane. Since the factories do not pay uniform price for sugarcane purchased, the purchase tax paid by them varied. But Government of India would take only the average tax into consideration and it used to be Rs. 8.50 per tonne. So much so sugar factories paying more than Rs. 8.50 per tonne purchase tax would also bound by the levy sugar rate fixed. This was disadvantageous to such factories. Hence representations were made to levy purchase tax on tonnage basis so that the incidence felt uniformly on all sugar factories. This basis would ensure protection of Government revenues also. Besides, the factory would be enabled to recover more than at present and pass on the benefit to the grower. The altered basis therefore would ultimately benefit the grower also.

Ordinance 9 of 1974 was issued for the purpose.

The Bill is to replace the Ordinance.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 7th February 1975 as No. 270 at page 4.)

XXVIII

Amending Act 16 of 1975.—In order to augment the revenues of the State, it is proposed to amend the Karnataka Sales Tax Act, 1957. The Bill provides for:

- (i) levy of an additional tax from certain categories of dealers;
- (ii) enhancement of single point tax in respect of certain commodities;
- (iii) enhancement of multi-point rate;
- (iv) reduction in the concessional Multi-point rate for certain Commodities;
- (v) levy of sales tax on silk fabrics other than fabrics woven on handlooms;
- (vi) inclusion of certain commodities in the II Schedule of the Act (i.e., commodities liable to be taxed at single point rates).

Hence this Bill.

(Published in Karnataka Gazette (Extraordinary) dated 29th March 1975, as No. 866 at page. 6.)

XXIX

Amending Act 30 of 1975.—The Central Sales Tax Act, 1956, stipulates the maximum rate of tax leviable under the State law on the sale or purchase of 'declared' goods. The Central Sales Tax Act was amended with effect from 1st July 1975 and the maximum rate of tax leviable on 'declared' goods was enhanced from 3 percent to 4 percent. In view of the amendment to the Central Sales Tax Act and with a view to raising more revenues, the rate of tax on the following declared goods was raised from 3 to 4 percent with effect from 15th July 1975.

- (i) Coal
- (ii) Iron and Steel
- (iii) Jute

The additional revenue as a result of the enhancement will be Rs. 35 lakhs in a full year and Rs. 26 lakhs during the current financial year.

Ordinance 6 of 1975 was issued for the aforesaid reasons.

The Bill is to replace the Ordinance.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 24th July 1975 as No. 2029 at page 3.)

XXX

Amending Act 16 of 1976.—The Karnataka Sales Tax Act, 1957 provides for the levy of purchase tax at the rate of Rs. 9 per tonne on sugarcane purchased by manufacturers of jaggery. A vast majority of the jaggery manufacturers reside in rural areas and find it difficult to maintain accounts. It was, therefore considered desirable to introduce a system of compounded levy. A compounded system of levy will also facilitate tax collection.

2. With effect from 1st April 1975, the dealers whose total turnover exceeds Rs. 10 lakhs per annum are required to pay Additional Tax at the rate of 10 paise in a rupee on the sales tax or purchase tax or both. However, in the case of 'declared' goods, it is provided in the Act that the tax together with the Additional Tax should not exceed 3 percent. This condition was imposed because of the restriction contained in section 15 (a) of the Central Sales Tax that the tax payable on 'declared' goods shall not exceed 3 percent. The Central Sales Tax Act was amended with effect from 1st April 1975 and the maximum rate of tax leviable on 'declared' goods was enhanced to 4 percent. In view of the above, it is proposed to amend section 6 (B) of the Karnataka Sales Tax Act, 1957 to provide that the tax together with additional tax shall not exceed 4 percent in respect of 'declared' goods.

3. The Karnataka Sales Tax (4th Amendment) Ordinance 1975 was promulgated to give effect to the above proposals.

The Bill is to replace the Ordinance.

(Published in Karnataka Gazette Part IV-2A dated 22nd January 1976, at page. 12_13.)

XXXI

Amending Act 17 of 1976.—It is proposed to enlarge the scope of certain terms like 'business', 'dealer' and 'Miller' so as to facilitate the collection of tax on certain types of transactions. It is also proposed to raise the concessional rate of tax on component parts. A provision has also been incorporated for the publication of the names of tax defaulters. The Karnataka Sales Tax (Amendment) Bill, 1976 gives effect to the above proposals.

Hence this Bill.

(Obtained from LA Bill No. 15 of 1976.)

XXXII

Amending Act 34 of 1976.—In order to augment the revenues of the State, it is proposed to increase the rates of Sales Tax on certain commodities.

It is also proposed to levy a sales tax of 40 per cent on articles of food and drink consumed during Cabaret Shows.

Section 6B of the Karnataka Sales Tax Act, 1957, introduced by Act No. 16 of 1975 with effect from 1st April 1975, authorises the levy of additional tax at 10 per cent on the Karnataka Sales Tax payable by dealers with a turnover of Rs. 10 lakhs and above. This section authorises levy of additional tax in respect of tax payable under section 5 or section 6, but does not cover tax payable under section 25B. This was not the intention at the time of introducing section 6B. The Act is proposed to be amended to extend the levy of additional tax to the tax payable under section 25B also.

Hence this Bill.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 30th March 1976 as No. 1745 at page. 4.)

XXXIII

Amending Act 78 of 1976.—Consequent upon the Central Sales Tax (Amendment) Act, 1976 (Central Act No. 103 of 1976) amending certain provisions of the Central Sales Tax Act, 1956 and shifting some of the Food grains and pulses to the category of declared goods, consequential amendments to the relevant provisions of the Karnataka Sales Tax Act, 1957 had to be effected. As the State Legislature was not in session, these amendments had to be carried out by an Ordinance and accordingly Karnataka Sales Tax (Fourth Amendment) Ordinance, 1976 (No. 22 of 1976) was promulgated. This bill seeks to replace the above Ordinance. Opportunity is also taken to carry out amendments to certain provisions of the Act with a view to removing certain legal infirmities. Cereals and pulses which are not specifically covered by the Ordinance, and 'Chunni' of pulses have also been shifted from multipoint to single point scheme of taxation in consonance with the State's policy to shift as many commodities to single point levy as may be possible.

(Obtained from LA Bill No. 51 of 1976.)

XXXIV

Amending Act 17 of 1977.—At present, additional tax is leviable under section 6B of the Karnataka Sales Tax Act, 1957 on dealers liable to pay tax under section 5 or under section 6 and whose total turnover is ten lakhs of rupees or more in a year, the rate of tax being 10 per cent of the sales tax or purchase tax or both payable by such dealers. In order to augment the revenues of the State, it is now proposed to extend this to dealers whose total turnover is five lakhs of rupees or more but is less than ten lakhs of rupees in a year and the rate of additional tax proposed for this group is seven and half per cent of the sales tax or purchase tax or both payable by such dealers.

Hence the Bill.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 1st April 1977 as No. 258 at page 3.)

XXXV

Amending Act 18 of 1978.—In order to rationalise taxation structure it is proposed to make certain modifications in the Schedule to the Act.

It has been considered necessary to remove certain practical difficulties experienced in working out the provisions of the Karnataka Sales Tax Act.

It is also proposed to raise the rates of Sales Tax of certain commodities in keeping with the rates on these items in the neighbouring States of Tamil Nadu, Kerala and Andhra Pradesh.

Hence this Bill.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 11th August 1978 as No. 1143 at page 11.)

XXXVI

Amending Act 21 of 1979.— In order to augment the revenues of the State it is proposed to second taxation and other laws. Opportunity is taken to make some other amendments also.

Hence this Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 27-3-1979 as No. 259).

XXXVII

Amending Act 14 of 1980.—To augment the revenue of the State and to further rationalise the taxation structure, it is proposed to make certain amendments to the Karnataka Entertainments Tax Act, 1958, the Karnataka Forest Act, 1963 and the Karnataka Sales Tax Act, 1957.

Hence the Bill.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 14th March 1980 as No. 192 at page 5.)

XXXVIII

Amending Act 7 of 1981.—The Minister for Finance has, in his budget speech for 1981_82, announced various measures to augment the State's revenue by selectively fixing or raising the rates of sales tax in respect of certain items, combat the problem of tax evasion and obviate some of the hardships caused to small/petty dealers.

The present Bill seeks to achieve the objectives contained in the budget speech. Opportunity has also been taken to introduce certain other necessary and consequential amendments and to remove certain difficulties experienced by the Government in the administration of the Act.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 28th March 1981 as No. 215.)

XXXIX

Amending Act 13 of 1982.—In the budget speech for the year 1982_83, the Hon'ble Minister of Finance and Tourism, has indicated several proposal in order to augment the revenue of the State. This Bill seeks to give effect to the said proposals. Opportunity is taken to make some other minor amendments.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 27th March 1982 as No. 223 at page 31.)

XL

Amending Act 3 of 1983.—This Bill seeks to exempt Department of the Central and all State Governments, including those of the Government of Karnataka from the levy of turnover tax with effect from 1st April 1982; to shift the point of incidence of tax in respect of iron and steel scrap to counter bill-trading activities of certain unscrupulous dealers; and to modify entry 8-A of the V Schedule to remove certain doubts with reference to the levy or otherwise of tax in respect of certain varieties of textile fabrics which have not been subjected to Additional Excise Duty under Additional Duties of Excise (Goods of Special Importance) Act, 1957 (Central Act 58 of 1957).

As both Houses of the State Legislature were not in Session and Ordinance was promulgated. This Bill seeks to replace the said Ordinance.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 24th November 1982 as No. 816 at page. 5.)

XLI

Amending Act 10 of 1983.—The Bill seeks to give effect to the taxation proposals contained in the Finance Minister's Budget Speech for 1983_84 in relation to sales tax. Opportunity is also taken to introduce certain other necessary and consequential Amendments to the provisions of the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957) in order to plug certain loop-holes leading to tax avoidance/evasion and to rationalise the system of penalties etc.—

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 29th March 1983 as No. 203 page 20.)

XLII

Amending Act 23 of 1983.— Under the existing provisions of the Bill Agent is taxed as qua-agent and not as a dealer. The agent's liability is, therefrom, co-extensive with that of his principal and if the principal cannot be taxed in respect of a transaction his agent also cannot be taxed. It is proposed to modify the applicability of law of agency to the assessments under the Bill by providing that the turnover effected

by the Agents, who is also a dealer under the Bill, shall be deemed to be his own turnover for the purposes of levying tax.

Opportunity is also taken to make certain other amendments with a view to rationalising and streamlining the other provisions of the Bill.

(Published in the Karnataka Gazette (Extraordinary) Part IV-2A dated 22.09.1983 as No.835).

XLIII

Amending Act 8 of 1984.— In the Budget Speech for the year 1984-85 the Chief Minister has indicated several proposals in order to streamline the taxation structure keeping in view the recommendations of the Karnataka Taxation Review Committee to augment the revenues of the State. Opportunity is also taken to make amendments to Act to rectify anomalies.

Hence the Bill.

(Obtained from L.A. Bill No. 25 of 1984)

XLIV

Amending Act 27 of 1985.—It is proposed in the Budget speech for the year 1985_86, to levy tax on the transfer of property in goods (whether as goods or in some other form) involved in the execution of work contract, on the transfer of the right to use goods, on the delivery of goods on hire purchase or any other kind of payment by installments; for payment of interest for belated refunds; to prescribe time limit for concluding assessments; to simplify summary assessments; and to give certain concessions and reliefs.

Hence this Bill.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 1st August 1985 as No. 415 at page 28.)

XLV

Amending Act 9 of 1986.—To give effect to the proposals made in the budget speech it is proposed to amend the Sales Tax Act, 1957. Opportunity is taken to make some other amendment to streamline the administration.

Hence the Bill.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 14th March 1986 as No. 194 at page 52.)

XLVI

Amending Act 36 of 1986.— The Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957) is proposed to be amended to enable the Commissioner taxes, to stay the

operation of the orders passed by the sub-ordinate officers which are prejudicial to the interest of Government Revenue and to authorise the Commissioner to empower an officer not below the rank of a Commercial Tax Officer to function as a State Representative before the Karnataka Appellant Tribunal. Further, it is proposed to provide for exempting poultry farmers, for liability to registration.

(Obtained from L.A. Bill No. 51 of 1986)

XLVII

Amending Act 14 of 1987.—To give effect to the proposals made in the Budget speech it is proposed to amend the Karnataka Sales Tax Act 1957.

Hence the Bill.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 27th March 1987 as No. 248 at page 21.)

XLVIII

Amending Act 30 of 1987.—The tax on sale of silk fabrics was enhanced from three per cent to four per cent and the point of levy was shifted from the last sale point to the last purchase point with effect from 1st April 1987. Now it is considered necessary to amend the Karnataka Sales Tax Act, 1957 to provide for levy of sales tax on silk fabrics at the point of last sale in the State, as it existed earlier.

The High Court of Karnataka in W. P. No. 18193 of 1979 has held that sale of skimmed milk powder is not eligible to tax under the Karnataka Sales Tax Act, 1957 as it falls within the expression 'Fresh Milk' which is exempt from tax under the said Act. The general notion prevalent prior to this decision however, was that only milk in liquid form was covered by the exemption and that milk powder was liable to tax. Dealers had been assessed and taxes recovered on that basis. However, consequent upon this decision, the taxes so collected over a long period become refundable and the State may be required to make huge refunds. Therefore, it is proposed to amend the provisions of the Act in order to retain the tax already levied and collected from the sale of milk powder and also to continue the levy.

The opportunity is also taken to amend certain other provisions of the Act to grant certain reliefs.

Hence the Bill.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 11th September 1987 as No. 612 at page 5.)

XLIX

Amending Act 15 of 1988.—To implement the various announcements made by the Chief Minister in the Budget Speech for 1988_89 relating to Sales Tax, it is

necessary to make certain amendments to the Karnataka Sales Tax Act, 1957. Opportunity is also taken to make certain consequential changes in the said Act.

Hence the Bill.

(Published in Karnataka Gazette (Extraordinary) dated 4th April 1988, as No. 206 at page 43.)

L

Amending Act 8 of 1989.—(1) Section 5 is proposed to be amended to extend time limit beyond 31st May 1988 upto 31st July 1988 to enable dealers to dispose off the old stock of Indian made foreign liquor which has already been suffered tax at the rate prevailing prior to 1st April 1988.

(2) In 69 STC Page 320 (Deputy Commissioner of Sales Tax-Vs-Thomas Stephen & Co. Ltd.), the Supreme Court has held that taxable goods purchased and consumed for ancillary purposes like fuel and consumables in the manufacture of goods for sale are not liable for purchase tax under section 6. Taxes levied on such purchases hitherto, have become liable for refunds. In order to prevent claims for refund and to retain the taxes already collected, amendment is proposed to section 6 of the Karnataka Sales Tax Act, 1957, to insert retrospectively an explanation to the said section. Further, goods consumed otherwise than in manufacturing of goods are also proposed to be taxed.

(3) Section 12 is proposed to be amended to extend limitation period of three years prescribed for completion of assessment, relating to the years upto 1984_85, by one more year, to complete assessments in pending cases.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 17th September 1988 as No. 588 at page. 8.)

LI

Amending Act 16 of 1989.—To give effect to the proposals made in the Budget Speech, it is considered necessary to amend the Karnataka Sales Tax Act, 1957.

Opportunity is also taken to rationalise certain provision of the said Act.

Hence the Bill.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 27th March 1987 as No. 160 at page 12.)

LII

Amending Act 8 of 1990.—To give effect to the proposals made in the Budget Speech, it is considered necessary to amend the Karnataka Sales Tax Act, 1957.

Opportunity is also taken to rationalise certain provisions of the said Act.

Hence the Bill.

(Published in the Karnataka Gazette (Extraordinary), dated 29th March 1990, PART IV—2-A, No. 163, p. 145.)

LIII

Amending Act 15 of 1991.— It is considered necessary to amend the Karnataka Sales Tax Act, 1957, to give effect to the proposals made in the Budget speech and for removing ambiguity, streamlining administration and rationalisation of procedure.

Hence the Bill.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 21st March 1991 as No. 126 at page 251.)

