Central Regulation 2009 to 2012

<u>2009</u>

1 The Amendment and Nicobar Icelands (Tribunal Councils) Regulation, 2009.

<u>2010</u>

- 1 The Daman and Diu Civil Courts (Andaman) Regulation, 2010./
- 2 The India Medical Council (Amendment) Ordinance, 2010.
- 3 The Dadra & Nagar Haveli (Civil Courts and Miscellaneous Provisions) Amendment Regulation, 2010.
- 4 The Daman & Diu Motor Vehicles (Amendment) Regulation, 2010.

<u>2011</u>

1 The Bombay Motor Vehicles Tax (Amendment) Regulation, 2011.

2. The Andeman Nicobel Islands Marine Fishing (Amendment) Regulation, 2011 2012

1 The Dadra & Nagar Haveli Excise Regulation, 2012.

<u>रजिस्ट्री सं</u>॰ डी॰एल॰-33004 / 2001

REGISTERED NO. DL-33004/2001

असाधारण EXTRAORDINARY भाग II — खण्ड 1 PART II — Section 1 प्राधिकार से प्रकाशित

सन्युमेव जगते दिन्दीय

The Gazette of India

PUBLISHED BY AUTHORITY

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 NEW DELHI, MONDAY, AUGUST 6, 2001 / SRAVANA 15, 1923

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (Legislative Department)

New Delhi, the 6th August, 2001/Sravana 15, 1923 (Saka)

THE LAKSHADWEEP GROUND WATER (DEVELOPMENT AND CONTROL) REGULATION, 2001

No. 1 of 2001

Promulgated by the President in the Fifty-second Year of the Republic of India.

A Regulation to provide for developing and controlling the extraction of ground water in the Union territory of Lakshadweep and for matters connected therewith or incidental thereto.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:-

1. (1) This Regulation may be called the Lakshadweep Ground Water (Development and Control) Regulation, 2001.

Short title, extent and commencement.

(2) It extends to the whole of the Union territory of Lakshadweep.

(3) It shall come into force on such date as the Administrator may, by notification, appoint and different dates may be appointed for different Islands, and any reference in any provision to the commencement of this Regulation shall be construed in relation to any Island as a reference to the coming into force of that provision in that Island.

Definitions.

2. In this Regulation, unless the context otherwise requires,-

(a) "Administrator" means the Administrator of the Union territory of Lakshadweep appointed by the President under article 239 of the Constitution;

(b) "Authority" means the Ground Water Authority constituted under sub-section (1) of section 3;

(c) "bye-laws" means the bye-laws made by the Authority under this Regulation;

(d) "collector well" means masonry or concrete well or well made with other suitable building materials, with side and bottom suitably sealed against seepage, for storing water through a number of infiltration (porous) pipes laid in a slop in one or all directions, for the purpose of skimming the water from top of water lens with coral island formations;

(e) "Fund" means the Fund constituted under section 19;

(f) "ground water" means the water which exists below the surface of the ground at any particular location;

(g) "Island" means an island as defined in clause (d) of section 2 of the Lakshadweep Island Councils Regulation, 1988;

Reg. 4 of 1988.

PART II

(h) "member" means the member of the Authority and includes Chairperson and Vice-Chairperson;

(i) "Official Gazette" means the Lakshadweep Gazette;

(j) "prescribed" means prescribed by rules made under this Regulation;

(k) "sink", with all its grammatical variations and cognate expressions in relation to a well, includes any digging, drilling or boring of new wells or deepening carried in the existing wells;

(1) "Union territory" means the Union territory of Lakshadweep;

(m) "user of ground water" means a person or persons or an institution including a company or an establishment, whether Government or not, who use ground water for any purpose including domestic use either on a personal or community basis;

(n) "well" means a well sunk for the search or extraction of ground water by a person or persons, except by the authorised officials of the Union territory or the Central Government for carrying out scientific investigations, exploration, development or management work for the survey and assessment of ground water resources or for providing water for irrigation and includes open well, dug well, borewell, dug-cumborewell, tubewell, filter point, collector well and infiltration gallery. Sec.-1]

3. (1) The Administrator shall, by notification in the Official Gazette, constitute for the purposes of this Regulation, an Authority to be called the Ground Water Authority.

(2) The Ground Water Authority shall consist of-

(a) a Chairperson --Secretary (Public Works Department);

(b) a Vice-Chairperson --President-cum-Chief Counsellor, District Panchayat,

to be appointed by the Administrator;

(c) three official members consisting of Superintending Engineer (PWD), representative from Central Ground Water Board, Kerala Region and a representative from the Centre for Earth Science Studies, Trivandrum; and

(d) two non-official, members, Chairpersons of Village (Dweep) Panchayats.

(3) The term of office and the manner of filling up of the vacancies and other conditions of service of the Chairperson, Vice-Chairperson and other than *ex officio* members shall be such as may be prescribed.

4. (1) The Chairperson of the Authority shall, in addition to presiding over the meetings of the Authority, exercise and discharge such powers and duties of the Authority as may be delegated to him by the Authority.

(2) The Vice-Chairperson of the Authority shall exercise and discharge such of the powers and duties of the Chairperson as may be delegated to him by the Authority.

5. (1) The Administrator may, for the purpose of enabling the Authority efficiently to discharge its functions under this Regulation, appoint such number of technical and other staff as he may consider necessary.

(2) The terms and conditions of service of such technical and other staff shall be such as may be determined by bye-laws.

6.(1) If the Administrator, on a report received from the Authority, is of the opinion that it is necessary or expedient in the public interest to control and regulate the extraction or use of ground water in any form in any Island, he may, by notification in the Official Gazette, declare any such Island to be a notified Island for the purpose of this Regulation with effect from such date as may be specified therein:

Provided that the date so specified in the notification shall not be earlier than thirty days from the date of publication of the said notification.

(2) Every such notification shall, in addition to its publication in the

Powers and duties of Chairperson and Vice-Chairperson.

Staff of Ground Water Authority.

Power to notify Island for control and regulation of ground water development.

Establishment of Ground Water Authority.

[PART II-

Official Gazette, be published in not less than one daily regional language newspaper having wide circulation in the Union territory and also be served in such manner as the Administrator thinks fit and all or any of the following modes may be followed in effecting such service, namely:-

(a) by affixing a copy of the notification at some conspicuous part of the offices of the Amin Katcheris or Village (Dweep) Panchayat or office of the Civil Administrative Body located in the said Island;

(b) by proclaiming by the beat of drum or by means of loudspeakers the contents of the notification in the said Island;

(c) in such other manner as may be prescribed.

(3) If, in the opinion of the Authority, the availability of ground water has improved in a notified Island, it may advise the Administrator to denotify such Islands and the Administrator may do so after following the procedure laid down in sub-section (2) for notifying the Island.

7. (1) Subject to any rules made in this behalf, the Authority may from time to time constitute such Advisory Committees as may be necessary for the efficient discharge of its functions.

(2) Every Advisory Committee shall consist of such number of persons connected with ground water control and regulation as may be prescribed.

8. No person shall directly pump water from any well in any notified Island by using any electrically or mechanically operated equipment:

Provided that nothing in this section shall apply to pumping of water from collector well.

9. (1) Any user of ground water desiring to pump water from well by using a motor in any notified Island in connection with any religious or customary ceremony or celebration or for any special purpose may make an application to the Authority for the grant of a permit for the purpose and shall not proceed with any activity connected with such pumping unless a permit has been granted by the Authority.

(2) Every application made under sub-section (1), shall be made in such form and shall contain such particulars and be accompanied by such fees, as may be prescribed.

(3) On receipt of an application under sub-section (1), the Authority may, after such inquiry as it deems fit, grant a permit to extract water from a well for such period as may be specified therein or, as the case may be, refuse a permit:

-Provided that no person shall be refused a permit unless he has been given an opportunity of being heard:

Provided further that the decision regarding grant or refusal of a permit, as the case may be, shall be intimated by the Authority to the applicant within a period of thirty days from the date of receipt of the application.

of water from well. Grant of permit

Prohibition of

direct pumping

Constitution of

Advisory

Committee.

to extract water from well by using motor.

may be prescribed.

10. (1) With effect from such date as the Administrator may, by notification in the Official Gazette, appoint any person desiring to sink a well in any notified Island for any purpose either on personal or community basis shall apply to the Authority for grant of a permit for this purpose, and shall not proceed with any activity connected with such sinking unless a permit has been granted by the Authority:

Provided that no permit shall be required where the water is withdrawn by manual devices.

(2) Every application made under sub-section (1) shall be made in such form and shall contain such particulars and be accompanied by such fees, as may be prescribed.

(3) On receipt of an application under sub-section (1), if the Authority is satisfied that it shall be in the public interest so to do, it may grant, subject to such conditions and restrictions as may be specified, a permit authorizing the extraction and use of the water:

Provided that no person shall be refused a permit unless he has been given an opportunity of being heard.

(4) The Authority shall intimate its decision regarding grant or refusal of the permit to the applicant within a period of thirty days from the date of receipt of the application.

(5) In granting or refusing a permit under sub-section (3), the Authority shall have regard to-

- (a) the purpose or purposes for which water is to be used;
- (b) the existence of other competitive users;
- (c) the availability of water;
- (d) quality of ground water with reference to use;
- (e) such other relevant factors as may be prescribed.
- (6) The permit shall be in such form as may be prescribed.

Registration of existing users in notified islands.

11. (1) Save as otherwise provided in this Regulation, no existing user after the date specified in the notification under sub-section (1) of section 6, commence or carry on use of the water except under and in accordance with the terms of certificate of registration granted in this regard:

Provided that a person carrying on the use of water before the date specified above, may continue to do so for a period of three months from such commencement; and if he has made an application for grant of certificate of registration within said period of three months till the disposal of such application.

(2) An application for grant of certificate of registration shall be made to the Authority in such form and shall contain such particulars and shall be accompanied by such fees as may be

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Grant of permit to extract and use ground water in notified Island.

[PART II---

prescribed.

(3) On receipt of an application under sub-section (1), if the Authority is satisfied that it shall be in the public interest to do so, it may grant, subject to such conditions and restrictions as may be specified, a certificate of registration authorising the continued use of the water:

Provided that no person shall be refused a certificate of registration unless he has been given an opportunity of being heard.

- (4) The decision regarding the grant or refusal to grant the certificate of registration shall be intimated by the Authority to the applicant within a period of ninety days from the date of receipt of the application.
- (5) In granting or refusing to grant a certificate of registration under sub-section (3), the Ground Water Authority shall have regard to-
 - (a) the purpose or purposes for which the water was being used;
 - (b) the existence of other competitive users;
 - (c) the availability of water; and
 - (d) such other relevant factors as may be prescribed.
- (6) The certificate of registration shall be in such form as may be prescribed.

Power to alter, amend or vary the terms of the permit or certificate of registration. 12. The Authority may, at any time, after the permit or certificate of registration, as the case may be, has been granted, for technical reasons, alter, amend or vary the terms of permit or certificate of registration, as the case may be, with a view to limiting the source of water either permanently or temporarily:

Provided that no such alteration, amendment or variation shall be made unless the permit holder or holder of a certificate of registration, as the case may be, has been given an opportunity of being heard:

Provided further that before taking such action, the Authority shall ensure that the standing crops are not damaged.

Explanation - For the purposes of this section, "technical reasons" means reasons which may adversely affect any public drinking water source or the shortage of quantum and pattern of rain fall or any other relevant factor which may affect the extraction of water from the ground.

Cancellation of permit or certificate of registration. 13. If the Authority is satisfied that-

(a) the permit or a certificate of registration granted under subsection (3) of section 9 or sub-section (3) of section 10 or subsection (3) of section 11, as the case may be, has been obtained by iraud or misrepresentation as to an essential fact; or

(b) the holder of the permit or of a certificate of registration has without reasonable cause failed to comply with the conditions subject to which the permit or certificate of registration has

been granted or has contravened any of the provisions of this Regulation or of the rules made thereunder; or

(c) a situation has arisen which warrants limiting the use or extraction of ground water,

then, without prejudice to any other penalty to which the holder of the permit or the holder of the certificate of registration may be liable under this Regulation, the Authority may, after giving the holder of the permit or certificate of registration an opportunity of showing cause, cancel the permit or certificate of registration, as the case may be.

14. The functions of the Authority shall be to-

- (i) undertake and encourage research in the improvement or development and quality of ground water;
- (ii) collect and publish statistics relating to ground water;
- (iii) take a specimen of soils or other materials or water extracted from wells;
- (iv) inspect and take copies of the relevant records or documents and ask any question necessary for obtaining any information (including diameter or depth which is being or has been sunk, the level at which the water is or was struck and subsequently rest or rested, the types of strata encountered in the sinking of the well and the quality of the water struck) required for carrying out the purposes of this Regulation;
- (v) require by order in writing the person sinking a well to keep and preserve in the prescribed manner specimen of soils or any materials excavated therefrom for such period not exceeding three months from the date of completion or abandonment of the work as may be specified by the Authority and thereupon such person shall comply with such orders;
- (vi) serve or cause to be served a notice requiring any user of ground water to furnish such information or returns in such form at such intervals and with such particulars as may be prescribed and thereupon such person shall comply with such requisition;

(vii) require the user of ground water to install water measuring devices on any water supplies when necessary to properly administer the water or where there is reason to believe that the user does not comply with the provisions contained in this Regulation or any other sufficient reason for defending the public interest:

Provided that where the user of ground water does not comply with the orders or requisition issued to him within a period of thirty days, the Authority itself may install such water measuring device and recover its cost from the defaulting user of ground water

Functions and powers of Ground Water Authority.

SEC. 1]

[Part II—

(viii) require any user of ground water who does not comply with the provisions of this Regulation and rules framed thereunder to close down any water supply or destroy any hydraulic work found to be illegal under the provisions of this Regulation:

Provided that where the user of ground water does not comply with the orders or requisition issued to him within a period of sixty days, the Authority itself may carry out the necessary work and recover the cost from the illegal user of ground water.

15. (1) An Executive Engineer authorised in this behalf by the Authority, may, if he has any reason to suspect that any provision of this Regulation has been, or is being, or is about to be, contravened-

- (a) enter at any reasonable time on any property (private or Government owned) with the right to investigate and make any measurement concerning the land or the water located on the surface or underground;
- (b) inspect the well which is being sunk or has been sunk and the soils and other materials excavated therefrom;
- (c) seize any electrical or mechanical equipment utilised for illegal sinking or pumping of water;
- (d) enter and search at all reasonable times with such assistance, if any, he considers necessary, any place in which an offence under this Regulation has been or is being committed and order in writing the person who has or is committing the offence not to extract or use the ground water for a specified period not exceeding thirty days.

(2) The power conferred by this section includes the power to break open the door any premises where sinking, extraction and use of ground water may be going on:

Provided that the power to break open the door shall be exercised only after the owner or any other person in occupation of the premises, if he is present therein, refuses to open the door on being called upon to do so.

- (3) The provisions of the Code of Criminal Procedure, 1973 2 shall so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the Authority of a warrant issued under section 94 of the said Code.
- (4) Where the Executive Engineer seizes any electrical or mechanical equipment under clause (c) of sub-section (1), he shall, as soon as may be, inform a Magistrate and take his orders as to the custody thereof.

Power to search and seizure.

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16. (1) Where the serving officer delivers or tenders a copy of the order

made under clause (v) of section 14 or notice issued under clause (vi) of that section to the owner of the well, personally or to an agent or other person on his behalf, he shall require the signature of the person to whom the copy is so delivered or tendered in token of an acknowledgment of service endorsed on the original order or notice, as the case may be.

(2) Where the owner of the well or his agent or such other person as aforesaid refuses to sign the acknowledgment, or where the serving officer, after using all due and reasonable diligence, cannot find the owner who is absent from his residence at the time when the service is sought to be effected on him at his residence and there is no likelihood of his being found at the residence within a reasonable time, and there is no agent empowered to accept service of the order or notice on his behalf, nor any other person on whom service can be made, the serving officer shall affix a copy of the order or notice on the outer door or some other conspicuous part of the house in which the owner ordinarily resides or carries on business or personally works for gain, and shall then return the original to the Authority from which it was issued, with a report endorsed thereon or annexed thereto stating that he has so affixed the copy, the circumstances under which he did so, and the name and address of the person, if any, by whom the house was identified and in whose presence the copy was affixed.

17. The administrator may pay to the Authority in each financial year by way of grants or loans such sums of money as he may consider necessary for the efficient performance of its functions under this Regulation.

- 18. The Authority may, for the purposes of this Regulation, receive gifts, grants, donations and benefactions from the Government or any other person.
 - 19. (1) There shall be constituted a fund to be called the Ground Water Development Fund and to which shall be credited-

(a) the grants or contributions made by the Government;

- (b) the income from investments;
- (c) any donation made or loan advanced to the Authority for the purposes of this Regulation;
- (d) all sums received by the Authority from such other sources as may be decided upon by the Administrator.

(2) The Fund shall be applied for-

(a) payment of the salaries, allowances and other remuneration of the Chairperson, Vice-Chairperson and members, technical and other staff of the Authority;

(b) meeting other expenses of the Authority to be incurred by it in the performance of its functions under this Regulation.

20. The Authority shall prepare in such form and at such time in each financial year, as may be prescribed, its budget for the next financial year showing the estimated receipts and expenditure and forward it to the Administrator.

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Constitution of **Fround Water** Development 'und

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SEC. 1

•	10	THE GAZETTE OF INDIA EXTRAORDINARY [Part	II—
Borrowing powers of the Authority.	21	. The Authority shall have the power to borrow money on the security of the Funds or any other assets for carrying out the purposes of this Regulation in such manner as may be prescribed.	
Accounts and audits.	22.	(1) The Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including the profit and loss account and the balance-sheet, in such form as may be prescribed.	
		(2) The accounts of the Authority shall be audited by the Comptroller and Auditor-General of India and any expenditure incurred in connection with such audit shall be payable by the Authority.	-
Delegation of powers and duties.	23.	The Authority may, by general or special order in writing, direct that all or any of the powers or duties which may be exercised or discharged by it, shall, subject to such conditions, if any, as may be specified in such order (except sections 30 and 31), be exercised or discharged also by any employee of the Authority specified in this behalf.	
Members and employees of the Ground Water Authority to be public servants.		All members and employees of the Authority shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Regulation, to be public servants within the meaning of section 21 of the Indian Penal Code.	45 of 1860.
Protection against action taken in good faith.	25.	No suit, prosecution or other legal proceedings shall lie against the Administrator or the Chairperson or the Vice-Chairperson of the Authority or any member or other employee of the Authority for anything which is in good faith done or intended to be done under this Regulation or the rules and bye-laws made thereunder.	
Cognizance and trial of offences.	1 26.	 No prosecution shall be instituted against any person in respect of only offence under this Regulation without the previous sanction of the Authority or such officer as may be authorised by that Authority by order in writing in this behalf; No court inferior to that of a Judicial Magistrate of the First class shall try any offence punishable under this Regulation. 	
Offences and penalties.	27.	(1) If any user-	
,		 (a) contravenes or fails to comply with any of the provisions of this Regulation or any rules made thereunder, or (b) obstructs the Authority or any other person authorised by it from exercising any of the powers under this Regulation, or 	
	•	(c) fails to comply with the orders made under clause (v) of section 14, or	

(d) having been required to furnish any information or return under clause (vi) of section 14-

SEC. 1]

(i) wilfully refuses or without lawful excuse, neglects to furnish such information or return;

(ii) wilfully furnishes or causes to be furnished any information or return which he knows to be falls,

he shall be punishable-

- (a) for the first offence with imprisonment for a term which may extend to one month or with fine which may extend to one thousand rupees, or with both;
- (b) for the second and subsequent offence, with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees, or with both.
- (2) If any person contravenes the provisions of sub-section (1) of section 10, he shall be punishable with a fine not exceeding rupees five hundred in addition to penalties under clause (a) and (b) above for every day till such contravention continues.

