

## **CHAPTER II And CHAPTER III**

### **INCIDENCE, LEVY AND RATE OF TAX, REGISTRATION**

#### **3. Incidence and levy of tax**

- (1) Subject to the provisions of this Act, every dealer under sub-section (2), shall pay tax in the prescribed manner on his taxable turnover of sales or purchases or both, as the case may be, of all taxable goods where such sales or purchases are effected on or after the date on which such dealer becomes liable to pay tax.
- (2) Every dealer who-
  - (i) during the assessment year preceding the first assessment year under this Act, has-
    - (a) sold any taxable goods of any amount in the course of inter-state trade or commerce; or
    - (b) consigned any taxable goods of any amount outside the State otherwise than as a result of sale; or
    - (c) sold any goods of any amount in the course of export of the goods out of the territory of India; or
    - (d) sold any taxable goods of any amount in the course of import of the goods into the territory of India; or
    - (e) sold any taxable goods of any amount received from outside the State; or
    - (f) sold any goods manufactured or processed or packed by using any taxable goods received from outside the State; or
    - (g) purchased or sold, as the case may be, any goods on behalf of any principal.
  - (ii) being a dealer to whom clause (i) does not apply, carries on business of sale or purchase or both, as the case may be, of any goods inside the State and the aggregate of his turnover of sales or purchases or both, as the case may be, of all goods in the assessment year preceding the first assessment year under this Act, has exceeded the minimum limit of turnover for tax liability; or

- (iii) holds-
  - (a) a registration certificate under the Central Sales Tax Act, 1956;  
or
  - (b) a provisional registration certificate under the Uttar Pradesh Trade Tax Act, 1948; or
  - (c) being a dealer to whom (a) and (b) or clause (i) or clause (ii) do not apply, a registration certificate under the Uttar Pradesh Trade Tax Act, 1948 and such dealer wants to remain registered dealer under this Act; or
- (iv) on or after the commencement of this Act, commences new business and
  - (a) purchases any taxable goods of any amount for consigning such goods (whether or not in the same form) or any goods manufactured or processed or packed by using such goods, outside the State otherwise than as a result of sale; or
  - (b) consigns any taxable goods except goods under sub-clause (a), outside the State otherwise than as a result of sale; or
  - (c) sells any taxable goods of any amount in the course of inter-state trade or commerce; or
  - (d) sells any goods of any amount in the course of export of the goods out of the territory of India; or
  - (e) sells any taxable goods of any amount in the course of import of the goods into the territory of India; or
  - (f) sells any taxable goods of any amount received from outside the State; or
  - (g) sells any goods of any amount, manufactured or processed or packed by using any taxable goods received from outside the State, or
  - (h) makes purchase or sale, as the case may be, of any goods on behalf of a principal; or
- (v) being a dealer to whom any of the clauses (i) to (iv) does not apply, carries on business of sale or purchase or both, as the case may be, of any goods inside the State and the aggregate of his turnover of sales or purchases or both, as the case may be, of all goods, on or after the commencement of this Act, exceeds the minimum limit

of turnover for tax liability at any time during any period of twelve consecutive months; or

(vi) any other dealer to whom any of the clauses (i) to (v) does not apply, on or after the commencement of this Act,

(a) applies for grant of registration certificate under this Act; or

(b) applies for grant of registration certificate under sub-section (2) of section 7 of the Central Sales Tax Act, 1956,  
shall be liable to pay tax.

Provided that if a dealer deals exclusively in goods other than taxable goods, he shall not be liable to pay tax under this Act.

Explanation : For the purpose of this section, expression "aggregate of turnover of sales or purchases or both, as the case may be, of all goods" means the aggregate of turnovers of all -

(a) taxable goods purchased inside the State by the dealer from persons other than registered dealers ; and

(b) goods sold inside the State by the dealer except goods included in (a).

(3) Dealers mentioned in column (2) shall pay tax with effect from the date mentioned in column (3) of the table below-

<b>TABLE</b>			
<b>Sl. No</b>	<b>Class of dealers</b>		<b>The date on which or from which dealer shall be liable to pay tax</b>
<b>(1)</b>	<b>(2)</b>		<b>(3)</b>
1	Dealers falling under clause (i) to clause (iii) of sub-section (2)		On the date of the commencement of this Act
2	Dealers falling under sub-clause (a) of clause (iv) sub-section (2)		On the date on which goods referred to in sub-clause (a) of clause (iv) of sub-section (2) are purchased for the first time.
3	Dealers falling under sub-clause (b) of clause (iv) of sub-section (2)		From the date on which any taxable goods are consigned for the first time outside the State

			otherwise than as a result of sale
4	Dealers falling under sub-clause (c) of clause (iv) of sub-section (2)		From the date on which the dealer makes first sale of any taxable goods in the course of inter-state trade or commerce.
5	Dealers falling under sub-clause (d) of clause (iv) of sub-section (2)		From the date on which the dealer makes first sale of any goods in the course of the export of the goods out of the territory of India
6	Dealers falling under sub-clause (e) of clause (iv) of sub-section (2)		From the date on which the dealer makes first sale of taxable goods in the course of import of the goods into the territory of India.
7	Dealers falling under sub-clause (f) of clause (iv) of sub-section (2)		On the date on which the dealer makes first sale of goods received from outside the State.
8	Dealers falling under sub-clause (g) of clause (iv) of sub-section (2)		On the date on which the dealer makes first sale of manufactured, processed or packed goods referred to in sub-clause (g) of clause (iv).
9	Dealers falling under sub-clause (h) of clause (iv) of sub-section (2)		On the date on which the dealer makes first purchase or sale, as the case may be, of any goods on behalf of a principal
10	Dealers falling under clause (v) of sub-section (2)		From the date on which the dealers' aggregate of turnover of sales or purchases or both, as the case may be, first time exceeds the minimum limit of

			turnover for tax liability during any period of twelve consecutive months.
11	Dealers falling under sub-clause (a) of clause (vi) of sub-section (2)		From the date on which registration certificate is granted to such dealer.
12	Dealers falling under sub-clause (b) of clause (vi) of sub-section (2)		On the date from which registration certificate is effective.

Provided that a dealer who purchases any taxable goods on behalf of a principal or sells any taxable goods on behalf of a principal, shall be liable to pay tax on the date on which he makes first purchase or sale, as the case may be, on behalf of such principal.

- (4) Where any taxable goods are purchased by a dealer from a person other than a registered dealer, purchasing dealer shall pay tax on the turnover of purchase of such goods.

Provided that if the purchasing dealer after furnishing evidence proves to the satisfaction of the assessing authority that sale of such goods is liable to tax at the hands of the selling dealer and such selling dealer has paid tax on sale of such goods, purchasing dealer shall not be liable to pay tax on turnover of purchase.

- (5) The minimum limit of turnover for tax liability, shall be as under:

- (i) in case of a dealer who carries on business of transfer of right to use goods (whether or not as exclusive business) rupees two lakh; and
- (ii) in cases of other dealers, rupees three lakh.

- (6) Once a dealer has become liable to pay tax, he shall continue to be so liable until the date of discontinuance of business.