LIV

Amending Act 4 of 1992.—To give effect to the proposal made in the Budget Speech, it is considered necessary to amend the Karnataka Sales Tax Act, 1957.

Opportunity is also taken to rationalise certain provisions of the said Act.

Hence the Bill.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 28th March 1992 as No. 187 at page 220.)

LV

Amending Act 5 of 1993.—Consequent to the re-designation of posts in the Commercial Tax Department, it has become necessary to make suitable amendments in the relevant Taxation Laws.

The full bench of our High Court in Shah Wallace case while overruling a Division Bench judgment of our High court in Janardhanacharya's case had held that the notifications issued under section 8A of the Karnataka Sales Tax Act, 1957 become inoperative when the relevant provisions of the Act are subsequently amended by way of insertion of any entry relating to the class of goods to which exemptions were given by the notifications. Therefore, it was considered necessary to suitably amend the said Act, to save the notifications already issued.

As the matter was urgent and both the Houses were not in session, the amendments were carried-out by promulgation of the Karnataka Taxation Laws (Amendment) Ordinance, 1992.

This Bill seeks to replace the above Ordinance.

Hence the Bill.

(Obtained from LA Bill No. 29 of 1992.)

LVI

Amending Act 11 of 1993.— It is considered necessary to amend the Karnataka tax on Luxuries (Hotel and Lodging Houses) Act, 1979, the Karnataka Tax on Professions, Traders Callings and Employments Act, 1976, the Karnataka Entertainments Tax Act, 1958 and the Karnataka Sales Tax Act, 1957 to give effect to the proposals made in the budget speech and matters connected therewith.

Hence the Bill.

(Obtained from L.A. Bill No. 15 of 1993.)

LVII

Amending Act 13 of 1994.—It is considered necessary to amend the Karnataka Sales Tax Act, 1957 to provide for levy and collection of surcharge on certain goods except those specified in the fourth schedule.

Hence the Bill.

(Obtained from LA Bill No. 31 of 1993.)

LVIII

Amending Act 18 of 1994.—It is considered necessary to amend the Karnataka Sales Tax Act, 1957, the Karnataka Tax on Professions, Trades, Callings and Employments Act, 1976, the Karnataka Tax on Entry of Goods Act, 1979, the Karnataka Entertainments Tax Act, 1958, the Mysore Betting Tax Act, 1932 and the Karnataka Agricultural Income Tax Act, 1957 to give effect to the proposals made in the Budget speech and matters connected therewith.

Hence the Bill.

(Obtained from LA Bill No. 12 of 1994.)

LIX

Amending Act 6 of 1995.—It is considered necessary to amend the Karnataka Sales Tax Act, 1957, the Karnataka Agricultural Income Tax Act, 1957, the Karnataka Tax on Professions, Trades, Callings and Employments Act, 1976, the Karnataka Entertainment Tax Act, 1958, the Karnataka Tax on Entry of Goods Act, 1979, Karnataka Tax on Luxuries, (Hotels and Lodging House) Act, 1979, the Mysore Betting Tax Act, 1932 and to give effect to the proposals made in the Budget speech and matters connected therewith.

Hence the Bill.

(Obtained from LA Bill No. 4 of 1995.)

LX

Amending Act 1 of 1996.— x x x

2) It is considered necessary to amend the Karnataka Sales Tax Act, 1957,—

(i) to exclude firms from the definition of "dealer" in clause (k) of sub-section (1) of section 2;

(ii) by inserting an explanation after the first proviso to sub-section (1A) of section 5 to clarify that the expression "turnover of goods on which tax has been levied" means "taxable turnover and shall not include tax".

(iii) by inserting sub-section (1C) in section 5 and modifying Section 17, to provide for composition in the case of dealers in silks fabrics.

(iv) by inserting Section 25B and omitting Section 6BB with effect from the 13th day of October, 1995, to charge the system of levy of purchase tax and road cess on sugarcane from advalorem to tonnage basis.

3) x x x

Certain consequential amendments are also made.

Hence the Bill.

(Obtained from LA Bill No. 8 of 1996.)

LXI

Amending Act 5 of 1996.—It is considered necessary to amend the Karnataka Tax on Luxuries (Hotels and Lodging Houses) Act, 1979, the Karnataka Tax on Professions, Trades, Callings and Employment Act, 1976, the Karnataka Entertainments Tax Act, 1958, the Karnataka Agricultural Income Tax Act, 1957, and the Karnataka Sales Tax Act, 1957 to give effect to the proposals made in the Budget speech and matters connected therewith.

Hence the Bill.

(Obtained from LA Bill No. 12 of 1996.)

LXII

Amending Act 15 of 1996.—It is considered necessary to make amendments to the following enactments.

1. x x x

2. x x x

3. x x x

4. In the Karnataka Sales Tax Act, 1957, it is proposed to amend:—

(i) sub-section (1) of section 3B to empower the Commissioner instead of the State Government to specify the functions of the Additional Commissioners.

(ii) Explanation to sub-section (1C) of Section 5, to redefine the term silk fabrics

with a view to include only such silk fabrics in which proportion of silk is 60% or more by weight of total fibre content so that small time weavers who weave the silk sarees of inferior quality with less than 60% silk content and sell to the customers, will get tax relief.

(iii) proviso to sub-section (2) of section 6A, to empower the Commissioner to notify any other goods in addition to the goods referred to in the proviso.

(iv) sub-section (3) of section 28-A, to empower the officer intercepting any goods vehicle at any place other than a check post or barrier to direct the person incharge or owner of such goods vehicle to take it to the nearest check post or Police Station for the purpose of examining contents in the vehicle;

(v) sub-section (4) of section 28-A to provide for levy of minimum penalty and to enhance the upper limit of the penalty.

(vi) sub-section (6) of section 28-A, to empower the officer levying penalty to retain the goods vehicle in case of a tanker carrying goods in liquid or gaseous form or to retain the whole goods if it is a single unit and not separable into any part; and to provide for furnishing Bank guarantee in respect of the penalty leviable under the Act.

(vii) serial number 3-A of Second Schedule to reduce the tax from 12 per cent to 4 per cent in respect of agricultural implements like cultivators, disploughs etc.,

5. Certain consequential amendments are also made

(Obtained from LA Bill No. 23 of 1996.)

LXIII

Amending Act 7 of 1997.—It is considered necessary to amend the Karnataka Tax on Luxuries (Hotels, Lodging Houses and Marriage Halls) Act, 1979 (Karnataka Act 22 of 1979), the Karnataka Tax on Entry of Goods Act, 1979 (Karnataka Act 27 of 1979), the Karnataka Tax on Professions, Trades, Callings and Employment Act, 1976 (Karnataka Act 35 of 1976), the Karnataka Excise Act 1966 (Karnataka Act 21 of 1966), the Karnataka Entertainments Tax Act, 1958 (Karnataka Act 30 of 1958), the Karnataka Agricultural Income Tax Act, 1957 (Karnataka Act 22 of 1957), the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957), the Mysore Betting Tax Act 1932 (Mysore Act IX of 1932), and to give effect to the proposals made in the Budget Speech and matters connected therewith. Certain consequential amendments are also made.

Hence the Bill.

(Obtained from LA Bill No. 12 of 1997.)

LXIV

Amending Act 18 of 1997.—It is considered necessary to amend the Karnataka

Sales Tax Act, 1957 to reflect the clear intention of the Budget speech for the year 1997_98.

x x x

Hence the Bill.

(Obtained from LA Bill No. 35 of 1997.)

LXV

Amending Act 3 of 1998.— It is considered necessary to amend the Karnataka taxation Laws Amendment Act, 1997 (Karnataka Act 7 of 1997), the Karnataka Tax on Entry of Goods Act 1979 (Karnataka Act 27 of 1979), the Karnataka Tax on Luxuries (Hotel, Lodging Housed and Marriage Halls) Act, 1979 (Karnataka Act 22 of 1979), the Karnataka Entertainment Tax Act, 1958 (Karnataka Act 30 of 1958), the Mysore Betting Tax Act, 1932 (Mysore Act IX of 1932), the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957) and to give effect to the proposals made in the Budget Speech and matters connected therewith. Certain consequential amendments are also made.

Hence, the Bill.

(Obtained from L.A. Bill No. 6 of 1998.)

LXVI

Amending Act 20 of 1998.—It is considered necessary to amend the Karnataka Sales Tax Act 1957 (Karnataka Act 25 of 1957) and the Karnataka Entertainments Tax Act 1958 (Karnataka Act 32 of 1958) to provide for exemption for certain State public undertakings engaged in manufacturing activities from deducting Tax under section 19-AA, to authorise the Joint Commissioners of Commercial Taxes to permit prosecutions under section 29(2), to increase the composition amount to be on par with the other penalties under the Karnataka Sales Tax Act 1957 (Karnataka Act 25 of 1957), and to provide relief to cinema theatres in respect of Show Tax under the Karnataka Entertainments Tax Act, 1958 (Karnataka Act 32 of 1958).

Hence the Bill.

(Published in Karnataka Gazette (Extraordinary) Part IV-2A dated 25th May 1998 as No. 601 at page 13.)

LXVII

Amending Act 4 of 1999.—It is considered necessary to amend the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957), the Karnataka Agricultural Income Tax Act, 1957 (Karnataka Act 22 of 1957), the Karnataka Tax on entry of goods Act 1979 (Karnataka Act 27 of 1979) the Karnataka Tax on Luxuries (Hotel, Lodging Housed and Marriage Halls) Act, 1979 (Karnataka Act 22 of 1979) and the Karnataka

Entertainment Tax Act, 1958 (Karnataka Act 30 of 1958) to give effect to the proposals made in the Budget Speech and matters connected therewith. Certain consequential amendments are also made.

Hence, the Bill.

(Obtained from L.A. Bill No. 6 of 1999.)

LXVIII

Amending Act 18 of 1999.— It is considered necessary to amend the Karnataka Sales tax Act, 1957 (Karnataka Act 25 of 1957), the Karnataka Agricultural Income Tax Act, 1957 (Karnataka Act 22 of 1957) and to give effect to the proposals made to the Budget Speech and matters connected therewith. Certain consequential amendments are also made.

Further it is considered necessary to amend the Karnataka Tax on Entry of Goods Act, 1979 to clarify that the term "agricultural produce" does not include beedi leaves.

Hence the Bill.

(Obtained from L.A. Bill No. 20 of 1999.)

LXIX

Amending Act 5 of 2000.—It is considered necessary to amend the Mysore Betting Tax Act, 1932 (Mysore Act IX of 1932), the Karnataka Agricultural Income Tax Act, 1957 (Karnataka Act 22 of 1957), the Karnataka Tax on Luxuries Act, 1979 (Karnataka Act 22 of 1979) and the Karnataka Entertainment Tax Act, 1958 (Karnataka Act 30 of 1958) to give effect to the proposals made in the Budget Speech and matters connected therewith. Certain consequential amendments are also made.

Hence, the Bill.

(Obtained from L.A. Bill. No. 6 of 2000.)

LXX

Amending Act 9 of 2000.— In the meeting of Chief Ministers and Finance ministers held on 16.11.1999 a consensus was arrived to adopt floor rates recommended by the State Finance Minister's Committee 1995 with effect from the first day of January 2000.

Accordingly to give effect to the decision taken in the aforesaid meeting, it was considered necessary to amend the Second, Third, Fourth and Fifth Schedules to the Karnataka Sales tax Act, 1957, by changing the rates of tax on several commodities.

Since the matter was urgent and both the Houses of Legislature were not in session, the Karnataka Sales Tax (Amendment) Ordinance, 1999 (Karnataka Ordinance No. 8 of 1999) was promulgated to achieve the object.

This Bill seeks to replace the said Ordinance.

(Obtained from L.A. Bill No. 9 of 2000.)

LXXI

Amending Act 21 of 2000.— Representation were made to the Government by the manufactures, Wholesales and Retail Traders of Liquor for Merger of Sales tax with the Excise duty, since for payment of Sales Tax and Excise duty, the trade has to deal with two Departments resulting in administrative and procedural difficulties and inconvenience. Further merger of sales tax with excise duty will simplify the procedural complication etc. On examination of the above representations the Government considered it necessary to amend the Karnataka Sales Tax Act, 1957 and the Karnataka excise Act, 1965, to provide for,

- (i) levy of additional excise duty on the value, cost or price of the excisable article.
- (ii) recovery of sales tax arrears as arrears of excise revenue.
- (iii) treating tax or other amount due as arrears of excise revenue for the purpose of recovery of such tax or other amount due.

Hence the Bill.

(Obtained from L.A. Bill No. 38 of 2000.)

LXXII

Amending Act 25 of 2000.— In keeping with the decision taken in the Chief Ministers and Finance Ministers Conference held on 16.11.1999 at New Delhi, to adopt floor rates recommended by the State Finance Ministers' Committee were made to the Karnataka Sales Tax Act, 1957.

Subsequently, in the meeting of the Standing Committee of State Finance ministers held on 7.6.2000 and 22.6.2000, it has been decided that there should be 100% compliance by all the States concerned with regard to implementation of floor rates and that any deviation would be viewed seriously and such non-compliance would result in withholding of 25% Central Assistance.

Since, it was found that there was deviation in respect of twenty commodities, action had been already taken issue notification under the Karnataka Sales tax Act, 1957 regarding some of the items. However the rates of Sales Tax in respect of certain items like Teleprinter, Narcotics, marble tiles and silk yarn etc., were required to be revised. Therefore, it was considered necessary to further amend the second and fifth Schedule of the Karnataka Sales Tax Act, 1957 to implement the uniform floor rates of tax of those commodities to ensure 100% compliance of uniform floor rates.

Since the matter was urgent and the Karnataka Legislative Council was not in session, the Karnataka Sales Tax (Amendment) Ordinance, 2000 (Karnataka Ordinance 5 of 2000) was promulgated to achieve the above object.

Hence the Bill.

(Obtained from L. A. Bill No. 27 of 2000.)

LXXIII

Amending Act 5 OF 2001.- To give effect to the proposals made in the Budget Speech, it is considered necessary to amend the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957), the Karnataka Tax on Entry of Goods Act, 1979 (Karnataka Act 27 of 1979), the Karnataka Tax on Luxuries Act, 1979 (Karnataka Act 22 of 1979), the Karnataka Entertainments Tax Act, 1958 (Karnataka Act 30 of 1958), the Karnataka Tax on Professions, Trades, Callings and Employments Act, 1976 (Karnataka Act 35 of 1976) and the Karnataka Agricultural Income Tax Act, 1957 (Karnataka Act 22 of 1957). Certain consequential amendments are also made.

Hence the Bill.

(Vide L.A. Bill No. 7 of 2001)

LXXIV

Amending Act 5 of 2002.- It is considered necessary to amend the Karnataka Agriculture Income Tax, 1957, the Karnataka Sales Tax Act, 1957, the Karnataka Taxes on Luxuries Act, 1979, the Karnataka Taxes on Entry of Goods Act, 1979 and the Karnataka Entertainment Tax Act, 1958 to give effect to the proposal made in the Budget speech and matters connected therewith.

Certain consequential and incidental amendments are also made.

Hence the Bill.

(L.A. Bill No. 12 of 2002)

LXXV

Amending Act 7 of 2003.- To give effect to the proposals made in the Budget Speech, it is considered necessary to amend the Karnataka Agricultural Income Tax Act, 1957, the Karnataka Sales Tax Act, 1957, the Karnataka Entertainments Tax Act, 1958, the Karnataka Tax on Professions, Trades, Callings and Employment Act, 1976, the Karnataka Tax on Luxuries Act, 1979, the Karnataka Tax on Entry of Goods Act, 1979 and the Karnataka Electricity (Taxation on Consumption) Act, 1959.

Hence the Bill.

[L.A. Bill No. 9 of 2003]

(Entries 46, 52, 53, 54, 60 and 62 of List-II of the Seventh Schedule to the Constitution of India)

LXXVI

Amending act, 13 of 2003.- it is considered necessary to prepare upto date codal

volumes of the karnataka acts and to repeal all the spent acts and amendment acts from time to time.

