

CHAPTER II
INCIDENCE AND LEVY OF TAX

Incidence Tax

- 3** (1) Liability: - Subject to other provisions of this Act, every dealer -
- (a) whose turnover during the year immediately preceding the commencement of this Act:
 - (i) exceeded the taxable quantum; or who was
 - (ii) liable to pay tax under any of the laws repealed by this Act or the Central Sales Tax Act, 1956.
 - (b) to whom clause (a) does not apply and
 - (i) whose turnover calculated from the commencement of any year first exceeds within such year the taxable quantum; or
 - (ii) who has become liable to pay tax under the Central Sales Tax Act, 1956; or
 - (iii) who is registered as a dealer under the Central Sales Tax Act 1956 or under this Act at any time after the commencement of this Act; shall be liable to pay tax in accordance with the provisions of this Act.
- (2) Date of liability: - The dealer shall be liable to pay tax on all sales effected by him and
- (a) in case of clause (a) of sub-section (i) with effect from the date of commencement of this Act.
 - (b) in case of sub-clause (i) of clause (b) of sub-section (1) with effect from the date immediately following the day on which his turnover calculated from the commencement of the year first exceeds the taxable quantum;
 - (c) in case of sub-clause (ii) or (iii) of clause (b) of sub-section (1) with effect from the date on which he becomes so liable or date of registration under this Act, whichever is earlier.
- (3) Continuation of liability: - Every dealer who has become liable to pay tax under this Act, shall continue to be so liable until the expiry of three consecutive years during which his turnover has remained below the taxable quantum and on the expiry of such period his liability to pay tax shall cease.
- Provided that any dealer whose liability to pay tax under this Act, ceases, may apply for the cancellation of his certificate of registration, and on such cancellation, his liability shall cease.
- (4) Re-commencement of liability: - Every dealer whose liability to pay tax under this Act, has ceased under sub-section (3) or whose certificate of registration has been cancelled, shall, if his turnover calculated from the commencement of any year, including the year in which the registration has been cancelled, again exceeds the taxable quantum on any day within such year, be liable to pay such tax with effect from the date immediately following the day on which his

turnover again exceeds the taxable quantum, on all sales effected by him after that day.

- (5) Taxable quantum: - For the purpose of this Act, "Taxable quantum" means in relation to any dealer who: -
- (a) manufactures or imports for sale any goods into Meghalaya on his own behalf or on behalf of his principal ...Nil...
 - (b) is engaged in any other business other than clause (a) above.
Rs. 1(one) lakh,

Explanation: - For the purpose of computation of tax quantum, the turnover of sales effected by a sale dealer shall be taken into account irrespective of whether such sales are taxable under this Act or not.

- (6) A dealer who deals exclusively in one or more classes of goods specified in the Schedule to be notified under this Act shall not be liable to pay any tax under this Act.
For the purpose of calculating the gross turnover to determine the liability to pay tax under the Act-
- (a) except as otherwise expressly provided, the turnover of all sales or as the case may be, the turnover of all purchases shall be taken, whether such sales or purchases are taxable or not, and
 - (b) the turnover shall include all sales and purchases made by a dealer on his own account and also on behalf of principals whether disclosed or not.

Tax payable by a dealer or a person.

- 4 Subject to the provision of this Act and to any rules or notification there shall be paid by every dealer or, as the case may be every person who is liable to pay tax under this Act, the tax or taxes leviable in accordance with the provisions of this Act.

Levy of Value Added tax on goods specified in the Schedule appended to this Act

- 5 (1) Subject to the provision of this Act, and Rules, there shall be levied a tax on the turnover of sales of goods specified in the Scheduled to be notified in the Official Gazette at the rate set out against each of such goods in the schedule to be notified.

- (2) Taxable turnover of sales in relation to a dealer liable to pay tax on sale of goods under sub-section (1) of section 3 shall be part of the gross turnover of sales during any period which remains after deducting therefrom:
- (a) sales of goods declared as exempt from tax in schedule to be notified;
 - (b) sales of goods which are shown to the satisfaction of the Commissioner to have taken place -
 - (i) in the course of inter-State trade or commerce, or
 - (ii) outside Meghalaya, or
 - (iii) in the course of the import of the goods into or export of the goods out of the territory of India.