Provided that dealer referred to in clause (ii) or clause (v) of sub-section (2) shall not be liable to pay tax after expiry of a period of three consecutive assessment years during each of which his aggregate of turnover of sales or purchases or both, as the case may be, has failed to exceed the minimum limit of turnover for tax liability.

Explanation : The dissolution of a firm or association of persons or partition of a Hindu Undivided Family or transfer by a dealer of his business shall be deemed to be cessation or discontinuance of business within the meaning of this Act.

- (7) Where tax is payable, and has been so paid by a commission agent on any turnover of sale or purchase or both, as the case may be, on behalf of his principal, the principal shall not be liable to pay tax in respect of same turnover.

#### **4. Point and rate of tax**

- (1) The tax payable by a dealer under this Act, shall be levied and paid on –
- (a) the taxable turnover of sales of declared goods at every point of sale and at such rate, not exceeding the maximum rate for the time being specified in section 15 of the Central Sales Tax Act, 1956, as the State Government may, by notification, declare;
  - (b) the taxable turnover of sales of Aviation Turbine Fuel, Diesel Oil and Petrol at such point of sale and at such rate, not exceeding thirty five percent, as the State Government may, by notification, declare;
  - (c) the taxable turnover of sales of all other goods at every point of sale and at such rate, not exceeding thirty five percent, as the State Government may, by notification, declare;

Provided that the State Government may, by notification, declare different rates of tax in respect of different goods or class of goods.

- (2) Tax on the taxable turnover of purchase of any goods, referred to in sub-section (4) of section 3, shall be levied and paid at the same rate at which tax on turnover of sales of such goods is leviable under sub-section (1).
- (3) The **taxable** turnover of sale or purchase shall be determined in the prescribed manner.
- (4) Notwithstanding anything to the contrary in this Act where goods are sold or purchased together with packing materials, sale or purchase of packing material shall -
- (a) be liable to tax at the rate applicable to sale or purchase of the goods sold or purchased together with such packing materials;
  - (b) not be liable to any tax if the sale or purchase of such goods is exempt from tax at the hands of the dealer.
- (5) Where any goods are purchased for sale by way of transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract, tax shall not be levied on sale of such goods under the works contract if tax is payable on any earlier sale of such goods or if the

dealer executing the works contract himself is liable to pay tax on purchase of such goods.

- (6) Every notification made under this section shall, as soon as may be after it is made, be laid before each House of the State Legislature, while it is in session, for a total period of not less than fourteen days, extending in its one session or more than one successive sessions, and shall, unless some later date is appointed take effect from the date of its publication in Gazette subject to such modifications or annulments as the two Houses of the Legislature may during the said period agree to make, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder except that any imposition, assessment, levy or collection of tax or penalty shall be subject to the said modification or annulment.

#### **5. Liability of payment of Special Additional Tax**

- (1) Every manufacturer or importer, as the case may be, of any bricks, brick-ballasts, brick-bats, fire bricks and brick tiles shall, in addition to tax payable under any other provision of this Act, pay a special additional tax on the taxable turnover of sale of such bricks, brick-ballasts, brick-bats, fire bricks and brick tiles, effected on or after the date on which such dealer is liable to pay tax under section 3, at such rate, not exceeding ten percent, as the State Government may, by notification declare.

Provided that where such goods are purchased by a dealer from any person in the circumstances mentioned in sub-section (4) of section 3, the dealer purchasing such goods shall be liable to pay special additional tax on the taxable turnover of purchases of such goods at the same rate at which turnover of sale of such goods is liable to payment of special additional tax.

- (2) Credit of amount of special additional tax payable or paid by any dealer to the seller or to the State Government, shall not be allowed to such dealer as input tax credit under this Act.

#### **6. Liability on issuing false tax invoice, etc.**

Notwithstanding anything to the contrary contained in this Act and without prejudice to the provisions of sections 54 and 56, a dealer, who issues a false or wrong tax invoice or sale invoice to another dealer, by reason of which –

(i) a tax leviable under this Act on the transaction of purchase made with or by such other dealer ceases to be leviable; or

(ii) such other dealer becomes eligible for claiming credit of input tax,

shall be liable to pay an amount which would have been payable by such other dealer as tax on transaction shown in such tax invoice or sale invoice or the amount, credit of which would not have been claimed by such other dealer, had such tax invoice or sale invoice not been issued:

Provided that before taking any action under this section the person concerned shall be given an opportunity of being heard

## **7. Liability of firm, association of persons and Hindu Undivided Family**

(1) Subject to the provisions under this Act, where dealer is a firm or association of persons or a Hindu Undivided Family -

(a) such firm or association and every person who is a partner of such firm or a member of such association or Hindu Undivided Family shall be liable jointly and severally for the payment of tax assessed and penalty imposed or any amount due under this Act and payable by such firm or association or Hindu Undivided Family; and

(b) where such firm or association or Hindu Undivided Family has discontinued its business, -

(i) tax, including penalty payable under this Act by such firm or association or Hindu Undivided Family up to date of such discontinuance may be assessed and determined as if no such discontinuance had taken place ; and

(ii) every person who was at the time of such discontinuance a partner of such firm or a member of such association or Hindu Undivided Family shall, notwithstanding such discontinuance, be liable jointly and severally for the payment of tax assessed and penalty imposed and payable by such firm or association or Hindu Undivided Family whether such assessment is made or penalty is imposed prior to or



after such discontinuance, and, subject to as aforesaid, the provisions of this Act shall apply as if every such person or partner were himself a dealer:

Provided that where it is found that a change has occurred in the constitution of the firm or association, the firm or association as reconstituted as well as partners or members of the firm or association, as it existed before re-constitution, shall jointly and severally be liable to pay tax including penalty, if any, due from such firm or association for any period before its reconstitution.

- (2) Where the ownership of the business of any dealer liable to pay tax is transferred, the transferor and transferee shall jointly and severally be liable to pay the tax including penalty, if any, payable in respect of such business till the time of such transfer, whether the assessment is made or the penalty is imposed prior to or after such transfer.
- (3) Where a tax including penalty, if any, is recovered from a reconstituted firm or association under the proviso to sub-section (1) or from a transferee under sub-section (2), such firm or association or a transferee shall be entitled to recover the same from the person who was originally liable to pay the tax.

#### **8. Tax due from deceased person payable by his representatives**

- (1) Where a dealer dies, his executor, administrator or other legal representative shall be deemed to be the dealer for the purposes for this Act and the provisions of this Act shall apply to him in respect of the business of the said deceased dealer:

Provided that -

- (i) in respect of any liability of the deceased, his executor, administrator or other legal representative shall be liable only to the extent of the assets of the deceased in his hand;
  - (ii) any proceeding including the proceeding for recovery, may be continued from the stage at which it was pending at the time of the death of the dealer.
- (2) The provisions of sub-section (1) shall mutatis mutandis apply to a dealer being a partnership firm which may stand dissolved in consequence of the death of any partner.