The Government constituted One-man Committee for the above purpose. The Committee has reviewed the Karnataka Acts for the period from 1.11.1956 to 31.12.2000 and has proposed the "Repealing and Amending Bill, 2002" which seeks to repeal the following types of Acts,-

- (i) Acts which amended the Karnataka Acts whether they are now in force or not;
- (ii) Acts which amended regional Acts which are no longer in force;
- (iii) Appropriation Acts as they are spent Acts;
- (iv) Acts which have been struck down or by necessary implication struck down by the Courts;
- (v) Acts which are by implication repealed by Central Acts;
- (vi) Acts which are temporary and spent enactments; and
- (vii) Acts which amend the Central Acts and regional Acts which are in force.

The Bill does not include Acts which are already repealed expressly.

This Bill also seeks to amend certain Acts which are considered necessary.

Hence the Bill.

[L.C. BILL No. 4 OF 2002]

[Various entries of List II and III of the Seventh Schedule]

LXXVII

Amending Act 30 of 2003.- In view of deferment of implementation of the Value Added Taxation System in the State it is considered necessary to amend the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957), to provide for revision of Sales tax rates on certain commodities from two, four, eight, twelve and fifteen per cent to four, five, nine, thirteen and sixteen per cent which would be close to the tax rate prevalent prior to the year 2002-2003. It is also proposed to introduce a non-collectable additional tax of one per cent on certain commodities.

The proposed revised taxes would come into effect from 1st June, 2003. These additional resource mobilization measures are expected to yield a revenue of about Rupees three hundred crores for the current financial year. These measures are interim and would be dismantled on introduction of Value Added Tax.

As the matter was urgent and the Karnataka Legislative Council was not in Session the Karnataka Sales Tax (Amendment) Ordinance, 2003 was promulgated.

Hence, the Bill.

[L.A. Bill No. 18 of 2003]

[Entry 54 of List-II of Seventh Schedule to the Constitution of India]

LXXVIII

Amending Act 2 OF 2004.- To give effect to the proposals made in the Budget Speech of 2003-04, it is considered necessary to amend the Karnataka Sales Tax Act, 1957, the Karnataka Stamp Act, 1957 and the Karnataka Motor Vehicles Taxation Act, 1957.

Hence the Bill.

[L.A. BILL No. 7 OF 2004]

(Entries 54, 57 and 63 of List II of the Seventh Schedule to the Constitution of India)

LXXIX

Amending Act 3 of 2004.- The Hon'ble High Court of Karnataka in S.T.R.P. numbers 46 to 57/2003 has held that tax cannot be levied on civil works like asphaltting and repairing of roads under the existing provisions of the Karnataka Sales Tax Act, 1957. However, taxes have been levied and collected on such civil works from 1st April 1986 relying on the existing entries. In view of the decision of the Hon'ble High Court, it is considered necessary to incorporate an enabling provision to levy such tax by amending the Karnataka Sales Tax Act, 1957 with retrospective effect.

Similarly, the Hon'ble High Court of Karnataka in W. P. Nos. 8607-8608/2003 has held that the tax cannot be levied on works contract of processing and supplying of photographs, photo prints and photo negatives under the existing provisions of the Karnataka Sales Tax Act, 1957. The Hon'ble High court has held that though the State Legislature has the power to levy tax on such works contracts, in view of the relevant entry having been struck down by the Hon'ble Supreme Court, in September 1999, tax cannot be levied and collected on such works contracts till the relevant entry is re-introduced in the Karnataka Sales Tax Act, 1957. Taxes have been levied and collected on such works contracts from 1st July 1989. In view of the decision of the Hon'ble Supreme Court and the High Court, it is considered necessary to amend the Karnataka Sales Tax Act, 1957 with retrospective effect.

It is also considered necessary that there should be a provision under the Karnataka Sales Tax Act, 1957 to constitute a Settlement Commission to reduce long pending disputes and recover tax arrears expeditiously.

The rate of sales tax being levied at present on Camphor is 5%. Whereas the Empowered Committee of State Finance Ministers has appealed to all the States / UTs to adopt the floor rates on all items. Hence, the rate of sales tax on Camphor is being increased to the floor rate of 8% by amending the Karnataka Sales Tax Act, 1957.

It is also considered necessary to amend the Karnataka Tax on Luxuries Act, 1979, to give tax relief to clubs situated within areas outside municipal corporations and to give tax relief to senior citizens and members of a youth club registered or recognised by the Department of Youth Services.

It is also considered necessary to omit the provisions under the Karnataka Entertainments Tax Act, 1958 relating to collection of service charges by the owners of theatres.

Hence the Bill.

[L.A. BILL No. 6 OF 2004]

(Entries 54 and 62 of List II of the Seventh Schedule to the Constitution of India)

LXXX

Amending Act 26 of 2004.- To give effect to the proposals made in the Budget Speech, it is considered necessary to amend the Mysore Betting Tax Act, 1932(Mysore Act IX of 1932), the Karnataka Sales Tax Act, 1957(Karnataka Act 25 of 1957), the Karnataka Entertainments Tax Act, 1958(Karnataka Act 30 of 1958), the Karnataka Tax on Professions, Trades, Callings and Employments Act, 1976(Karnataka Act 35 of 1976), the Karnataka Tax on Luxuries Act, 1979) and the Karnataka Tax on Entry of Goods Act, 1979(Karnataka Act 27 of 1979).

Opportunity is also taken to rationalize certain provisions of the said Acts and also to codify and make certain consequential amendments to implement reliefs already announced.

Hence the Bill.

[L.A. BILL No. 18 OF 2004]

(Entries 52, 54, 62, 60 of list II of Seventh Schedule to the Constitution of India)

LXXXI

Amending Act 11 of 2005.- To give effect to the proposals made in the Budget Speech, it is considered necessary to amend the Mysore Betting Tax Act, 1932 (Mysore Act IX of 1932), the Karnataka Sales Tax Act, 1957(Karnataka Act 25 of 1957), the Karnataka Entertainments Tax Act, 1958(Karnataka Act 30 of 1958), the Karnataka Tax on Professions, Trades, Callings and Employments Act, 1976(Karnataka Act 35 of 1976), the Karnataka Tax on Entry of Goods Act, 1979(Karnataka Act 27 of 1979), the Karnataka Tax on Lotteries Act, 2004 (Karnataka Act 3 of 2004), the Karnataka Special Tax on Entry of Certain Goods Act, 2004 (Karnataka Act 29 of 2004) and the Karnataka Value Added Tax Act, 2003 (Karnataka Act 32 of 2004).

Opportunity is also taken to rationalize certain provisions of the said Acts.

Hence the Bill.

(L.A. Bill No. 12 of 2005)

LXXXII

Amending Act 5 of 2006.- It is considered necessary to amend the Karnataka Agriculture Income Tax Act, 1957, the Karnataka Sales Tax Act, 1957, the Karnataka Entertainments Tax Act, 1958, the Karnataka Tax on Professions Trades, Callings and Employments Act, 1976, the Karnataka Tax on Luxuries Act, 1979 and the Karnataka Tax on Entry of Goods Act, 1979 to give effect to the proposal made in the Budget and matters connected therewith.

Certain consequential and incidental amendments are also made.

Hence the Bill.

[L.A. Bill No. 6 of 2006]

LXXXIII

Amending Act 5 of 2007.- It is considered necessary to amend the Karnataka Entertainments Tax Act, 1958, the Karnataka Tax on Professions, Trades, Callings and Employments Act, 1976 and the Karnataka Tax on Luxuries Act, 1979 to give effect to the proposals made in the Budget and matters connected therewith and also to amend the Karnataka Sales Tax Act, 1957 to provide for a provision for empowering the State Government to withdraw any notification issued under section 8-A either prospectively or retrospectively to give effect to the decision taken by the State Government with regard to discontinuance of sales tax based incentives to industries as a part of national consensus to bring in reforms in State taxes.

Certain consequential and incidental amendments are also made.

Hence the Bill.

[L.A. Bill No. 22 of 2007]

[Entry 54, 60 and 62 of List II of the Seventh Schedule to the Constitution of India.]

LXXXIV

Amending Act 6 of 2008.- It is considered necessary to amend the Karnataka Sales Tax Act, 1957, the Karnataka Entertainments Tax Act, 1958, the Karnataka Tax on Professions, Trades, Callings and Employments Act, 1976 and the Karnataka Tax on Luxuries Act, 1979 to give effect to the proposals made in the Budget and matters connected therewith or incidental thereto.

Opportunity is also taken to rationalise taxation and make certain consequential amendments also.

Hence the Bill.

[L.A. Bill No. 3 of 2008]

[Entry 54 of List II of the Seventh Schedule to the Constitution of India.]

LXXXV

Amending Act 5 of 2010.- It is considered necessary to amend the Karnataka Sales Tax Act, 1957, the Karnataka Entertainments Tax Act, 1958, the Karnataka Tax on Professions, Trades, Callings and Employments Act, 1976, the Karnataka Tax on Luxuries Act, 1979 and the Karnataka Tax on Entry of Goods Act, 1979 to give effect to the proposals made in the Budget and matters connected therewith and specifically to,

- (i) amend the Karnataka Sales Tax Act, 1957 to provide for levy of tax on supply of goods by an association or a body of persons like clubs, registered or unregistered, to its members retrospectively from second day of February, 1983 from which day by the forty-sixth amendment to the Constitution of India, the State Legislature was empowered to levy tax on such transactions so as to remove doubts raised in this regard because of the judgment of the Hon'ble High Court of Karnataka in the case of Century Club and Others versus The State of Mysore and another, declaring the provisions made in the Karnataka Sales Tax Act, 1957 before such constitutional amendment for levy of tax on such transactions as void and inoperative.
- (ii) provide for collection of entry tax in advance under the Karnataka Tax on Entry of Goods Act, 1979 at the point of sugar factories selling sugar to dealers who subsequently cause entry of such sugar into any local area in the State.

Certain consequential and incidental amendments are also made.

Hence the Bill.

[L.A.Bill No. 9 of 2010, File No.DPAL 12 Shasana 2010]

[Entry 52,54, 60 and 62 of List II of the Seventh Schedule to the Constitution of India.]

* * * *

¹[KARNATAKA]¹ ACT No. 25 OF 1957.

(First published in the ¹[Karnataka Gazette]¹ on the Thirtieth day of September, 1957.)

THE ¹[KARNATAKA]¹ SALES TAX ACT, 1957.

(Received the assent of the President on the Twenty-ninth day of September, 1957.)

(As amended by Karnataka Acts 9, 31 and 32 of 1958; 11, 12, 28 and 29 of 1961; 26 and 30 of 1962; 9 and 29 of 1964; 3 and 7 of 1966; 16 of 1967; 17, 27 and 31 of 1969; 9 and 15 of 1970; President's Act 18 of 1971; Karnataka Acts 5 and 7 of 1972; 4 and 7 of 1973; 14 of 1974; 5, 16 and 30 of 1975; 16, 17, 34 and 78 of 1976; 17 of 1977; 18 of 1978; 21 of 1979; 14 of 1980; 7 of 1981; 13 of 1982; 3, 10 and 23 of 1983; 8 of 1984; 27 of 1985; 9 and 36 of 1986; 14 and 30 of 1987; 15 of 1988; 8 & 16 of 1989; 8 of 1990; 15 of 1991; 4 of 1992; 5 of 1993; 11 of 1993; 13 of 1994; 18 of 1994; 6 of 1995; 1 of 1996, 5 of 1996; 15 of 1996; 7 of 1997; 18 of 1997; 3 of 1998; 20 of 1998; 4 of 1999; 18 of 1999; 5 of 2000; 9 of 2000; 21 of 2000, 25 of 2000, 5 of 2001, 5 of 2002, 7 of 2003, 13 of 2003, 30 of 2003, 2 of 2004, 3 of 2004, 26 of 2004, 11 of 2005, 5 of 2006, 5 of 2007, 6 of 2008 and 5 of 2010)

An Act to consolidate and amend the laws relating to the levy of tax on the purchase or sale of goods.

Whereas it is expedient to consolidate and amend the laws relating to the levy of tax on the purchase or sale of goods in the ¹[State of Karnataka]¹;

Be it enacted by the ¹[Karnataka State]¹ Legislature in the Eighth Year of the Republic of India as follows:—

**CHAPTER I
PRELIMINARY**

1. Short title, extent and commencement.- (1) This Act may be called the ¹[Karnataka]¹ Sales Tax Act, 1957.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 1.11.1973.

(2) It extends to the whole of the ¹[State of Karnataka]¹.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 1.11.1973.

(3) This section shall come into force at once, and the rest of the Act shall come into force on such ¹[date]¹ as the State Government may by notification in the official Gazette appoint.

1. All the provisions of the Act (except section 1) came into force on 1.10.1957 by notification. Text of the notification is at the end of the Act.

2. Definitions.- (1) In this Act, unless the context otherwise requires,—

(a) "agriculture" with its grammatical variations includes horticulture, the raising of crops, grass or garden produce and grazing but does not include dairy farming, poultry farming, stock breeding and mere cutting of wood;

(b) "agriculturist" means a person who cultivates land personally;

(c) "agricultural produce or horticultural produce" shall not be deemed to include tea, ¹[beedi leaves, raw cashew, timber, wood, tamarind]¹ ²[and such produce ³[except coffee]³ as has been subject to any physical, chemical or other process for being made fit for consumption, save mere cleaning, grading, sorting or drying;]²

1. Inserted by Act 4 of 1999 w.e.f. 1.4.1999.

2. Inserted by Act 23 of 1983 w.e.f. 18.11.1983.

3. Inserted by Act 16 of 1989 w.e.f. 18.10.1983.

(d) "Appellate Tribunal" means ¹[the Karnataka Appellate Tribunal constituted under the Karnataka Appellate Tribunal Act, 1976;]¹

1. Substituted by Act 27 of 1985 w.e.f. 1.8.1985.

(e) "assessee" means a person by whom a tax is payable;

¹[(f) "assessing authority" means an ²[Commercial Tax Officer]² or ²[Assistant Commissioner of Commercial Taxes]² or any other officer of the Commercial Taxes Department authorised to make any assessment by or under this Act;]¹

1. Substituted by Act 9 of 1964 w.e.f. 1.4.1964, by notification. Text of notification is at the end of the Act.

2. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

²[(f-1)]³ ["Deputy Commissioner"]¹ means any person appointed to be an ¹[Deputy Commissioner of Commercial Taxes]¹ under section 3;²

1. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

2. Inserted by Act 29 of 1961 w.e.f. 7.12.1961.

3. Re-lettered by Act 9 of 1964 w.e.f. 1.4.1964.

¹[(f-1a) "body corporate" means a corporation, a company as defined under the Companies Act, 1956 (Central Act 1 of 1956) and a Company incorporated outside India but does not include,—

(i) a corporation sole;

(ii) a co-operative society registered under any law relating to co-operative societies; and

(iii) any other body corporate, not being a company as defined in the Companies Act, 1956, which the State Government may, by notification in the official Gazette, specify in this behalf.]¹

1. Inserted by Act 14 of 1987 w.e.f. 1.4.1987.

¹[(f-1b) Brand name means a name or trade mark registered or pending registration or pending registration of transfer under the Trade and Merchandise Marks Act, 1958 (Central Act 43 of 1958) and includes a name or a mark such as a symbol, monogram, label, signature or invented words or any writing which is used in relation to a product, for the purpose of indicating, or so as to indicate, a connection in the course of trade between the product and a dealer whose total turnover during any year exceeds one hundred lakh rupees, using such name or mark with or without any indication of the identity of the said dealer;]¹

1. Substituted by Act 5 of 2002, w.e.f. 1.4.2002.

¹[(f-2) 'business' includes,—

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

(ii) any transaction in connection with, or incidental or ancillary to such trade, commerce, manufacture, adventure or concern;]²

(f-3) "casual trader" means a person who has, whether as principal, agent or in any other capacity, occasional transactions of a business nature involving the buying, selling, supply or distribution of goods in the State, whether for cash or for deferred payment, or for commission, remuneration, or other valuable consideration;]¹

1. Inserted by Act 9 of 1964 w.e.f. 1.4.1964

2. Substituted by Act 17 of 1976 w.e.f. 1.4.1976.

(g) "Commissioner" means any person appointed to be a Commissioner of Commercial Taxes under section 3;

(h) "¹[Assistant Commissioner of Commercial Taxes]¹" or "¹[Commercial Tax Officer]¹" means any person appointed to be a ¹[Assistant Commissioner of Commercial Taxes]¹ or ¹[Commercial Tax Officer]¹ respectively under section 3;

1. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

¹[(h-1) "Company" shall have the meaning assigned to it in the Companies Act, 1956 (Central Act 1 of 1956);]¹

1. Inserted by Act 15 of 1991 w.e.f. 1.4.1991.

(i) "to cultivate" with its grammatical variations and cognate expressions means to carry on any agricultural operation;

(j) "to cultivate personally" means to cultivate on one's own account,-

- (i) by one's own labour, or
- (ii) by the labour of one's own family, or
- (iii) by servants on wages payable in cash or kind but not in crop share, or by hired labour under one's personal supervision or the personal supervision of any member of one's family;

Explanation I.—A person who is a widow or a minor or is subject to any physical or mental disability shall be deemed to cultivate the land personally if it is cultivated by her or his servants or by hired labour.