28. (1) Where an offence under this Regulation has been committed by a Company, every person who at the time the offence was committed was in charge of and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

> (2) Notwithstanding anything contained in sub-section (1), where an offence under this Regulation has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation -- For the purposes of this section,-

- (a) "company" means any body corporate and includes a firm or other association of individuals; and
- (b) "director", in relation to a firm, means a partner in the firm.

29. (1) Any person aggrieved by any decision of the Authority made under this Regulation may prefer an appeal to the Administrator or such

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authority as may be specified by him within such time as may be prescribed.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefor if the appellant satisfies the Administrator or the appellate authority, as the case may be, that he had sufficient cause for not preferring the appeal within the prescribed period.

- (3) Every appeal made under this section shall be made in such form and shall be accompanied by a copy of the decision appealed against and on payment of such fees as may be prescribed.
- (4) On receipt of an appeal under sub-section (1), the Administrator or the Authority, as the case may be, shall, after giving the appellant an opportunity of being heard, dispose of the appeal as expeditiously as possible.

30. (1) The Administrator may, by notification in the Official Gazette, make rules to carry out the purposes of this Regulation;

- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for -
- (a) the term of office and manner of filling up of vacancies and other conditions of service of the Chairperson, Vice-Chairperson and other members of the Authority under sub-section (3) of section 3;
- (b) the manner in which the publication of the notification may be effected under clause (c) of sub-section (2) of section 6;
- (c) the matters with respect to the Advisory Committee referred to in sub-section (1) of section 7;
- (d) the form of application and fees under sub-section (2) of section
 9, sub-section (2) of section 10, sub-section (2) of section 11 and
 the particulars that may be required to be furnished with these applications;
- (e) the form of the permit or the certificate of registration under subsection (4) of section 9, sub-section (6) of section 10 and subsection (6) of section 11;
- (f) the factors other than those referred to in clauses (a) to (d) of subsection (5)of section 10;
- (g) the factors other than those referred to in clauses (a) to (c) of subsection (5) of section 11;
- (h) the manner in which the specimen of soils or other material shall be kept and preserved under clause (v) of section 14;
- (i) the form in which and the interval at which the information or return shall be furnished under clause (vi) of section 14;
- (j) the form and the time in each financial, ear, by which budget is to be prepared under section 20;
- (k) borrowing of money on the security of funds under section 21;
- (1) the form in which the annual accounts are to be prepared under section 22;

(m) the form in which and the time in which, an appeal may be filed before the Administrator or the appellate authority as specified by the Administrator under section 29 and the fees payable in respect of such appeal.

31. (1) The Authority may, with the previous approval of the

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Power to make rules.

bye-laws.

SEC. 1]

Administrator, by notification in the Official Gazette, make byelaws, not inconsistent with the provisions of this Regulation and the rules made under section 30, generally to carry out the purposes of this Regulation.

(2) In particular, and without prejudice to the generality of the foregoing power, such bye-laws may provide for the terms and conditions of service of the technical and other staff of the Authority under sub-section (2) of section 5.

32. Every rule and every bye-law made under this Regulation shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or bye-law or both Houses agree that the rule or bye-law should not be made, the rule or bye-law shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that, any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or bye-law.

> K.R.NARAYANAN, President.

13

SUBHASH C. JAIN, Secy. to the Govt. of India.

Secy.

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Rules and byelaws to be laid before Parliament.

REGISTERED NO. DL-33004/2002

रजिस्ट्री सं॰ डी॰एल॰-33004 / 2002



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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 8th July, 2002/Asadha 17, 1924 (Saka)

THE ANDAMAN AND NICOBAR ISLANDS RENT CONTROL (AMENDMENT) REGULATION, 2002

No. 1 of 2002

Promulgated by the President in the Fifty-third Year of the Republic of India.

A Regulation further to amend the Andaman and Nicobar Islands Rent Control. Regulation, 1964.

In exercise of the powers conferred by clause (1) of article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:---

1. (1) This Regulation may be called the Andaman and Nicobar Islands Rent Control (Amendment) Regulation, 2002.

Short title and commencement.

(2) It shall come into force at once.

2. In the Andaman and Nicobar Islands Rent Control Regulation, 1964 (hereinafter referred to as the principal Regulation), for the words "Chief Commissioner", wherever they occur, the words "Lieutenant Governor" shall be substituted.

3. In section 2 of the principal Regulation,—
(i) Lause (a) shall be omitted;

Substitution of Lleutenant Governor for Chief Commissioner.

Amendment of section 2.

THE GAZETTE OF INDIA EXTRAORDINARY [Part II-Sec.1]

(ii) after clause (c), the following clause shall be inserted, namely:---

'(ca) "Lieutenant Governor" means the Administrator of the Union territory of the Andaman and Nicobar Islands appointed under clause (1) of article 239 of the Constitution.'.

endment 4. In section 3 of the principal Regulation, after clause (b), the following clause shall be inserted, namely:---

2

'(c) to any religious or charitable trust or wakf registered as a non-profit organisation in the Andaman and Nicobar Islands which has been working for the benefit of the society at large in the field of health, education, community development or social welfare in the Andaman and Nicobar Islands for more than fifteen years.

Explanation.—The term "wakf", for the purposes of this Regulation, shall mean a wakf as defined in clause (r) of section 3 of the Wakf Act, 1995.'.

43 of 1995.

K. R. NARAYANAN, President.

SUBHASH C. JAIN, Secy. to the Govt. of India. रजिस्ट्री सं॰ डी॰एल॰~(एन॰)-04/0007/2003-05

REGISTERED NO. DL-(N)-04/0007/2003-05



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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 18th December, 2003/Agrahayana 27, 1925 (Saka)

THE ANDAMAN AND NICOBAR ISLANDS MARINE FISHING REGULATION, 2003

No. 1 of 2003

Promulgated by the President in the Fifty-fourth Year of the Republic of India.

A Regulation to provide for the regulation of sea fishing of fishing vessels in the waters surrounding the Union territory of the Andaman and Nicobar Islands and for matters connected therewith.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:—

CHAPTERI

Preliminary

1. (7) This Regulation may be called the Andaman and Nicobar Islands Marine Fishing Regulation, 2003.

Short title, extent and commencement

(2) It extends to the whole of the Union territory of the Andaman and Nicobar Islands.

(3) It shall come into force on such date as the Administrator may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of

this Regulation and any reference in any such provision to the commencement of this Regulation shall be construed as a reference to the coming into force of that provision.

[PART II----

Definitions.

2. In this Regulation, unless the context otherwise requires,---

(a) "adjudicating officer" means any officer of the Fisheries Department not below the rank of an Assistant Director of Fisheries authorised under section 3 to exercise the powers conferred on, and to discharge the duties imposed upon, such an officer by this Regulation for such areas as may be specified by notification in the Official Gazette.

(b) "Administration" means the Administration of the Union territory of the Andaman and Nicobar Islands;

(c) "Administrator" means the Administrator of the Union territory of the Andaman and Nicobar Islands appointed by the President under article 239 of the Constitution;

(d) "Appellate Board" means the Appellate Board constituted under section 18;

(e) "authorised officer" means an officer not below the rank of an Assistant Director of Fisheries, authorised by the Administrator by notification in the Official Gazette, to exercise the powers conferred on, and discharge the duties imposed upon such officer by this Regulation;

(f) "fish" means any vertebrate and invertebrate animal in the sea, and includes fish, crustacean, shellfish, sea cucumber (beche-de-mer), sea grasses and corals (dead or living), excluding the animals covered under the Wild Life (Protection) Act, 1972;

(g) "Fisheries Department" means the Fisheries Department of the Administration;

(h) "fishery officer" means an officer of the rank of Assistant Fisheries Guard but not above the rank of Assistant Fisheries Development Officer in the Department of Fisheries or any other officer of the Administration or the Central Government, as may be appointed by the Administrator by notification in the Official Gazette;

(*i*) "fishing" means exploitation, catching or collection of vertebrate and invertebrate animals in the sea excluding animals covered under the Wild Life (Protection) Act, 1972, and includes fish, crustacean, shellfish, sea cucumber (beche-de-mer), sea grasses and corals (dead or living) by applying or operating any fishing gears or culture of fish and its harvest in the waters surrounding the Union territory of the Andaman and Nicober Islands;

(*j*) "fishing gears" in relation to fishing, includes implements, nets, hooks and lines, cages, traps harpoons but does not include the explosives, poisons and chemicals or any other device of mass destruction;

(k) "fishing vessels" means a ship or boat, whether or not fitted with mechanised means of propulsion, which is engaged in sea fishing for profit and includes a catamaran, country craft, canoe and dinghy engaged in sea fishing;

(1) "port" means the space within such limits as may, from time to time, be defined by the Administrator, by notification in the Official Gazette, for the purposes of this Regulation;

(m) "prescribed" means prescribed by rules made under this Regulation;

(n) "registered fishing vessel" means-

(*i*) a fishing vessel registered under section 11 of the Marine Products Export Development Authority Act, 1972;

(ii) a vessel registered as a fishing vessel under section 9;

Amendme of section :

53 of 1972.

53 of 1972

53 of 19

(o) "specified area" means such area or areas in the waters surrounding the Union territory of the Andaman and Nicobar Islands, but not beyond the territorial waters, as may be specified by the Administrator, by notification in the Official Gazette.

3. The Administrator may, by notification in the Official Gazette, authorise any officer Authorisation of officers. of the Administration or of Central Government to exercise the powers conferred on, and to discharge the duties imposed upon, an authorised officer under this Regulation in such area or areas as may be specified in the notification.

CHAPTER II

REGULATION OF FISHING

4. (1) The Administrator, may, having regard to the provisions of sub-section (2), by order notified in the Official Gazette, regulate, restrict or prohibit-

(a) the fishing in any specified area by such class or classes of fishing vessels as may be prescribed; or

(b) the number of fishing vessels which may be used for fishing in any specified area; or

(c) the catching in any specified area of such species of fish and for such period as may be specified in the notification; or

(d) the use of such fishing gear in any specified area as may be prescribed; or

(e) fishing in any specified area during such period of day or night as may be prescribed.

(2) In making an order under sub-section (1), the Administrator shall have due regard to the following matters, namely:-

(a) the need to protect the interest of different sections of persons engaged in fishing, particularly those engaged in fishing by using traditional fishing crafts such as catamaran, country craft, canoe or dinghy;

(b) the need to conserve fish and to regulate fishing on a scientific basis;

(c) the need to maintain law and order in the sea;

(d) the need to lease any specified area surrounding the islands to conserve the fish or shellfish or to culture the fish or shellfish;

(e) the need to lease out right to fish in the territorial waters for fish culture and harvest; and

(f) any other matter as may be prescribed.

5. No owner or master of a fishing vessel shall use, or cause to allow such vessel to be used, for fishing in any manner which contravenes an order made under section 4:

Provided that nothing in such order shall be construed as preventing the passage of any fishing vessel from, or to, the shore, through any area whether specified area or otherwise:

Provided further that the passing of such fishing vessel through any specified area shall not, in any manner, cause any damage to any fishing nets or tackles belonging to any person who engages in fishing in the specified area by using any traditional fishing craft such as catamaran, country craft, canoe or dinghy in accordance with the provisions of this Regulation.

6. (1) The owner of a fishing vessel may make an application to the authorised officer for the grant of a licence for using such fishing vessel for fishing in any specified area.

use of fishing vessels in contravention of order any made under section 4

Licensing of fishing vessels

Prohibition on

Power to regulate, restrict or prohibit certain

matters within specified area.

3

SEC. 1]

13 of 1972

(2) Every application under sub-section (1) shall be in such form, contain such particulars, and be accompanied by such fees, as may be prescribed.

(3) The authorised officer may, after making such inquiry as he may deem fit and having regard to the matters referred to in sub-section (4), either grant or refuse to grant, to the owner of the fishing vessel a licence for using such fishing vessel for fishing in the specified area or specified areas as may be mentioned in such licence.

(4) In granting or refusing to grant a licence under sub-section (3), the authorised officer shall have regard to the following matters, namely:—

(a) whether the fishing vessel is registered or not;

(b) the condition of the fishing vessel including the accessories and fishing gear with which it is fitted;

(c) whether any order has been made under section 4; and

(d) any other matter as may be prescribed.

(5) A lincence granted under this section shall be in such form and valid for such period and subject to such conditions, including conditions as to payment of such fees and furnishing such security for the due performance of the conditions, as may be prescribed:

Provided that different fees and different amounts by way of security may be prescribed in respect of licences for different classes of fishing vessels.

(6) A licence granted under this section may be renewed by the authorised officer subject to the rules made under sub-section (5).

7. No person shall, after the commencement of this Regulation, carry on fishing in any specified area using a fishing vessel, which is not licenced under section 6:

Provided that nothing in this section shall apply to a fishing vessel, which was being used for fishing in such area immediately before the commencement of this Regulation, for such period as may be specified by the Administrator, by notification in the Official Gazette.

8. (1) If the Authorised Officer is satisfied, either on a reference made to him in this behalf or otherwise, that—

(a) a licence granted under section 6 has been obtained by misrepresentation as to an essential fact; or

(b) the holder of a licence has, without reasonable cause, failed to comply with the conditions subject to which the licence has been granted or has contravened any of the provisions of this Regulation or any order or rule made thereunder.

then, without prejudice to any other penalty to which the holder of the licence may be liable under this Regulation, the authorised officer may, after giving the holder of the licence a reasonable opportunity of showing cause and being heard, cancel or suspend the licence or forfeit the whole or any part of security, if any, furnished for the due performance of the conditions subject to which the licence has been granted.

(2) Subject to any rules that may be made in this behalf, the authorised officer may, for reasons to be recorded in writing, also vary or amend a licence granted under section 6.

Registration of fishing vessels.

9. (1) No owner of a vessel other than a fishing vessel registered under section 11 of the Marine Products Export Development Authority Act, 1972, shall use or cause to be used for the purposes of fishing in the specified area, unless such vessel is registered as a fishing vessel under this Regulation.

(2) Every application for registration of a vessel as a fishing vessel shall be made by the owner thereof to the authorised officer in such form and in such manner and shall be accompanied by such fees, as may be prescribed,—

Prohibition of fishing by using fishing vessels which are not licensed.

Cancellation, suspension and amendment of licences.

Amend, of section

SEC. 1]

(a) before the expiry of one month from the date on which he became the owner of such vessels; or

(b) before the expiry of three months from the commencement of this Regulation, whichever is later:

Provided that the authorised officer may, for reasons to be recorded in writing, extend the time limit for registration by such period or periods not exceeding six months at a time, as he may think fit.

(3) The authorised officer shall assign a registration number to the vessel and issue to the owner of the vessel registered by him a certificate of registration in the prescribed from and shall enter the particulars of the certificate in the register to be kept by him in such form as may be prescribed:

Provided that the authorised officer may, for reasons to be recorded in writing, refuse to register the vessel.

(4) The registration once made shall continue to be in force until it is cancelled by the authorised officer.

(5) Every vessel registered under this section shall carry the registration mark assigned to it by the authorised officer and such mark shall be displayed on the vessel in the prescribed manner.

(6) No vessel, other than a registered fishing vessel, shall be entitled to apply for a licence under section 6.

10. Where a registered fishing vessel moves from the area of one port to the area of another port, for fishing in that area, the owner of such fishing vessel shall give information to that effect, in the prescribed manner, to the authorised officer by whom such fishing vessel was registered and also to the port officer having jurisdiction over the area to which such fishing vessel moves.

11. (1) Every owner of a registered fishing vessel shall furnish to the authorised officer at such interval and in such manner such return as may be prescribed.

(2) The authorised officer may enter upon and inspect any registered fishing vessel at any time to verify the correctness of any return furnished by the owner under subsection (1).

12. (1) Any person aggrieved by an order made under section 6 or section 8 or section 9 may, within thirty days from the date on which the order is communicated to him, prefer an appeal before the adjudicating officer in the prescribed manner:

Provided that the adjudicating officer may entertain the appeal after the expiry of the said period of thirty days, but not beyond sixty days, if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the adjudicating officer shall, after giving the parties a reasonable opportunity of being heard, pass such orders thereon as he deems fit as expeditiously as possible, and in any case before the expiry of three months from the date of filing of appeal.

13. Every fishery officer shall assist the authorised officer in the discharge of his duties and may—

Powers and duties of fishery officers.

(a) interpose for the purpose of preventing, and shall to the best of his ability prevent, the commission of an offence punishable under this Regulation;

(b) enter into any vessel or premises, for inspecting fishing implements or fish therein and check the possession of the fishing licence and registration of the vessel;

Information to be given to the authorised officer about movement of fishing vessels.

Returns to be furnished by owner of registered fishing vessels.

Appeal against orders made under section 6, section 8 or section 9.

(c) conduct field vertication of the fishing implements and crafts available with the parties who have applied for fishing licence; and

PART II

(d) on knowing the design of any person to commit an offence punishable under this Regulation, bring the same to the notice of the authorised officer.

14. If the authorised officer has, either on receipt of a report of the fishery officer or otherwise, reason to believe that any fishing vessel is being or has been used in contravention of any provision of his Regulation or of any order or rule made thereunder or of any of the conditions of the licence, he may enter and search such vessel and impound the vessel and seize the fish found in it.

15. (1) The authorised officer shall keep the fishing vessel impounded under section 14, in such place and in such manner as may be prescribed.

(2) In the absence of suitable facilities for the storage of the fish-seized, the authorised officer may, if he is of the opinion that the disposal of such fish is necessary, dispose of such fish and deposit the proceeds thereof in the prescribed manner in the office of the adjudicating officer.

CHAPTER III

ADJUDICATION

Adjudication.

Penalty.

16. (1) Where any authorised officer has reason to believe that any fishing vessel is being, or has been, used in contravention of any of the provisions of this Regulation, or of any rule or order made thereunder or of any of the conditions of the licence, he shall make a report thereof to the adjudicating officer.

(2) The adjudicating officer shall hold an inquiry into the matter mentioned in the report in the prescribed manner after giving all the parties concerned a reasonable opportunity of being heard.

17. (1) The adjudicating officer shall, after the inquiry under sub-section (2) of section 16, decide whether any persons has used, or caused or allowed to be used, any fishing vessel in contravention of any of the provisions of this Regulation or of any rule or order made thereunder or any of the conditions of the licence, and any such person, on being found guilty by the adjudicating officer, shall be liable to such penalty not exceeding,—

(a) in case the vessel involved is fifty feet or above in length,—

(*i*) five thousand rupees, if the value of the fish involved is one thousand rupees or less;

(*ii*) five times the value of the fish, if the value of the fish involved is more than one thousand rupees; or

(*iii*) five thousand rupees, in any other case, being a case not involving fish, as may be adjudged by the adjudicating officer;

(b) in case the vessel involved is below fifty feet in length,---

(i) one thousand rupees, if the value of the fish involved is not more than one hundred rupees; or

(*ii*) five times the value of the fish, if the value of the fish involved is more than one hundred rupees but not more than one thousand rupees; or

(*iii*) one thousand rupees, in any other case, being a case not involving fish, as may be adjudged by the adjudicating officer.

(2) In addition to any penalty that may be imposed under sub-section (1), the adjudicating officer may direct that— \cdot

Power to enter and search fishing vessels. 6

Custody of fishing vessels and disposal of seized fish.

be

ment

n 3.