## **9. Tax liability in case of minor or incapacitated person**

In the case of any guardian, trustee or agent of any minor or other incapacitated person, carrying on business on behalf of and for the benefit of such minor or other incapacitated person, the tax shall be, levied upon and recoverable from such guardian, trustee or agent, as the case may be, in like manner and to the same extent as it would be leviable upon and recoverable from any such person or other incapacitated person, if he were of full age and sound mind and if he were conducting the business himself; and all the provisions of the Act and the rules made thereunder shall apply accordingly.

## **10. Liability in case of court of wards, etc.**

In the case of business owned by a dealer whose estate or any portion of whose estate is under the control of the Court of Wards, the Administrator General, the Official Trustee or any Receiver or Manager (Including any person whatever his designation, who in fact manages the business on behalf of the dealer) appointed by him or under any order of a court, the tax shall be levied upon and recoverable from such Court of Wards, Administrator General, Official Trustee, Receiver or Manager, in like manner and in the same terms as it would be leviable upon and recoverable from the dealer, as if he were conducting the business himself, and all the provisions of the Act and the Rules made thereunder shall apply accordingly.

## **11. Exemption from tax.**

Notwithstanding anything contained in this Act, no tax under this Act shall be payable and be levied on the turnover of sale or purchase of -

- (a) such goods, as the State Government may, by notification, exempt; or
- (b) any goods where such sale or purchase takes place -
  - (i) in the course of inter - state trade or commerce; or
  - (ii) outside the State; or
  - (iii) in the course of the export of the goods out of the territory of India or in the course of the import of the goods into the territory of India.

## **12. Rebate of tax on certain purchase or sale**

Where any tax is leviable on the sale or purchase of any taxable goods under any other State Act or on entry of any taxable goods into a local area under the Uttar Pradesh Entry of the Goods Act, 2001, the State Government may, by notification and subject to such conditions and restrictions, as may be specified therein, allow a rebate upto the full amount of tax levied on any specified point on the sale or purchase of such goods under this Act.

### **13. Input tax credit**

(1) Subject to provisions of this Act, credit of input tax to the extent hereunder provided, in respect of goods and in the circumstances mentioned below, shall be allowed to every dealer liable to pay tax-

(A) where any taxable goods are purchased on or after the date the dealer becomes liable to pay tax, in respect of purchase of such goods –

(i) credit of full amount of input tax if such goods are re-sold -

(a) inside the State; or

(b) in the course of inter-state trade or commerce; or

(c) in the course of the export of the goods out of the territory of India,

(ii) credit of full amount of input tax where such goods are used either in manufacture of any goods or in production of captive power and such manufactured goods are sold in the course of the export of the goods out of the territory of India;

(iii) except coal and petroleum products used as fuels, credit of full amount of input tax where such goods are used either in manufacture of any taxable goods or in production of captive power and such manufactured goods are sold either inside the State or in the course of inter-state trade or commerce;

(iv) for use as containers or packing materials, credit of-

(a) full amount of input tax, where such goods are used in packing of any taxable goods and such packed goods are sold either inside the State or in the course of inter-state trade or commerce;

(b) full amount of input tax where containers or packing materials are used in packing of any goods and where such packed goods are sold in the course of the export of the goods out of the territory of India;

(c) partial amount of input tax to the extent it is in excess of four percent of turnover of purchase of container or packing materials where such containers or packing materials are used in packing of any taxable goods and such manufactured taxable goods are consigned outside the State otherwise than as a result of sale.

(v) for use as capital goods or captive power plant where such capital goods are exclusively used in manufacture of goods for sale by the dealer, credit of partial or full amount of input

tax computed in the manner specified in clause (i) and clause (ii) of sub-section (2);

- (vi) credit of partial or full amount of input tax according to provisions under foregoing sub-clauses, as may be applicable, in case of a dealer who, under section 27 of this Act, opts any scheme of payment of lump sum in lieu of amount of tax payable on the turnover of sales or purchases or both, as the case may be, during such period, where such goods are -

- (a) held in closing stock on the last day of the period of such scheme in the same form and condition in which those were purchased; or

- (b) used, consumed or utilised in manufacture, processing or packing of any taxable goods held in closing stock on the last day of the period of such scheme.

(B) in respect of taxable goods purchased during a period of twelve months before the date of the commencement of this Act and held in opening stock on the date of the commencement of this Act by a dealer who is liable to pay tax on such date, credit of partial or full amount of input tax computed at the rate applicable under the Uttar Pradesh Trade Tax Act, 1948 or at the rate applicable under this Act, whichever is lower, on the turnover of purchase determined in the prescribed manner, subject to fulfillment of conditions stated below, namely:

- (i) the purchase or sale of such goods prior to the commencement of this Act, is liable to tax under the Uttar Pradesh Trade Tax Act, 1948; and
  - (ii) such goods are to be re-sold either inside the State or in the course of inter-state trade or commerce,

(C) in respect of purchase of coal and any petroleum products, purchased on or after the date the dealer becomes liable to pay tax, credit of partial amount of input tax to the extent it is in excess of four percent of the turnover where such goods are used as fuels either in the manufacture of any taxable goods or in production of captive power and such manufactured goods are –

- (a) sold inside the State; or
  - (b) sold in the course of inter-state trade or commerce; or
  - (c) consigned outside the State otherwise than as a result of sale.

(D) partial or full amount of input tax according to provisions under foregoing clauses, as may be applicable, in respect of purchase of taxable goods, purchased on or after the date of commencement of this Act, and

- (i) held in opening stock on the date on which dealer becomes liable to pay tax where such date falls after the date of the commencement of this Act, in the same form and condition in which such goods were purchased; or
  - (ii) used, consumed or utilized in manufacture, processing or packing of any taxable goods held in opening stock on the

- date on which dealer becomes liable to pay tax where such date falls after the date of the commencement of this Act; or
- (iii) used, consumed or utilized in manufacture, processing or packing of any goods held in opening stock on the date on which dealer becomes liable to pay tax where such date falls after the date of the commencement of this Act, and where such manufactured, processed or packed goods are for sale in the course of the export of the goods out of the territory of India.

Provided:

- (I) that in relation to purchase of foodgrains in pursuance of any order made under section 3 of the Essential Commodities Act, 1955 including any purchase in excess of levy share, by any dealer who makes purchases from the State Government or its purchasing agent, shall, in respect of such food grains, be entitled to claim input tax credit of an amount of tax payable by it on sale of such food grains or the amount of input tax in respect of such foodgrains, whichever is lower.
- (II) that no credit of input tax shall be allowed in respect of purchase of –
- (i) Aviation Turbine Fuel, Diesel Oil and petrol; and
- (ii) goods required for use, consumption or utilization in manufacture, processing or packing of Aviation Turbine Fuel, Diesel Oil and petrol.
- (2) Credit of admissible amount of input tax credit computed on the basis of estimated sale, use, consumption or utilization of goods for various specified purposes, shall be claimed as under;
- (i) in respect of capital goods or captive power plant or both, as the case may be, partial amount of input tax to the extent it is in excess of four percent of turnover of purchase, in three successive yearly instalments of equal amount, first such instalment to be claimed in the return of the first tax period of the assessment year following the first assessment year during which capital goods or captive power plant or both, as the case may be, have been used for a full assessment year;
- (ii) in respect of capital goods or captive power plant or both, as the case may be, out of the balance amount arrived at after deducting partial amount of input tax to the extent it is in excess of four percent of turnover of purchase of capital goods or capital power plant or both, as the case may be, from the total amount of input tax, in every first return of three successive assessment years following the assessment year in which for the first time such goods are used for full such assessment year, amount computed by using the formula:

$$\begin{aligned} &\text{Amount of admissible input tax credit for any assessment year} \\ &= R \times A \div 3 T \end{aligned}$$