Explanation II.—In the case of undivided family, the land shall be deemed to have been cultivated personally, if it is cultivated by any member of such family.

1[(k) "dealer" means any person who carries on the business of buying, selling, supplying or distributing goods, directly or otherwise, whether for cash or for deferred payment, or for commission, remuneration or other valuable consideration, and includes,—

(i) ²[an industrial, commercial or trading undertaking of the ³[Government of Karnataka]³, the Central Government, a State Government of any State, other than the ³[State of Karnataka]³]², a local authority, company, a Hindu undivided family, an Aliyasanthana family, a firm, a society, a club or an association which carries on such business;

(ii) a casual trader;

(iii) a commission agent, a broker or del credere agent or an auctioneer or any other mercantile agent by whatever name called, who carries on the business of buying, selling, supplying, or distributing goods on behalf of any principal;

(iv) a non-resident dealer or an agent of a non-resident dealer, a local branch of a firm or company or association situated outside the State;

(v) a person who sells goods produced by him by manufacture or otherwise;

⁴[(vi) a miller who carries on such business;]⁴

⁵[(vi-1) an unincorporated association or body of persons which supplies goods to its members for cash, deferred payment or other valuable consideration;]⁵

⁶[(vii) a person engaged in the business of transfer otherwise than in pursuance of a contract of property in any goods for cash, deferred payment or other valuable consideration;

1. Substituted by Act 9 of 1964 w.e.f. 1.4.1964.

2. Substituted by Act 7 of 1966 w.e.f. 1.4.1966.

3. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 1.11.1973.

4. Inserted by Act 13 of 1982 w.e.f. 1.4.1982.

5. Shall be and shall be deemed to have been inserted by Act 5 of 2010 w.e.f. 02.02.1983.

6. Inserted by Act 27 of 1985 w.e.f. 1.8.1985.

(viii) a person engaged in the business of transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;

(ix) a person engaged in the business of delivery of goods on hire purchase or any system of payment by instalments;

(x) a person engaged in the business of transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.]⁶

¹[Explanation 1].—A society (including a co-operative society), club or firm or an association which, whether or not in the course of business, buys, sells, supplies or distributes goods from or to its members for cash, or for deferred payment or for commission, remuneration or other valuable consideration, shall be deemed to be a dealer for the purposes of this Act;

1. Renumbered by Act 17 of 1976 w.e.f. 1.4.1976.

¹[Explanation 2].—The Central Government or ²[a State Government or a local authority or a statutory body]² which whether or not, in the course of business, buy, sell, supply or distribute goods, directly or otherwise, for cash or deferred payment or for commission, remuneration or other valuable consideration shall be deemed to be a dealer for the purposes of this Act;]¹

1. Inserted by Act 17 of 1976 w.e.f. 1.4.1976.

2. Substituted by Act 4 of 1992 w.e.f. 1.4.1992.

¹[Explanation 3].—In respect of the transfer of the right to use feature films, the person who transfers such right to the exhibitor and from whom the exhibitor derives the right to make such use shall be deemed to be the dealer under this clause;]¹

1. Inserted by Act 14 of 1987 w.e.f. 1.4.1987.

Exception.—An agriculturist who sells exclusively agricultural produce grown on land cultivated by him personally ¹[or a person who is exclusively engaged in poultry farming and sells the products of such poultry farm]¹ shall not be deemed to be a dealer within the meaning of this clause;]¹

1. Inserted by Act 36 of 1986 w.e.f. 8.10.1986.

¹[Provided that where the agriculturist is a company ²[x x x]² and is selling pepper, ³[cardamom, rubber ⁴[timber, wood, raw cashew]⁴ or coffee]³ grown on land cultivated by it personally, directly or otherwise, such company ²[x x x]² shall be deemed to be a dealer in respect of turnovers relating to sales of such produce.]¹

1. Inserted by Act 15 of 1991 w.e.f. 1.4.1991.
2. Inserted by Act 6 of 1995 and omitted by Act 1 of 1996 w.e.f. 1.4.1995
3. Substituted by Act 18 of 1994 w.e.f. 1.4.1994.
4. Inserted by Act 4 of 1999 w.e.f. 1.4.1999.

(l) "[Joint Commissioner]" means any person appointed to be a ¹[Joint Commissioner]¹ of Commercial Taxes under section 3;

1. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

¹[(m) "goods" means all kinds of movable property (other than newspapers, actionable claims, stocks and shares and securities) and includes livestock, all materials, commodities, and articles ²[(including goods, as goods or in some other form involved in the execution of a works contract or those goods to be used in the fitting out, improvement or repair of movable property)]² and all growing crops, grass or things attached to, or forming part of the land which are agreed to be severed before sale or under the contract of sale;]¹

1. Substituted by Act 9 of 1964 w.e.f. 1.4.1964.
2. Substituted by Act 27 of 1985 w.e.f. 1.8.1985.

¹[(m-1) "goods vehicle" means any kind of vehicle used for carriage of goods either solely or in addition to passengers (other than aeroplanes and rail coaches) and includes push cart, animal drawn cart, tractor-trailer and the like;]¹

1. Inserted by Act 23 of 1983 w.e.f. 18.11.1983.

¹²[(m-2)]² "³[Additional Commissioner]" means any person appointed to be a ³[Additional Commissioner]³ of Commercial Taxes under section 3;]¹

1. Inserted by Act 10 of 1983 w.e.f. 1.4.1983.
2. Re-numbered as (m-2) by Act 23 of 1983 w.e.f. 18.11.1983.
3. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

¹[(n) x x x]¹

1. Omitted by Act 29 of 1961 w.e.f. 7.12.1961.

¹[(o) x x x]¹

1. Omitted by Act 9 of 1986 w.e.f. 1.4.1986.

¹[(o-1) "miller" means a person who engages himself in rice milling operations in a rice mill or in causing operations in an oil mill ²[or in a saw mill]² or in dehussing in a decortivating ³[factory or ginning and pressing operation in a ginning factory ⁴[curing of coffee seeds in a coffee curing works]⁴ ⁵[hulling of coffee beans and coffee seeds in a coffee hulling unit]⁵ and includes a person]³ who, or the authority which, has the

ultimate control over the affairs of ³[such mill or such factory]³ ⁴[or such works]⁴ ⁵[or such unit]⁵ and when the said affairs are entrusted to a manager, managing director or managing agent, such manager, managing director or managing agent;

1. Inserted by Act 9 of 1970 w.e.f. 1.4.1970.
2. Inserted by Act 17 of 1976 w.e.f. 1.4.1976.
3. Substituted by Act 27 of 1985 w.e.f. 1.8.1985.
4. Inserted by Act 3 of 1998 w.e.f. 1.4.1998.
5. Inserted by Act 5 of 2001 w.e.f. 1.4.2001

Explanation.—For the purpose of this clause,—

(i) "rice mill" means the plant and machinery with which, and the premises including the precincts thereof in which or in any part of which, rice milling operation is carried on;

(ii) "oil mill" means the plant and machinery with which oil is extracted from oil seeds; ¹[x x x]¹

1. Omitted by Act 17 of 1976 w.e.f. 1.4.1976.

¹[(iii) "saw mill" means the plant and machinery with which and the premises including the precincts thereof in which or in any part of which, sawing operation is carried on; ²[x x x]²]¹

1. Inserted by Act 17 of 1976 w.e.f. 1.4.1976.
2. Omitted by Act 27 of 1985 w.e.f. 1.8.1985.

¹[(iiia) "Coffee curing works" means the plant and machinery with which and the premises including the precincts thereof in which or in any part of which, curing of coffee seeds is carried on.]¹

1. Inserted by Act 3 of 1998 w.e.f. 1.4.1998.

¹[(iii-b) "Coffee hulling unit" means the plant and machinery with which and the premises including the precincts there of in which or in any part of which, hulling or curing coffee beans or coffee seeds is carried on.]¹

1. Inserted by Act 5 of 2001 w.e.f. 1.4.2001

¹[(iv)]¹ "decorticating factory" means any machinery with which the groundnut seeds are separated from groundnuts (with husk);] ²[and]²

1. Re-numbered by Act 17 of 1976 w.e.f. 1.4.1976.
2. Inserted by Act 27 of 1985 w.e.f. 1.8.1985.

¹[(v) "ginning factory" means the plant and machinery with which cotton is ginned and pressed into bales.]¹

1. Inserted by Act 27 of 1985 w.e.f. 1.8.1985.

(p) "notification" means a notification published in the Official Gazette;

¹[(q) "place of business" means any place where a dealer purchases or sells goods and includes,—

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

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

(iii) any place where a dealer keeps his books of account;

(iv) in any case where a dealer carries on business through an agent (by whatever name called), the place of business of such agent;]¹

1. Substituted by Act 9 of 1964 w.e.f. 1.4.1964.

(r) "prescribed" means prescribed by rules made under this Act;

(s) "registered dealer" means a dealer registered under this Act;

¹[(t) "sale" with all its grammatical variations and cognate expressions means every transfer of the property in goods ²[(other than by way of a mortgage, hypothecation, charge or pledge)]² by one person to another in the course of trade or business for cash or for deferred payment or other valuable consideration, ³[and includes,—

⁴[(i) a transfer otherwise than in pursuance of a contract of property in any goods for cash, deferred payment or other valuable consideration;]⁴

(ii) a transfer of p

as part of any service or in any other manner whatsoever of goods, being food or any other article for human consumption or any drink (whether or not intoxicating) where such supply or service is for cash, deferred payment or other valuable consideration, and such transfer, delivery or supply of any goods shall be deemed to be a sale of those goods by the person making the transfer, delivery or supply and a purchase of those goods by the person to whom such transfer, delivery or supply is made.]⁵

1. Substituted by Act 9 of 1964 w.e.f. 1.4.1964.

2. Inserted by Act 27 of 1985 w.e.f. 1.8.1985.

3. Substituted by Act 27 of 1985 w.e.f. 1.8.1985.

4. Clause (i) brought into force by Act 14 of 1987 w.e.f. 2.2.1983.

5. Shall be and shall be deemed to have been Inserted by Act 5 of 2010 w.e.f.02.02.1983.

Explanation 1.—A transfer of property involved in the supply or distribution of goods by a society (including a co-operative society), club, firm or any association to its members, for cash, or for deferred payment or other valuable consideration,

whether or not in the course of business, shall be deemed to be a sale for the purposes of this Act.

¹[Explanation 2.— x x x]¹

1. Omitted by Act 7 of 1966 w.e.f. 1.4.1966.

Explanation 3.— (a) The sale or purchase of goods ¹[other than in the course of inter-State trade or commerce or in the course of import or export]¹ shall be deemed, for the purposes of this Act, to have taken place in the State wherever the contract of sale or purchase might have been made, if the goods are within the State,—

1. Inserted by Act 9 of 1986 w.e.f. 1.4.1986.

(i) in the case of specific or ascertained goods, at the time the contract of sale or purchase is made; and

(ii) in the case of unascertained or future goods, at the time of their appropriation to the contract of sale or purchase by the seller or by the purchaser, whether the assent of the other party is prior or subsequent to such appropriation.

(b) where there is a single contract of sale or purchase of goods situated at more places than one, the provisions of clause (a) shall apply as if there were separate contracts in respect of the goods at each of such places.

¹[(c) Notwithstanding anything contained in the Sale of Goods Act, 1930 (Central Act 3 of 1930), for the purpose of this Act, the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract shall be deemed to have taken place in the State, if the goods are within the State at the time of such transfer, irrespective of the place where the agreement for works contract is made, whether the assent of the other party is prior or subsequent to such transfer;

(d) Notwithstanding anything contained in the Sale of Goods Act, 1930 (Central Act 3 of 1930), for the purpose of this Act, the transfer of the right to use any goods for any purpose (whether or not for a specified period) shall be deemed to have taken place in the State, if such goods are for use within the State, irrespective of the place where the contract of transfer of the right to use the goods is made.]¹

1. Inserted by Act 27 of 1985 w.e.f. 1.8.1985.

¹[3-A. XXX]¹

1. Shall be and shall be deemed to have been Omitted by Act 5 of 2010 w.e.f. 02.02.1983.

Explanation 4.—Notwithstanding anything to the contrary contained in this Act or any other law for the time being in force, two independent sales or purchases shall, for the purposes of this Act, be deemed to have taken place,—

(a) when the goods are transferred from a principal to his selling agent and from the selling agent to the purchaser, or

(b) when the goods are transferred from the seller to a buying agent and from the buying agent to his principal, if the agent is found in either of the cases aforesaid,—

(i) to have sold the goods at one rate and to have passed on the sale proceeds to his principal at another rate, or

(ii) to have purchased the goods at one rate and to have passed them on to his principal at another rate, or

(iii) not to have accounted to his principal for the entire collections or deductions made by him in the sales or purchases effected by him on behalf of his principal, or

(iv) to have acted for a fictitious or non-existent principal;¹

¹[Explanation 4-A.—Every transfer of property in goods by the Central Government, any State Government, a statutory body or a local authority for cash or for deferred payment or other valuable consideration, whether or not in the course of business, shall be deemed to be a sale for the purposes of this Act.]¹

1. Inserted by Act 4 of 1992 w.e.f. 1.4.1992.

¹[Explanation 5.- x x x]¹

1. Inserted by Act 10 of 1983 w.e.f. 2.2.1983 & omitted by Act 23 of 1983 w.e.f. 2.2.1983.

¹[(t-1) "State Representative" means any person appointed to be the State Representative under section 3;]¹ ²[and includes an officer empowered by the Commissioner under section 3 to perform the functions of a State Representative;]²

1. Inserted by Act 9 of 1970 w.e.f. 1.4.1970.

2. Inserted by Act 36 of 1986 w.e.f. 8.10.1986.

(u) "tax" means a tax leviable under the provisions of this Act;

¹[(u-1) "taxable turnover" means the turnover on which a dealer shall be liable to pay tax as determined after making such deductions from his total turnover and in such manner as may be prescribed, but shall not include the turnover of purchase or sale in the course of inter-State trade or commerce or in the course of export of the goods out of the territory of India or in the course of import of the goods into the territory of India;

(u-2) "total turnover" means the aggregate turnover in all goods of a dealer at all places of business in the State, whether or not the whole or any portion of such turnover is liable to tax, including the turnover of purchase or sale in the course of inter-State trade or commerce or in the course of export of the goods out of the territory of

India or in the course of import of the goods into the territory of India;]¹

1. Inserted by Act 9 of 1964 w.e.f. 1.4.1964.

(v) "turnover" means the aggregate amount for which goods are bought or sold, or supplied or distributed ¹[or delivered or otherwise disposed of in any of the ways referred to in clause (t)]¹ by a dealer, either directly or through another, on his own account or on account of others, whether for cash or for deferred payment or other valuable consideration;

²[Proviso x x x]²

1. Inserted by Act 27 of 1985 w.e.f. 1.8.1985.

2. Proviso inserted by Act 23 of 1983 w.e.f. 18.11.1983 & omitted by Act 7 of 1997 and Act 3 of 1998 w.e.f. 1.4.1994.

Explanation.—Subject to such conditions and restrictions, if any, as may be prescribed, in this behalf—

¹[(i) x x x]¹

1. Omitted by Act 7 of 1966 w.e.f. 1.4.1966.

(ii) the amount for which goods are sold include any sums charged for anything done by the dealer in respect of the goods sold at the time of or before the delivery thereof;

¹[(iii) x x x]¹

1. Omitted by Act 23 of 1983 w.e.f. 18.11.1983.

(iv) where for accommodating a particular customer, a dealer obtains goods from another dealer and immediately disposes of the same to the said customer, the sale in respect of such goods shall be included in the turnover of the latter dealer but not in that of the former;

¹[(v-l) "works contract" includes any agreement for carrying out for cash, deferred payment or other valuable consideration, the building, construction, manufacture, processing, fabrication, erection, installation, fitting out, improvement, modification, repair or commissioning of any movable or immovable property;]¹

1. Inserted by Act 27 of 1985 w.e.f. 1.8.1985.

¹[(w) x x x]¹

1. Omitted by Act 9 of 1964 w.e.f. 1.4.1964.

¹[(x) "year" means the year commencing on the first day of April.]¹

1. Substituted by Act 15 of 1988 w.e.f. 1.4.1989.

(2) The ¹[Karnataka]¹ General Clauses Act, 1899 (¹[Karnataka]¹ Act III of 1899), shall apply for the interpretation of this Act as it applies for the interpretation of a

¹[Karnataka]¹ Act.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 1.11.1973.