(a) the registration certificate of the fishing vessel which has been used, or caused or allowed to be used, in contravention of any provision of this Regulation or of any order or rule made thereunder or of any condition of the licence shall be—

(i) cancelled; or

(ii) suspended for such period as the adjudicating officer deems fit; or

(b) the fishing vessel which has been impounded and the fish which has been seized under section 14 shall be forfeited to the Administration:

Provided that no fishing vessel shall be forfeited under clause (b), if the adjudicating officer, after hearing the owner of the vessel or any person claiming any right thereto, is satisfied that the owner or such person had exercised due care and caution for the prevention of the commission of such offence.

18. (1) The Administrator may, by notification in the Official Gazette, constitute an Appellate Board.

Constitution of Appellate Board and appeal to Appellate Board.

7

(2) The Appellate Board shall consist of three members one of whom shall be a person who is or has been a District Judge and such person shall be appointed as the Chairperson of the Appellate Board and the other members shall be persons having expertise in fisheries or law and such other qualifications as may be prescribed.

(3) The fees and allowances payable to the Chairperson and other members of the Appellate Board shall be such as may be prescribed.

(4) Any person aggrieved by an order of the adjudicating officer may, within thirty days from the date on which the order is communicated, prefer an appeal to the Appellate Board:

Provided that the Appellate Board may entertain any appeal after the expiry of the said period of thirty days, but not after the expiry of sixty days from the date aforesaid, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(5) No appeal under this section shall be entertained by the Appellate Board unless the appellant has, at the time of filing the appeal, deposited half of the amount of penalty payable under the order appealed against:

Provided that, on an application made by the appellant in this behalf, the Appellate Board may, if it is satisfied that the deposit to be made under this sub-section will cause undue hardship to the appellant, by order in writing, dispense with such deposit either unconditionally or subject to such conditions as it may deem fit to impose.

(6) On receipt of an appeal under sub-section (4), the Appellate Board may, after holding such inquiry as it deems fit, and after giving the parties concerned a reasonable opportunity of being heard, confirm, modify or set aside the order appealed against and the decision of the Appellate Board shall be final.

(7) Where the amount deposited by the appellant by way of penalty under subsection (5) exceeds the amount directed to be paid by the Appellate Board, the excess amount so deposited, or where the Appellate Board sets aside the order imposing penalty, the whole amount so deposited by way of penalty, shall be refunded to the appellant.

19. The Appellate Board may call for and examine the records of any order made under section 17 and against the order where no appeal has been preferred under section 18, for the purpose of satisfying itself as to the legality or propriety of such order or as to the regularity of the procedure and pass such order with respect thereto as it may think fit:

Provided that no such order shall be made without giving a reasonable opportunity of being heard to the parties.

Revision by Appellate Board.

SEC. 1]

[Part II-

Powers of the adjudicating officer and the Appellate Board. 8

20. (1) The adjudicating officer and the Appellate Board shall have all the powers of a civil court under the Code of Civil Procedure, 1908, while trying a suit in respect of the 5 of 1908 following matters, namely:—

(a) summoning and enforcing the attendance of witnesses;

(b) requiring the discovery and production of any document;

(c) requisitioning any public record or copy thereof from any court or office.

(d) receiving evidence on affidavits; and

(e) issuing commissions for the examination of witnesses or documents;

(f) any other matter as may be prescribed.

(2) The adjudicating officer and the Appellate Board, while exercising any power under this Regulation, shall be deemed to be civil courts for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973.

2 of 1974

(3) The Appellate Board shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908, but shall be guided by the principles of natural justice and subject to the other provisions of this Regulation and the rules made by the Administrator, the Appellate Board shall regulate its own procedure.

Contravention by companies.

21. (1) Where a person committing contravention of any of the provisions of this Regulation or any rule or order made thereunder or any of the conditions of a licence granted under it is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the contravention was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such contravention.

(2) Notwithstanding anything contained in sub-section (1), where a contravention under this Regulation or any rule or order made thereunder or any of the conditions of a licence granted under it has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that contravention and shall be liable to be proceeded against and punished accordingly.

Explanation—For the purposes of this section,—

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

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

CHAPTER IV

MISCELLANEOUS

Exemptions.

to

22. (1) Nothing contained in this Regulation shall apply to survey vessels belonging

(a) the Central Government;

(b) a State Government;

(c) a public undertaking.

Explanation— For the purposes of this sub-section, "public undertaking" means any company or corporation owned or controlled by the Central Government including a Union territory Administration or by a State Government.

(2) If the Administrator is of the opinion that, having regard to the purposes of this Regulation, it would not be in the public interest to apply all or any of the provisions of this Regulation to any class of classes of fishing vessels used for fishing in any specified area or areas, he may, by notification in the Official Gazette, exempt, subject to such conditions as he may think fit to impose upon such class or classes of fishing vessel used for fishing in such specified area or areas, as he may specify in the notification, from the operation of all or any of the provisions of this Regulation:

Provided that no notification under this sub-section shall remain in force for more than six months at a time.

23. (1) No suit, prosecution or other legal proceeding shall lie against the Administrator or any officer or authority for anything which is in good faith done or intended to be done in pursuance of this Regulation or any order or rule made thereunder.

(2) No suit or other legal proceeding shall lie against the Administrator or any officer or authority for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Regulation or any order or rule made thereunder.

24. (1) The Administrator may, by notification in the Official Gazette, make rules for Power to make carrying out the purposes of this Regulation.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:----

(a) to regulate, restrict or prohibit the matters under clauses (a), (d) and (e) of sub-section (1) of section 4 and the matters to be considered by the Administrator under clause (f) of sub-section (2) thereof,

(b) the form of the application for grant of licence under sub-section (1), the particulars which it shall contain and the fees which shall accompany it under subsection (2) of section 6;

(c) the matters to be considered by the authorized officer in granting or refusing to grant a licence under clause (d) of sub-section (4) of section 6;

(d) the form of licence, the fees payable, the conditions therein, and the security for the due performance of the conditions of the licence under sub-section (5) of section 6:

(e) the procedure to be followed in varying or modifying a licence under subsection (2) of section 8;

(f) the form of application for registration of a vessel as a fishing vessel and the fees which shall accompany such application under sub-section (2) of section 9;

(g) the form of certificate of registration of a vessel as a fishing vessel, the form of the register referred to in sub-section (3) of section 9 and the manner in which the registration mark of the fishing vessel shall be displayed under sub-section (5) of that section:

(h) the manner in which the information relating to movement of a fishing vessel from the area of one port to another port shall be given under section 10;

(i) the time and manner in which returns by the owner of a registered fishing vessel shall be furnished under sub-section (1) of section 11;

(i) the manner in which appeal shall be preferred before the adjudicating officer under sub-section (1) of section 12;

(k) the place and the manner in which an impounded fishing vessel shall be kept under sub-section (1) of section 15 and the manner in which the proceeds of the seized fish disposed off shall be deposited with the adjudicating officer under sub-section (2) of that section;

Protection of action taken in good faith.

rules.

SEC. 1]

(1) the procedure of the inquiry by the adjudicating officer under sub-section (2) of section 16;

(m) the qualifications of the members of the Appellate Board other than the Chairperson under sub-section (2) of section 18;

(n) the fees and allowances payable to the Chairperson and other members of the Appellate Board under sub-section (3) of section 18;

(o) the matters to be prescribed under clause (f) of sub-section (1) of section 20;

(p) the procedure of Appellate Board under sub-section (3) of section 20;

(q) any other matter in respect of which provision is to be, or may be, made by rules under this Regulation.

(3) Every rule made under this regulation shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

25. (1) If any difficulty arises in giving effect to the provisions of this regulation, the Administrator may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Regulation as may appear to him to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of three years from the commencement of this Regulation.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

26. (1) The Andaman and Nicobar Islands Fisheries Regulation, 1938 is hereby repealed.

(2) The repeal of the said Regulation shall not affect—

1 of 1938

(a) The previous operations of the said Regulation or anything done or suffered thereunder; or

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

(c) any penalty, forfeiture or punishment imposed in respect of any offence committed against the said Regulation; or

(d) any investigation, legal proceedings or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid, and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the said Regulation had not been repealed.

A.P.J. ABDUL KALAM,

President.

T.K. VISWANATHAN, Secy. to the Govt. of India.

Power to remove difficulties.

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Repeal and savings. 10

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MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, Dated the 12th February, 2004/Magha 23, 1925 (Saka)

THE ANDAMAN AND NICOBAR ISLANDS SHOPS AND ESTABLISHMENTS REGULATION, 2004

No. 1 of 2004

Promulgated by the President in the Fifty-fifth Year of the Republic of India.

A Regulation to regulate the hours of work, payment of wages, leave, holidays, terms of service and other conditions of work of persons employed in shops and establishments in the Union territory of the Andaman and Nicobar Islands and for matters connected therewith or incidental thereto.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:-

CHAPTER I

PRELIMINARY

1. (1) This Regulation may be called the Andaman and Nicobar Islands Shops Short title, and Establishments Regulation, 2004.

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(2) It extends to the whole of the Union territory of the Andaman and Nicobar 'Islands:

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(3) It shall come into force on such date as the Administrator may, by notification, appoint; and different dates may be appointed for different provisions of this Regulation and for different areas and any reference in any such provision to the commencement of this Regulation shall be construed as a reference to the coming into force of that provision.

Definitions.

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2. In this Regulation, unless the context otherwise requires,---

(1) "Administrator" means the Administrator of the Union territory of the Andaman and Nicobar Islands, appointed by the President under article 239 of the Constitution;

(2) "adult" means a person who has completed his eighteenth year of age;

(3) "apprentice" means a person who is employed on payment of wages or otherwise for the purpose of being trained in any trade, craft or employment in any establishment;

(4) "child" means a person who has not completed his fourteenth year of age;

(5) "closed" means not open, for the service of any customer, or for any other purpose whatsoever, relating to a business;

(6) "commercial establishment" means any establishment which carries on any business, trade or profession or any work in connection with, or incidental or ancillary to, any business, trade or profession and includes-

(a) a society registered under the Societies Registration Act, 1860 and a 21 of 1860. charitable or other trust, whether registered or not, which carries on any business, trade or profession or any work in connection with, or incidental or ancillary to, any business, trade or profession;

(b) an establishment which carries on the business of advertising or commission agency or forwarding and commercial agency, or which is a clerical department of a factory or of any industrial or commercial undertaking;

(c) an insurance company, a joint stock company or bank or broker's office and an exchange; and

(d) any other establishment which the Administrator may, after taking into consideration the nature of its work, by notification, declare to be a commercial establishment,

but does not include a shop or a factory registered under the Factories Act, 1948 or a 63 of 1948 residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment in respect of which the Factories Act, 1948 or the Plantations Labour Act, 1951 or the Mines Act, 1952 or the Cinematograph Act, 1952 is applicable;

(7) "day" means a period of twenty-four hours beginning at midnight:

Provided that in the case of an employee whose hours of work extend beyond midnight, "day" means the period of twenty-four hours beginning from the time when such employment commences irrespective of midnight;

(8) "employee" means a person wholly or periodically employed, whether directly or otherwise, in or in connection with, any establishment and whether for wages (payable on permanent, periodical, contract, piece-rate or commission basis) or other consideration or for no reward for his labour and includes an apprentice, any clerical or other member of the staff of a factory or industrial establishment which falls outside the scope of the Factories Act, 1948, but does not include a member of the employer's family, and "employed" shall be construed accordingly;

(9) "employer" means a person owning or having charge of, or ultimate control over, the affairs of an establishment and includes members of the family of an employer,

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a manager, agent or other person acting on behalf of such person, manager or agent in the general management, supervision or control of such establishment;

(10) "establishment" means a shop, commercial establishment, residential hotel, lodging house, restaurant, eating house, theatre or other place of public amusement or entertainment to which this Regulation applies and includes such other establishment as the Administrator may, by notification, declare to be an establishment for the purpose of this Regulation;

(11) "family", in relation to an employer, means the husband or wife, son, daughter, father, mother, brother or sister or grandson or grand-daughter of the employer who lives with, and is wholly dependent on, such employer;

(12) "holiday" means a day on which an establishment shall remain closed or on which an employee shall be given a holiday under the provisions of this Regulation;

(13) "Inspector" means an Inspector appointed under section 22;

(14) "leave" means leave as provided for in Chapter IV;

(15) "night" means a period of at least twelve consecutive hours which shall include the interval between 8 O'clock in the evening and 6 O'clock in the morning of the next succeeding day;

(16) "notification" means a notification published in the Andaman and Nicobar Gazette;

(17) "opened" means opened for the service of a customer or for any business connected with the establishment;

(18) "period of work" means the time during which an employee is at the disposal of the employer;

(19) "prescribed" means prescribed by rules made under this Regulation;

(20) "prescribed authority" means the officer appointed, by the Administrator, as a prescribed authority to exercise the powers and perform the functions of the prescribed authority under this Regulation under sub-section (1) of section 17;

(21) "register of establishment" means a register maintained for the registration of establishments under the rules made under this Regulation;

(22) "registration certificate" means a registration certificate issued under subsection (4) of section 4;

(23) "residential hotel" means any premises in which business is carried on for the supply of dwelling accommodation and meals on payment of a sum of money by a traveller or any other person or class of persons and includes a club;

(24) "restaurant" or "eating house" means any premises in which the business is carried on wholly or periodically of the supply of meals or refreshments to the public or class of public for consumption on the premises of the restaurants and includes a *halwai's* shop; but does not include a restaurant attached to a theatre or a restaurant or a canteen attached to a factory if the persons employed therein are allowed the benefits provided to workers under the Factories Act, 1948;

(25) shop" means any premises, used wholly or in part for the sale of goods, either for cash or on credit by retail or wholesale, or both, or, where services are rendered to customers, and includes an office, store room, godown, warehouse, workhouse, sale depot and workplace, whether in the same premises or elsewhere, used in connection with such sale or services, but does not include a factory, commercial establishment, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment or a shop attached to a factory where the persons

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employed in the shop are allowed the benefits provided for workers under the provisions of the Factories Act, 1948;

(26) "spread over" means the period between the commencement and the termination of the work of an employee on any day;

(27) "theatre" includes any premises intended wholly or partly for the exhibition of pictures or other optical effects by means of a cinematograph or other suitable apparatus or for dramatic performance, or for any other public amusement or entertainment;

(28) "wages" shall have the meaning assigned to it in the Payment of Wages Act, 1936;

(29) "week" means a period of consecutive seven days beginning at midnight of Saturday or on such other day as may be approved in writing for a particular area by the prescribed authority;

(30) "year" means a period of twelve consecutive months commencing on and from the 1st day of January;

(31) "young person" means a person who has completed his fourteenth year, but has not completed his eighteenth year, of age.

Exemptions.

3. (1) Nothing in this Regulation shall apply to-

(a) offices of, or under, the Central Government or the State Government or the Union territory or any local authority, except a commercial undertaking;

(b) any Government owned postal, telegraph or telephone services, any system of public conservancy or sanitation or any industry, business or undertaking which supplies power, light or water to the public;

(c) establishments for the treatment or care of the sick, infirm, destitute or mentally unfit;

(d) offices of legal practitioners and medical practitioners in which not more than three persons are employed;

(e) any person employed in the office of, or in the business of, any establishment \cdot mentioned in clauses (a) to (d);

(f) persons holding any office management in any establishment;

(g) persons whose work is inherently intermittent such as temporarily engaged drivers, caretakers, watch and ward staff or canvassers; and

(*h*) persons directly engaged in preparatory or supplementary work, such as clearing and forwarding clerks responsible for the dispatch of goods.

(2) Nothing contained in section 11 or sub-section (1) of section 12 shall apply to-

(a) shops dealing with medicines or medical or surgical requisites or appliances;

(b) residential hotels, boarding houses or hostels, attached to schools, colleges or other educational or technical institutions and establishments maintained in connection with the boarding and lodging of pupils and resident masters;

(c) tea stalls and refreshment rooms at bus stands, ports or aerodromes;

(d) shops of barbers and hairdressers;

(e) shops dealing in meat, fish, poultry, eggs, dairy produce (except ghee), bread, confectionery, sweets, chocolates, ice, ice-cream, cooked food, fruits, flowers, vegetables or green fodder;

(f) shops dealing in articles required for funeral, burial or cremation;

(g) shops dealing in pan (betal leaf), beedis or cigarettes or liquid refreshments sold in retail for consumption on the premises;

(h) shops dealing in newspapers or periodicals, editing sections of newspapers' offices and offices of news agencies:

(i) theatres and other places of public entertainments and stalls and refreshment rooms attached to such theatres and places of public entertainment;

(*j*) establishments for the retail sale of petrol;

(k) shops in regimental institutes, garrison shops and military canteens in cantonments;

(l) tanneries;

(m) retail trade carried on at an exhibition or show, if such retail trade is subsidiary or ancillary only to main purpose of the exhibition of show;

(n) oil mills and flour mills not registered under the Factories Act, 1948;

(o) brick and lime kilns; and

(p) commercial establishments engaged in the manufacture of bronze and brass utensils so far as it is confined to the process of melting in furnaces.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the Administrator may, by notification, declare that any establishment or person specified in such notification shall not be exempted from the operation of such provisions of this Regulation as may be specified therein.

(4) Notwithstanding anything contained in this Regulation, the Administrator may, by notification, exempt any shop or commercial establishment or hotel or restaurant or place of public amusement from all or any of the provisions of this Regulation as he deems expedient or necessary to do so in the interest of the workers.

(5) On an application made in this behalf by the employer of an establishment, the Administrator may, by notification, exempt, the establishment where the nature of work is -

(a) intermittent; or

(b) seasonal; or

. (c) for a short duration, not exceeding two months and where the Inspector certifies that it may be difficult to enforce the provisions of this Regulation,

from all or any of the provisions of this Regulation, subject to such conditions as may be specified in the notification.

CHAPTER II

REGISTRATION OF ESTABLISHMENTS

4. (1) The Administrator shall, by notification, appoint one or more Assistant Labour Registration Commissioners to be the Registering Officers (hereafter in this Regulation referred to as the Registering Officers) for the purposes of registering the establishments and define their local limits of jurisdiction in that notification.

of establishments.

(2) The employer of an establishment shall, within the period specified in sub-section (6), apply in the prescribed form to the Registering Officer for registration of the establishment together with such fees not exceeding the amount specified in column (3) of the Schedule which . e Administrator may, from time to time, by order, determine.

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(3) Every application for registration under sub-section (2) shall contain-

(a) the name of the estab ishment;

(b) the name of the employer of the establishment and the manager thereof, if any;

(c) the postal address of the establishment;

(d) the category of the ϵ stablishment, that is to say, whether it is a shop or a commercial establishment or any other category of establishment;

(e) the number of employees working in the establishment; and

(f) such other particulars as may be prescribed.

(4) On receipt of the application and the requisite fees under sub-section (1), the Registering Officer shall, on being satisfied about correctness of the particulars contained therein, register the establishment and make the entries in the register of establishment in such manner as may be prescribed, and shall issue, in a prescribed form, a registration certificate to the employer.

(5) Every employer shall display the registration certificate issued under sub-section (4) in a conspicuous place in the establishment.

(6) Within thirty days from the date,---

(a) in the case of an establishment existing at the commencement of this Regulation, on which this Regulation comes into force;

(b) in the case of an establishment established on or after the commencement of this Regulation, on which the establishment is established,

the employer of the establishment shall apply under sub-section (2).

(7) The registration certificate issued under sub-section (4) shall be valid for a period of one year from the date on which it is issued or renewed and the employer to whom such certificate is issued may, within therty days immediately before the expiry of the validity of such certificate, apply to the Registering Officer in the prescribed form together with such fees not exceeding the amount spec fied in column (4) of the Schedule which the Administrator may, from time to time, by order, determine and the Registering Officer shall, on receipt of the application and the requisite fees, enew the registration certificate for a further period of one year at a time and for such purpose he shall record such renewal on the back of the certificate under his hand and seal.