Where:

R is the amount of input tax arrived at after deducting the partial amount of input tax to the extent it is in excess of four percent of turnover from the total amount of input tax;

A is the aggregate of-

- (a) turnover of sales of manufactured taxable goods sold inside the State;
- (b) turnover of sales of manufactured taxable goods sold in the course of inter-state trade or commerce; and
- (c) turnover of sales of all manufactured goods sold in the course of the export of the goods out of the territory of India;

T is the aggregate of –

- (a) turnover of sales of all manufactured goods inside the State;
- (b) turnover of sales of all manufactured goods in the course of inter-state trade or commerce;
- (c) turnover of all manufactured goods in the course of the export of the goods out of the territory of India;
- (d) value of manufactured goods consigned outside the State otherwise than as a result of sale; and
- (e) value of manufactured goods disposed of in any other manner.

- (iii) in respect of goods held in opening stock on the date of commencement of this Act, in six monthly instalments of equal amount and first such instalment shall be claimed in the tax period which starts after expiry of period of three months after the commencement of this Act;
- (iv) in respect of goods held in opening stock on the date on which a dealer becomes liable to pay tax, in the return of the tax period in which the dealer becomes liable to pay tax;
- (v) in respect of goods held in closing stock on the last day of period of composition scheme under section 27, in the return of the tax period in which the day following the last day under the scheme falls; and
- (vi) in all other cases in the return of the tax period in which goods have been purchased.

(3) Where any goods purchased during a particular tax period or assessment year, whether wholly or partly, are to be –

- (i) sold in any manner or consigned outside the State otherwise than as a result of a sale;
- (ii) used in manufacture, processing or packing of any goods and such manufactured, processed or packed goods are to be sold in any manner or consigned outside the State otherwise than as a result of a sale,

in any tax period subsequent to such tax period or in an assessment year subsequent to such assessment year, as the case may be, for the purpose of computing input tax credit for such tax period or such assessment year, as the case may be, the estimation of extent to which purchased goods are to be utilized for various purposes shall be made in the prescribed manner and where actual extent differs from the estimated extent, amount of input tax credit for such tax period or assessment year, as the case may be, shall be recalculated on the basis of actual extent.

- (4) A dealer who claims partial or full amount of *input tax credit* in respect of any goods held in opening stock on the date of the commencement of this Act, shall submit inventory of such goods along with details of admissible amount of input tax credit within a period of thirty days from the commencement of this Act, to its assessing authority. The assessing authority shall examine the claim of the dealer and for this purpose the assessing authority may make any such enquiry as it considers necessary.
- (5) Except as prescribed, no input tax credit shall be allowed for purchase of any goods in respect of which a dealer does not possess original copy of tax invoice issued in the prescribed form and manner by the registered selling dealer and where purchasing dealer, himself is liable to pay tax on purchase of any goods, no input tax credit in respect of such goods shall be allowed unless the dealer proves that he has included amount of tax payable on such purchase of goods in the amount of tax payable by him.
- (6) No input tax credit shall be allowed for purchase of goods in respect of which dealer is liable to deduct amount of tax from the seller in accordance with provisions under clause (c) or clause (d) of sub-section (1) of section 34, unless the dealer proves that after deduction, the amount of tax has been deposited in the prescribed manner.
- (7) No input tax credit shall be allowed against a Tax Invoice obtained without making actual purchase of goods shown in such Tax Invoice.
- (8) Where any goods are sold by a principal through a selling agent, input tax credit in respect of purchase of such goods shall be claimed by the principal.
- (9) Input tax credit shall be allowed in respect of only those goods which are purchased from within the State.

(10) In case of a dealer who, under section 27, opts for any scheme of payment of lump sum in lieu of tax due on turnover of sale or purchase or both, as the case may be, input tax credit shall not be allowed in respect of purchase of goods -

- (i) sold or disposed of otherwise in the same form and condition in which those goods were purchased; or
- (ii) used, consumed or utilised in manufacture, processing or packing of any goods sold or disposed of otherwise, during the period of composition scheme under section 27; or
- (iii) held in opening stock on the date of commencement of the period of scheme, in the same condition in which those goods were purchased; or
- (iv) which have been used, consumed or utilised in manufacture, processing or packing of any goods held in opening stock on the date of commencement of the period of scheme.

Explanation: For the purpose of this section –

- (i) input tax does not include amount of special additional tax leviable under section 5;
- (ii) resale of any goods does not include resale of such goods either by way of transfer of property in goods involved in the execution of a works contract or by way of transfer of right to use such goods.
- (iii) Where during the process of manufacture of any taxable goods any goods exempt from tax under clause (a) of section 11 are produced as byproduct, it shall be deemed that purchased goods have been used in manufacture of taxable goods.
- (iv) Goods required for use in manufacture of any goods or for use in production of captive power do not include a motor vehicle or parts, components and accessories of a motor vehicle or any goods required for running or maintenance of a motor vehicle.

#### **14. Reverse input tax credit**

(1) No input tax credit shall be allowed in respect of purchase of goods-

(a) which are held in -

- (i) closing stock at the time of discontinuance of business; or
- (ii) opening stock on the first day of period of composition scheme of payment of lump sum under section 27; or



- (iii) opening stock on the date on which dealers' liability for payment of tax by virtue of proviso to sub-section (6) of section 3 has ceased;  
or
  - (b) which are stolen, lost, destroyed, gifted, distributed as free samples or disposed of in any other manner otherwise than in the ordinary course of business; or
  - (c) which are returned to the selling dealer within six months of the date of purchase of such goods.
- (2) Where a dealer has already claimed input tax credit in respect of any goods referred to in sub-section (1) or has wrongly claimed input tax credit in respect of any goods, benefit of input tax credit to the extent it is not admissible, shall stand reversed and the dealer shall be liable to pay such amount of reverse input tax credit within thirty days after the event comes to the notice of the dealer, along with simple interest at a rate of one and half percent per mensem for the period –
  - (i) except cases of free distribution of goods as samples or disposal of goods otherwise than in the ordinary course of business, in all other cases mentioned in sub-section (1), from the date of occurrence of event and till the date of payment of such amount; and
  - (ii) where input tax has wrongly been claimed or goods have been distributed as free samples or disposed of otherwise than in the ordinary course of business, from the date following the last date prescribed for submitting return of the tax period in which goods, in respect of which input tax credit was claimed, were purchased and till the date of payment of such amount.

Explanation: For the purpose of this section, input tax credit in respect of purchase of goods held in stock, stolen, lost, destroyed, gifted, distributed as free samples or disposed of otherwise than in the ordinary course of business includes input tax credit in respect of purchase of goods used, consumed or utilised in manufacture, processing or packing of any goods held in stock, stolen,

lost, destroyed, gifted, distributed as free samples or disposed of otherwise than in the ordinary course of business, as the case may be.