Explanation - Section 3, 4 and 5 of the Central Sales Tax Act, 1956 shall apply for determining whether or not a particular sale or purchase has taken place in the manner indicated in

sub-clause (i), sub-clause (ii) or sub-clause (iii).

(c) in case of turnover of sales in relation to works contract, the charges towards labour, services and other like charges and subject to such conditions as may be prescribed :

Provided that in the cases where the amount of charges towards labour, services and other like charges in such contract are not ascertainable from the terms and conditions of the contract, the amount of such charges shall be calculated at the prescribed percentage.

(d) such other sales on such conditions and restrictions as may be prescribed.

Purchase tax payable on purchase of certain goods.

6 Subject to other provisions of this Act, every dealer liable to pay tax under the Meghalaya Purchase Tax Act repealed by this Act, shall, with effect from the appointed day for the purpose of this section, be liable to pay tax under this Act on all purchases of goods specified in the Schedule to be notified on the last point of purchase within the State at the rate set out against each of such goods in such Schedule:

Provided that no tax shall be levied under this section if the goods purchased are used or consumed in the execution of works contract or in the manufacture of taxable goods which are in fact sold.

Levy of tax on containers and packing materials.

7 Where any goods packed in any container or packing materials in which such goods are packed shall be deemed to have been sold or purchased along with the goods and the tax under section 5 or section 6 shall be levied on the sale or purchase of such container or packing material at the rate of tax, if any, applicable to the sale, or as the case may be, the purchase of the goods itself:

Provided that no tax under section 5 or section 6 shall be levied where the container or packing material is sold or purchased along with the goods declared as exempted from tax under this Act.

Exemptions 8(1)

(a) The sale of goods listed in the Schedule to be notified in the Official Gazette shall be exempt from tax subject to conditions and exceptions set out therein.

(b) Supplies between Special Economic Zones.

(2) The following shall be zero rated sales for the purpose of this Act and shall be eligible for input tax credit:

(a) export from India;

(b) sales to Special Economic Zones;

(c) supplies from Domestic Tariff Area to Export Oriented Unit/Electronic Hardware Technology Park/Software Technology Park units for the purpose of export only.

Output tax.

9 (1) Output tax in relation to a registered dealer means the tax payable under this Act in respect of any sale of goods by that dealer in the course of his business.

(2) Subject to the provisions of section 11, a dealer shall be liable to pay the output tax under this Act which shall be levied on the taxable turnover at the rates and subject to such conditions as may be prescribed from time to time.

Input tax.

10 Input tax in relation to a registered dealer means the tax charged under this Act by the selling dealer to such dealer on the sale to him of any goods for resale or use in manufacturing or processing of goods for sale.

Input tax credit

11 (1) Subject to other provisions of this section, there shall be input tax credit of the amount of tax paid or payable by a registered **dealer** in respect of his purchase of taxable goods for resale **in** Meghalaya or for use by him directly in the manufacture of taxable goods in Meghalaya and containers and other materials for the packing of such goods or inputs thereof, in Meghalaya for sale in Meghalaya, against the amount of tax paid or payable by him under this Act on the sales of taxable goods in Meghalaya.

Explanation: No input tax credit shall be available to a registered dealer for tax paid or payable at the time of purchase of goods if such goods are not sold because of any theft, loss or destruction for any reason, including natural calamity, and if a dealer has already taken any input tax credit against purchase of such goods there shall be a reverse tax credit at the end of the month in which such goods are stolen, lost or destroyed.