CHAPTER II AUTHORITIES AND APPELLATE TRIBUNAL.

3. Appointment of Commissioner, ¹[²[Additional Commissioner]¹]², ²[Joint Commissioners]² of Commercial Taxes, ²[Deputy Commissioners]² of Commercial Taxes, ²[Assistant Commissioner of Commercial Taxes]², a ³[State Representative]³ and ²[Commercial Tax Officer]².- ⁴[(1)]⁴ The State Government may appoint a Commissioner of Commercial Taxes and as many ¹[²[Additional Commissioner]¹] of Commercial Taxes, ²[Joint Commissioners]² of Commercial Taxes, ²[Deputy Commissioner]² of Commercial Taxes, ³[Assistant Commissioner of Commercial Taxes]², ³[a State Representative]³ and ²[Commercial Tax Officers]², as they think fit for the purpose of performing the functions respectively conferred on them by or under this Act ⁵[or by or under any other law for the time being in force.]⁵ ⁶[x x x]⁶

1. Inserted by Act 10 of 1983 w.e.f. 1.4.1983.
2. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.
3. Inserted by Act 9 of 1970 w.e.f. 1.4.1970.
4. Re-numbered by Act 9 of 1970 w.e.f. 1.4.1970.
5. Inserted by Act 30 of 1962 w.e.f. 1.10.1962 by notification. Text of the notification is at the end of the Act.
6. Omitted by Act 9 of 1964 w.e.f. 27.2.1964.

¹[(1-A) The Commissioner may, empower an officer not below the rank of a ³[Assistant Commissioner of Commercial Taxes]³ ²[or an Advocate or a Chartered Accountant or a Sales Tax Practitioner enrolled in the prescribed manner]² to perform the functions of a State Representative.]¹

1. Inserted by Act 36 of 1986 w.e.f. 8.10.1986.
2. Inserted by Act 7 of 1997 w.e.f. 1.4.1997.
3. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

¹[(2) In proceedings before the Appellate Tribunal, the State Representative shall be competent,—

- (i) to prepare and sign applications, appeals and other documents;
- (ii) to appear, represent, act and plead;
- (iii) to receive notices and other processes; and
- (iv) to do all other acts connected with such proceedings,

on behalf of the State Government or any officer appointed under this Act.]¹

1. Inserted by Act 9 of 1970 w.e.f. 1.4.1970.

¹²[3A. Instructions to subordinate authorities.- (1) The State Government and the Commissioner may from time to time, issue such orders, instructions and directions to all officers and persons employed in the execution of this Act as they may deem fit for the administration of this Act, and all such officers and persons shall observe and follow such orders, instructions and directions of the State Government and the Commissioner:

1. Sections 3A, 3B, 3C inserted by Act 9 of 1964 w.e.f. 27.2.1964.

2. Substituted by Act 27 of 1985 w.e.f. 1.8.1985.

Provided that no such orders, instructions, or directions shall be issued so as to interfere with the discretion of any Appellate Authority in the exercise of its appellate functions.

(2) Without prejudice to the generality of the foregoing power, the Commissioner may, on his own motion or on an application by a registered dealer liable to pay tax under the Act, ¹[or a recognized association or a body representing a class of dealers]¹ if he considers it necessary or expedient so to do, for the purpose of maintaining uniformity in the work of assessments and collection of revenue, clarify the rate of tax payable under this Act in respect of goods liable to tax under the Act, and all officers and persons employed in the execution of this Act shall observe and follow such clarification.

1. Inserted by Act 26 of 2004 w.e.f. 1.8.2004.

¹[Provided that no such application shall be entertained unless it is accompanied by proof of payment of such fee, paid in such manner, as may be prescribed.]¹

1. Inserted by Act 15 of 1988 w.e.f. 1.4.1988.

(3) All officers and persons employed in the execution of this Act, shall observe and follow such administrative instructions as may be issued to him for his guidance by the ¹[Additional Commissioner]¹ ²[Joint Commissioner]² within whose jurisdiction he performs his functions.]¹

1. Inserted by Act 5 of 2002 w.e.f. 1.4.2003.

2. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

3B. Jurisdiction of officers.- (1) ²[(a) The ¹[Additional Commissioners]¹ shall perform their functions in respect of such areas or of such dealers or classes of dealers or of such cases or classes of cases as the ³[Commissioner]³ may direct.]²

1. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

2. Inserted by Act 10 of 1983 w.e.f. 1.4.1983 & substituted by Act 9 of 1986 w.e.f. 1.4.1983.

3. Substituted by Act 15 of 1996 w.e.f. 5.9.1996.

¹[(b) x x x]¹

1. Inserted by Act 9 of 1986 w.e.f. 1.4.1986 & omitted by Act 15 of 1996 w.e.f. 5.9.1996.

1[(c)]¹ The ²[Joint Commissioners]² shall perform their functions in respect of such areas or of such dealers or classes of dealers or of such cases or classes of cases as the ³[Commissioner]³ may direct.

1. Re-lettered by Act 9 of 1986 w.e.f. 1.4.1986.

2. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

3. Substituted by Act 4 of 1992 w.e.f. 1.4.1992.

1[(d)]¹ Where any directions issued under ²[clause (c)]² have assigned to two or more ³[Joint Commissioners]³, the same area or the same dealers or classes of dealers, or the same cases or classes of cases, they shall perform their functions in accordance with any orders which the Commissioner may make for the distribution and allocation of the work to be performed.

1. Re-lettered by Act 9 of 1986 w.e.f. 1.4.1986.

2. Substituted by Act 9 of 1986 w.e.f. 1.4.1986.

3. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

(2) (a) The 1[Deputy Commissioners]¹ shall perform their functions in respect of such areas or of such dealers or classes of dealers or of such cases or classes of cases as the ²[Commissioner]² may direct.

1. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

2. Substituted by Act 4 of 1992 w.e.f. 1.4.1992.

(b) Where any directions issued under clause (a) have assigned to two or more ¹[Deputy Commissioners]¹, the same area or the same dealers or classes of dealers or the same cases or classes of cases, they shall perform their functions in accordance with any orders the Commissioner may make for the distribution and allocation of the work to be performed.

1. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

(3) (a) The ¹[Commercial Tax Officers]¹ and the ¹[Assistant Commissioner of Commercial Taxes]¹ shall perform their functions in respect of such areas or of such dealers or classes of dealers or such cases or classes of cases as the Commissioner may direct.

1. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

(b) Where any directions issued under clause (a) have assigned to two or more ¹[Commercial Tax Officers]¹ or ¹[Assistant Commissioner of Commercial Taxes]¹, as

the case may be, the same area or the same dealers or classes of dealers or the same cases or classes of cases, they shall perform their functions in accordance with any orders which the Commissioner may make for the distribution and allocation of the work to be performed.

1. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

(4) (a) The Commissioner may, by general or special order in writing, direct that the powers conferred on the ¹[Assistant Commissioner of Commercial Taxes]¹ by or under this Act, shall, in respect of any specified case or classes of cases or any specified dealers or classes of dealers be exercised by the ¹[Deputy Commissioner.]¹

1. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

(b) Where an order under clause (a) is issued, then for the purposes of any case or dealer in respect of which any such order applies, reference in this Act or in any rule made thereunder to the ¹[Assistant Commissioner of Commercial Taxes]¹ or assessing authority shall be deemed to be references to the ¹[Deputy Commissioner.]¹

1. Substituted by Act 5 of 1993 w.e.f. 9.11.1992.

Explanation.—In this section, the word "case" in relation to any dealer specified in any order or direction issued thereunder means all proceedings under this Act in respect of any year which may be pending on the date of such order or direction or which may have been completed on or before such date, and includes also all proceedings under this Act which may be commenced after the date of such order or direction in respect of any year.

3C. Change of incumbent of an office.- Whenever in respect of any proceeding under this Act, an assessing authority or any officer ceases to exercise jurisdiction and is succeeded by another who has and exercises jurisdiction, the authority or officer so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor:

Provided that the assessee concerned may demand that before the proceeding is so continued the previous proceeding or any part thereof be re-opened or that before any order of assessment is passed against him, he be re-heard.]¹

¹[4. Provision for clarification and advance rulings.- (1) The Commissioner may constitute a State level 'Authority for Clarification and Advance Rulings', (here in after referred to in this section as Authority) consisting of three Additional Commissioners, to clarify the rate of tax applicable under this Act in respect of any goods liable to tax under the Act or the exigibility of any transaction to tax under the Act on an application by a dealer registered under the Act.

(2) The application shall be in such form and shall be accompanied by proof of payment of such fee, paid in such manner, as may be prescribed.

(3) An applicant may withdraw an application within thirty days from the date of application.

(4) On receipt of an application, the Authority shall cause a copy thereof to be forwarded to the assessing or registering authority concerned and call for ¹[its finding on the clarification sought or question raised and also] any information or records.

1. Inserted by Act 26 of 2004 w.e.f. 1.8.2004.

(5) The Authority may, after examining the application and any records called for, by order, either, ¹[admit] or reject the application.

1. Substituted by Act 26 of 2004 w.e.f. 1.8.2004.

Provided that the Authority shall not allow the application where the question raised in the application,-

(i) is already pending before any officer or authority of the Department or Appellate Tribunal or any Court;

(ii) relates to a transaction or issue which is designed apparently for the avoidance of tax.

Provided further that no application shall be rejected under this sub-Section unless an opportunity has been given to the applicant of being heard and where the application is rejected, reasons for such rejections shall be recorded in the order.

(6) A copy of every order made under sub-Section (5) shall be sent to the applicant and the officer concerned.

(7) Where an application is ¹[admitted]¹ under sub-Section (5), the Authority shall after examining such further material as may be placed before it by the applicant or obtained by the Authority, pass such order as deemed fit on the questions specified in the application, after giving an opportunity to the applicant of being heard, if he so desires ²[and also to the assessing authority or registering authority concerned]². The authority shall pass an order within ¹[ninety days] of the receipt of any application and a copy of such order shall be sent to the applicant and to the officer concerned.

1. Substituted by Act 26 of 2004 w.e.f. 1.8.2004.

2. Inserted by Act 26 of 2004 w.e.f. 1.8.2004.

(8) No officer or any other authority of the Department or the Appellate Tribunal shall proceed to decide any issue in respect of which an application has been made by an applicant under this Section and is pending.

(9) The order of the Authority shall be binding only,-

(i) on the applicant who had sought clarification;

(ii) in respect of the goods or transaction in relation to which a clarification was

sought; and

(iii) on all the officers other than the Commissioner.

(10) The order of the Authority under sub-section (7) shall be binding as aforesaid unless there is a change in law or facts on the basis of which the order was passed.

(11) Where the Authority on a representation made to it by any officer or otherwise finds that an order passed by it was obtained by the applicant by fraud or misrepresentation of facts, it may, by order, declare such order to be void ab initio and thereupon all the provisions of this Act shall apply to the applicant as if such order had never been made.

(12) A copy of the order made under sub-Section (11) shall be sent to the applicant and the Commissioner or the officer concerned.]¹

1. Omitted by Act 27 of 1985 w.e.f. 1.8.1985 and again inserted by Act 5 of 2002 w.e.f. 1.4.2002.

1[CHAPTER - IIA SETTLEMENT OF CASES

4A. Definitions.- In this chapter, unless the context otherwise requires, -

(a) "case" means any proceeding under this Act by way of appeal or revision in connection with such assessment, reassessment, levy of penalty or interest payable which may be pending before a Sales Tax authority or Appellate Tribunal on the date on which an application is made under sub-section (1) of section 4E;

Provided that where an appeal has been preferred after the expiry of the period specified for the filing of such appeal under this Act and which has not been admitted, such appeal shall not be deemed to be a proceeding pending within the meaning of this clause;

Provided further that any ex-parte proceeding under this Act for assessment or re-assessment of tax, levy of penalty or interest on any person for any year, where no appeal has been preferred or where an appeal filed has been rejected, shall be deemed to be pending before the Sales Tax Authority for a limited purpose of this chapter.

(b) "Chairman" means the Chairman of the Settlement Commission;

(c) "Member" means a Member of the Settlement Commission and includes the Chairman;

(d) "Settlement Commission" means the Sales Tax Settlement Commission constituted under section 4B;

(e) "Sales Tax Authority" means a Sales Tax authority specified in sub-section (1) of section 3.

4B. Constitution of Sales Tax Settlement Commission.- (1) The State Government may by notification constitute a "Sales tax Settlement Commission" for settlement of cases under this Act;

(2) The Settlement Commission shall consist of a Chairman and two other Members.

(3) The Chairman of the Settlement Commission shall be appointed by the State Government from amongst the retired Judges of the High Court of Karnataka;

(4) The State Government shall appoint officers not below the rank of Additional Commissioners to be the members of the Settlement Commission.

(5) Terms and conditions of service of, and salary and allowances payable to the chairman and other members shall be as may be prescribed.

4C. Place of sitting of Settlement Commission.- The Settlement Commission shall ordinarily sit at Bangalore and at such other places as it deems fit.

4D. Decision to be by majority.- The decision of the Settlement Commission shall be according to the opinion of the majority.

4E. Application for settlement of cases.- (1) An assessee or an aggrieved person may at any stage of a case relating to him, make an application to the Settlement Commission in such form and in such manner as may be prescribed in respect of each assessment year, to have the case settled and any such application shall be disposed of in the manner hereinafter provided;

Provided that no such application shall be made unless, the tax payable on the turnover or the penalty or interest sought to be settled in the application exceeds twenty five thousand rupees.

(2) Every application made under sub-section (1) shall be accompanied by such fees as may be prescribed.

(3) An application made under sub-section (1) shall not be withdrawn by the applicant, except with the permission of the Settlement Commission and the Settlement Commission shall make an order thereof.

(4) A copy of the application made under sub-section (1) shall be sent by the Settlement Commission to the Sales Tax Authority or the Appellate Tribunal, as the case may be. The Sales Tax Authority or the Appellate Tribunal shall keep the case pending up to the date of order under sub-section (3), if the application is permitted to be withdrawn or up to the date of order under sub-section (1) of section 4F, if the application is rejected, or up to ninety days from the date of order of the Settlement Commission, if the application is disposed of under sub-section (4) of section 4F.