**15. Input tax credit exceeding tax liability**

(1) If amount of input tax credit admissible to a dealer for a tax period exceeds the amount of tax payable by the dealer for such tax period, the excess amount of input tax credit may be adjusted by the dealer against amount of tax payable in the return of the corresponding tax period under the Central Sales Tax Act, 1956.

(2) Any excess amount of input tax credit left over after adjustment as provided in sub-section (1) shall be carried forward and be added to the amount of input tax credit for the next tax period.

Provided that in case of a dealer whose main business is to sell goods in the course of the export of the goods out of the territory of India, subject to provision of section 41, assessing authority shall, on the application of the dealer, allow provisional refund of excess amount of input tax credit for any tax period after the dealer has submitted return for such tax period.

(3) Where a dealer has submitted returns for all tax periods of an assessment year, and if any amount of excess input tax credit still exists according to return of the last tax period, such excess amount of input tax credit, subject to provisions of sections 40 and 42, shall be refunded to the dealer within thirty days after the last date prescribed or allowed for submission of return of last tax period of such assessment year.

Provided that excess amount of input tax credit relating to first assessment year, on the commencement of this Act, shall be carried forward to the first return of the next assessment year and any excess amount of input tax credit according to return of the last tax period of later assessment year shall be refunded to the dealer within thirty days after the last date prescribed or allowed for submission of return of the last tax period of the such later assessment year.

(4) Notwithstanding anything contained in sub-section (3) where a dealer discontinues business, refund of any excess amount of input tax credit relating to last tax period of the assessment year during which business has

been discontinued shall be allowed within thirty days after the date of passing of assessment order for such assessment year.

- (5) Where return for any tax period of any assessment year has not been submitted by the last date prescribed or allowed for submission of return of the last tax period of the assessment year, excess amount of input tax credit, if any, for such assessment year, subject to provisions of sections 40 and 42, shall be refunded to the dealer within a period of thirty days after the assessment order in respect of such assessment year has been passed or after the last date prescribed or allowed for submission of return for the last tax period of the succeeding assessment year, whichever expires latter.
- (6) Notwithstanding anything contained contrary to in sub-section (2) and sub-section (3) any excess amount of input tax credit referred to in sub-section (3), at the option of the dealer, may be carried forward to the first tax period of the succeeding assessment year.

#### **16. Burden of proof and presumptions**

- (1) In any assessment proceedings where any fact is specially within the knowledge of the assessee, the burden of proving that fact shall lie upon him, and in particular, the burden of proving the existence of the circumstances bringing the case within any of the exemptions, exceptions or reliefs under any provisions of this Act including any claim of amount of input tax credit, shall lie upon him and assessing authority shall presume the absence of such circumstances.
- (2) Where a dealer obtains any tax invoice, sale invoice, bill or cash-memo from a dealer without making actual purchase of goods, it shall be presumed that the dealer obtaining such document has purchased goods, of equal quantity or measure and value, from person other than registered dealer with a view to evade payment of tax on purchase of such goods.
- (3) Where in respect of any goods or document found in possession of a dealer or in any place, building, vehicle or vessel in possession of a dealer, if the dealer claims that such goods or document does not belong to him or to the business carried by him, burden of proving the same shall lie on such dealer.
- (4) Where in respect of any goods any dealer claims that such goods have been purchased by him from within the State from a registered dealer but fails to produce tax invoice or a sale invoice, as the case may be, issued by such registered dealer, it shall be presumed that such goods have been purchased from a person other than a registered dealer.
- (5) Where in respect of any goods dispatched or consigned by a dealer either to self or his agent or to the purchaser or its' representative by road transport, if

transport memo or a challan, as may be applicable, has not been issued, it shall be presumed that such goods have not been accounted for in documents maintained by the dealer in the ordinary course of business.

- (6) Where any goods found in custody of a person carrying on activities ancillary or incidental to or in connection with business have not been accounted for by such person in documents maintained by him in the ordinary course of business, if he claims that such goods belong to some other person, burden of proving the same shall lie on him, failing which it shall be presumed that such goods belong to him and for those goods he shall be treated a dealer.
- (7) Where in respect of any taxable goods, while such goods are being carried from outside the State, form of declaration for import prescribed under clause (a) of sub-section (2) of section 50 is required to accompany the goods, if any taxable goods are not accompanied with such form of declaration, unless, the dealer or the person in-charge of the goods, by furnishing sufficient proof establishes otherwise, it shall be presumed that such goods are being carried with an intention to evade payment of tax on sale of –
  - (i) such goods if such goods are meant for resale; or
  - (ii) goods to be manufactured by using such goods if goods are meant for use in manufacture of any taxable goods.
- (8) Where a dealer liable to pay tax on -
  - (i) sale of any goods, while making sale of such goods has shown sale price of such goods lesser than the actual sale value, unless the seller, by furnishing sufficient proof establishes otherwise, it shall be presumed that part of sale price has been suppressed with an intention to evade part payment of tax on turnover of sale of such goods; and
  - (ii) resale of any goods or on sale of taxable goods manufactured by using such purchased goods, while purchasing such goods, whether from outside the State or from inside the State, has shown purchase value of such goods lesser than the actual purchase value, unless the dealer, by furnishing sufficient proof establishes otherwise, it shall be presumed that part of the purchase value of such goods has been suppressed with an intention to evade part payment of tax on sale of -
    - (a) such goods by suppressing partial sale price of goods where goods are meant for resale; and
    - (b) goods to be manufactured, by suppressing partial sale value of manufactured goods where purchased goods are meant for use in manufacturer of any taxable goods.
- (9) Where a driver or the person in charge of any vehicle carrying any taxable goods, while obtaining authorisation for transit in respect of such goods under section 52 -
  - (i) undertakes responsibility of transporting such goods outside the State, but fails to produce such goods along with authorisation for transit of goods before the officer in-charge of the exit check- post, unless, the owner or the person-in- charge of the vehicle, by sufficient proof

establishes that the said goods have been taken outside the State, it shall be presumed that owner or the person in charge of the vehicle in collusion with the transporter who has issued goods receipts in respect of such goods, has sold the goods inside the State, or.

- (ii) undertakes responsibility of handing over such goods to a disclosed bona fide person, transporter or any other carrier inside the State for carrying such goods outside the State, but fails to establish by sufficient proof that the goods were handed over to such bona fide person, transporter or carrier, as the case may be, it shall be presumed that owner or the person in charge of the vehicle in collusion with the transporter who has issued goods receipts in respect of such goods, has sold such goods inside the State; or
- (iii) undertakes responsibility of handing over such goods to a disclosed bona fide person, transporter or any other carrier for carrying the goods outside the State and proves that such goods were handed over to such bona fide person, transporter or carrier, as the case may be, but such person, transporter or the carrier fails to produce such goods along with authorisation for transit of goods before the officer in-charge of the exit check- post, unless, such person, transporter or the carrier by sufficient proof establishes that the said goods have been taken outside the State, it shall be presumed that such bona fide person, transporter or carrier, as the case may be, in collusion with the transporter who has issued goods-receipts in respect of the goods, has sold such goods inside the State.