Changes to be intimated to the Registering Officer.

5. (1) It shall be the duty \cdot f an employer to intimate the Registering Officer, on a prescribed form, any change in respect of any particulars furnished under sub-section (3) of section 4, within fifteen days after the change has taken place.

(2) The Registering Office shall, on receipt of such intimation and on being satisfied regarding its correctness, make necessary changes in the register of establishment and shall amend the registration certificate or issue a fresh registration certificate instead thereof, if necessary.

Closing of establishment to be intimated to the Registering Officer. 6. (1) An employer of an establishment shall, within fifteen days of the closing of the establishment, intimate the Registering Officer in writing about the date of such closing with reasons thereof, and return the registration certificate issued under sub-section (4) of section 4, regarding the establishment to the Registering Officer.

(2) The Registering Officer shall, on receiving the intimation under sub-section (1) and on being satisfied about the correctness thereof, remove such establishment from the register of establishment and cancel the registration certificate issued regarding such

(3) Where the Registering Officer does not receive intimation under sub-section (1) of section 5 or under sub-section (1), but is otherwise satisfied that there is change in respect of any particulars furnished under sub-section (3) of section 4 regarding an establishment, or the establishment has been closed, he may, after giving a reasonable opportunity of making a representation by the employer of the establishment, remove the establishment from the register of establishment and cancel the registration certificate issued in respect of the establishment.

CHAPTER III

HOURS OF WORK

7. (1) No adult employee in any establishment shall be required or permitted to work Daily and weekly hours. for more than nine hours in any day or forty-eight hours in any one week:

Provided that the total number of hours of work including overtime shall not exceed ten hours in any day except on days of stock-taking and preparation of accounts:

Provided further that the total number of hours worked overtime by an employee shall not exceed fifty hours in a period of three continuous months.

(2) No young person shall be required or permitted to work in any establishment for more than five hours in any day.

8. (1) Where an adult employee works in any establishment for more than nine hours in any day or more than forty-eight hours in any week, he shall, in respect of such overtime work, be entitled to wages at twice the rate of normal wages.

Explanation .--- For the purposes of this sub-section, "normal wages" means the basic wages and such allowances including the cash equivalent of the advantage accruing through concessional sale to a worker of foodgrains and other articles, as the employee is for the time being entitled to, but does not include bonus.

(2) The cash equivalent of the advantage accruing through the concessional sale of foodgrains and other articles to an employee shall be computed in the prescribed condition and manner on the basis of the maximum quantity of foodgrains and other articles admissible to a standard family.

Explanation .--- For the purposes of this sub-section,---

(a) "standard family" means a family consisting of an employee, his spouse and his two children below the age of fourteen years requiring in all three adult consumption units;

(b) "adult consumption unit" means the consumption unit of a male or a female above the age of fourteen years and the consumption unit of a person below the age of fourteen years shall be calculated at the rate of one-half of an adult consumption unit,

(3) The Administrator may, by order, specify---

(a) the manner in which the cash equivalent of the advantage accruing through the concessional sale to an employee of foodgrains and other articles shall be computed; and

(b) the registers which shall be maintained in an establishment for the purpose of securing compliance with the provisions of this section.

9. The period of work in an establishment during each day shall be so fixed that-

(a) no adult employee shall be required or permitted to work continuously for more than five hours; and

(b) no young person shall be required or permitted to work continuously for more than three hours, before he has had an interval for rest of at least one hour.

Extra wages for overtime work.

Interval for

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Spread over.

Opening and closing hours. 10. The periods of work and intervals for rest in an establishment shall be so arranged by the employer that it should not spread over for more than twelve hours in the case of an adult employee, and eight hours in the case of a young person, on any day.

11. (1) No establishment shall, on any day, be opened earlier than such hour or be closed later than such hour as may be fixed, by notification issued in that behalf, by the Administrator:

Provided that any customer who was being served or was waiting to be served in any establishment at the hour fixed for its closing, may be served during the quarter of an hour immediately following such hour.

(2) Before issuing a notification under sub-section (I), the Administrator may get an inquiry conducted in such manner as he may deem necessary for the purpose of issuing such notification.

(3) The Administrator may, for the purpose of this section, fix, by order, different opening hours and different closing hours for different establishments or different classes of establishments or for different areas or for different times of the year, as he may deem necessary.

12. (1) Every establishment shall remain closed on, and every person employed in such establishment shall be allowed as holiday for rest on, one day of a week:

Provided that in an establishment in which rest for more than one day in a week is allowed immediately before the commencement of this Regulation, such period of rest shall be continued so on the commencement of this Regulation.

(2) Such holiday of the week shall be fixed by the employer at the beginning of the year and shall be intimated to the Registering Officer and shall be displayed on a notice board prominently at a conspicuous place in the establishment.

(3) The employer shall not alter such day more often than once in three months and shall intimate the alteration to the Registering Officer and shall make the necessary change in the notice board referred to in sub-section (1) whenever such alteration is made.

(4) It shall not be lawful for an employer to call an employee at, or for an employee to go to, the establishment or any other place for any work in connection with business of the establishment on a weekly holiday.

(5) No deduction shall be made from the wages of an employee in an establishment on account of the holiday given to him under this section.

(6) If any employee is employed on daily wages, he shall nonetheless be paid his wages for the weekly holiday.

13. Save as otherwise provided by any other law for the time being in force, no person shall carry on, in or adjacent to a street or public place, the sale of any goods at any time before the opening and after the closing hours fixed under section 11 and on holidays in respect of an establishment dealing in the same class of goods in the locality in which such street or public place is situated:

Provided that nothing in this section shall apply to the sale of newspapers and such other articles as may be exempted, by notification, by the Administrator.

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CHAPTER IV

OTHER CONDITIONS OF EMPLOYMENT

14. (1) An employee, who has served for a period of two hundred and forty days or more during a continuous period of twelve months in any establishment; shall be entitled during the subsequent period of twelve months, to leave with wages for a period of fifteen days:

Weekly holiday.

Selling outside establishments prohibited after closing hours.

Leave

Provided that such leave with wages may be accumulated up to a maximum period of forty-five days:

Provided further that any continuous period of service not exceeding twelve months in an establishment preceding the date on which this Regulation applies to that establishment shall also count for entitlement to leave with wages:

Provided also that any leave accumulated by an employee in an establishment under the law applicable to that establishment preceding the date on which this Regulation applies to such establishment, shall not be affected.

(2) An employee of an establishment may apply in writing to the employer of that establishment, not less than seven full working days before the date of availing of leave with wages for the grant of the full period of leave or any portion thereof, to which he is entitled under sub-section (1):

Provided that an employee shall not be granted leave on more than three occasions during the period of twelve months.

(3) An employee of an establishment who has been allowed leave for not less than five days under sub-section (2) shall, on request, prior to the beginning of his leave, be paid by the employer of that establishment the wages due for the period of the leave.

(4) An employee shall be entitled, after the first twelve months of his continuous service and during every subsequent twelve months of such service,—

(a) to sick leave with wages for a period not exceeding twelve days, on the grounds of sickness or accident; and

(b) to casual leave with wages for a period not exceeding twelve days on any reasonable ground.

(5) If an employee entitled to leave under sub-section (1) is discharged by his employer before the employee has been allowed such leave, or if the leave applied for by such employee has been refused, the employer shall pay to such employee the full wages in respect of the period of leave to which he was entitled at the time of such discharge.

(6) If an employee is discharged by his employer when the employee is sick or suffering from an accident, the employer shall pay such employee the amount payable under this section in respect of the period of leave to which such employee was entitled at the time of such discharge.

(7) An employee in a hostel attached to a school or college or in an establishment maintained in connection with the boarding and lodging of pupils and resident masters, shall be allowed the privileges referred to in sub-sections (1) to (6), which shall be determined proportionately to the period for which he was employed continuously in the previous year or to the period for which he will be employed continuously in the current year, as the case may be, and all references to the periods of leave in sub-sections (1) and (4) shall be construed accordingly and fractions of less than half a day shall be disregarded.

15. (1) Every employee in an establishment shall be entitled to the following holidays with wages, in a year, and on every such holiday the establishment shall remain closed, namely:—

Other holidays

(a) three national holidays, namely, the 26th day of January (Republic Day), the 15th day of August (Independence Day) and the 2nd day of October (Gandhi Jayanti); and

(b) five festival holidays on such days as the Administrator may, by notification, from time to time, pecify:

Provided that an employee in any residential hotel, restaurant, eating house, theatre or any place of public amusement or entertainment may be required to work in such establishment

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on any such holiday, subject to the condition that in lieu thereof, a compensatory holiday with wages shall be allowed to such person within thirty days from the date of such holiday:

Provided further that where any such employee in any establishment is required to work on any such compensatory holiday, he shall be paid additional wages to the ordinary rate of wages in lieu of such holiday.

(2) The provisions of sub-section (1), insofar as they relate to festival holidays referred to in clause (b) of that sub-section, shall not apply to an establishment where the number of such holidays with wages allowed by the employer is more than the holidays specified under the said clause by the Administrator.

16. An employee shall, for the period of the leave admissible under sub-sections (1) and (4) of section 14 or the holidays allowed under section 15, be paid at a rate equivalent to the daily average of his wages for the days on which he actually worked during the preceding month exclusive of any earnings in respect of overtime.

17. (1) The Administrator may, by notification, appoint an officer of the Department of Labour of the Union territory of the Andaman and Nicobar Islands, not below the rank of the Labour Commissioner, to be the prescribed authority to exercise the powers and perform the functions of the prescribed authority under this Regulation.

(2) No employer shall remove or dismiss an employee who has put in continuous service for a period of not less than six months, except for a reasonable cause and unless the employee has been given one month's prior notice in writing or has been paid one month's wages in lieu thereof:

Provided that where misconduct of an employee is brought on record with proof in an inquiry held for the purpose, he shall not be entitled to one month's prior notice or one month's pay in lieu of such notice.

(3) An employee removed or dismissed under sub-section (2) shall have a right of appeal to the prescribed authority on the ground that there was no reasonable cause for the removal or dismissal or that the employee has not been guilty of misconduct as held by the employer.

(4) Where an employee has been removed or dismissed without reasonable cause or without proof of misconduct, the employee shall, where the employer does not agree to reinstate him, be entitled to such compensation as the prescribed authority may determine:

Provided that such compensation shall not exceed an amount calculated at one month's pay for every completed year of service subject, in any case, to the maximum of six months' pay.

(5) Any person aggrieved by an order of the prescribed authority may apply to the District Judge for a revision of such order and subject to the result of such revision, the decision of the prescribed authority shall be final and binding on both the employer and the employee.

(6) The amount payable as compensation under this section shall be in addition to any fine payable under section 26 and be recoverable as arrears of land revenue.

(7) No employee who has been awarded compensation under this section shall be entitled to bring a civil suit in respect of the same claim.

(8) Nothing contained in sub-section (2) or sub-section (4) shall affect the provisions of any other law or terms of an award, agreement or contract of service, under which an employee is entitled to a longer period of notice or to more favourable benefits.

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18. (1) Notwithstanding anything contained in the Payment of Wages Act, 1936, the

Pay during leave and holidays.

Appointment of prescribed authority and notice of dismissal.

> Application of Act 4 of 1936.

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Regulation shall apply to all or any class of employees and their employers in establishments to which this Regulation applies and the said Act or the provisions thereof, as the case may be, shall be applicable as if the same had been enacted in this Regulation.

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(2) On the application of the provisions of the Payment of Wages Act, 1936 to the employees and employer of any establishment under sub-section (1), the Inspector appointed under this Regulation shall be deemed to be the Inspector for the purpose of the enforcement of the provisions of the said Act within the local limits of his jurisdiction.

19. The provisions of the Workmen's Compensation Act, 1923 and the Maternity Benefit Act, 1961 and the rules made thereunder shall apply mutatis mutandis to the employers and the employees of establishments to which this Regulation applies.

20. No child shall be employed in any establishment except as provided in the Child Labour (Prohibition and Regulation) Act, 1986.

21. No woman or a young person shall be required or permitted to work whether as an employee or otherwise in any establishment during night.

CHAPTER V

ENFORCEMENT AND INSPECTION

22. The Administrator may, by notification, appoint such number of Inspectors as Inspectors. may be necessary for the purposes of carrying out the provisions of this Regulation and define the local limits of jurisdiction within which they shall exercise their functions.

23. Subject to the rules made under this Regulation, an Inspector may, within the local limits of his jurisdiction,-

(a) enter, at working hours, with such assistants, if any, being persons in the service of the administration of the Union territory of the Andaman and Nicobar Islands, as he may consider necessary, any place which is, or which he has reason to believe to be, an establishment;

(b) make such examination of the premises and of any prescribed registers, records and notices and take on the spot or otherwise, evidence of any person as he may deem necessary, for carrying out the purposes of this Regulation; and

(c) exercise such other powers as may be prescribed for carrying out the purposes of this Regulation:

Provided that no person shall be required under this section to answer any question or to give any evidence tending to incriminate himself.

24. Every person appointed under section 22 to be an Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

25. Every employer shall, on demand by an Inspector, produce for inspection, all registers, records and notices required to be kept under this Regulation.

CHAPTER VI

OFFENCES, PENALTIES AND PROCEDURE

26. (1) If any person contravenes any of the provisions of this Regulation, he shall be punishable with fine which may extend to five hundred rupees.

(2) If any person, who has been convicted of the commission of an offence under sub-section (1), is subsequently convicted of the commission of the offence under the said sub-section, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

Application of Acts 8 of 1923 and 53 of 1961.

Prohibition of employment of childron.

Prohibition of employment of women and young persons during night.

Powers and duties of Inspectors.

Inspectors to be public servants.

Employer to produce registers. records, etc., for inspection.

Penalties

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(3) If any person makes or causes or allows to be made in any register, record, document or notice required to be maintained or kept or displayed under this Regulation or the rules made thereunder any entry which is, to his knowledge, false in any material particular, or wilfully omits or causes or allows to be omitted from any such register, record, document or notice an entry required to be made therein, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to one thousand rupees, or with both.

(4) If any person contravenes any provision of any rule made under this Regulation, he shall be punishable with fine which may extend to fifty rupees.

(5) No court shall take cognizance of any offence under this section, except on the complaint made by the Inspector:

Provided that no such complaint shall be made by the Inspector after the expiry of two years from the date on which the commission of the offence comes to the knowledge of the Inspector.

Procedure.

Penalty for obstructing inspectors, etc. 27. No court inferior to that of a Metropolitan Magistrate or Judicial Magistrate of the First Class shall try any offence punishable under this Regulation.

28. If a person—

(a) wilfully obstructs an Inspector in the discharge of his duties; or

(b) wilfully obstructs any person lawfully assisting an Inspector in the discharge of his duties; or

(c) fails to comply with any lawful direction given by an Inspector,

he shall be punishable with fine which may extend to two hundred and fifty rupees.

CHAPTER VII

MISCELLANEOUS

29. (1) Subject to the general or special orders of the Administrator, an employer of an establishment shall maintain such registers and records, and display on the premises of the establishment such notices, as may be prescribed.

(2) All such registers and records shall be kept on the premises of the establishment to which they relate.

30. Nothing in this Regulation shall affect any rights or privileges to which an employee in any establishment is entitled under any other law, contract, custom or usage for the time being applicable to such establishment, or any rights or privileges under any award, settlement or agreement binding on the employer and the employee in such establishment, if such rights or privileges are more favourable to him than those to which he would be entitled under this Regulation.

.31. No suit, prosecution or other legal proceeding shall lie against the Administrator, the prescribed authority or any other officer employed in connection with the affairs of the Union territory of the Andaman and Nicobar Islands in respect of anything done or intended to be done in good faith under this Regulation or for any damage caused by any action taken in good faith in carrying out the provisions of this Regulation.

32. (1) The Administrator may, by notification, delegate to any officer of the Department dealing with Labour in the administration of the Union territory of the Andaman and Nicobar Islands, all or any of the powers conferred on the Administrator by this Regulation, except the powers under sub-section (3) of section 1, sub-sections (3) and (4) of section 3, sections 18,22 and 34 and any powers so delegated shall be exercised by such officer subject to such restrictions and conditions as may be specified in the notification.

Maintenance of registers and records and display of notices.

Saving of certain rights and privileges.

Protection of action taken in good faith.

Delegation of powers.

(2) The exercise of the powers delegated up der sub-section (1) shall be subject to the control and direction of, and be revised from time to time by, the Administrator.

33. On any special occasion in connection with a fair or festival or a public holiday, the Administrator may, by notification, suspend for a specified period the operation of all or any of the provisions of this Regulation or of any rules and orders made thereunder subject to such conditions, if any, as may be specified in the notification.

34. (1) The Administrator may, after previous publication by notification, make rules for carrying out the purposes of this Regulation.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the register of establishment to be maintained in pursuance of clause (21) of section 2;

(b) the form for applying to the Registering Officer for registration under subsection (2) of section 4;

(c) the other particulars under clause (f) of sub-section (3) of section 4;

(d) the manner of making entries in the register of establishment and the form of issuing a registration certificate under sub-section (4) of section 4;

(e) the form for applying to the Registering Officer under sub-section (7) of section 4;

(f) the form in which any change in respect of any particulars be intimated under sub-section (1) of section 5;

(g) the condition and manner for computing the cash equivalent of advantage under sub-section (2) of section 8;

(h) the registers, records and notices to be examined under clause (b) of section 23;

(i) other powers of an Inspector under clause (c) of section 23;

(j) the registers and records to be maintained and notices to be displayed under sub-section (1) of section 29;

(k) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Administra or under this Regulation shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not i e made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

35. (1) If any difficulty arises in giving effect to the provisions of this Regulation, the Administrator may, by order, published to the Andaman and Nicobar Gazette, make such provisions not inconsistent with the provisions of this Regulation, as appear to him to be necessary or expedient for removing the difficulty:

Power to remove difficultie

Provided that no such order shall be made after the expiry of a period of two years from the date of the commencement of this Regulation.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

SEC. 1]

Power of the Administrator to suspend provisions of Regulation during fairs and festivals.

Power to make rules.

[Part II---

Repeal and saving.

14

36. On and from the date on which this Regulation comes into force, the Weekly Holidays Act, 1942 shall, insofar as it is applicable to the shops and establishments situated 18 of 1942. in the Union territory of the Andaman and Nicobar Islands is hereby repealed:

Provided that such repeal shall not affect-

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

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

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed under the said Act; or

. (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the said Act had not been repealed.

THE SCHEDULE

[See section 4(2) and (7)]

REGISTRATION FEES

Serial No.	Category of establishment	Fees for registration in rupees	Fees for renewal of registration in rupees
(1)	(2)	(3)	(4)
1.	Establishment having no employee	. 10/-	10/-
2.	Establishment having ten or less than ten employees.	100/-	100/-
3.	Establishment having more than ten but less than twenty-five employees.	150/-	150/-
4.	Establishment having twenty-five employees or above.	200/-	200/-

A.P.J.ABDULKALAM, President.

T.K.VISWANATHAN, Secy. to the Govt. of India.

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सं॰ 22]नई दिल्ली, शुक्रवार, मई 21, 2004/ वैशाख 31, 1926No. 22]NEW DELHI, FRIDAY, MAY 21, 2004/ VAISAKHA 31, 1926

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, dated the 21st May, 2004/Vaisakha 31, 1926 (Saka)

THE DADRA AND NAGAR HAVELI MUNICIPAL COUNCIL REGULATION, 2004

No. 2 of 2004

Promulgated by the President in the Fifty-fifth Year of the Republic of India.