4F. Procedure on receipt of an application.- (1) On receipt of an application

under sub-section (1) of section 4E, the Settlement Commission shall call for a factual report from the Sales Tax Authority in respect of matters pending before such Authority and from the Commissioner in respect of matters pending before the Appellate Tribunal and on the basis of the materials contained in such report and having regard to the nature and circumstances of the case or the complexity of the investigation involved therein, the Settlement Commission shall, by an order within thirty days of the application, admit the application to be proceeded with or reject the application:

Provided that an application shall not be rejected under this sub-section unless an opportunity of being heard has been given to the applicant:

Provided further that the Sales Tax Authority or the Commissioner shall furnish the report within a period of fifteen days of the receipt of communication from the Settlement Commission and if the report is not furnished within the said period, the Settlement Commission may make an order of admission or rejection of application without such report.

(2) A copy of every order under sub-section (1) shall be sent to the applicant and to the Sales Tax Authority or the Tribunal, as the case may be.

(3) Where an application is allowed to be proceeded with under sub-section (1), the Settlement Commission may call for the relevant records from the Sales Tax Authority or the records of the Sales Tax Authority available with the Appellate Tribunal and after examination of such records, if the Settlement Commission is of the opinion that any further enquiry or investigation in the matter is necessary, it may direct the Sales Tax Authority to make or cause to be made such further enquiry or investigation and furnish a report on the matters covered by the application and any other matters relating to the case.

(4) After examination of the report and the records of the Sales Tax Authority received under sub-section (1) and sub-section (3) and after giving an opportunity to the applicant and to the Sales Tax Authority or the State Representative authorised under section 3, to be heard, either in person or through a representative duly authorised in this behalf, and after examining such further evidence as may be placed before it or obtained by it, the Settlement Commission may settle and pass such order as it thinks fit by re-determining the turnovers, taxes payable, penalties and interest on the matters covered by the application and any other matter relating to the case not covered by the application, but referred to in the report of the Sales Tax Authority under sub-section (1) or sub-section (3). The order shall be pronounced in the open court on the date posted for orders and such pronouncement shall be deemed to be a communication. A copy of the order shall also be sent to the applicant and the Sales Tax Authority or the Appellate Tribunal.

(5) The Sales Tax Authority or the Appellate Tribunal shall dispose of the case before them after the expiry of ninety days from the date of order under sub-section

(4). The quantum of turnover taxes, penalties or interest, etc. settled under this section shall be adopted as such by the Sales Tax Authorities or the Appellate Tribunal while disposing of the case before them, if the settlement does not get annulled as provided under sub-section (8) and the matters not covered in order of settlement under sub-section (1) shall be disposed of by the Sales Tax Authority or the Appellate Tribunal in accordance with law. The matters referred to in the application under sub-section (1) of section 4E shall be disposed, along with other matters by the Sales Tax Authority or the Appellate Tribunal, in accordance with law, in the event if the settlement gets annulled under sub-section (8).

(6) Every order passed under sub-section (4) shall provide for the terms of settlement including any demand by way of tax, penalty or interest, the manner in which any sum due under the settlement shall be paid and all other matters to make the settlement effective and shall also provide that the settlement shall be void if it is subsequently found by the Settlement Commission that it has been obtained by fraud or misrepresentation of facts.

(7) The settlement commission shall annul the settlement order passed under sub-section (4), after hearing the parties if the settlement has been obtained by fraud or misrepresentation of facts.

(8) Where any tax, penalty or interest etc payable in pursuance of an order under sub-section (4) is not paid by the applicant within ninety days of the pronouncement of order, the settlement stands annulled and the case shall be deemed to be restored to the stage as it stood immediately prior to the date on which an application under sub-section (1) of section 4E was made.

(9) Where a settlement has been annulled as provided under sub-section (7), the proceedings with respect to the matters covered by the settlement shall be deemed to have been revived from the stage at which the application was allowed to be proceeded with by the Settlement Commission and the Sales Tax Authority or Appellate Tribunal concerned, may, notwithstanding anything contained in any other provision of this Act, proceed and complete such proceedings at any time before the expiry of two years from the end of the financial year in which the settlement has been annulled.

(10) Where an application under sub-section (1) of section 4E is rejected under sub-section (1) of section 4F or allowed to be withdrawn under sub-section (3) of section 4E by the Settlement Commission, the period of time elapsed between the date of filing the application under sub-section (1) of section 4E and the date of communication of the order of rejection or withdrawal, to the Sales Tax Authority or the Appellate Tribunal shall be excluded for the purpose of computing the period of time prescribed for completing any proceedings under the Act in relation to the case.

(11) Where a settlement gets annulled as provided under sub-section (8), the period of time elapsed between the date of filing the application under sub-section (1) of section 4E and up to ninety days from the date of order under sub-section (4) shall be excluded for the purpose of computing the limitation of time prescribed for initiating or completing any proceedings under the Act in relation to the case.

(12) An application for settlement of a case shall be disposed of by the Settlement Commission, within ninety days from the date of order of admission under sub-section (1).

4J. Powers and procedure of Settlement Commission.- (1) In the absence of any express direction to the contrary issued by the Settlement Commission, nothing contained in this Chapter shall affect the operation of any provision of this Act requiring the applicant to pay taxes or any amount due in relation to the matters before the Settlement Commission.

(2) For the removal of doubt, it is hereby declared that, in the absence of any express direction by the Settlement Commission to the contrary, nothing in this chapter shall affect the operation of the provisions of this Act in so far as they relate to any matters other than those before the Settlement Commission.

(3) The Settlement Commission shall, subject to the provisions of this chapter, have power to regulate its own procedure in all matters arising out of the exercise of its powers or of the discharge of its functions.

4K. Inspection, etc., of reports.- No person shall be entitled to inspect or obtain copies of any reports made by any Sales Tax Authority or the Commissioner, to the Settlement Commission; but the Settlement Commission may, in its discretion, furnish copies thereof to any such person on an application made to it in this behalf and on payment of the prescribed fee;

4L. Power of Settlement Commission to grant immunity from prosecution and penalty.- (1) If the Settlement Commission, is satisfied that any person who made the application for settlement under this section has co-operated with the Settlement Commission in the proceedings before it, the Settlement Commission may grant to such person, subject to such conditions as it may think fit to impose, immunity from prosecution for any offence under this Act, and also (either wholly or in part) from the imposition of any penalty under this Act, with respect to the matters in the case covered by the settlement:

Provided that no such immunity shall be granted in cases where the proceedings for the prosecution for any such offence has been instituted before the date of receipt of the application under sub-section (1) of section 4E.

(2) An immunity granted to a person under sub-section (1) shall stand withdrawn if

such person fails to pay any sum specified in the order of settlement passed under sub-section (5) of section 4F, within the time specified or fails to comply with any other condition subject to which the immunity was granted and thereupon the provisions of this Act shall apply as if such immunity had not been granted.

(3) An immunity granted to a person under sub-section (1), may, at any time, be withdrawn by the Settlement Commission, if it is satisfied that such person had, in the course of the settlement proceedings, concealed any particulars or material from the Settlement Commission or had given false evidence, and thereupon such person may be tried for any other offence of which he appears to have been guilty in connection with the settlement and shall also become liable to imposition of any penalty under this Act to which such person would have been liable, had not such immunity been granted.

4M. Power of Settlement Commission to send a case back if the applicant does not co-operate.- (1) If the Settlement Commission is of opinion that any person who made an application for settlement under sub-section (1) of section 4E has not co-operated with it in the proceedings before it, the Settlement Commission may by an order send the case, back to the Sales Tax Authority or the Appellate Tribunal which shall thereupon dispose of the case in accordance with provisions of this Act as if no application under sub-section (1) of section 4E had been made.

(2) For the purposes of sub-section (1), the Sales Tax Authority or the Appellate Tribunal shall be entitled to use all the materials and other information produced by the assessee before the Settlement Commission or the results of the inquiry held or evidence recorded by the Settlement Commission in the course of the proceedings before it as if such materials, information, inquiry and evidence had been produced before the Sales Tax Authority or the Appellate Tribunal or held or recorded by it in the course of the proceedings before it.

(3) Where a case is sent back to the Sales Tax Authority or the Appellate Tribunal under sub-section (1), the period of time elapsed between the date of filing the application under sub-section (1) of section 4E and the date of communication of the order under sub-section (1) to the Sales Tax Authority or the Appellate Tribunal, as the case may be, shall be excluded for the purpose of computing the period prescribed for initiating or completing any proceeding under the Act in relation to the case.

4N. Order of settlement to be conclusive.- Every order of settlement passed under sub-section (4) of section 4F shall be conclusive as to the matters stated therein and no matter covered by such order shall, save as otherwise provided in this Chapter, be reopened in any proceeding under this Act or under any other law for the time being in force.

4O. Proceedings before Settlement Commission to be judicial proceedings.-

(1) Any proceeding under this chapter before the Settlement Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Penal Code (Central Act 45 of 1860).]¹

1. Inserted by Act, 3 of 2004 w.e.f. 29.1.2004.

CHAPTER III

incidence and levy of tax

5. Levy of tax on sale or purchase of goods.- ¹[(1) Every dealer shall pay for each year tax on his taxable turnover at the rate of ²[twelve percent]² at the point of first sale.]¹

³[Provisos x x x]³

1. Substituted by Act 11 of 1993 w.e.f. 1.4.1993.
2. Substituted by Act 3 of 1998 w.e.f. 1.4.1998 and again Substituted by Act 5 of 2002 w.e.f. 1.4.2002 and again substituted by Act 30 of 2003 w.e.f. 1.6.2003 again substituted by Act 26 of 2004 w.e.f. 1.8.2004.
3. Provisoes were inserted and omitted by Acts 18 of 1994 and 6 of 1995 w.e.f. different dates.

¹[(1-A) x x x]¹

1. Inserted by Act 15 of 1988 w.e.f. 1.4.1988 & omitted by Act 5 of 2000 w.e.f. 1.4.2000.

¹[(1-B) Notwithstanding anything contained in sub-section (1), in the case of ³[x x x]³ glass bottles, the tax shall be payable by a dealer, at every point of sale at the rate of ²[twelve per cent]² on the taxable turnover, in each year relating to such goods.]¹

1. Substituted by Act 11 of 1993 w.e.f. 1.4.1993.
2. Substituted by Act 3 of 1998 w.e.f. 1.4.1998 and again Substituted by Act 5 of 2002 w.e.f. 1.4.2002
3. Omitted by Act 5 of 1996 w.e.f. 1.4.1996.

¹[(1-C) Notwithstanding anything contained in sub-section (1), in the case of silk fabrics, the tax shall be payable by a dealer, at every point of sale at the rate of four percent on the taxable turnover in each year relating to such goods:

Provided where the own manufactured silk fabrics are sold to a dealer liable to tax under this Act, the sale of such silk fabrics shall not be deemed to be a sale by a dealer liable to tax under this Act.]²

Explanation.—For the purpose of this sub-section and sub-section (8) of section 17, "silk fabrics" means ³[silk fabrics in which the proportion of silk is sixty percent or more by weight of the total fibre content]³ but excluding any cloth on which a duty under the Additional Duties of Excise

(Goods of Special Importance) Act, 1957 (Central Act 58 of 1957), has been levied.]¹

1. Inserted by Act 1 of 1996 w.e.f. 1.4.1995.
2. Substituted by Act 3 of 1998 w.e.f. 1.4.1998.
3. Substituted by Act 15 of 1996 w.e.f. 1.4.1995.

¹[(1-D x x x)]¹

1. Inserted by Act 4 of 1999 w.e.f. 1.4.1999 & Omitted by Act 5 of 2000 w.e.f. 1.4.2000.

¹[(2) Notwithstanding anything contained in sub-section (5), ²[every dealer,]² shall, whatever be the quantum of his total turnover, be liable to pay tax at the rate specified in this Act, ³[on the sale of any goods which he has purchased in the course of inter-State trade or commerce in respect of which the concessional rate of tax under clause (b) of sub-section (1) of section 8 of the Central Sales Tax Act, 1956, has been levied.]³]¹

1. Substituted by Act 31 of 1958 w.e.f. 1.1.1959.
2. Substituted by Act 11 of 1993 w.e.f. 1.4.1993.
3. Substituted by Act 3 of 1966 w.e.f. 1.3.1966 by notification. Text of notification is at the end of the Act.

(3) Notwithstanding anything contained in sub-section (1), the tax under this Act shall be levied—

(a) in the case of the sale of any of the goods mentioned in column (2) of the Second Schedule, by the first or the earliest of successive dealers in the State who is liable to tax under this section, a tax at the rate specified in the corresponding entry of column (3) of the said Schedule, on the ¹[taxable turnover]¹ of sales of such dealer in each year relating to such goods:

1. Substituted by Act 9 of 1964 w.e.f. 1.4.1964.

¹[Provided that in respect of sale by the State Government of any of the goods mentioned in ²[Serial Number 6 of Part 'L' and Serial Number 2 of Part 'O']² of the Second Schedule, the State Government shall be deemed to be the first dealer in the State and shall be entitled to collect the tax under section 19:]¹

1. Inserted by Act 32 of 1958 w.e.f. 1.10.1957.
2. Substituted by Act 15 of 1988 w.e.f. 1.4.1988.

¹[2nd proviso x x x]¹

1. Omitted by Act 15 of 1988 w.e.f. 1.4.1988.

¹[Explanation x x x]¹

1. Omitted by Act 15 of 1988 w.e.f. 1.4.1988.

¹[Proviso xxx]¹

1. Inserted by Act 7 of 1981 and omitted by Act 10 of 1983 w.e.f. 1.4.1983.

¹[Provided also that in respect of sale of goods mentioned in ²[Serial Number 11-A of Part `F', Serial Number 12 of Part `M' and ³[Serial Number 5 of Part `P' and Serial Number 1 of Part `K']³,]² of the Second Schedule, the sale by one oil company to another oil company shall not be deemed to be a sale by the first or the earliest of successive dealers in the State but the sale by the latter company to another person not being an oil company shall be deemed to be the sale by the first or the earliest of successive dealers in the State liable to tax.]¹

1. Inserted by Act 27 of 1985 w.e.f. 1.8.1985.

2. Substituted by Act 5 of 1996 w.e.f. 1.4.1996.

3. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.

¹²[Provided further that where any goods liable to tax under this Act are produced or manufactured by a dealer with the ³[brand name or trade mark]³, of any other dealer and which are not used by the latter as ⁴[raw materials, component parts or packing materials]⁴ as defined under the explanation to section 5-A, the sale of such goods by the dealer who has produced or manufactured to the dealer who is the brand name or trade mark holder, shall not be deemed to be, but the subsequent sale of such goods by the dealer having the right either as proprietor or otherwise to use the said name or the trade mark, either directly or through another, on his own account or on account of others shall be deemed to be the sale by the first dealer liable to tax under this section.]²

Illustration.—`A' has registered a Trade Mark for manufacture of certain goods. He gets the said goods manufactured by `B' under the said Trade Mark. The sale by `B' to `A' of the said goods is not the first sale but the sale by `A' or by any other person on his account is the first sale.]¹

1. Inserted by Act 14 of 1987 w.e.f. 1.4.1987.

2. Substituted by Act 4 of 1992 w.e.f. 1.4.1987.

3. Substituted by Act 4 of 1999 w.e.f. 1.4.1999.

4. Substituted by Act 4 of 1992 w.e.f. 1.4.1990.

¹[Proviso xxx]

1. Inserted by Act, 7 of 2003 w.e.f. 1.4.1995 and Omitted by Act, 7 of 2003 w.e.f. 1.4.96

¹[Provided also that no tax under this sub-section shall be payable on the currency notes printed by the Bharatiya Reserve Bank Note Mudrana Limited, Mysore and sold to the Reserve Bank of India.]¹

1. Inserted by Act 18 of 1999 w.e.f. 1.4.1996.

¹[Provided also that where for any reason, the goods sold under the brand name have been subjected to tax at the hands of the producer or the manufacturer of such goods the tax payable under clause (a) on subsequent sale of such goods by the trademark holder or the brand name holder or any other dealer having the right either as proprietor or otherwise to use the said name or trade mark either directly or through another on his own account or on account of others, shall be reduced by the amount of tax already paid on the sale of such goods by such producer or the manufacturer and the said producer or manufacturer shall not be entitled to refund of such tax paid by him.]¹

1. Inserted by Act 18 of 1999 w.e.f. 1.9.1999 by notification. Text of notification is at the end of the Act.

¹[Provided also that where goods are sold, under a brand name by the trade mark holder or the brand name holder or any other dealer having the right as proprietor or otherwise to use the said name or trade mark either directly or through another on his own account or on account of others, exclusively to a marketing agent or distributor or wholesaler or any other dealer, subsequent sale of such goods by the latter shall also be liable to tax under this Section and the tax so payable shall be reduced by the amount of tax already paid on the sale of such goods by the former.]¹

1. Inserted by Act 5 of 2002 w.e.f. 1.4.2002.

¹[Proviso xxx]¹

1. Seventh Proviso Inserted w.e.f. 1.4.1995 and deemed to have been omitted w.e.f. 1.4.1996 by Act 7 of 2003 w.e.f. 1.4.2003.