- (2) A registered dealer who intends to claim input tax credit under sub-section (1) shall, for the purpose of determining the amount of input tax credit, maintain accounts, evidence and such other records as may be prescribed in respect of the purchases and sales made by him in Meghalaya.
- (3) Subject to other provisions of this sub-section, a registered dealer who has claimed input tax credit on his purchases and intends to sell goods in Meghalaya, will get his input tax credit reversed on the date of transfer of such goods to such other dealer and shall issue a certificate, as may be prescribed, in favour of such dealer certifying the amount of input tax credit against purchases of such goods or purchases of inputs thereof, as the case may be, in Meghalaya and the agent shall be entitled to get the credit of the same.
- (4) No input tax credit under this section shall be allowed to a registered dealer against his purchases, unless the amount of tax has been separately charged and shown in the tax invoice issued to **him** by a registered dealer from whom purchases of such goods have been made.
- (5) No input Tax credit under this Section shall be allowed to a registered dealer in respect of tax paid under Section 6.
- (6) Subject to sub-section (7), an input tax credit cannot be claimed by the registered dealer unless the registered dealer has **an** original tax invoice for the relevant supply

or purchases.

- (7) Where a registered dealer fails to produce the original tax invoice evidencing the input tax paid, the Commissioner may, subject to such restrictions and conditions as may be prescribed, allow an input tax credit for the period in which the credit arises if the Commissioner is satisfied:
- (a) that the failure to produce tax invoice is not due to any fault of the dealer, and
 - (b) that the amount of input tax claimed by the registered dealer is correct.
- (8) Subject to other sub-sections of this section, input tax credit referred to in sub-section (1) in relation to a period shall be determined as follows :- The input tax credit is the aggregate of input tax paid or payable by the dealer in relation to a period, less –
- (a) input tax paid or payable in respect of goods returned or rejected by him during such period;
 - (b) input tax paid or payable in respect of goods taxable under this Act or inputs used for manufacturing of such goods, as the case may be, disposed of otherwise than by way of sale.
- (9) Notwithstanding anything contained in any sub-section of the section –
- (a) the amount of input tax credit shall not include tax paid or payable in other States or Union Territories on goods brought into Meghalaya from outside the State.
 - (b) no input tax credit shall be allowed against tax paid or payable on goods remaining unsold at the time of stoppage or closure of business and if a dealer has already taken any input tax credit against purchase of such stock of goods, there shall be a reverse tax credit on the date of stoppage or closure of such business.
 - (c) no input tax credit on tax paid or payable in Meghalaya on purchase of goods or inputs used in manufacturing of goods in Meghalaya and subsequently sent to other States or Union Territories otherwise than by way of sale shall be available:
Provided that if a dealer has already taken input tax credit either in full or in part, there shall be a reverse credit against each such transfer in the manner as may be prescribed.
 - (d) no input tax credit shall be allowed against tax paid or payable on such purchases and under such terms and conditions as may be prescribed.
 - (e) for the purpose of determining the amount of input tax to be reversed under this section, any one of the methods as may be prescribed **will** be applied.

- 12** If goods are purchased intended for use specified in sub-section (1) of Section 11 and are subsequently used, fully or partly, for purpose other those specified under the said sub-section, the input tax credit availed at the time of such purchase, calculated in such manner as may be prescribed, shall be reduced from the tax credit for the period during which the said utilization otherwise has taken place.
- Net tax credit.** **13** The net tax credit to which a registered dealer is entitled shall be determined by the following formula, namely,

$$\text{Net tax credit} = A + B - C$$
Where,
A = the amount of input tax credit the dealer is entitled to under sub-section (1) of section 11.
B = outstanding credit brought forward as determined under clause (1) of section 14 from the previous period or under sub-section (2) of section 19.
C = reverse tax credit as determined under section 12.
- Input tax credit exceeding tax liability.** **14** (1) If a registered dealer's (other than an exporter) input tax credit determined under section 11 for a period exceeds tax liability for that period, the excess may be set off against any outstanding tax under this Act.
(2) The excess input tax credit after adjustment under sub-section (1) of section If may be carried forward as an input tax credit to the following period or periods.
- Adjustment of input tax credit** **15** Where any purchaser, being a registered dealer, has been issued with a credit note or debit note in terms of sub-section (1) of section 20 or if he returns or rejects goods purchased, as a consequence of which, the input tax credit availed by him in any period in respect of which the purchase of goods relates, becomes less or excess, he shall compensate such less credit or excess credit by adjusting the amount of tax credit allowed to him in respect of the tax period in which the credit note or debit note has been issued or goods are returned subject to conditions as may be prescribed.
- Burden of proof.** **16** In respect of any sale or purchase effected by a dealer, the burden of proving that he is liable to pay tax under section 6, section 7 or that he is eligible to input tax credit under section 11 shall be on him.
- Levy of presumptive tax on registered retailers.** **17** All registered retailers, whose gross turnover of sales does not exceed rupees five lakhs, subject to such conditions and restrictions as may be prescribed, shall pay in lieu of the tax as specified under section 5 or section 6, a tax at such percentage of the entire taxable turnover of such sales and purchases as the Government may, by order, notify, subject to the condition that no input tax credit shall be available to such dealers :
Provided that payment of tax under this section shall not apply to a registered retail dealer who imports goods from outside the State for the purpose of carrying out his business :
Provided further that a registered retail dealer may, by