A Regulation to provide for the establishment of Municipal Council in the Union territory of Dadra and Nagar Haveli and for matters connected therewith.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:---

CHAPTER I

PRELIMINARY

1. (1) This Regulation may be called the Dadra and Nagar Haveli Municipal Council Short extension, 2004.

Short title, extent and commencement.

Definitions.

(2) It extends to the whole of the Union territory of Dadra and Nagar Haveli.

(3) It shall come into force on such date as the Administrator may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Regulation and any reference in any such provision to the commencement of this Regulation shall be construed as a reference to the coming into force of that provision.

2. In this Regulation, unless the context otherwise requires,-

(1) "Administrator" means the Administrator of the Union territory of Dadra and Nagar Haveli appointed by the President under article 239 of the Constitution; (2) "appointed day", in relation to an area, means the date on which the relevant provisions of this Regulation come into force in that area;

(3) "building" includes a house, out-house, stable-shed, hut and other enclosure or structure, whether of masonry, bricks, wood, mud, metal or any other material whatever, whether.used as human dwelling or otherwise and also includes verandahs, fixed platforms, plinths, door steps, walls (including compound walls) and fencing and the like;

(4) "bye-law" means a bye-law made or deemed to be made by the Council under this Regulation;

(5) "cesspool" includes a tank for the reception or disposal of foul matter from buildings;

(6) "Chief Officer" means the person appointed or deemed to be appointed under this Regulation to be the Chief Officer of a municipal area;

(7) "Collector" means the Collector of Dadra and Nagar Haveli;

(8) "Council" means a Municipal Council constituted or deemed to be constituted under this Regulation for a municipal area;

(9) "Councillor" means a person who is duly elected as a member of the Council;

(10) "dairy" includes any farm, cattle-shed, cow-house, milk-store, milk-shop or other place from where milk is supplied for sale, or where milk is kept for purposes of sale or manufactured into butter, ghee, cheese, curd, dried, sterilised or condensed or toned milk, but does not include—

(a) a shop or other place in which milk is sold for consumption on the premises only; or

(b) a shop or other place from which milk is sold or supplied in hermetically closed and un-opened receptacles in the same original condition in which it was first received in such shop or other place;

(11) "director" means the person appointed by the Government to be the Director of Municipal Administration under this Regulation:

(12) "district" means a district in the Union territory;

(13) "drain" includes a sewer, tunnel, pipe, ditch, gutter or channel and any cistern, flush-tank, septic tank or other device for carrying off or treating sewage, offensive matter, polluted water sullage, waste water, rain water or sub-soil water and any culvert, ventilation shaft or pipe or other appliance or fitting connected therewith, and any ejectors, compressed air mains, sealed sewage mains and special machinery or apparatus for raising, collecting, expelling or removing sewage or offensive matter from any place;

(14) "eating house" means any premises to which the public or any section of the public are admitted and where any kind of food is prepared or supplied for consumption on the premises or elsewhere for the profit or gain of any person owning or having an interest in or managing such premises;

(15) "election" means an election to a Council and includes bye-election;

(16) "Election Commission" means the Commission referred to in section 5;

(17) "factory" means a factory as defined in the Factories Act, 1948;

(18) "filth" includes sewage, night-soil and all offensive matter;

63 of 1948.

(19) "Finance Commission" means the Commission referred to in section 139;

(20) "food" includes every article used as food or drink for human consumption other than drugs or water; and any article which ordinarily enters into or is used in the composition or preparation of human food, and also includes confectionery, flavouring and colouring matters and spices and condiments;

(21) "goods" include animals;

(22) "Government" means the Administrator;

(23) "house drain" means any drain of, and used for the drainage of, one or more buildings or premises and made merely for the purpose of communicating therefrom with a municipal drain;

(24) "house gully or service passage" means a passage or strip of land constructed, set apart or utilised for the purpose of serving as or carrying a drain or affording access to a privy urinal, cesspool or other receptacle for filth or polluted matter, by servants of the Council or by persons employed in the cleansing thereof or in the removal of such matter therefrom;

(25) "land" includes land which is being built upon or is built upon or covered with water, benefits to arise out of land, things attached to the earth or permanently fastened to anything attached to the earth and right created by legislative enactment over any street;

(26) "local authority" means a municipality or village panchayat, as the case may be, constituted under any law for the time being in force in the Union territory;

(27) "lodging house" means a building or part of a building where lodging with or without board or other service is provided for, a monetary consideration, and includes a lodging house for pilgrims whether lodging is provided for or without any monetary consideration;

(28) "market" includes any place where persons assemble for the sale of, or for the purpose of exposing for sale, livestock or food for livestock or meat, fish, fruit, vegetables, drinks, animals intended for human food or any other articles of human food whatsoever with or without the consent of the owner of such place, notwithstanding that there may be no common regulation of the concourse of buyers and sellers and whether or not any control is exercised over the business of or the persons frequenting the market by the owner of the place or any other person;

(29) "milk" includes cream, skimmed milk, separated milk and condensed, sterilised, desiccated or toned milk;

(30) "municipal area" means any local area declared or deemed to be declared as municipal area by or under this Regulation;

(31) "municipal market" or "municipal slaughter house" means a market or a slaughter house, as the case may be, which belongs to or is maintained by the Council;

(32) "nuisance" includes any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smell or hearing or which is or may be dangerous to life or injurious to health or property;

(33) "occupier" includes---

(a) any person who for the time being is paying or is liable to pay to the owner the rent or any portion of the rent of the land or building in respect of which such rent is paid or is payable,

SEC. 1]

(b) an owner living in or otherwise using his land or building,

(c) a rent free tenant,

(d) a licensee in occupation of any land or building, and

(e) any person who is liable to pay to the owner damages for the use and occupation of any land or building;

(34) "offensive matter" includes animal carcasses, dung, dirt and putrid or putrifying substances other than sewage;

(35) "officer or servant of the Council" means the officer or servant appointed by the Council or any other competent authority subordinate to it and includes any Government officer or servant who is for the time being serving under the Council;

(36) "official year" or "financial year" means the year commencing on the first day of April;

(37) "owner" means,—

(a) when used with reference to any premises, the person who receives the rent of the said premises, or who would be entitled to receive the rent thereof if the premises were let, and includes—

(i) an agent or trustee who receives such rent on account of the owner,

(*ii*) an agent or trustee who receives the rent of or is entrusted with or concerned for any premises devoted to religious or charitable purposes,

(*iii*) a receiver, sequestrator or manager appointed by any Court of competent jurisdiction to have the charge of, or to exercise the rights of an owner of the said premises, and

(iv) a mortgagee in possession, and

(b) when used with reference to any animal, vehicle or boat, includes the person for the time being in charge of the animal, vehicle or boat;

(38) "population" means the population as ascertained at the last preceding census of which the relevant figures have been published;

(39) "premises" includes messuages, buildings and land of any tenure, whether open or enclosed, whether built on or not and whether public or private;

(40) "prescribed" means prescribed by rules made under this Regulation;

(41) "President" and "Vice-President" means the President and Vice-President of the Council;

(42) "private market" means a market which is not a municipal market, but does not include a market established for the purposes of any law for the time being in force regulating the marketing of agriculture and other produce in such market:

(43) "private slaughter-house" means a slaughter-house which is not a municipal slaughter-house;

(44) "private street" means a street which is not a public street;

(45). "privy" means a place set apart for defecating or urinating or both, together with the structure comprising such place the receptacle therein for human excrete and the fittings and apparatus, if any, connected therewith, and includes a closet of the dry type and aqua privy, a latrine and a urinal;

(46) "public place" includes any public park or garden or any ground to which the public have or are permitted to have access;

(47) "public securities" means-

(a) securities of the Central Government and of any State Government;

(b) securities, stocks, debentures or shares the interest whereon has been guaranteed by the Central or State Government;

(c) debentures or other securities for money issued by or on behalf of any local authority in exercise of powers conferred by any enactment for the time being in force in any part of the territory of India; or

(d) securities expressly authorised by an order which the Government makes in this behalf;

(48) "public street" means any street-

(a) over which the public have a right of way;

(b) heretofore levelled, paved, metalled, channelled, sewered or repaired out of municipal or other public funds; or

(c) which under the provisions of this Regulation becomes, or is declared, a public street;

(49) "rubbish" includes dust, ashes, broken bricks, mortar, broken glass, garden or stable refuse and refuse of any kind which is not offensive matter or sewage;

(50) "rules" means rules made by the Government under this Regulation;

(51) "Scheduled Castes" means such castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed to be Scheduled Castes in relation to the Union territory under article 341 of the Constitution;

(52) "Scheduled Tribes" means such tribes or tribal communities or parts of, or groups within such tribes or tribal communities as are deemed to be Scheduled Tribes in relation to the Union territory under article 342 of the Constitution;

(53) "sewage" means night-soil and other contents of water closets, latrines, privies, urinals, cesspools or drains and polluted water from sinks, bath rooms, stables, cattle-sheds and other like places, and includes trade effluent and discharges from manufactories of all kinds;

(54) "street" means any road, foot-way square court-alley, or passage, accessible whether permanently or temporarily to the public, whether a thoroughfare or not; and shall include every vacant space, notwithstanding that it may be private property and partly or wholly obstructed by any gate, post, chain or other barrier, if houses, shops or other buildings abut thereon and if it is used by any person as a means of access to or from any public place or thoroughfare, whether such person be occupier of such buildings or not, but shall not include any part of such space which the occupier of any such building has a right at all hours to prevent all other persons from using as aforesaid;

(55) "Union territory" means the Union territory of Dadra and Nagar Haveli;

(56) "vehicle" includes a carriage, cart, van, dray, truck, hand-cart, bicycle, tricycle, motor-car, and every wheeled conveyance which is used or is capable of being used on a street;

(57) "ward" means the territorial constituency of the municipal area;

SEC. 1]

(58) "water-closet" means a closet which has a separate fixed **rec**eptacle connected to a drainage system and separate provision for flushing from a supply of clean water either by the operation of mechanism or by automatic action;

[PART II

(59) "water connection" includes-

(a) any tank, cistern, hydrant, stand-pipe, meter or tap situated on a private property and connected with a water-main or pipe belonging to the Council; and

(b) the water-pipe connecting such tank, cistern, hydrant, stand-pipe, meter or tap with such water main or pipe;

(60) "water work" includes a lake, stream, spring, well, pump, reservoir, cistern, tank, duct, whether covered or open, sluice, main pipe, conduit, engine, water truck, hydrant, stand-pipe, conduit, and machinery, land, building or thing for supplying or used for supplying water or for protecting sources of water supply.

CHAPTER II

MUNICIPAL COUNCIL

Municipal areas and their classification

Areas to be declared as in municipal areas ti

3. (1) After making such enquiries as it deems fit, the Government may, by notification in the Official Gazette, declare any local area to be a municipal area in accordance with the provisions of clause (2) of article 243Q of the Constitution.

(2) Every notification issued under sub-section (1) shall define the limits of the municipal area to which it relates and such area shall be called the municipal area.

(3) Before the publication of a notification under sub-section (1), the Government shall cause to be published in the Official Gazette and also in at least one newspaper circulating in the area to be specified in the notification, a proclamation announcing the intention of the Government to issue such notification, and inviting all persons who entertain any objection to the said proposal to submit the same in writing with the reasons therefor to the Collector of the District within two months from the date of the publication of the proclamation in the Official Gazette.

(4) The Collector shall, with all reasonable despatch, forward any objection so submitted to the Government.

(5) No such notification as aforesaid shall be issued by the Government unless the objections, if any, so submitted are in its opinion insufficient or invalid.

Constitution of Municipal Council for Dadra and Nagar Haveli.

Election

Commission.

4. There shall be constituted a Municipality for the Dadra and Nagar Haveli municipal area to be known as the Dadra and Nagar Haveli Municipal Council from such date as the Administrator may, by notification in the Official Gazette, appoint.

5. (1) With effect from such date as the President may by notification, specify, the Election Commission constituted under section 185 of the Andaman and Nicobar Islands (Panchayats) Regulation, 1994 shall be the Election Commission for the superintendence, directions and control of the preparation of electoral rolls for, and the conduct of all elections to the Council in the Union territory of Dadra and Nagar Haveli.

(2) The Administrator shall when so requested by the Election Commission, make available to that Commission such staff which the Administrator consider necessary for discharge of the functions conferred on the Election Commission by sub-section (1).

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6. (1) The Government may by notification in the Official Gazette-

(a) alter the limits of a municipal area so as to include therein or to exclude therefrom such local area as may be specified in the notification;

(b) amalgamate two or more municipal areas so as to form one municipal area;

(c) split up any municipal area into two or more municipal areas;

(d) declare that the whole of any local area comprising a municipal area shall cease to be a municipal area:

Provided that no such notification shall be issued by the Government under any of the clauses of this sub-section without consulting the Municipal Council or Councils and other local authorities concerned.

(2) Prior to the publication of a notification under sub-section (1), the procedure prescribed in sub-sections (3), (4) and (5) of section 3 shall *mutatis mutandis* be followed.

Municipal authorities and establishment of Council

7. The municipal authorities charged with carrying out the provisions of this Municipal authorities Regulation for a municipal area are—

(a) the Council;

(b) the President;

(c) the Standing Committee;

(d) the Subjects Committees, if any; and

(e) the Chief Officer.

8. For every municipal area there shall be a Municipal Council. Such Council shall be a body corporate by the name of "The ... Municipal Council" and shall have perpetual succession and a common seal and shall have power to acquire, hold and dispose of property and to enter into contracts and may by the said name sue or be sued, through the Chief Officer.

9. (1) Save as otherwise provided by this Regulation, all the seats in a Council shall be filled by persons chosen by direct election from the wards determined under section 11 by the Election Commission:

Provided that the number of such seats shall not be less than eleven and more than fifteen in a Council, the exact number of seats for each Council being determined by the Administrator by order published in the Official Gazette.

(2) In a Council representation shall be provided for-

(*i*) one person who is not less than twenty-five years of age and who has special knowledge or experience in municipal administration to be nominated by the Administrator but he shall not have the right to vote in the meetings of the Council; and

(*ii*) the Member of the Lok Sabha representing the Union territory.

10. (1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Council and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Council as the population of the Scheduled Castes in the municipal area or of the Scheduled Tribes in the municipal area bears to the total population of that area, the number of such reserved seats being determined by the Administrator by order, published in the Official Gazette.

Establishment and incorporation of Councils.

charged with execution of

Regulation.

Composition of Council.

Alteration of the limits of a municipal area.

Reservation of seats

SEC. 1]

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[PART II----

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(2) Seats shall be reserved for women belonging to the Scheduled Castes or the Scheduled Tribes, from among the seats reserved for the Scheduled Castes or the Scheduled Tribes, as the case may be, the number of such seats being determined by the Administrator by order published in the Official Gazette, which shall not be less than one-third of the total number of seats reserved for the Scheduled Castes or the Scheduled Tribes, as the case may be.

(3) Seats shall be reserved for women, the number of seats being determined by the Administrator by order published in the Official Gazette, which shall not be less than one- third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in a Council.

(4) The seats reserved for the Scheduled Castes or the Scheduled Tribes or the women under sub-sections (1), (2) and (3) shall be allotted by rotation to different wards in a Council in such manner as the Election Commission may, by order, published in the Official Gazette, direct in this behalf.

(5) Nothing in this section shall be deemed to prevent persons belonging to the Scheduled Castes or the Scheduled Tribes or women for whom seats are reserved in any Council, from standing for election and being elected to any of the seats which are not so reserved.

(6) The reservation of seats for the Scheduled Castes or the Scheduled Tribes shall cease to have effect on the expiration of the period specified in article 334 of the Constitution:

Provided that nothing in this sub-section shall render any person elected to any such reserved seat ineligible to continue as a Councillor during the term of the Council for which he was duly elected by reason only of the fact that the reservation of seats has so ceased to have effect.

11. (1) For the purpose of election of Councillor, each municipal area shall be divided into single-member wards in such manner that the population of each ward shall, so far as practicable, be the same throughout the municipal area.

(2) The Election Commission shall, by order in the Official Gazette, determine---

(a) the number of wards;

(b) the extent of each ward;

(c) the wards in which seats shall be reserved for Scheduled Castes;

(d) the wards in which seats shall be reserved for Scheduled Tribes;

(e) the wards in which seats shall be reserved for women; and

(f) the manner in which seats shall be rotated under sub-section (4) of section 10.

(3) Every order issued under sub-section (1) shall take effect for the purpose of the next general election immediately following the date of such order.

(4) Nothing in this section shall be deemed to prevent women or person belonging to the Scheduled Castes or the Scheduled Tribes for whom seats are reserved in any Council, from standing for election and being elected to any of the seats which are not reserved.

List of voters.

12. (1) The electoral roll of the Dadra and Nagar Haveli House of the People Constituency prepared under the provisions of the Representation of the People Act, 1950 and for the time being in force as is included in a municipal area shall be divided by such officer of the Council or by such other authority as may be designated by the Election Commission in this behalf into different sections

Division of municipal area into wards and reservation of wards for women, Scheduled Castes and Scheduled Tribes.

corresponding to the different wards in the municipal area; and a printed copy of each section of the roll so divided and authenticated by such officer or authority shall be the electoral roll for each ward which shall be deemed to be the authentic electoral roll for all elections under this Regulation.

(2) At least one month before the last date fixed for nomination of candidates for every general election, such officer shall keep open for public inspection at the municipal office and at such other places in the municipal areas as the Council may fix, copies of the lists of voters of each ward maintained under sub-section (1).

13. (1) Every person whose name is in the list of voters maintained under the last Right to vote. preceding section shall be qualified to vote, and every person whose name is not in such list shall not be qualified to vote, at the election of a Councillor for the ward to which such list pertains.

(2) The list of voters maintained under the last preceding section shall be conclusive evidence for the purpose of determining under this section whether a person is qualified or is not qualified to vote, as the case may be, at any election.

14. (1) The voting at an election shall be by ballot, and no votes shall be received M by proxy.

Manner of youting.

(2) A voter shall be entitled to one vote, which he may give to any one candidate.

15. (1) No person shall be entitled to vote at a general election in more than one ward, notwithstanding that his name may appear in the list of voters for more than one ward, and if a person votes in more than one ward his votes in all wards shall be void.

(2) No person shall be entitled to vote at any election in the same ward more than once, notwithstanding that his name may appear in the list of voters for that ward more than once, and if he does so vote all his votes in that ward shall be void.

16. (1) Every person whose name is included in the list of voters maintained under section 12 and who is not less than twenty-five years of age and who is not disqualified for being elected a Councillor under this Regulation or any other law for the time being in force shall be qualified, and every person whose name is not included in the list or who is less than twenty-one years of age or who is so disqualified for being a Councillor shall not be qualified, to be elected as a Councillor at any election.

(2) Subject to the provisions of sub section (1), the list of voters maintained under section 12 shall be conclusive evidence for the purpose of determining under this section whether a person is qualified or is not qualified to be elected, as the case may be, at any election.

17. (1) No person shall be qualified to become a Councillor, who-

(a) has been convicted by a court in India, or by a court in Dadra and Nagar Haveli before the 3rd day of August, 1954, of any offence and sentenced to imprisonment for not less than two years, unless a period of five years has elapsed since his release; or

(b) has been removed from office under section 45 and five years have not elapsed from the date of such removal; or

(c) has been disqualified under section 47 or under sub-sections (4) and (6) of section 48 and five years have not elapsed from the date of such disqualification; or

(4) the beep disqualified under sub-section (11) of sub-section (12) of section 23 and the period for which he has been disqualified has not clapsed from the date of such disqualification; or

(a) is an undischarged in million of

Other restrictions on voting.