Provided also that the taxable turnover in respect of sale of Beer shall be arrived at by deducting the charges levied as litre fee under sub-rule (3) of rule 2 of the Karnataka Excise (Duties and Fees) Rules, 1968.

1. Inserted by Act 7 of 2003 w.e.f. 1.4.2000.

(b) in the case of purchase of any of the goods mentioned in column (2) of the Third Schedule, at the rate and only at the point specified in the corresponding entries of columns (4) and (3) of the said Schedule, on the dealer liable to tax under this Act, on his ¹[taxable turnover]¹ of purchases in each year relating to such goods.

1. Substituted by Act 9 of 1964 w.e.f. 1.4.1964.

¹[Proviso x x x]¹

1. Inserted by Act 4 of 1992 w.e.f. 3.3.1992 & omitted by the same Act w.e.f. 31.3.1992.

¹[(c) x x x]¹

1. Inserted by Act 30 of 1987 w.e.f. 21.4.1987 & omitted by Act 4 of 1992 w.e.f. 1.4.1992.

¹[Explanation II.— For the purpose of the ²[second]² proviso to clause (a), the expression "oil company" namely means:—

- (a) The Indian Oil Corporation Limited;
- (b) The Bharath Petroleum Corporation Limited;
- (c) The Hindustan Petroleum Corporation Limited;
- ³(d) Indo-Burma Petroleum Company;
- (e) Mangalore Refinery and Petrochemicals Limited;³

and includes any other oil company which the Government of Karnataka may by notification, specify.]¹

- 1. Inserted by Act 27 of 1985 w.e.f. 1.8.1985.
- 2. Substituted by Act 7 of 1997 w.e.f. 1.4.1997.
- 3. Inserted by Act 7 of 1997 w.e.f. 1.4.1997.

¹[Explanation III.- For the purpose of the sixth proviso to clause (a), where goods are sold, under a brand name by the trade mark holder or the brand name holder or any other dealer having the right as proprietor or otherwise to use the said name or trade mark either directly or through another on his own account or on account of others, who is exempt from tax by any notification issued under Section 8-A or Section 19-C, the expression "tax already paid" means the tax payable under this Section on such sale if the sale had been effected by any other dealer.]¹

- 1. Inserted by Act 5 of 2002 w.e.f. 1.4.2002.

¹[(3A) Notwithstanding anything contained in clause (a) of sub-section (3) of this section, in the case of sale of Indian made liquor (other than beer) held in opening stock as on the date of commencement of the Karnataka Taxation Laws (Amendment) Act, 2000 by a dealer holding licence in CL-I under the Karnataka Excise (Sale of Indian and Foreign liquor) Rules, 1968, tax at the rate of sixty per cent shall be levied on the taxable turnover of sales of such dealer relating to such goods :

Provided that the tax payable on the sale of such liquor shall be reduced by an amount of tax paid on such liquor at the immediately preceding point of sale.]¹

- 1. Inserted by Act 5 of 2000 w.e.f. 1.4.2000.

¹[(3B) x x x]¹

- 1. Omitted by Act 10 of 1983 w.e.f. 1.4.1983.

¹[(3-C) Notwithstanding anything contained in sub-section (3), in the case of sale of any of the goods mentioned in column (2) of the Eighth Schedule which has already been subjected to tax under ²[x x x]² clause (a) of sub-section (3) by a dealer liable to tax under this Act, a tax at the rate specified in the corresponding entry of column (3) of

the said schedule shall be levied at the point of last sale in the State on the taxable turnover of sales of such dealer in each year relating to such goods.]¹

1. Inserted by Act 27 of 1985 w.e.f. 1.8.1985 & substituted by Act 9 of 1986 w.e.f. 1.4.1986
2. Inserted by Act 15 of 1988 w.e.f. 1.4.1988 & omitted by Act 5 of 2000 w.e.f. 1.4.2000.

¹[Explanation.—For the purposes of this sub-section last sale shall be the sale by the retailer to a consumer and shall not include the first sale in the State.]¹

1. Inserted by Act 4 of 1992 w.e.f. 1.4.1992 & substituted by Act 5 of 2000 w.e.f. 1.4.2000.

(3-CC) ¹[x x x]

1. Subsection (3-CC) Inserted by Act 5 of 2001 w.e.f. 1.4.2001 and Omitted by Act, 5 of 2002 w.e.f. 1.4.2002.

¹[(3-D) Notwithstanding anything contained in this Act, where goods sold or purchased are contained in containers or are packed in any packing materials liable to tax under this Act, the rate of tax and the point of levy applicable to turnover of such containers or packing materials as the case may be, shall, whether the containers or the packing materials have already been subjected to tax under this Act or not or whether the price of the containers or of the packing materials is charged for separately or not, be the same as those applicable to goods contained or packed:

Provided that no tax under this sub-section shall be leviable if the sale or purchase of goods contained in such containers or packed in such packing materials is exempt from tax under this Act.]¹

1. Inserted by Act 9 of 1986 w.e.f. 1.4.1986.

¹[(3E) Notwithstanding anything contained in sub-section (1) or (3), every dealer who purchases goods without a brand name or a trade mark assigned to such goods and sells such goods after assigning a brand name or a trade mark either directly or through another on his own account or on account of others, shall, irrespective of the goods so purchased without a brand name or a trade mark have already been subjected to tax under the said sub-sections, be liable to pay tax at such rates as applicable to such goods under the Act on the turnover relating to sale of such goods:

Provided that the tax payable under this sub-section shall be reduced by an amount of tax which is already paid or has become payable under any of the said sub-sections on the corresponding value of the goods so purchased without the brand name or the trade mark:

Provided further that the burden of proving that the tax under any of the said sub-sections has already been paid or has become payable and of establishing the exact

quantum of tax so paid or payable as the case may be, on goods purchased without a brand name or a trade mark shall be on the dealer claiming reduction.]¹

3. Inserted by Act 5 of 2000 w.e.f. 1.4.2000.

¹[(4) Notwithstanding anything contained in sub-section (1) ²[for section 5-B or section 5-C]² a tax under this Act shall be levied in respect of the sale or purchase of any of the declared goods mentioned in column (2) of the Fourth Schedule at the rate ⁴[xxx]⁴ specified in the corresponding entries of columns (4) and (3) of the said Schedule on the dealer liable to tax under this Act on ³[his taxable turnover]³ of sales or purchases in each year relating to such goods:

1. Subsection (4) Substituted by Act 31 of 1958 w.e.f. 1.1.1959.
2. Inserted by Act 27 of 1985 w.e.f. 1.8.1985.
3. Substituted by Act 9 of 1964 w.e.f. 1.4.1964.
4. Omitted by Act, 5 of 2002 w.e.f. 1.4.2002.

Provided that where ¹[tax has become payable]¹ in respect of the sale or purchase of any of the declared goods under this sub-section and such goods are subsequently sold in the course of inter-State trade or commerce, ²[and tax has been paid under the Central Sales Tax Act, 1956 (Central Act 74 of 1956), in respect of the sale of such goods in the course of inter-State trade or commerce, the tax paid under this Act]² ³[shall be reimbursed to the person making such sale in the course of inter-State trade or commerce,]⁴ in such manner and subject to such condition as may be prescribed.]³

1. Substituted by Act 7 of 2003 w.e.f. 1.4.2000.
2. Substituted by Act 7 of 1973 w.e.f. 1.1.1959.
3. Substituted by Act 29 of 1961 w.e.f. 7.12.1961.
4. Substituted by Act 7 of 1973 w.e.f. 1.4.1973.

¹[Proviso x x x]¹

1. Omitted by Act 9 of 1970 w.e.f. 1.4.1970.

¹[Provisoes x x x]¹

1. Omitted by Act 30 of 1962 w.e.f. 1.10.1962.

¹[Provided further that in respect of the sale of cereals mentioned in Serial Number 9 of the Fourth Schedule, made by any person to a procurement agent appointed by the Government of Karnataka or to any sub-agent of such procurement agent in pursuance of the Karnataka Rice Procurement (Levy) Order, 1981 or any other Foodgrains Procurement (Levy) Order of the Government of Karnataka for the time being in force, such sale shall not be deemed to be, but the subsequent sale by the said procurement agent or sub-agent shall be and shall be deemed to be the point at which the tax under this Act shall be levied:]¹

1. Inserted by Act 3 of 1983 w.e.f. 1.1.1959.

¹[Provided also that where tax has been paid under this sub-section on the purchase of paddy and such paddy is either subsequently sold to or is hulled and the resultant rice is sold to a procurement agent appointed by the Government of Karnataka or to any sub-agent of such procurement agent in pursuance of the Karnataka Rice Procurement (Levy) Order, 1984 or any other Foodgrains Procurement (Levy) Order of the Government of Karnataka for the time being in force, the tax paid under this Act on the purchase of such paddy shall be reimbursed to the person making such sale to such procurement agent or his sub-agent, as the case may be, in such manner and subject to such conditions as may be prescribed.]¹

1. Inserted by Act 30 of 1987 w.e.f. 1.4.1987.

Explanation.—The expression "declared goods" means goods declared under section 14 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956), to be of special importance in inter-State trade or commerce.]¹

1. Subsection (4) Substituted by Act 31 of 1958 w.e.f. 1.1.1959.

¹[Provided also that in respect of goods specified at sub-item (i) of item (a) of serial number 5 of Fourth Schedule and on purchase of which no tax under this Act is leviable or levied on or before first day of April 1992 on the ground that such purchase was not the last purchase in the State, a dealer holding such goods in stock on the said date shall be deemed to be the last purchaser in the State liable to tax at the rates applicable as on the first day of April 1992 on such goods irrespective of the fact whether such stock of goods held as on the first day of April 1992 attained the character of last purchase in the State or otherwise.]¹

1. Inserted by Act 4 of 1999 w.e.f. 2.4.1992.

¹[Proviso x x x]¹

1. Inserted by Act 4 of 1999 w.e.f. 1.4.1998 & omitted by same Act w.e.f. 24.11.1998.

¹[(5)(a) A dealer whose total turnover in any year is less than ²[two lakh]² rupees shall not be liable to pay tax for that year.

³[(b) Notwithstanding anything contained in clause (a),—

(i) every casual trader in any of the goods other than those specified in the Fifth Schedule shall be liable to pay tax at the rate specified in this Act on his taxable turnover of sales or purchases in each year whatever his total turnover during the year may be;

¹[(i-a) Every dealer engaged in the execution of works contract mentioned in Sixth Schedule shall be liable to pay tax at the rate specified in the said schedule on his taxable turnover of transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract in each year whatever be the

quantum of his total turnover during the year.]¹

1. Inserted by Act 26 of 2004 w.e.f. 1.8.2004

(ii) every ⁴[x x x]⁴ manufacturer, dealer in liquor and beer and dealer who brings any goods into the State or to whom any goods are dispatched from any place outside the State shall be liable to pay tax at the rate specified in this Act on his taxable turnover of sales or purchases in each year if his total turnover during the year is not less than one lakh rupees.]³¹

1. Sub-section (5) substituted by Act 9 of 1964 w.e.f. 1.4.1964.

2. Substituted by Act 4 of 1992 w.e.f. 1.10.1991.

3. Substituted by Act 4 of 1992 w.e.f. 1.4.1992.

4. Omitted by Act 6 of 1995 w.e.f. 1.4.1995.

¹[(5A), (5B) x x x]¹

1. Omitted by Act 7 of 1966 w.e.f. 1.4.1966.

(6) For the purposes of this section and other provisions of this Act, ¹[the total turnover, taxable turnover or turnover]¹ shall be determined in accordance with such rules as may be prescribed.

1. Substituted by Act 9 of 1964 w.e.f. 1.4.1964.

(7) The tax shall be assessed, levied and collected in such manner and in such instalments, if any, as may be prescribed:

Provided that in respect of the same transaction of sale, the buyer or the seller, but not both, as determined by such rules as may be prescribed, shall be taxed:

¹[Proviso x x x]¹

1. Omitted by Act 9 of 1964 w.e.f. 1.10.1957.

¹[(8) x x x]¹

1. Omitted by Act 12 of 1961 w.e.f. 8.6.1961.

(9) Subject to such rules as may be prescribed, the assessing authority may assess a dealer for any year as if his transactions in such year had been the same as in the previous year.

¹[5-A. Taxation of Industrial Inputs.-(1) Notwithstanding anything contained in Section 5, the tax payable by a registered dealer, in respect of the sale of any industrial input liable to tax under the Act to another registered dealer for use by the latter as a component part or raw material or packing material of any other goods which he intends to manufacture inside the State for sale or in respect of sale of consumables liable to tax under the Act to another registered dealer for use in such manufacture, shall be at the rate of four percent or the rate specified in Section 5, whichever is lower, on the taxable turnover relating to such sale.

Provided that where the rate of tax in respect of such industrial input as specified in Section 5 is four percent and above, the provisions of this sub-Section shall not apply, unless the dealer selling the industrial inputs furnishes to his assessing authority in the prescribed manner a declaration by the buying dealer in the prescribed form obtained from the prescribed authority or where the buying dealer's total turnover for the year ending thirty first day of March 2001 as declared in the return for such period exceeds one hundred lakhs rupees, such buying dealer shall give a declaration in such form and in such manner as may be prescribed.

Provided further that if any dealer, after purchasing any inputs, in respect of which he has furnished a declaration under the first proviso to this Sub-section fails to make use of the whole or part of such inputs in the manufacture of other goods specified in the declaration before the expiry of the accounting year immediately succeeding the one in which such inputs are purchased, either due to cessation of his manufacturing activity or for any other reason, but has not sold away such inputs, he shall be liable to pay the difference between the tax payable at the rate specified under Section 5 and the tax computed at the rate of four percent on the turnover relating to the sale of such quantity of these inputs to him as have remained unutilized with him for the declared purpose at the end of the period specified above.

(2) Notwithstanding anything contained in clause (b) of sub-Section (3) of Section 5 or Section 6, the tax payable by a registered dealer in respect of the purchase of any Industrial input liable to tax under the Act for use by him as a component part or raw material or packing material of any other goods which he intends to manufacture inside the State for sale shall be at the rate of four percent or the rate specified in Section 5, whichever is lower, on the taxable turnover relating to such purchase.

(3) If any person :

(i) not having his manufacturing unit inside the State, purchases any inputs by furnishing a declaration under the first proviso to sub-Section (1) or pays tax on purchase of inputs under sub-Section (2); or

(ii) having his manufacturing unit inside the State and having purchased any inputs by furnishing a declaration under the first proviso to Sub-section (1) or paying tax on purchase of any inputs under sub-Section (2), sells away such inputs contrary to such declaration or condition, the assessing authority, after giving such person a reasonable opportunity of being heard, shall, by order in writing, impose upon him by way of penalty a sum, which shall not be less than the amount of tax leviable under Section 5 on the sale of the inputs so purchased or tax leviable under clause (b) of sub-Section (3) of Section 5 or Section 6 on the inputs so purchased, but which shall not exceed one and half times the amount of such tax;

(iii) having his manufacturing unit inside the State and having purchased any inputs by furnishing a declaration under first proviso to sub-Section (1) or having paid tax on any inputs under sub-Section (2), uses such inputs contrary to such declaration or, the assessing authority, after giving such person a reasonable opportunity of being heard, shall, by order in writing, impose upon him by way of penalty a sum which shall not be less than twice the amount of tax leviable under Section 5 or 6 but not exceeding two and half times the amount of such tax on the inputs so purchased.