exercising option in the prescribed manner, elect to pay tax as specified under section 5 or section 6 of this Act in lieu of the provisions of this section.

Net tax payable by the dealer.

- 18** (1) For the purpose of calculating net tax payable by a registered dealer for a period, the input tax credit as determined under sub - section (1) of section 11 shall be allowed set off against the tax payable by the registered dealer in respect of all taxable sales other than sales, as may be prescribed, made during that period.
- (2) Subject to provisions of section 11, the net tax payable by a registered dealer for a period is to be calculated according to the following formula namely :

$$A - B$$

Where 'A' is the aggregate of the tax payable by the registered dealer during the period and 'B' is the total input tax credit for the period.

- (3) Every registered dealer shall pay in full net tax payable by him for the period at the time of filing his return in accordance with Sub-section (4) of Section 35.

Stock brought forward during transition.

- 19** (1) Within a period of one month of commencement of this Act, all dealers whose registration has been continued under section 116, shall furnish a statement of their opening stock of raw materials, finished goods, goods for resale and capital goods held on the date of commencement of this Act in such format and to such authorities as may be prescribed.
- (2) If the said opening stock of goods –
- (a) has suffered tax under the Meghalaya Finance (Sales Tax) Act, and
- (b) is intended to be used for the purposes specified in sub-section (1) of Section 11,
- the amount of tax suffered under the Act mentioned in clause (a) on such opening stock, determined in such manner and subject to such conditions and restrictions and upto the extent as may be prescribed, shall be credited to the dealer and can be availed as outstanding credit brought forward in terms of Section 13 in the first tax period after the commencement of this Act:

Provided that no tax credit under this section shall be allowed unless -

- (a) the dealer has in his possession, sale vouchers issued by a dealer registered under the Meghalaya Finance (Sales Tax) Act against the purchases of the said goods; and
- (b) the amount of tax the goods have suffered at the first point is indicated separately on the said vouchers.
- (3) No tax credit under Sub-section (2) can be availed for opening stock of finished goods, capital goods, and other

goods that were taxable at last point of sale under the Meghalaya Sales Tax Act held at the time of commencement of this Act.

- (4) If the Commissioner is satisfied that a dealer,
- (a) has claimed tax credit for such stock for which he is not entitled for claiming tax credit as per the provisions of sub-section (2) and sub-section (3): or
 - (b) has claimed excess tax credit than allowed under sub-section (2) the Commissioner may, after providing the dealer an opportunity of being heard direct him to pay a penalty equal to twice the amount of tax credit so claimed.

Credit and debit notes.

- 20** (1) Where a tax invoice has been issued and the amount shown as tax charged in the tax invoice exceeds the tax chargeable under this Act in respect of that sale, the registered dealer making the sale shall provide the purchaser with a credit note containing the requisite particulars as prescribed.
- (2) Where tax invoice has been issued and the tax chargeable under this Act in respect of the sale exceeds the amount of tax charged in that tax invoice, the registered dealer making the sale shall provide the purchaser with a debit note containing the requisite particulars as prescribed.
- (3) In case of goods returned or rejected by the purchaser, a credit note shall be issued by the selling dealer to the purchaser and a debit note will be issued by the purchaser to the selling dealer containing particulars of the transaction as prescribed.