Qualifications for candidates.

Discualifications for becoming a Councillor

SEC. 1]

(f) is of unsound mind and stands so declared by a competent court; or

[Part II-

(g) has voluntarily acquired the citizenship of a foreign State or is under any acknowledgement of allegiance/or adherence to a foreign State; or

(h) is a Judge; or

(*i*) is a subordinate officer or servant of the Government or any local authority or holds an office of profit under the Government or any local authority; or

(j) is in arrears (otherwise than as a trustee) of any sum due by him to the Council after the presentation of a bill thereof to him under section 141; or

(k) save as hereinafter provided, has directly or indirectly, by himself or his partner, any share or interest in any work done by order of the Council or in any contract with or under or by or on behalf of the Council; or

(1) save as hereinafter provided, has directly or indirectly, by himself or his partner, any share or interest in any transaction of loan of money advanced to or borrowed from any officer or servant of the Council.

(2) A person shall not be deemed to have incurred disqualification under clause (k) of sub-section (1) by reason only of his—

(a) having any share or interest in any lease, sale or purchase of any immovable property or in any agreement for the same; or

(b) having a share or interest in any company or co-operative society which contracts with or be employed by or on behalf of the Council; or

(c) having a share or interest in any newspaper in which any advertisement relating to the affairs of the Council may be inserted; or

(d) holding debentures or being otherwise interested in any loan raised by or on behalf of the Council; or

(e) having a share or interest in the occasional sale to the Council of any article in which he regularly trades, or in the purchase from the Council of any article, of a value in either case not exceeding in any official year two thousand rupees, or such higher amount not exceeding ten thousand rupees as the Council with the sanction of the Government may fix in this behalf; or

(f) having share or interest in the occasional letting out on hire to the Council or in the hiring from the Council of any article for an amount not exceeding in any official year two hundred rupees, or such higher amount not exceeding one thousand rupees as the Council with the sanction of the Collector may fix in this behalf; or

(g) being a party to any agreement made with the Council for paying fixed charges or lump sum in lieu of any taxes or for construction of any drainage or water connections for his premises.

(3) A person shall not be deemed to have incurred disqualification under clause (e) of sub-section (1) by reason only of his being an officer or member of a co-operative society which advances or has advanced a loan of money to, or borrows or has borrowed money from any officer or servant of the Council.

Question of disqualification to be decided by Administrator. 18. (1) If any question arises as to whether a person has become subject to any disqualification referred to in section 17, the question shall be referred for the decision of the Administrator and his decision shall be final.

(2) Before giving any decision on any such question, the Administrator shall, obtain the opinion of the Election Commission and shall act according to such opinion.

19. (1) The Government may make rules generally to provide for, or to regulate, matters in respect of elections to be held under this Regulation.

(2) Without prejudice to the generality of the foregoing powers, the Government may make rules with regard to all or any of the following matters, namely:---

(a) the maintenance of list of voters;

(b) the fixation of dates, time and places for various stages of elections;

(c) the appointment and duties of returning officers, presiding officers and other staff appointed for elections;

(d) the nomination of candidates, form of nomination paper, objections to nominations, scrutiny of nominations and appeals against acceptance or rejection of nomination papers;

(e) the deposits to be made by candidates and circumstances under which such deposits may be refunded to candidates or forfeited to the Council;

(f) the assignment of symbols to candidates;

(g) the withdrawal of candidature;

(h) the appointment of agents of candidates;

(i) the form of ballot paper;

(j) the procedure in contested and uncontested elections;

(k) the steps to be taken to prevent impersonation of voters;

(1) the manner of recording votes;

(m) the procedure to be followed in respect of challenged votes and tendered votes;

(n) the scrutiny of votes, counting or recounting of votes, declaration of results and procedure in case of equality of votes;

(o) the custody and disposal of papers relating to elections;

(p) the circumstances in which poll may be suspended or held afresh;

(q) any other matter relating to elections which is to be or may be prescribed under this Regulation.

20. If at a general election or bye-elections, no Councillor is elected from the ward, Failure to elect. a fresh election shall be held to elect a Councillor from that ward.

21. (1) As soon as possible after the counting of votes in a ward, if it is a byeelection, and in all the wards, if it is a general election, in a municipal area is over, the Election Commission shall publish the results in the Official Gazette.

(2) If at a general election the poll could not be taken in any ward or wards for any reason on the date originally fixed for the purpose but it was taken on that date in more than two-third of the wards, the Election Commission shall, as soon as possible, after the counting of the votes in the said ward is over, publish the available results in the Official Gazette, and as regards the remaining ward or wards the Election Commission shall subsequently publish the results in the Official Gazette as and when the poll is taken and the counting of the votes therein is over:

Provided that in determining the two-third of the number of wards a fraction shall be ignored.

(3) After every general election, upon the publication of the results or, as the case may be, upon the first publication of the results in the Official Gazette under this section, the Council shall be deemed to be duly elected.

Declaration of results elections.

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Power to make rules regulating

elections.

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(4) If a person is elected in more than one ward, he shall by notice in writing signed by him and delivered to the Collector within a period of seven days from the date of publication of the results under sub-section (1) or, as the case may be, the date of subsequent publication of the results thereunder in which his name is included, choose any one of the wards which he shall serve and the choice shall be final.

(5) When such choice is made, fresh election shall be ordered in the remaining ward or wards within a period of six months from the date of making such choice.

(6) In case such person fails to notify his choice within the period specified in sub-section (4), his election to all such seats shall be void, and thereupor a fresh election shall be ordered in the wards from which such person had been elected.

22. The names of nominated Councillors, if any, shall be published in the Official Gazette by the Government.

Gazette. Disputes in respect of election, cooption or nomination of

Councillors.

Official

Publication of names of co-

nominated Councillors in

and

opted

the

23. (1) No election of a Councillor may be called in question, except by a petition presented to the District Court by a candidate at the election or by any person entitled to vote at the election, within ten days after the publication of the names of the Councillors in the Official Gazette under section 21.

(2) Any such petition-

(a) shall contain a concise statement of the material facts on which the petitioner relies,

(b) shall with sufficient particulars, set forth the ground or grounds on which the election is called in question, and

(c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 for the verification of pleadings.

(3) A petitioner may claim all or any one of the following declarations, namely:---

(a) that the election of all or any of the returned candidates is void; or

(b) that the election of all or any of the returned candidates is void ar d that he himself or any other candidate has been duly elected.

(4) A petitioner shall join as respondents to his petition,—

(a) where the petitioner claims a declaration under clause (a) of sub-section (3), the returned candidate or candidates in respect of whom such declaration is claimed;

(b) where the petitioner claims a declaration under clause (b) of sub-station (3), all the contesting candidates other than the petitioner;

(c) any other candidate against whom allegations of any corrupt or i legal practice are made in the petition.

Explanation—The expression "returned candidate" means a candidate whose ame has been published in the Official Gazette under section 21.

(5) Such petition shall be inquired into and disposed of by the District Jude e.or by any Judge not lower in rank than a Civil Judge (Senior Division) to whom the case or such cases generally may be referred to by the District Judge.

(6) All petitions under sub-section (1), in which the validity of the election of the same Councillor elected to represent the same ward is in question shall be heard toge her.

(7) For the trial of such petition, the Judge shall have all the powers of a civil court including powers in respect of the following matters, namely:---

(a) discovery and inspection;

(b) enforcing the attendance of witnesses, and requiring the deposit of their expenses;

(c) compelling the production of documents;

(d) examining witnesses on oath;

(e) granting adjournments;

(f) reception of evidence on affidavit; and

(g) issuing commissions for the examination of witnesses,

and the Judge may summon and examine *suo motu* any person whose evidence appears to him to be material. The Judge shall be deemed to be a civil court within the meaning of sections 345 and 346 of the Code of Criminal Procedure, 1973.

(8) Notwithstanding anything contained in the Code of Civil Procedure, 1908, the Judge shall not permit-

(a) any application to be compromised or withdrawn, or

(b) any person to alter or amend any pleading, unless he is satisfied that such application for compromise or withdrawal or the application for such alteration or amendment is *bona fide* and not collusive.

(9) The Judge after such inquiry as he deems necessary, may pass suitable order and his order shall be conclusive.

(10) If the petitioner has, in addition to calling in question the election of the returned candidate, made a declaration that he himself or any other candidate has been duly elected and the Judge is satisfied that-

(a) the petitioner or such other candidate received sufficient number of valid votes to have been elected; or

(b) but for the votes obtained by the returned candidate by corrupt practices the petitioner or such other candidate would have obtained a sufficient number of valid votes to have been elected,

the Judge may, after declaring the election of the returned candidate void, declare the petitioner or such other candidate to have been duly elected:

Provided that-

(i) for the purpose of such computation no vote shall be reckoned as valid if the Judge finds that any corrupt practice was committed by any person known or unknown in giving or obtaining it;

(*ii*) after such computation, if any equality of vote is found to exist between the candidates and the addition of one vote would entitle any of the candidates to be declared elected, one additional vote shall be added to the total number of valid votes found to have been recorded in favour of the candidate, selected by lot drawn in the presence of the Judge in such manner as he may determine.

(11) Where any charge is made in the petition of any corrupt practice, the Judgeshall make an order recording the names of all persons including any candidate, if any, who have been proved at the trial to have been guilty of any corrupt practice and the

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nature of that practice and may disqualify any such person for becoming a Councillor or a Councillor or member of any other local authority for such period not exceeding six years but not less than two years from the date of the order as the Judge may specify in the order:

Provided that no person shall be named in such order unless-

(a) he has been given notice to appear before the Judge and to show cause why he should not be so named; and

(b) if he appears in pursuance of the notice he has been given an opportunity of cross-examining any witness who has already been examined by the Judge and has given evidence in his defence and of being heard.

(12) If the Judge sets aside the election of a candidate on the ground that a corrupt practice has been committed by the returned candidate or his election agent or by any other person with the consent of the candidate or his election agent and if such candidate's name has not been included in any order made under sub-section (11), the Judge shall declare such candidate disqualified for becoming a Councillor or a Councillor or member of any other local authority for such period not exceeding six years but not less than two years from the date of the order, as the Judge may specify in the order.

(13) The Judge may also make an order fixing the total amount of cost payable and specifying the person by and to whom costs shall be paid. Such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure, 1908.

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24. The following shall be deemed to be corrupt practices for the purposes of this Regulation, namely:---

(1) "Bribery" that is to say,---

to

(A) any gift, offer or promise by a candidate or his agent or by any other person with the consent of a candidate or his election agent, of any gratification, to any person whomsoever, with the object, directly or indirectly of inducing,—

(a) a person to stand or not to stand as or to withdraw from being a candidate at an election; or

(b) a voter to vote or refrain from voting at an election; or as a reward

(i) a person for having so stood or not stood, or for having withdrawn his candidature; or

(ii) a voter for having voted or refrained from voting;

(B) the receipt of or agreement to receive any gratification, whether as a motive or a reward,—

(a) by a person for standing or not standing as, or for withdrawing from being, a candidate; or

(b) by any person whomsoever for himself or any other person for voting or refraining from voting or inducing or attempting to induce any voter to vote or refrain from voting, or any candidate to withdraw his candidature.

Explanation—For the purposes of this clause, the term "gratification" is not restricted to pecuniary gratifications or gratification estimable in money and it includes all forms of entertainment and all forms of employment for reward, but it does not include the payment of any expenses *bona fide* incurred at, or for the purpose of any election.

(2) "Undue influence", that is to say, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person with the consent of the candidate or his election agent, with the free exercise of any electoral right:

Corrupt practices and other electoral offences.

Provided that-

(a) without prejudice to the generality of the provisions of this clause any such person as is referred to therein who---

(*i*) threatens any candidate or any voter or any person in whom a candidate or a voter is interested, with injury of any kind including social ostracism and excommunication or expulsion from any caste or community; or

(*ii*) induces or attempts to induce a candidate or a voter to believe that he, or any person in whom he is interested, will become or will be rendered an object of divine displeasure or spiritual censure, shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter within the meaning of this clause;

(b) a declaration of public policy, or a promise of public action, or the mere exercise of a legal right without intent to interfere with an electoral right, shall not be deemed to be interference within the meaning of this clause.

(3) The appeal by a candidate or his agent or by any other person with the consent of a candidate or his election agent to vote or refrain from voting for any person on the grounds of his religion, race, caste, community or language or the use of or appeal to, religion symbols, or the use of or appeal to, national symbols such as the national flag or the national emblem, for the furtherance of the prospects of the election of that candidate or for prejudicially affecting the election of any candidate.

(4) The publication by a candidate or his agent or by any other person, with the consent of a candidate or his election agent of any statement of fact which is false and which he either believes to be false or does not believe to be true in relation to the personal character or conduct of any candidate, or in relation to the candidature, or withdrawal of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election.

(5) The hiring or procuring whether on payment or otherwise, of any vehicle or vessel by a candidate or his agent or by any other person with the consent of a candidate or his election agent for the conveyance of any voter (other than the candidate himself, the members of his family or his agent) to or from any polling station:

Provided that the hiring of a vehicle or vessel by a voter or by several voters at their joint costs for the purpose of conveying him or them to and from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause if the vehicle or vessel, so hired is a vehicle or vessel not propelled by mechanical power:

Provided further that the use of any public transport vehicle or vessel or any trancar or railway carriage by any voter at his own cost for the purposes of going to or coming from any such polling station or place fixed for the poll shall not be deemed to be a corrupt practice under this clause.

Explanation—For the purposes of this clause, the expression "vehicle" means any vehicle used or capable of being used for the purposes of road transport whether propelled by mechanical power or otherwise and whether used for drawing other vehicles or otherwise.

(6) The obtaining or procuring or abetting or attempting to obtain or procure by a candidate or his election agent or by any other person with the consent of a candidate or his election agent any assistance (other than the giving of vote) for the furtherance of the prospects of that candidate's election from any person in the service of the Government or Council.

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[PART II----

Prohibition of public meetings on the election day.

Disturbances at election meeting. 25. (1) No person shall convene, hold, attend any public meeting within a ward of symunicipal area on the date or dates on which poll is taken for an election from the ward.

(2) Any person who contravenes any provision of sub-section (1) shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

26. (1) This section applies to any public meeting in connection with an election held in a municipal area after the programme for the election from any ward of the municipal area is announced.

(2) Any person who at a public meeting to which this section applies acts, or incites others to act in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was called together, shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

(3) If any police officer reasonably suspects any person of committing an offence under sub-section (2) he may, if requested so to do by the Chairman of the meeting, require that person to declare to him immediately his name and address and, if that person refuses or fails so to declare his name and address or if the police officer reasonably suspects him of giving a false name or address, the police officer may arrest him without warrant.

27. (1) No person shall, on the date or dates on which a poll is taken at any polling station, commit any of the following acts within the polling station or in any public or private place within a distance of one hundred metres of the polling station, namely:—

(a) canvassing for votes; or

(b) soliciting the vote of any voter; or

(c) persuading any voter not to vote for any particular candidate; or

(d) persuading any voter not to vote at the election; or

(e) exhibiting any notice or sign (other than an official notice) relating to the election.

(2) Any person who contravenes any provision of sub-section (1) shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

28. (1) No person shall, on the date or dates on which a poll is taken at any polling station,-

(a) use or operate within or at the entrance of the polling station, or in any public or private place in the neighbourhood thereof, any apparatus for amplifying or reproducing the human voice, such as a megaphone or a loudspeaker, or

(b) shout, or otherwise act in a disorderly manner, within or at the entrance of the polling station or in any public or private place in the neighbourhood thereof, so as to cause annoyance to any person visiting the polling station for the poll or so as to interfere with the work of the officers and other persons on duty at the polling station.

(2) Any person who contravenes, or withully aids or abets the contravention of, any provision of sub-section (I) shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to two hundred and fifty rupees, or with both.

(3) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence possibilities under this section, he may direct any police officer to arcest such person, and thereupon the police officer shall arrest him.

(4) Any police officer may take such steps and use such force, as may be reasonably necessary for preventing the contravention of the provisions of sub-section (f), and may seize any apparatus used for such contravention

canvassing in or near polling stations.

Prohibition of

Penalty for disorderly conduct in or near polling stations.

29. (1) Any person who during the hours fixed for poll at any polling station misconducts himself or fails to obey the lawful directions of the presiding officer, may be removed from the polling station by the presiding officer or by any police officer on duty or by any person authorised in this behalf by such presiding officer.

(2) The powers conferred by sub-section (1) shall not be exercised so as to prevent any voter who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station

(3) If any person who has been so removed from a polling station re-enters the polling station without the permission of the presiding officer, he shall on conviction, be punished with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred and fifty rupees, or with both.

(4) An offence under sub-section (3) shall be cognizable.

30. If any person is guilty of any such corrupt practice as is specified in clause (5) of section 24 at or in connection with an election he shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

31. (1) Every officer, clerk, agent or other person who performs any duty in connection with the recording or counting of votes at an election shall maintain and aid in maintaining the secrecy of the voting and shall not (except for some purpose authorised by or under any law) communicate to any person any information calculated to violate such secrecy.

(2) Any person who contravenes any provision of sub-section (1) shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine, or with both.

32. (1) No person who is a returning officer or a presiding or polling officer at an election or an officer or clerk appointed by the returning officer or the presiding officer to perform any duty in connection with an election shall, in the conduct or the management of the election, do any act (other than the giving of vote) for the furtherance of the prospects of the election of a candidate.

(2) No such person as aforesaid, and no member of a police force shall endeavour-

(a) to persuade any person to give his vote at an election; or

(b) to dissuade any person from giving his vote at an election; or

(c) to influence the voting of any person at an election in any manner.

(3) Any person who contravenes any provision of sub-section (1) or sub-section (2) shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine, or with both.

33. (1) If any person to whom this section applies is without reasonable cause guilty of any act or omission in breach of his official duty, he shall, on conviction, be punished with fine which may extend to five hundred rupees.

(2) No suit or other legal proceedings shall lie against any such person for damages in respect of any such act or omission as aforesaid.

(3) The persons to whom this section applies are the returning officers, presiding officers, polling officers and any other person appointed to perform any duty in connection with the preparation of a municipal voters list, the receipt of nominations or withdrawals of candidatures or the recording or counting of votes at any election, and the expression "official duty" shall, for the purposes of this section be construed accordingly, but shall not include duties imposed otherwise than by or under this Regulation.

Breaches of official duty in connection with election.

Penalty for illegal hiring or procuring of conveyances at election.

Maintenance of secrecy of voting.

Officers and any other

person, etc., at

election not to

candidates or to influence

act for

voting.

Penalty for misconduct at polling station.

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[PART I]

34. (1) Any person who, at any election, fraudulently takes, or attempts to take a ballot paper out of a polling station, or wilfully aids or abets the doing of any such act shall, on conviction, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both.

(2) If the presiding officer of a polling station has reason to believe that any person is committing or has committed an offence punishable under sub-section (1), such officer may, before such person leaves the polling station arrest or direct a police officer to arrest such person and may search such person or cause him to be searched by a police officer:

Provided that when it is necessary to cause a woman to be searched, the search shall be made by another woman with strict regard to decency.

(3) Any ballot paper found upon the person arrested on search shall be made over for safe custody to a police officer by the presiding officer, or when the search is made by a police officer, shall be kept by such officer in safe custody.

(4) An offence punishable under sub-section (1) shall be cognizable.