¹[Provided that no penalty shall be levied under this sub-section after a period of eight years from the close of the year to which the purchase relates]¹

1. Inserted by Act 26 of 2004 w.e.f. 1.8.2004

(4) (a) Every dealer who, during the course of the year, purchases any inputs by furnishing a declaration under the first proviso to sub-Section (1), shall maintain in the prescribed manner a regular account of the receipt and issue of such declaration forms as are received or issued by him.

(b) Every such dealer shall also submit a statement as prescribed containing particulars of such purchases in any month to the assessing authority along with the statement to be submitted under section 12-B.

(c) Every such dealer shall also maintain in the prescribed manner an account giving the opening balance, purchases, consumption and closing balance of every input, which is purchased by him by furnishing a declaration under the first proviso to sub-Section (1) or purchased by him under sub-Section (2).

(d) If any dealer fails to maintain, in the prescribed manner, true and complete accounts or submit a statement as required by clause (a) or clause (b) or clause (c) of this sub-Section, the assessing authority shall, after giving such dealer a reasonable opportunity of being heard pass an order,-

(i) disentitling such dealer from making use of any declaration forms prescribed under the first proviso to sub-Section (1) and requiring him to surrender forthwith the declaration forms already issued to him, if any or disentitling such dealer to pay tax on inputs under sub-Section (2); and

(ii) imposing upon him a penalty not below one half of the amount of tax payable but not exceeding the amount of tax leviable, under the provisions of Section 5 on the sale value of the inputs already purchased by him against prescribed declaration forms up to the date of surrender of the unused forms by him or under the provision of Section 5 or Section 6 on the purchase value of inputs already purchased by him under sub-Section (2) up to the date of disentanglement.

(e) If any dealer, in respect of whom an order has been passed under clause (d), of

this sub-Section, pays the penalty and complies with other terms of such order, the assessing authority may, in his discretion, permit such dealer, to obtain the prescribed declaration forms afresh or issue the prescribed declaration forms and to make use of the same for the purchase of inputs in the State at concessional rate of tax or to pay tax under sub-Section (2) on purchase of inputs.

¹[Provided that no penalty shall be levied under this sub-section after a period of eight years from the close of the year to which the purchase relates]¹

1. Inserted by Act 26 of 2004 w.e.f. 1.8.2004

Explanation : (1) For the purpose of this Section, the expressions `industrial inputs` or inputs, mean either a `Component part` or `raw material` or packing material, but do not include Cement, and inputs falling under Serial Number 12 of Part `S` and Serial Number 10 of Part `M` of the Second Schedule.

(2) The expression `component part` means an article which forms an identifiable constituent of the finished product and which along with others, goes to make up the finished product.

(3) The expression `raw material` means any material-

(a) from which another product can be made, through the process of manufacture, either by itself or in combination with other raw materials; or

(b) a processing or any other chemical solvent (including chemicals used for testing, analysis or research) used in the solvent extraction process or a catalyst required in the manufacturing process, but it does not include fuels, and consumable stores of similar type.

(4) The expression `Consumables` does not include petroleum products falling under Serial Number 11-A of Part `F`, Serial Number 12 of Part `M` and Serial Number 5 of Part `P` of Second Schedule.]¹

1. Substituted Act 5 of 2002 w.e.f. 1.4.2002.

¹[(5) (xxx)]¹

1. Deemed to have been inserted w.e.f 1.4.2002 and shall be deemed to have been omitted w.e.f. 16.11.2004.

¹[(5) xxx]¹

1. Deemed to have been inserted w.e.f 1.4.2002 and deemed to have been omitted w.e.f. 16.11.2004 by Act 5 of 2006.

¹[Explanation-II (xxx)]¹

1. Deemed to have been inserted w.e.f 1.4.2001 and shall be deemed to have

been omitted w.e.f. 1.04.2002 by Act 5 of 2006.

¹[Explanation-III (xxx)]¹

1. Deemed to have been inserted w.e.f 1.4.83 and shall be deemed to have been omitted w.e.f. 1.04.2001 by Act 5 of 2006.

¹[5-B. Levy of tax on transfer of property in goods (whether as goods or in some other form) involved in the execution of works contracts.- Notwithstanding anything contained in sub-section (1) or ²[sub-section (3) or sub-section (3-C) of section 5, but subject to sub-section (4), (5) or (6)]² of the said section, every dealer shall pay for each year, a tax under this Act on his taxable turnover of transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract mentioned in column (2) of the Sixth Schedule at the rates specified in the corresponding entries in column (3) of the said Schedule.

³[5-C. Levy of tax on the transfer of the right to use any goods.- Notwithstanding anything contained in sub-section (1) or sub-section (3) of section 5, but subject to sub-sections (4), (5) and (6) of the said section, every dealer shall pay for each year a tax under this Act on his taxable turnover in respect of the transfer of the right to use any goods mentioned in column (2) of the Seventh Schedule for any purpose (whether or not for a specified period) at the rates specified in the corresponding entries in column (3) of the said Schedule:]³¹

1. Sections 5B and 5C inserted by Act 27 of 1985 w.e.f. 1.4.1986 by notification. Text of the notification is at the end of the Act.
2. Substituted by Act 4 of 1992 w.e.f. 1.4.1986.
3. Substituted by Act 5 of 1996 w.e.f. 1.4.1986.

¹[Provided that no tax shall be levied under this section if the goods in respect of which the right to use is transferred, have been subjected to tax under section 5.]¹

1. Inserted by Act 5 of 2000 w.e.f. 1.4.2000.

¹[6. Levy of purchase tax under certain circumstances.- Subject to the provisions of sub-section (5) of section 5, every dealer who in the course of his business purchases any taxable goods in circumstances in which no tax under section 5 is leviable on the sale price of such goods and,

(i) either consumes such goods in the manufacture of other goods for sale or otherwise ²[or consumes otherwise,]² or disposes of such goods in any manner other than by way of sale in the State, or

(ii) despatches them to a place outside the State except as a direct result of sale or purchase in the course of inter-State trade or commerce, shall be liable to pay tax on the purchase price of such goods at the same rate at which it would have been leviable

on the sale price of such goods under section 5:

Provided that this section shall not apply,—

³[(i) in respect of sale or purchase of goods specified in the Fourth Schedule,—

(a) which are taxable at the point of purchase; and

(b) which have already been subjected to tax under sub-section (4) of section 5.]³

(ii) in respect of sale or purchase of goods specified in the Second Schedule which have already been subject to tax under clause (a) of sub-section (3) of section 5.]¹

1. Substituted by Act 9 of 1970 w.e.f. 1.4.1970.

2. Inserted by Act 8 of 1989 w.e.f. 8.9.1988.

3. Substituted by Act 78 of 1976 w.e.f. 7.12.1976.

¹[Provided further that no tax shall be payable under this section on the purchase of sowing seeds]¹

1. Inserted by Act 7 of 2003 w.e.f. 1.4.1999.

¹[x x x]¹

1. Clauses (iia), (iii), (iv), (v) and proviso inserted and omitted by Acts 6 of 1995, 27 of 1985 and 14 of 1987 w.e.f. different dates.

¹**[Explanation.**— For the purpose of this section "consumes such goods in the manufacture" shall include goods consumed for ancillary purposes in or for such manufacture.]¹

1. Inserted by Act 8 of 1989 w.e.f. 1.4.1970.

¹**[6-A. Burden of proof.-** (1) For purposes of assessment of tax under this Act, the burden of proving that any transaction or any turnover of a dealer is not liable to tax shall lie on such dealer.

(2) Notwithstanding anything contained in this Act or in any other law, a dealer in any of the goods liable to tax in respect of the first sale or first purchase in the State shall be deemed to be the first seller or first purchaser, as the case may be, of such goods and shall be liable to pay tax accordingly on his turnover of sales or purchases, relating to such goods, unless he proves that the sale or purchase, as the case may be, of such goods had already been subjected to tax under this Act.]¹

1. Inserted by Act 9 of 1964 w.e.f. 1.10.1957.

¹[Provided that where goods liable to tax are iron and steel mentioned in serial number 2 of the Fourth Schedule, oil seeds mentioned in serial number 5 of the Fourth Schedule, bauxite, chromite, iron, manganese and other ores mentioned in serial number 1 of Third Schedule or hydrogenated oils and cooking medium mentioned in

serial number 1 of Part `E' of Second Schedule, ²[or any other goods liable to tax as may be notified by the Commissioner]² every dealer in such goods shall furnish a declaration duly filled and signed by the registered dealer from whom such goods are purchased containing the prescribed particulars in a prescribed form obtained from the assessing authority to prove that the sale or purchase, as the case may be, of such goods had already been subjected to tax and the seller of such goods shall issue the declaration to the buying dealer;]¹

1. Inserted by Act 6 of 1995 w.e.f. 1.4.1995.

2. Inserted by Act 15 of 1996 w.e.f. 5.9.1996.

¹[Provided further that, in respect of any assessments other than an assessment already completed, for the years ending Thirty First day of March, 1996 and Thirty First day of March 1997, the buying dealer may prove, in the prescribed manner, that the goods purchased have already been subjected to tax notwithstanding his failure to furnish the declaration specified.]¹

1. Deemed always been Inserted by Act 5 of 2002 w.e.f. 1.10.1957.

¹[(3) Where a dealer knowingly issues or produces a false bill, voucher, declaration, certificate or other document with a view to support or make any claim that a transaction of sale or purchase effected by him or any other dealer, is not liable to be taxed, ²[or liable to tax at a lower rate]² the assessing authority shall, on detecting such issue or production, direct the dealer issuing or producing such document to pay as penalty,—

(i) in the case of first such detection, three times the tax due in respect of such transaction; and

(ii) in the case of second or subsequent detection, five times the tax due in respect of such transaction:

Provided that before issuing any direction for the payment of the penalty under this section, the assessing authority shall give to the dealer an opportunity of making representation against the levy of such penalty.]¹

1. Inserted by Act 23 of 1983 w.e.f. 18.11.1983.

2. Inserted by Act 18 of 1994 w.e.f. 18.11.1983.

¹[Provided further that no penalty shall be levied under this Section after a period of eight years from the close of the year to which the transaction relates]¹

1. Inserted by Act 26 of 2004 w.e.f. 1.8.2004.

¹[6-B. Levy of resale tax.- Every registered dealer and every dealer who is liable to get himself registered under sub-Sections (1) and (2) of Section 10 whose total

turnover in a year is not less than the turnovers specified in the said sub-Sections, shall be liable to pay tax at the rate of one and half per cent of such portion of the total turnover which is not liable to tax under Sections 5, 5-A, 5-B, 5-C or 6.

Provided that no tax under this sub-Section shall be payable on that part of such turnover which relates to,-

- (I) sale or purchase of goods specified in the Fifth Schedule;
- (ii) sale or purchase of goods in the course of interstate trade or commerce;
- (iii) sale or purchase of goods in the course of export out of the territory of India or sale or purchase in the course of import into the territory of India;
- (iv) all amounts collected by way of tax under the provisions of this Act or the Central Sales Tax Act, 1956 (Central Act 74 of 1956);
- (v) all amounts falling under the head 'Freight', when specified and charged for by the dealer separately without including such amounts in the price of the goods sold;
- (vi) all amounts allowed as discount, provided that such discount is allowed in accordance with the regular practice of the dealer or is in accordance with the terms of a contract or agreement entered into a particular case and provided also that the accounts show that the purchaser has paid only the sum originally charged less discount;
- (vii) (a) all amounts allowed to purchasers in respect of goods returned by them to the dealer when the goods are taxable on sales provided that the goods were returned within a period of six months from the date of delivery of the goods and the accounts show the date on which the goods were returned and the date on which and the amount for which refund was made;
- (b) all amounts received from the sellers in respect of goods returned to them by the dealer, when the goods are taxable on the purchase value provided that the goods were returned within a period of six months from the date of delivery of the goods and the accounts show the date on which the goods were returned and the date on which and the amount for which refund was received;
- (viii) such amounts towards labour charges and other like charges not involving any transfer of property in goods, actually incurred in connection with the execution of works contract, or calculated at the rates prescribed;
- (ix) all amounts realized by a dealer by the sale of his business as a whole;
- (x) the total amount paid or payable by the dealer as a consideration for the purchase of any of the goods in respect of which tax is leviable at the point of sale;
- (xi) the total amount paid or payable to the dealer as a consideration for the sale of

any of the goods in respect of which tax is leviable at the point of purchase;

Provided further that, save as otherwise provided in this sub-Section, no other deduction shall be made from the total turnover of a dealer for the purposes of this Section.

(2) The provisions of this Act and the rules made thereunder shall, so far as may be, apply in relation to the assessment, collection or refund of the resale tax, as they apply in relation to the assessment, collection or refund of tax under the other provisions of this Act.]¹

1. Inserted by Act 16 of 1975 w.e.f. 1.4.1975 and Substituted by Act, 13 of 1982 w.e.f. 29.3.1981 and again substituted by Act, 5 of 2002 w.e.f. 1.4.2002.

¹[6BB. x x x]

1. Inserted by Act 18 of 1994 w.e.f. 1.4.1994 and omitted by Act 1 of 1996 w.e.f. 13.10.1995.

¹[6-C. Levy of additional tax.- Every registered dealer and every dealer who is liable to get himself registered under sub-sections (1) and (2) of section 10 whose total turnover in a year is not less than the turnovers specified in the said sub-sections, shall be liable to pay tax at the rate of one per cent of such portion of the total turnover which is liable to tax under section 5, 5-B, 5-C or 6.

Provided that no tax under this section shall be payable on that part of such turnover which relates to,-

- (i) sale or purchase of goods specified in the Fifth Schedule;
- (ii) sale or purchase of goods in the course of interstate trade or commerce;
- (iii) sale or purchase of goods in the course of export out of the territory of India or sale or purchase in the course of import into the territory of India;
- (iv) all amounts collected by way of tax under the provisions of this Act or the Central Sales Tax Act, 1956 (Central Act 74 of 1956);
- (v) all amounts falling under the head 'Freight', when specified and charged for by the dealer separately without including such amounts in the price of the goods sold;
- (vi) all amounts allowed as discount, provided that such discount is allowed in accordance with the regular practice of the dealer or is in accordance with the terms of a contract or agreement entered into a particular case and provided also that the accounts show that the purchaser has paid only the sum originally charged less discount;
- (vii) (a) all amounts allowed to purchaser in respect of goods returned by them to

the dealer when the goods are taxable on sales provided that the goods were returned within a period of six months from the date of delivery of the goods and the accounts show the date on which the goods were returned and the date on which and the amount for which refund was made;

(b) all amounts received from the sellers in respect of goods returned to them by the dealer, when the goods are taxable on the purchase value provided that the goods were returned within a period of six months from the date of delivery of the goods and the accounts show the date on which the goods were returned and the date on which and the amount for which refund was received;

(viii) such amounts towards labour charges and other like charges not involving any transfer of property in goods, actually incurred in connection with the execution of works contract, or calculated at the rates prescribed;

(ix) all amounts realized by a dealer by the sale of his business as a whole;

(x) the total amount paid or payable by the dealer as a consideration for the purchase of any of the goods in respect of which tax is leviable at the point of sale;

(xi) the total amount paid or payable to the dealer as a consideration for the sale of any of the goods in respect of which tax is leviable at the point of purchase;

Provided further that, save as otherwise provided in this section, no other deduction shall be made from the total turnover of a dealer for the purposes of this Section.

(2) The provisions of this Act and the rules made thereunder shall, so far as may be, apply in relation to the assessment, collection or refund of the additional tax, as they apply in relation to the assessment, collection or refund of tax under the other provisions of this Act.]¹

1. Inserted by Act 13 of 1994 and omitted by Act 7 of 1997 w.e.f. 1.4.1997 and again Inserted by Act 30 of 2003 w.e.f. 1.6.2003.