Explanation: For the purpose of this section and section 52, where a vehicle has been supplied by the owner to any person under a contract of transfer of the right to use such vehicle for any purpose, transferee of the vehicle shall be deemed owner of such vehicle and burden to prove that the vehicle has been supplied to such person under such contract, shall lie on the actual owner of such vehicle at the relevant time.

## **17. Registration of dealers**

- (1) Every dealer liable to pay tax shall obtain registration certificate.
- (2) Except as provided under sub-sections (4) and (5), every dealer liable to pay tax shall, for issue of registration certificate, apply to the registering authority within a period of thirty days from the date on which such dealer has become so liable, in the prescribed form and manner along with proof of deposit of registration fee of one thousand rupees:
  - Provided that a dealer who fails to apply for issue of registration certificate within the time prescribed, without prejudice to any other liability under this Act, may apply after depositing late fee at the rate of rupees one hundred for every month or part thereof for the period of delay.
- (3) On the commencement of this Act, a dealer who is otherwise not liable to pay tax, including a dealer who intends to carry on business, may apply for issue of registration certificate in the manner prescribed in sub-section (2).
- (4)(a) Every dealer who holds a registration certificate or a provisional registration certificate issued under the Uttar Pradesh Trade Tax Act, 1948 and is liable to pay tax from the date of the commencement of this Act, shall

be deemed a registered dealer on the date of the commencement of this Act;  
and

- (b) Every other dealer who holds a registration certificate under the Uttar Pradesh Trade Tax Act, 1948 but otherwise is not liable to pay tax under this Act, shall be deemed a registered dealer under this Act provided he informs the registering authority within a period of thirty days from the date of the commencement of this Act in the prescribed form, of his intention to retain the registration certificate issued to him.

Provided that if such dealer was required to pay any fee for renewal of the registration certificate under the provisions of the Uttar Pradesh Trade Tax Act, 1948, if the same has not been paid, the registration certificate shall not be deemed valid unless such dealer deposits renewal fee along with late fee of one hundred rupees within a period of thirty days from the date of the commencement of this Act.

- (5) In a case of a dealer whose application for issue of registration certificate under the Uttar Pradesh Trade Tax Act, 1948, is pending on the date of the commencement of this Act, and such dealer is liable to pay tax under this Act, if registration certificate is issued to him under the Uttar Pradesh Trade Tax Act, 1948, such dealer shall be deemed a registered dealer under this Act subject to deposit of renewal fee and late fee, if any, within thirty days from the date of the commencement of this Act.

Provided that a dealer who is otherwise not liable to pay tax under this Act from the date of the commencement of this Act, shall not be deemed a registered dealer unless, after depositing renewal fee and late fee, if any, he informs the registering authority or the assessing authority, as the case may be, in the prescribed form, within thirty days from the date of the commencement of this Act, of his intention to retain registration certificate, if granted.

- (6) Every dealer who holds a registration certificate issued under the Uttar Pradesh Trade Tax Act, 1948 shall present it before the registering authority or the assessing authority, as the case may be, for grant of revised registration certificate within sixty days of the commencement of this Act.

- (7) Where the registering authority is satisfied that -

- (i) the application for issue of registration certificate is in order;
- (ii) the information furnished is correct and complete;
- (iii) the dealer-

(a) has deposited registration fee and late fee, if any;

(b) has furnished security to the satisfaction of the assessing authority or the registering authority, as the case may be, if demanded; and

(c) is a bona fide person with bona fide intention of carrying on business;

it may, after making such inquiry as it may deem necessary, cause the dealer to be registered and grant registration certificate in the prescribed form.

- (8) If the dealer who has applied for grant of registration certificate does not fulfill any of the conditions mentioned in sub-section (7), or if any person having interest in the business is a defaulter in payment of any dues under this Act or under the Central Sales Tax Act, 1956 or under the Uttar Pradesh Trade Tax Act, 1948, relating to any other business, the registering authority, shall,

after giving a reasonable opportunity of being heard to the applicant, reject the application by an order in writing.

(9) Subject to provisions of sub-section (10) the registration certificate shall be valid with effect from the date it is granted and shall remain in force till the date of discontinuance of business.

(10) The registering authority, after giving reasonable opportunity of being heard to the dealer, may cancel the registration certificate with effect from the date -

- (i) on which dealers' liability for payment of tax has ceased in view of the proviso to sub-section (6) of section 3; or
- (ii) on which the dealer has discontinued the business; or
- (iii) of order of cancellation where-
  - (a) the dealer has obtained registration certificate by fraud or by misrepresentation of facts; or
  - (b) the dealer has failed to furnish security or additional security, as the case may be; or
  - (c) the dealer has transferred any prescribed form of declaration or certificate obtained by him to any person against provisions of this Act; or
  - (d) the dealer has permitted some other person to carry on business in his name;
  - (e) the dealer has issued any tax invoice to a dealer without making actual sale of goods,

(11) During cancellation proceedings under sub-section (10), where the registering authority is satisfied that the dealer will succeed in causing revenue loss, pending action for cancellation under sub-section (10), it may, after assigning reasons therefor, suspend the registration certificate by passing an order in writing, for the period during which the proceedings are pending.

Provided that if the dealer, by furnishing adequate security to the satisfaction of the registering authority, satisfies that revenue loss, if any, shall be made up by him, the registering authority may revoke the suspension of registration certificate.

(12) During the period of suspension of registration certificate under sub-section (11), the dealer shall be treated as unregistered dealer.

(13) The registering authority, after considering any information furnished or otherwise received and after making such inquiry as it may deem fit, amend from time to time any certificate of registration which shall take effect:

- (a) in the case of change in the name, ownership or place of business, or opening of a new place of business, from the date of the event necessitating the amendment whether or not information in that behalf is furnished within the time prescribed under section 18.
- (b) in case of any addition or modification in the description of any goods or class of goods in the certificate of registration, from the date of event

necessitating the amendment if information in that behalf is furnished within the time prescribed under section 18 and in any other case, from the date of receipt of request for such addition or modification by the registering authority or the assessing authority, as the case may be;

- (c) in case of deletion of any goods or class of goods, from the date of order of deletion.

Provided that where in consequence of a change in the ownership of a business, liability for payment of tax of any dealer ceases, the amendment of the certificate of registration shall take effect from the date on which information in respect of such change is furnished under section 18.

Explanation (I) - Any amendment of a certificate of registration under this subsection shall be without prejudice to any liability for tax or penalty imposable, or for any prosecution for an offence under this Act.