35. (1) A person shall be guilty of an electoral offence if at any election, he-

(a) fraudulently defaces, or fraudulently destroys any nomination paper; or

(b) fraudulently defaces, destroys or removes any list, notice or other document affixed by or under the authority of a returning officer; or

(c) fraudulently defaces or fraudulently destroys any ballot paper or the official mark on any ballot paper; or

(d) without due authority supplies any ballot paper to any person or receives any ballot paper from any person or is in possession of any ballot paper; or

(e) fraudulently puts into any ballot box anything, other than the ballot paper which he is authorised by law to put in; or

(f) without due authority destroys, takes, opens or otherwise interferes with any ballot box or ballot papers then in use for the purposes of the election; or

(g) fraudulently, or without due authority as the case may be, attempts to do any of the foregoing acts or wilfully aids or abets the doing of any such acts.

(2) Any person guilty of an offence under this section shall,-

(a) if he is a returning officer or a presiding officer at a polling station or any other officer or clerk employed on official duty in connection, with the election, on conviction, be punished with imprisonment for a term which may extend to two years, or with fine or with both;

(b) if he is any other person, on conviction be punished with imprisonment for a term which may extend to six months, or with fine or with both.

(3) For the purposes of this section, a person shall be deemed to be on official duty if his duty is to take part in the conduct of an election or part of an election including the counting of votes or to be responsible after an election for the used ballot papers and other documents in connection with such election but the expression "official duty" shall not include any duty imposed otherwise than by or under this Regulation.

(4) An offence punishable under clause (b) of sub-section (2) shall be cognizable.

Prosecution regarding certain offences.

36. No court shall take cognizance of any offence punishable under section 32 or under section 33 or under clause (a) of sub-section (2) of section 35 unless there is a complaint made by an order of, or under authority from, the Election Commission.

Other electoral offences and penalties therefor.

Removal of

ballot papers

from polling

station to be

an offence.

Power of requisitioning for election purposes

37. (1) If it appears to the Collector or an officer authorised by the Collector (hereinafter referred to as the "requisitioning authority") that in connection with an election—

Requisitioning of premises, vehicles, etc., for election.

(a) any premises are needed or are likely to be needed for the purpose of being used as a polling station or for the storage of ballot boxes after a poll has been taken; or

(b) any vehicle, vessel or animal is needed or likely to be needed for the purpose of transport of ballot boxes to or from any polling station or transport of member of the police force for maintaining order during the conduct of such election or transport of any officer or other person for the performance of any duties in connection with such election, the requisitioning authority may by order in writing requisition such premises, or such vehicle, vessel or animal; as the case may be, and may make such further orders as may appear to it to be necessary or expedient in connection with the requisitioning:

Provided that no vehicle, vessel or animal which is being lawfully used by a candidate or his agent for any purposes connected with the election of such candidate shall be requisitioned under this sub-section until the completion of the poll at such election.

(2) The requisition shall be effected by an order in writing addressed to the person deemed by the requisitioning authority to be the owner or person in possession of the property, and such order shall be served on the person to whom it is addressed in the manner prescribed for the service of a notice under section 304.

(3) Any person to whom such order is addressed shall be bound to deliver possession of such premises or such vehicle, vessel or animal to the requisitioning authority or to such other officer as may be specified in the order.

(4) Whenever any property is requisitioned under sub-section (1), the period of such requisition shall not extend beyond the period for which such property is required for any of the purposes mentioned in that sub-section.

Explanation—For the purposes of this section, "premises" means any land, building, or part of a building and includes a hut, shed or other structure or any part thereof.

(5) Any person who contravenes any order made under this section shall, on conviction, be punished with imprisonment for a term which may extend to care year, or with fine, or with both.

38. (1) Wherever in pursuance of the last preceding section, the requisitioning authority requisitions any premises or any vehicle, vessel or animal, the Council shall pay to the person interested compensation, the amount of which shall be determined by the requisitioning authority taking into consideration the following, namely:—

Payment of compensation.

(a) in the case of premises,—

(*i*) the rent payable in respect of the premises or if no rent is payable the rent payable for similar premises in the locality;

(*ii*) if in consequence of the requisition of the premises the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change;

(b) in the case of any vehicle, vessel or animal, the fares or rate prevailing in the locality for the hire of such vehicle, vessel or animal.

(2) Any person interested or any person who claims to be entitled to receive compensation, being aggrieved by the order of the requisitioning authority as to-

(i) the amount of compensation determined, or

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(ii) the title of any person entitled to receive compensation, or

(iii) the apportionments of the amount of compensation among two or more persons,

may, within one month from the receipt of the order under sub-section (1), or if the order is not addressed to him, within one month from the date of the order appeal to the Administrator and the decision of the Administrator on such appeal shall be final.

Explanation—For the purposes of this section, the expression "person interested" means,—

(a) in the case of premises,---

(i) the person who was in actual possession of the premises immediately before the requisition; or

(ii) when no person was in actual possession the owner of such premises;

(b) in the case of any vehicle, vessel or animal the owner thereof; and

(c) any other person who is entitled to receive compensation:

Provided that where immediately before the requisitioning, any vehicle or vessel was by virtue of a hire-purchase agreement, in the possession of a person other than the owner, the total compensation payable in respect of the requisition shall be apportioned between that person and the owner in such manner as they may agree upon and in default of agreement in such manner as the requisitioning authority may decide.

39. (1) The requisitioning authority may with a view to requisitioning any property under section 37 or determining the compensation payable under section 38 by order require any person to furnish to such authority as may be specified in the order such information in his possession relating to such property as may be so specified.

(2) If any person to whom such order is addressed refuses to furnish such information or wilfully furnishes false information, he shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine, or with both.

40. (1) Any person remaining in possession of any requisitioned premises in contravention of any order made under section 36 may be summarily evicted from the premises by any officer empowered by the requisitioning authority in this behalf.

(2) Any officer so empowered may, after giving to any woman not appearing in public reasonable warning and facility to withdraw, remove or open any lock or bolt or break open any door of any building or do any other act necessary for effecting such eviction.

41. No civil court shall have jurisdiction to question the legality of any action taken or any decision given by the prescribed authority in connection with the conduct of elections under this Regulation.

42. (1) When any premises requisitioned under section 37 are to be released from requisition, the possession thereof shall be delivered to the person from whom possession was taken at the time when the premises were requisitioned or if there were no such person, to the person deemed by the requisitioning authority to be the owner of such premises and such delivery of possession shall be a full discharge of the requisitioning authority from all liabilities in respect of such delivery, but shall not prejudice any rights in respect of the premises which any other person may be entitled by due process of law to enforce against the person to whom possession of the premises which any other person may be entitled by due process of law to enforce against the person to whom possession of the premises to whom possession of the premises is so delivered.

Power to obtain information.

Eviction from requisitioned premises.

No civil court to have jurisdiction.

Release of premises from requisition.

(2) Where the person to whom possession of any premises requisitioned under section 37 is to be given under sub-section (1) cannot be found or is not readily ascertainable or has no agent or any other person empowered to accept delivery on his behalf, the requisitioning authority shall cause a notice declaring that such premises are released from requisition to be affixed on some conspicuous part of such premises and publish the notice in the Official Gazette.

(3) When a notice referred to in sub-section (2) is published in the Official Gazette, the premises specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof and the requisitioning authority or the Council shall not be liable for any compensation or other claim in respect of such premises for any period after the said date.

Term of office of Councillors

43. (1) The Council, unless sooner dissolved under section 296 shall continue for Term of office five years from the date appointed for its first meeting and no longer:

Provided that the Council shall be given a reasonable opportunity of being heard before its dissolution.

(2) An election to constitute the Council shall be completed,---

(a) before the expiry of its duration specified in sub-section (1);

(b) before the expiration of a period of six months from the date of its dissolutions:

Provided that where the remainder of the period for which the dissolved Council would have continued is less than six months, it shall not be necessary to hold any election under this sub-section for constituting the Council for such period.

(3) The Council constituted upon the dissolution of the Council before the expiration of its duration shall continue only for the remainder of the period for which the dissolved Council would have continued under sub-section (1) had it not been dissolved.

44. (1) The Councillor may resign his office by tendering his resignation in writing to the President.

(2) Such resignation shall be effective on its receipt by the President.

45. (1) The Government may on its own motion or on the recommendation of the Council remove any Councillor from office if such Councillor has been guilty of any misconduct in the discharge of his duties, or of any disgraceful conduct.

(2) The Government may likewise remove any Councillor from office if such Councillor has in the opinion of the Government become incapable of performing his duties as a Councillor :

Provided that no Councillor shall be removable under this sub-section for becoming incapable of performing his duties as the President or the Vice-President, as the case may be.

(3) No resolution recommending the removal of any Councillor for the purposes of sub-section (1) or sub-section (2) shall be passed by a Council and no order of removal shall be made by the Government, unless the Councillor to whom it relates has been given a reasonable opportunity of showing cause why such recommendation or order as the case may be, should not be made.

(4) In every case the Government makes an order under sub-section (I) or subsection (2), the Councillor shall be disqualified from becoming a Councillor, or a Councillor or member of any other local authority for a period of five years from the date of such order.

Resignation of Councillor.

of Councillors.

Liability of Councillors to removal from office.

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Resignation not to affect subsequent disqualification of a Councillor.

Disqualification of Councillor during his term of office 46. Notwithstanding that a Councillor has resigned his office under section 44 if he is subsequently found guilty under sub-section (1) of section 45, the Government may disqualify him from becoming a Councillor or a Councillor or member of any other local authority for a period of five years from the date of its order:

Provided that no such action shall be taken against any person after the expiry of one year from the date of his resignation and without giving him a reasonable opportunity of being heard.

47. (1) A Councillor shall be disqualified to hold office as such, if at any time during his term of office, he---

(a) is or becomes subject to any of the disqualifications specified in section 17 except the disqualification specified in clause (*j*) of sub-section (*l*) of that section; or

(b) as a Councillor or as a member of any committee of the Council votes in favour of any matter in which he has directly or indirectly by himself or his partner any such share or interest as is described in clauses (a), (b), (c), (e) and (g) of subsection (2) of section 17, whatever may be the value of such share or interest or in which he is professionally interested on behalf of a client, principal or other person; or

(c) is professionally interested or engaged in any case for or against the Council; or

(d) absents himself during four successive months from the meetings of the Council except with the leave of absence granted by the Council by a resolution on his written application for such leave; and he shall be disabled subject to the provisions of sub-section (3) from continuing to be a Councillor and his office shall become vacant:

Provided that---

(*i*) a Councillor shall not be disqualified under clause (*c*) if he is engaged for the Council without receiving any remuneration therefor or appears and conducts his own case in a court of law or before any authority under this Regulation against the Council irrespective of whether such a Councillor is a legal practitioner by profession or not;

(*ii*) for the purpose of clause (*d*) when the Councillor applies for leave, such leave shall be deemed to have been granted unless it is refused within a period of sixty days from the date of his application.

(2) When a Councillor, incurs any of the disqualifications in sub-section (1), it shall be the duty of the Chief Officer to submit a report to the Collector within one month of his becoming aware of the disqualification through any source whatsoever.

(3) In every case the authority to decide whether a vacancy has arisen shall be the Director. The Director may give his decision on receipt of the report of the Chief Officer under sub-section (2) or on his own motion or on an application made to him by a voter and such decision shall be communicated to the Councillor concerned, the Chief Officer and the applicant, if any. Until the Director decides that a vacancy has arisen and such decision is communicated as provided above, the Councillor shall not be decimed to have ceased to hold office.

(4) Any person aggrieved by the decision of the Director may within a period of fifteen days from the date of receipt of the decision of the Director by him, appeal to the Administrator and the orders passed by the Administrator shall be final:

Provided that no order shall be passed under sub-section (3) by the Director or under sub-section (4) by the Administrator in appeal, against any Councillor without giving him a reasonable opportunity of being heard.

Explanation.—If any elected Councillor were subject to any disqualification specified in section 17, at the time of his election, and continues to be so disqualified, the disqualification shall for the purposes of this section, be deemed to have been incurred

48. (1) The Chief Officer shall prepare and forward to the Director by the fifteenth day of April, July, October and January every year a list of all the Councillors (including the President and the Vice-President) who, on the 1st day of April, July, October and January respectively, immediately preceding, have failed to pay any tax or taxes due by them to the Council within two months from the date on which such tax became payable, and the amount due from each by way of each such tax. A copy of the list shall be placed before the Council at its next meeting.

Special provisions regarding disqualification for failure to pay taxes due to the Council.

(2) The Chief Officer shall also issue to every Councillor included in such list, simultaneously a special notice in the prescribed form requiring him to pay the amount of tax due from him within one month from the date of the issue of such notice.

(3) The Chief Officer shall forward to the Director by the last day of May, August, November and February, immediately following, a statement showing –

(*i*) the name of each Councillor included in the 1 st prepared under sub-section (*1*);

(*ii*) the amount of tax due from each such Councillor by way of each such tax and the date on which it became payable;

(*iii*) the date of the special notice issued to such Councillor under sub-section (2); and

(iv) the amount of tax paid by the Councillor and the reasons for the non-payment of the balance, if any.

(4) On receipt of the statement under sub-section (.), the Director shall issue a special notice to each Councillor who has failed to pay any tax by the date specified in the notice under sub-section (2) calling upon him to state within one month from the date of the special notice why he should not be disqualified an 1 his office declared vacant. If the Councillor fails to give an explanation to the satisfaction of the Director for the non-payment of the taxes, the Director shall issue an order c isqualifying such Councillor and his office shall thereupon be vacant:

Provided that neither the pecuniary circumstances of the Councillor nor the fact that he has paid the arrears after the notice under sub-section (-) was received by him shall be a satisfactory explanation for the purposes of this sub-section.

(5) Any person aggrieved by the decision of the Director may within a period of fifteen days from the date of the receipt of the Director's order by him, appeal to the Administrator and the orders passed by the Administrator is such appeal shall be final:

Provided that no such appeal shall be entertained by the Administrator unless the amount of tax due is deposited in the office of the Council

(6) Notwithstanding the fact that the Councillor so di qualified has since the date of his disqualification paid such dues of his own accord or such dues are recovered from him in accordance with the procedure laid down by or inder this Regulation, such Councillor shall be disqualified from becoming a Councillor or a Councillor or member of any other local authority for a period of five years from the state of such disqualification.

49. Nothing in the last preceding section shall be dec ned to affect the powers of the Council to recover the amount of tax due from any Councillor in any other manner provided by or under this Regulation.

Section 48 not to affect Council's other powers for recovery of, taxes.

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during the term for which he is elected.

Councillor to vacate all offices if he ceases to be Councillor. 24

Casual vacancies how to be filled up. 50. A person who ceases to be a Councillor for any reason whatsoever shall *ipso facto* vacate all the offices held by him by virtue of his being a Councillor.

51. (1) Where a vacancy occurs through the non-acceptance of office by any Councillor or such person being disqualified for becoming or continuing to be a Councillor, or any election being set aside under the provisions of section 23 or the death, resignation, removal or disability of a Councillor previous to the expiry of his term of office, the vacancy shall be filled by a bye-election:

Provided that no bye-election shall be held to fill up a vacancy occurring within six months prior to the date on which the term of Council expires.

(2) The Chief Officer shall report to the Director every vacancy in the office of a Councillor within fifteen days of the occurrence of the vacancy or within fifteen days of his becoming aware of the vacancy, whichever is later.

CHAPTER III

DUTIES AND FUNCTIONS OF THE COUNCIL AND THE MUNICIPAL EXECUTIVE

Obligatory duties and discretional functions of the Council

52. (1) Except as otherwise provided in this Regulation, the municipal Government of a municipal area shall vest in the Council.

(2) In addition to the duties imposed upon it by or under this Regulation or any other law for the time being in force, unless the Government otherwise directs, it shall be the duty of every Council to undertake and to make reasonable provision for the following matters within the limits of the municipal area, and when effective measures cannot otherwise be made then even outside the said limits, namely:---

(a) lighting public streets, places and building;

(b) watering public streets and places;

(c) cleansing public streets, places and sewers, and all spaces, not being private property, which are open to the enjoyment of the public, whether such spaces are vested in the Council or not, removing noxious vegetation, and abating all public nuisances;

(d) extinguishing fires, and protecting life and property when fire occurs;

(e) regulating or abating offensive or dangerous trades or practices;

(f) removing obstructions and projections in public streets or places and in spaces, not being private property, which are open to the enjoyment of the public, whether such spaces are vested in the Council or in the Government;

(g) securing or moving dangerous buildings or places, and reclaiming unhealthy localities;

(*h*) acquiring and maintaining, changing and regulating places for the disposal of the dead;

(*i*) constructing, altering and maintaining public streets, culverts, municipal boundary marks, markets, slaughter-houses, latrines, privies, urinals, drains, sewers, drainage-works, sewerage works, baths, washing places, drinking fountains, tanks, wells, dams and the like;

(*i*) obtaining a supply or an additional supply of water, proper and sufficient for preventing danger to the health of the inhabitants from the insufficiency or

Duties and functions of the Council. unwholesomeness of the existing supply, when such supply or additional supply can be obtained at a reasonable cost;

(k) naming streets and numbering of premises;

(1) public vaccination;

(m) suitable accommodation for any calves, cows or buffaloes required within the municipal area for the supply of animal lymph;

(n) printing such annual reports on the municipal administration of the municipal area as the Government by general or special orders requires the Council to submit;

(*o*) erecting substantial boundary marks of such description and in such position as shall be approved by the Collector, defining the limits or any alteration in the limits of the municipal area;

(p) disposing of night-soil and rubbish and if so required by the Government, preparation of compost manure from such night-soil and rubbish;

(q) providing special medical aid and accommodation for the sick in time of dangerous or communicable disease and taking such measures as may be required to prevent the outbreak or to suppress and prevent the recurrence of such disease;

(r) giving relief and establishing and maintaining relief works in time of scarcity or for destitute persons within the limits of the municipal area;

(s) imposing compulsory taxes which are specified in section 102;

(*t*) establishing and maintaining public dispensaries and providing public medical relief and organising Family Planning Centres;

(u) establishing and maintaining primary schools;

(v) preparation of plans for economic development and social justice and the performance of such functions and the implementation of such schemes as may be entrusted from time to time by the Administrator to a Council including those in relation to the matters referred to in sub-sections (2) and (3).

(3) A Council may, at its discretion provide, either wholly or partly, out of the municipal property and funds for-

(a) laying out, whether in areas previously built upon or not, new public streets, and acquiring the land for that purpose, and the land required for the construction of buildings or cartilages thereof to abut on such streets;

(b) establishing or maintaining public hospitals, institutions for pre-primary and secondary education, libraries, museums, psychiatric hospital or psychiatric nursing home or lunatic asylums, gymnasiums, akhadas, and home for disabled and destitute persons and constructing and maintaining buildings therefor, along with such other public building like town halls, municipal offices, shops, dharmashalas, open air theatres, stadia and rest houses;

(c) laying out or maintaining public parks and gardens, and also planting and maintaining road side and other trees;

(d) providing music for the people;

(e) taking a census, and granting rewards for information which may tend to secure the correct registration of vital statistics;

(f) making a survey;

(g) paying the salaries and allowances; rent and other charges incidental to the maintenance of the Court of any stipendiary or honorary Magistrate; or any portion of any such charges;

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(h) arranging for the destruction or the detention and preservation of dogs which may be destroyed or detained under section 276 of this Regulation or under any law for the time being in force in the Union territory;

(i) securing or assisting to secure suitable places for the carrying on of the offensive trades specified in section 263;

(*j*) supplying, constructing and maintaining in accordance with a general system, approved by the Director of Public Health, receptacles, fittings, pipes and other appliances whatsoever on or for the use of private premises, for receiving and conducting the sewage thereof into sewers under the control of the Council;

(k) the acquisition and maintenance of grazing grounds; and the establishment, maintenance of dairy farms and breeding stud;

(1) establishing and maintaining a farm or factory for the disposal sewage;

(m) promoting the well being of municipal employees or any class of municipal employees and of their dependants;

(n) providing accommodation for servants employed by the Council;

(o) the construction of sanitary dwellings for the poorer classes;

(p) the purchase, organisation, maintenance, extension and management of mechanically propelled transport facilities for the conveyance of the public;

(q) the construction, maintenance, repairs, purchase of any works for the supply of electrical energy or gas;

(r) making contributions towards the construction, establishment or maintenance of educational institutions including libraries and museums, any hospital, dispensary or similar institution providing for public medical relief or any other institution of a charitable nature;

(s) giving grants or donations to privately run primary or secondary schools or hostels for students;

(*t*) the setting up of dairies or farms for the supply, distribution and processing of milk or milk products for the benefit of the inhabitants of the municipal area;

(u) any public reception ceremony, fair entertainment or exhibition within the municipal area, if the expenses in each case do not exceed rupees two hundred and the total expenditure during the year does not exceed rupees one thousand provided, however, that the Collector's sanction shall be necessary,—

(i) in each case, where the expenses are above the permissible limits hereinbefore specified;

(ii) in each case, whatever the expenses involved, after the annual limits hereinbefore specified are reached;

(v) any other measure not specified in sub-section (2) likely to promote public safety, health and convenience.