Explanation (II)-For the removal of doubts, it is hereby declared that where a registered dealer-

- (a) affects a change in the name of his business; or
  - (b) is a firm and there is change in the constitution of the firm without dissolution thereof; or
  - (c) is a trustee of a trust and there is a change in the trustees thereof; or
  - (d) Is a guardian of the ward and there is a change in the guardian; or
  - (e) is a "Hindu Undivided Family" and the business of such family is converted into a partnership business with all or any of the coparceners as partners thereof then merely by reason of any of the circumstances aforesaid, it shall not be necessary for the dealer or the firm the constitution whereof is changed, or the new trustees, or the new guardian or, as the case may be, the partners of such partnership business, to apply for a fresh certificate of registration, and on information being furnished in the manner required by section 18 the certificate of registration shall be amended.
- (14) The registration certificate shall not be cancelled or amended by the registering authority on its own motion unless the dealer has been given reasonable opportunity of being heard.

#### **18. Information to be furnished regarding change of business**

If any dealer to whom the provisions of section 17 apply:-

- (a) transfers his business or any part thereof by sale, lease, leave, license, hire or in any other manner whatsoever, or otherwise disposes of his business or any part thereof; or
- (b) acquires any business, whether by purchase or otherwise; or
- (c) effects or comes to know of any other change in the ownership or constitution of his business; or
- (d) discontinues his business or changes his place of business or warehouse or opens a new place of business or warehouse; or



- (e) changes the name, style or nature of his business or effects any change in the class or description of goods in which he carries on his business, as specified in his certificate of registration; or
- (f) enters into partnership or other association in regard to his business; or
- (g) starts a new business or joins another business either singly or jointly with other persons; or
- (h) in the case of a company incorporated under a statute effects any change in the constitution of Board of Directors; or
- (i) effects any change in the particulars furnished in application for grant of registration certificate under section 17,

he shall within thirty days of the occurring of any of the events aforesaid, inform the registering authority in the form and manner, as may be prescribed.

#### **19. Security in the interest of revenue**

(1) Where it appears necessary to the registering authority so to do -

- (a) for the proper realisation of any tax, penalty or other sums due or payable under this Act; or
- (b) for the proper custody or use of forms prescribed under this Act or the rules framed thereunder; or
- (c) as a condition for the grant or, as the case may be, the continuance in effect of registration certificate,

it may, by an order in writing and for reasons to be recorded therein, direct, before the grant or as the case may be, at any time while such certificate is in force, that the dealer or the person concerned shall furnish, in the prescribed manner and within such time as may be specified in the order such security or, if dealer or person concerned has already furnished such security, additional security of any nature, as may be specified, for all or any of the aforesaid purposes.

(2) No dealer or the person concerned shall be required to furnish any security or additional security under sub-section (1) by the registering authority unless he has been given an opportunity of being heard, and the amount of such security or additional security that may be required to be furnished by any

dealer shall also in no case exceed the tax payable, in accordance with the estimate of such authority on the turnover of the dealer for the assessment year in which such security is required to be furnished.

- (3) Notwithstanding anything contained in sub-section (1) or sub-section (2) the Commissioner may, in respect of any goods notified by the Government in this behalf, by a general order in writing, direct that a cash security of such amount as may be specified in such order shall be required to be furnished by a dealer or person requiring any of the forms prescribed under this Act.
- (4) Where the security furnished by a dealer or person concerned under sub-section (1) is in the form of a surety bond and any surety dies or becomes insolvent, the dealer or the person concerned shall, within thirty days of the occurrence of any of the aforesaid events, inform the authority granting the certificate under section 17 or issuing the forms referred to in clause (b) of sub-section (1), as the case may be, and shall within sixty days of such occurrence furnish a fresh surety bond or furnish in the prescribed manner other security for the amount of the bond.
- (5) The assessing authority may, by order and for good and sufficient cause, forfeit the whole or any part of the security furnished by a dealer or the person concerned -
  - (a) for realising any amount of tax, penalty or other amount payable by the dealer or the person concerned; or
  - (b) if any dealer or person concerned is found to have misused any of the forms referred to in sub-section (1) or to have failed to keep them in proper custody;

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

- (6) Where by reason of an order under sub-section (5) the security furnished by any dealer or the person concerned is rendered insufficient, he shall make up the deficiency in such manner and within such time as may be directed by the assessing authority.
- (7) The registering authority may -
  - (a) refuse to grant; or
  - (b) suspend any such certificate already issued; or

(c) refuse to issue any of the forms referred to in sub- section (1) or sub-section (3);

to any dealer or the person concerned, who has failed to comply with an order under sub-section (1) or sub-section (3), or with the provisions of sub-section (4 ) or sub-section (6 ), until the dealer or the person concerned has complied with such order or such provisions, as the case may be:

Provided that no order under clause (a) or clause (b) above, shall be passed without giving the dealer or the person concerned an opportunity of being heard.

- (8) The registering authority may, on application by the dealer or the person concerned, order the return of the surety bond or refund any amount or part thereof deposited by way of security by the dealer or the person concerned under this section or under any other section if it is not required for the purpose of this Act.
- (9) An appeal under section 59 shall lie against an order passed under this section.
- (10) Any person aggrieved by an order of the appellate authority may, within ninety days of the service of the order on him but after furnishing the security, file an appeal before the Tribunal under section 61.
- (11) The provisions of this section shall mutatis mutandis, apply in relation to security required to be furnished under the order of any authority under this Act or the Court.

## **20. Quoting of Taxpayers' Identification Number, etc.**

- (1) Every registered dealer shall quote his Taxpayers' Identification Number, allotted to it on his registration certificate, on all correspondence made, statement and return submitted, information furnished and documents issued by him and on each copy of treasury challan while depositing amount of tax, fee or any other dues under this Act.
- (2) While making purchases of any taxable goods, if purchaser of such goods demands, the selling dealer shall show his registration certificate.
- (3) While making purchases of any taxable goods, every purchasing dealer shall give his name, address and Taxpayers' Identification Number, if any, to the

selling dealer and the selling dealer shall mention such particulars on tax invoice, sale invoice, transport memo, challan or transfer invoice, as the case may be, issued by him.

- (4) Every registered dealer shall present registration certificate issued to him before an officer or official of the State Government whenever required by such officer or official in connection with any proceedings under this Act.
- (5) Every dealer who possesses Permanent Account Number allotted under the Income-Tax Act, 1961, shall mention such number on annual return of turnover and tax and shall furnish such number whenever required by any authority under this Act.

## **21. Accounts and documents to be maintained by dealers**

- (1) Every dealer liable to pay tax shall keep and maintain a true and correct account showing the value of the goods sold and bought by him, and in case the accounts maintained in the ordinary course do not show the same in an intelligible form, he shall maintain true and correct account in such form, as may be prescribed in this behalf.
- (2) A manufacturer liable to pay tax under the Act shall, in addition to the accounts referred to in other sub-sections, maintain stock books in respect of goods used or consumed in manufacture as well as the products obtained at every stage of production.

Provided that in the case of any class of manufacturers, the aggregate of whose turnover, as defined in explanation to sub-section (2) of section 3, in an assessment year does not exceed ten lakh rupees, the Commissioner, and in any other case the State Government, may relax the requirements of this sub-section subject to such conditions and restrictions as he or it may deem fit to specify.

- (3) The accounts, documents and the stock books required to be maintained under this section shall be preserved by the dealer for such period as may be prescribed.
- (4) Every registered dealer who consigns or delivers any goods or class of goods specified in the rules made under this Act or such other goods or class of goods, as the State Government may, by notification in the Gazette, specify in this behalf, of such quantity, measure or value as may be notified, to a dealer whether by reason of sale or otherwise, shall issue to the purchaser or consignee person of goods, a transport-memo in prescribed manner and in prescribed form obtained from the assessing authority having jurisdiction over the area in which principal place of such dealer is situated.
- (5) Except as provided in sub-section (4) every dealer liable to pay tax while consigning or delivering any taxable goods to another dealer whether as a result of sale or otherwise, shall issue to the purchaser or consignee person of goods, a legible challan or transfer invoice in the prescribed manner containing such particulars, as may be prescribed,.

- (6) Where any goods are transported by road, original copy of transport memo referred to in sub-section (4) or challan or transfer invoice referred to in sub-section (5), as the case may be, completed in all respects shall accompany the goods during journey of goods.
- (7) Person transporting the goods for delivery to the consignee shall fill in the particulars in the relevant columns provided on transfer memo, challan or transfer invoice, as the case may be, and shall deliver such transport memo, challan or transfer invoice to the consignee dealer along with goods.
- (8) Every dealer who receives any form of declaration or certificate prescribed under this Act or rules made thereunder, from its assessing authority or from any other person, shall use them in the prescribed manner and shall keep an account, in the prescribed manner, of all such used and unused forms of declaration or certificates including forms of declaration or certificates received from other persons.
- (9) No dealer shall transfer to any person and no person shall receive from any person any certificate or any form of declaration prescribed under the rules made under this Act except as provided under this Act or the rules made thereunder.
- (10) Where a dealer disposes of taxable goods in more than one of the following ways:
- (i) makes sale of goods inside the State; or
  - (ii) consigns goods to other dealers for sale inside the State; or
  - (iii) makes sale of goods in the course of inter-state trade or commerce; or
  - (iv) makes sale of goods in the course of the export of the goods out of or in the course of the import of the goods into, the territory of India; or
  - (v) consigns goods out side the State otherwise than as a result of sale,
- shall, as far as possible, keep separate account of purchase, sale, receipt and dispatch of goods for each such purpose.
- (11) A dealer who claims input tax credit under section 13 shall maintain a register in respect of tax period wise computations of amount of input tax credit.
- (12) A dealer who maintains or keeps books, accounts or documents in a computer, shall also maintain day to day print out of all such books, accounts and documents.
- (13) Every dealer liable to pay tax shall prepare an inventory of all goods held in stock, as mentioned hereunder, along with their purchase value, on following dates:
- (i) goods held in opening stock on the date on which the dealer becomes liable to pay tax;
  - (ii) goods held in closing stock on the last date of each assessment year;
  - (iii) goods held in opening stock on the date on which liability of payment of tax of a dealer under proviso to sub-section (6) of section 3 ceases;
  - (iv) goods held in closing stock on the date of discontinuance of business.
- Provided that a manufacturer shall also prepare a list of goods used or consumed in manufacture, processing or packing of any manufactured or semi-manufactured goods held in stock on the aforesaid dates along with their purchase value.

## **22. Tax invoice, sale invoice, etc. to be issued by dealer**

- (1) In respect of goods and in the circumstances mentioned below, every registered dealer liable to pay tax on sale of such goods shall issue to the registered purchasing dealer, a tax invoice in the prescribed form and manner containing such particulars as may be prescribed, and shall charge separately the amount of tax payable by him -
- (i) all taxable goods except goods notified under provisions of clause (d) of sub-section (1) of section 34,
  - (ii) goods notified under provisions of clause (d) of sub-section (1) of section 34, where goods sold belong to a registered principal or where the selling dealer sells his own goods.

- (2) Where a registered dealer sells any goods notified under provisions of clause (d) of sub-section (1) of section 34 to a registered dealer on behalf of an unregistered principal, he shall issue to the purchasing dealer a sale invoice in the prescribed form and manner containing such particulars as may be prescribed:

Provided that selling dealer after charging amount of tax on such sale invoice shall subtract such amount from the total amount of the sale invoice and purchasing registered dealer shall deduct such amount under the provision of the clause (d) of sub-section (1) of section 34.

Explanation : For the purpose of this sub-section, sub-section (1) and clause (d) of sub-section (1) of section 34, a "registered principal" means a principal who is a registered dealer and " unregistered principal" means a principal other than a registered dealer.

- (3) Subject to provisions of sub-section (1) and sub-section (2), every dealer liable to pay tax, in respect of sale of all goods in the circumstances mentioned hereunder, shall issue to the purchaser a sale invoice in the prescribed form and manner containing such particulars as may be prescribed, where—
- (i) sale value of single sale exceeds the amount prescribed in this behalf; or
  - (ii) purchaser of goods demands a purchase invoice; or
  - (iii) any other law prescribes for issues of sale invoice, bill or cash memo in respect of such sale of goods; or
  - (iii) selling dealer as a practice issues a sale invoice, bill or cash memo in respect of all sales:

Provided that the State Government may prescribe different forms of sale invoice for different class of dealers or for different goods or class of goods.

- (4) On every tax invoice under subsection (1) and on every sale invoice under sub-section (2) selling dealer shall charge amount of tax separately and on a sale invoice issued under sub-section (3) amount of tax shall not be charged separately even if selling dealer is liable to pay tax on such sale.
- (5) Office copy of tax invoice or sale invoice shall be preserved by the dealer for the period prescribed under sub-section (3) of section 21.

- (6) Every dealer, while making purchases of any goods from a dealer, shall give his name, address and Taxpayers' Identification Number, if any, to the selling dealer.
- (7) Where a dealer liable to pay tax purchases any taxable goods from a person other than a registered dealer and if the person selling such goods does not issue sale invoice, the purchasing dealer shall issue to the seller a purchase invoice in respect of such purchase in the prescribed form and manner containing such particulars as may be prescribed and shall obtain signature or thumb impression of the person selling the goods.
- (8) Subject to provision of section 34, any person, while purchasing any goods, shall not deduct any amount as tax from the amount payable to the person selling goods.

### **23. Realisation of tax on sale or purchase of goods**

- (1) Except as provided in section 22 and section 34, no person shall realise any amount in the name and colour of tax in respect of a sale or purchase of any goods.
- (2) Where amount of tax charged in tax invoice or sale invoice, as the case may be, exceeds the amount of tax payable and the selling dealer allows a refund or credit of such excess amount to the purchaser, he shall issue to the purchaser of goods a credit note containing such particulars as may be prescribed.
- (3) Where amount of tax payable in respect of a sale exceeds the amount of tax charged in a tax invoice or the sale invoice, as the case may be, and the selling dealer receives balance amount or credit of such balance amount from the purchaser, the selling dealer shall issue to the purchaser of goods a debit note containing such particulars as may be prescribed.
- (4) Where in respect of purchase of any goods, a tax invoice has been received by a dealer and such goods are returned or rejected by such dealer, the purchasing dealer shall account for the amount of tax in his books of account maintained in the ordinary course of business, and shall-
  - (i) issue a debit note of the amount of tax to the seller; and
  - (ii) receive a credit note of the amount of tax from the seller.