(4) No suit for damages or for specific performance shall be maintainable against any Council or any Councillor or officer or servant thereof on the ground that any of the duties specified in sub-section (2) above have not been performed.

(5) Every Council shall also out of the municipal property and fund, make payments at such rates as the Government may from time to time by general or special order specify for the maintenance and treatment either in the municipal area or at any asylum,

hospital or house, whether within or without such municipal area, which the Government declares by notification to be suitable for such purpose,---

(a) of lunatics, not being persons for whose confinement an order under Chapter XXV of the Code of Criminal Procedure, 1973, is in force, and

(b) of leprosy patients, resident within, or under any enactment for the time being in force removed from the municipal area:

Provided that the Council shall not be liable under this sub-section for the maintenance and treatment of any mentally ill person or leprosy patient in any such psychiatric hospital or psychiatric nursing home or asylum, hospital or house as aforesaid, unless such mentally ill person or leprosy patient, immediately previous to his admission thereto, has been resident in the municipal area for at least one year:

Provided further that, where an application is made to the District Court under the provisions of section 79 of the Mental Health Act, 1987, no order for the payment of the cost of maintenance of the mentally ill person by a Council shall be made without an opportunity being given to such Council to show that the mentally ill person has an estate applicable to his maintenance or that there is a person legally bound and having the means, to maintain him. The officer in charge of any psychiatric hospital or psychiatric nursing home or asylum to which mentally ill person for whose maintenance and treatment a Council is liable under this section are admitted shall maintain a clear account of the cost of maintenance and treatment incurred on account of each mentally ill person detained in the psychiatric hospital or psychiatric nursing home or asylum and shall furnish a copy thereof to the Council on application.

(6) Where a Council has entered into any arrangement or made any promise, purporting to bind it or its successors for a term of years or for an unlimited period to continue to any educational or charitable institution a yearly contribution from the municipal property or fund, it shall be lawful for the Council or its successors, with the sanction of the Government, to cancel such arrangement or promise or to discontinue, or to diminish such yearly contribution, provided that it shall have given at least twelve months' notice of its intention so to do to the manager or managers of such institution.

53. (1) Every Council shall have a President and a Vice-President who shall be elected from amongst the Councillors who are elected:

Provided that subject to any general or special orders of the Central Government, the Administrator shall reserve the office of the President for the persons belonging to the Scheduled Castes or the Scheduled Tribes or women or backward class of citizens in the prescribed manner.

(2) Within twenty-five days from the date on which the names of Councillors elected to a Council are published, or as the case may be first published, under subsection (I) of section 21, in the Official Gazette, the Collector shall convene a special meeting of the Councillors for election of President and Vice-President.

(3) The meeting called under sub-section (2) shall be presided over by the Collector or such officer as the Collector may by order in writing appoint in this behalf. The Collector or such officer shall, when presiding over such meeting, have the same powers as the President of a Council when presiding over a meeting of the Council has, but shall not have the right to vote:

Provided that notwithstanding anything contained in this Regulation for regulating procedure at meetings (including the quorum required thereat), the Collector or the officer presiding over such meeting may for reasons which in his opinion are sufficient, refuse to adjourn such meeting.

(4) If, in the election of the President or the Vice-President there is an equality of votes, the result of the election shall be decided by lots to be drawn in the presence of the Collector or the officer presiding in such manner as he may determine

Election of President and Vice-President.

2 of 1974.

14 of 1987.

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(5) Any dispute regarding election of the President or the Vice-President shall be referred to the Administrator, whose decision in that behalf shall be final.

(6) If during the term of a Council, there is a vacancy in the office of a President or Vice-President due to any reason whatsoever, the same procedure as prescribed in sub-sections (2) to (5) shall apply except that the special meeting shall be called by the Collector within twenty-five days from the date on which the vacancy occurs.

54. The term of office of the President and the Vice-President shall be co-terminous with the term of the Council.

55. (1) The President may resign his office by tendering his resignation in writing to the Director.

(2) Such resignation shall take effect on the receipt thereof by the Director.

56. The provisions of the last preceding section shall mutatis mutandis apply in

Resignation of Vice-President.

Term of office of

President.

President and Vice-President. Resignation of

Removal of President and Vice-President. 57. (1) A President or a Vice-President shall cease to be a President or Vice-President as the case may be, if the Council by a resolution passed by a majority of the total number of Councillors at a special meeting so decides.

(2) The requisition for such special meeting shall be signed by not less than one fourth of the total number of Councillors and shall, if such meeting is to be convened for considering the resolution for removal from office—

(a) of the President, or of the President as well as the Vice-President, be sent to the Collector;

(b) of the Vice-President, be sent to the President.

regard to resignation of his office by the Vice-President.

(3) The Director or, as the case may be, the President shall within ten days of the receipt of a requisition under sub-section (2) convene a special meeting of the Council:

Provided that, when the Director convenes a special meeting of the Council, he shall give intimation thereof to the President.

(4) A meeting to consider a resolution under sub-section (1) shall be presided over,---

(a) by the Director or any other officer authorised by him in this behalf, when a resolution for the removal of the President or the Vice-President is under consideration, but he shall have no right to vote.

(b) by the President, when a resolution for the removal of the Vice-President is under consideration;

Consequences of absence of President or Vice-President without leave.

58. (1) Every President or Vice-President who absents himself from the municipal area,---

(a) for a period exceeding three months at a time unless leave so to absent himself has been granted by the Council, or

(b) for an aggregate period exceeding six months during a year whether or not leave for such absence has been granted by the Council,

shall cease to be President or Vice-President, as the case may be.

(2) Leave under clause (a) of sub-section (1) shall be granted for a period exceeding six months during one year. Whenever leave is granted to a Vice-President, a Councillor shall be elected by the Councillors from among their number to perform all the duties.

and exercise all the powers of the Vice-President, during the period for which such leave is granted.

(3) In every case the authority competent to decide whether a President or a Vice-President has ceased to be President or Vice-President under this section, shall be the Director. The Director may give his decision either on an application made to him by any voter or on his own motion. Such decision shall be communicated to the President or the Vice-President concerned, the Chief Officer and the applicant, if any. Until the Collector decides that a vacancy has arisen and such decision is communicated as provided above the President or Vice-President shall not be deemed to have ceased to be President or Vice-President as the case may be:

Provided that no order shall be passed by the Director against any President or Vice-President under this section without giving him a reasonable opportunity of being heard.

(4) Any person aggrieved by the decision of the Director may, within a period of fifteen days from the date of communication of such decision, appeal to the Administrator and the decision of the Administrator on such appeal shall be final.

59. (1) On the election of a new President or Vice-President, the retiring President or Vice-President in whose place the new President or Vice-President has been elected shall hand over charge of his office to such new President or Vice-President, as the case may be.

(2) Every President or Vice-President who resigns his office or is removed from office or ceases to be President or Vice-President for any reason other than the election of a new President or Vice-President shall hand over charge of his office—

(i) to the Vice-President, if he is the President.

(ii) to the President, if he is the Vice-President.

(3) If any President or Vice-President refuses to hand over charge of his office as required under sub-section (1) or sub-section (2), the Director may, by order in writing, direct the President or the Vice-President, as the case may be, to forthwith hand over charges of his office and all papers and property of the Council, if any, in his possession as such President or Vice-President, to the persons specified in sub-section (1) or sub-section (2) and such President or Vice-President to whom a direction has been issued under this sub-section shall hand over charge as required by the Director.

(4) If any President or Vice-President to whom a direction has been issued under sub-section (3) does not comply with such direction, he shall, on conviction, be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two thousand rupées, or with both.

60. (1) Subject to the provisions of this Regulation and of any rules and bye-laws framed thereunder, the President of a Council shall—

Functions of President.

(a) preside, unless prevented by reasonable cause, at all meetings of the Council and regulate the conduct of business at such meetings;

(b) watch over the financial and executive administration of the Council;

(c) perform such executive functions of exercising such powers as are conferred upon him by or under this Regulation or any other law for the time being in force;

(d) exercise supervision and control over the acts and proceedings of all officers and servants of the Council in matters of executive administration and in matters concerning the accounts and records of the Council; and

(e) furnish to the Government or the Director or the Collector or any other Government officer authorised by the Government from time to time, such reports,

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President or Vice-President to hand over charge.

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returns or records as may be prescribed by rules or as may be called for at any time by the Government, the Director, the Collector or such officer.

(2) The President may, in cases of emergency, direct the execution or stoppage of any work or the doing of any act which requires the sanction of the Council and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expenses of executing such work or doing such act shall be paid from the municipal funds:

Provided that-

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(a) he shall not act under this section in contravention of any order of the Council prohibiting the execution of any particular work or the doing of any particular act; and

(b) he shall report forthwith the action taken under this section and the reasons therefor to the Standing Committee and the Council at their respective next meeting.

Functions of Vice-President.

61. (1) It shall be the duty of the Vice-President of a Council,-

(a) in the absence of the President and unless prevented by reasonable cause, to preside at the meeting of the Council;

(b) whenever there is a casual vacancy in the office of the President, to exercise all the powers and to perform all the duties of the President, pending the election or, as the case may be, nomination of a new President;

(c) to exercise such of the powers and perform such of the duties of the President as the President may from time to time depute to him;

(d) during the absence of the President, to exercise the powers and perform the duties of the President.

(2) The Vice-President shall be the *ex officio* Chairman of such one of the Subjects Committees, if any, as the Council, may determine.

62. In the event of the offices of the President and the Vice-President of a Council becoming vacant simultaneously, pending the election of a new President, the powers and duties of the President shall be exercised and performed by the Director or such other officer as the Director may in this behalf appoint.

63. The Government may prescribe the rates of honorarium or allowances to be paid-to-the President and members of the Council by rules made in this behalf.

or allowances to President and members of Council. Standing and Subjects

Committees for all classes of

Council.

Simultaneous vacancy in

the office of

President and

Vice-President. Honorarium

64. (1) Every municipal council shall appoint a Standing Committee and may appoint such Subjects Committees, as it may deem necessary.

(2) The Standing Committee shall consist of such number of members as the Council may determine, so however that the number of members so determined shall not exceed one-third of the total number of Councillors:

Provided that in so determining the number of the member of the Standing Committee, a fraction shall be ignored.

(3) If the Council decides to appoint any Subjects Committee, such Committee shall consist of not more than five members, as it may determine.

(4) The President shall, within seven days of his election as President under section 53, call a special meeting of the Council for the purpose of-

(a) determining the number of members of the Standing committee;

(b) determining the Subjects Committee or Committees, if any, to be appointed and the number of members of each such Committee and if more than one such Committees are to be appointed, the Subjects Committee of which the Vice-President shall be the *ex officio* Chairman;

(c) holding election to the Standing Committee and the Subjects Committee or Committees, if any, in the manner prescribed by the Government.

(5) If more than one Subjects Committees are to be appointed, the Chairman of the Subjects Committee, other than that of which the Vice-President is to be the ex officio Chairman, shall be elected by the members thereof, at the meeting convened under sub-section (4).

65. The Standing Committee referred to in sub-section (1) of the last preceding section shall consist of—

(a) the President of the Council as the Chairman;

(b) the Chairman or Chairmen of the Subjects Committees, if any, appointed under clause (b) of sub-section (4) of that section, and if no such Subjects Committee is appointed, the Vice-President, as the member or members; and

(c) such other members elected by the Councillors from amongst their number in the manner laid down in clause (c) of sub-section (4) of section 64, so however that the total number of members of the Standing Committee shall not exceed the number determined under clause (a) of sub-section (4) of the said section:

Provided that no Councillor shall be eligible to be a member of the Standing Committee, if he is already elected as a member of more than one Subjects Committee.

66. (1) A Council may from time to time appoint Special Committees consisting of such Councillors and for such duration as it may determine, and may refer to such Committees such special subjects or matters relating to the purposes of this Regulation, for opinion or inquiry and report, as the Council may think fit.

(2) The Council may at any time discontinue or alter the constitution of any such Committee. Such Committee may be directed by the Council to submit its report or opinion, either to the Council, the Standing Committee or any of its Subjects Committees.

67. (1) The term of office of the Chairman of the Standing Committee shall be coterminous with his term of office as President.

(2) The term of office of the Chairman of a Subjects Committee of which the Vice-President is the *ex officio* Chairman shall be co-terminous with his term of office as Vice-President.

(3) The term of office of the Chairman of other Subjects Committees and of the members of the Standing Committee and all Subjects Committees shall be one year or for the residue of their term as Councillors, whichever is less, but each of them shall be eligible for re-election:

Provided that, if any such Chairman absents himself from the municipal area for an aggregate period exceeding six months during the year, whether with or without leave of the Council, he shall cease to be the Chairman.

68. A vacancy occurring in any Committee of a Council due to any reason whatsoever, shall as soon as possible, be filled up by the election of a member thereto, subject to the same provisions as those under which the member whose place is to be filled up was elected.

69. Each Council shall make bye-laws to provide for the following matters, namely:-

(a) allotment of subjects to the Standing Committee and the Subjects Committees, if any:

Constitution of Standing Committee of Council.

Special Committees.

Term of office of Chairman and members of Standing and Subjects Committees.

Casual vacancies in Committees of Council.

Function and power of Standing Committees and Subjects Committees.

Provided that the subjects of transport undertaking, finance and welfare of conservancy staff shall be allotted to the Standing Committee, and the subjects of fairs and pilgrims to the Sanitation, Medical, and Public Health Committee, and where such Committee is not appointed to the Standing Committee;

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(b) extent of powers of the Council under this Regulation or any other law for the time being in force to be exercised by the Standing Committee and the Subjects Committees, if any, in respect of the subjects allotted to such Committees.

70. The powers of financial sanctions of the Standing Committee and the Subjects Committees of a Council shall not exceed rupces fifty thousand and rupces ten thousand respectively:

Provided that the Standing Committee or the Council shall not sanction any project or scheme involving construction of such a road, bridge, building or drainage scheme costing over rupees ten thousand unless prior technical sanction therefor is obtained from such competent authority as the Administrator may prescribe.

71. (1) All Subjects Committees shall be subordinates to the Standing Committee in addition to the Council.

(2) The Standing Committee shall be subordinate to the Council.

(3) The Subjects Committees shall report all their decisions as soon as may be to the Standing Committee for information.

(4) The Standing Committee shall report as soon as may be all its decisions, including its decisions on the decisions of the Subjects Committees, to the Council, for its information.

(5) If the directions of the Council to a Subjects Committee conflict with the directions of the Standing Committee to that Subjects Committee, the directions of the Council shall in all cases prevail.

CHAPTER IV

DIRECTOR OF MUNICIPAL ADMINISTRATION AND COLLECTOR

72. (1) The Government shall, by notification in the Official Gazette, appoint a Director of Municipal Administration whose jurisdiction shall extend to the entire Union territory.

(2) The Director, and the Collector of each district, shall exercise such powers and perform such duties as are conferred and imposed upon them by this Regulation or any rule made thereunder. The Government may, by notification in the Official Gazette, direct that any power (except the power to make rules) or duty which by this Regulation or by any rule made thereunder is conferred or imposed upon it shall, in such circumstances and under such conditions, if any, as may be specified, be exercised or performed also by the Director or the Collector.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the Government may, by notification in the Official Gazette, appoint an Additional Director of the Municipal Administration having jurisdiction over such part of the Union territory and with such powers as may be specified in this behalf in the said notification.

CHAPTER V

PROVISIONS REGARDING OFFICERS AND SERVANTS

73. (1) There shall be a Chief Officer for every Council

(2) A Council may, with the sanction of the Director and if so required by the Government, shall create all or any of the following posts, namely-

(i) a Municipal Engineer;

powers of Committee in respect of financial sanctions.

Limits of,

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Subordination of Committees to Council.

of Director of Municipal Administration and his powers and the powers of the Collector.

Appointment of

Works Engineer,

Chief Officer, Engineer, Water

Health Officer Auditor and

certain other officers.

Appointment

(ii) a Water Works Engineer;

(iii) a Municipal Health Officer;

(iv) a Municipal Auditor;

(v) a Municipal Education Officer;

(vi) any other officer as may be designated by the Government in this behalf.

(3) The qualifications, pay, allowances and other conditions of service and the method of recruitment of the officer specified in sub-sections (1) and (2) shall be regulated by rules made by the Government in this behalf.

(4) Subject to the provisions of sub-sections (5) and (6), the power of making appointment to the posts specified in sub-sections (1) and (2) shall vest in the Council.

(5) Notwithstanding anything contained in this Regulation, the Government may, by notification in the Official Gazette, constitute, in respect of all Council,----

(a) a common cadre of the Chief Officers,

(b) common cadres of all or any of the officers specified in sub-section (2), whose minimum salary (exclusive of allowances) is not less than rupees two thousand per month.

(6) On the issue of a notification under sub-section (5), a Government shall have power to make rules to regulate the qualifications, pay, allowances and other conditions of service and the method of recruitment of officers belonging to the cadres thereby constituted, including the manner of and the terms and conditions under which existing officers shall be absorbed into; and such rules may vest jurisdiction in respect of all or any of such matters in relation to such cadres in the Government or in such other authority or authorities as may be prescribed.

(7) If any common cadres are constituted under sub-section (5), each Council shall every year contribute out of its revenue such sum on account of its share of the expenditure on any officers belonging thereto posted to serve under it incurred or to be incurred in that year for its purposes, as the Government may by general or special order determine.

74. (1) A Council may, with the sanction of the Director, create such posts of Appointment officers and servants other than those specified in sub-sections (1) and (2) of the last preceding section as it shall deem necessary for efficient execution of its duties under this Regulation.

of other officers and servants.

(2) The qualifications, pay, allowances and other conditions of service and the method of recruitment of any such officers and servants,-

(a) if the minimum salary (exclusive of allowances) of the post is less than rupees one thousand two hundred per month, shall be determined by bye-laws. made by the Council in this behalf; and

(b) if the minimum salary (exclusive of allowances) of the post is Rupees one thousand two hundred or more,

shall be determined by general or special order made by the Director in this behalf.

(3) The Council shall, subject to the approval of the Director, decide the manner in which and the terms and conditions under which the existing officers shall be absorbed in the posts created under sub-section (1).

. (4) (a) The power of making appointment to any post referred to in clause (a) of sub-section (2) shall vest in the Standing Committee, and if the Council so decides, in the President.

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(b) The power of making appointment to any post referred to in clause (b) of subsection (2) shall vest in the Council or in the Standing Committee if the Council so decides.

Explanation .--- For the purpose of this section and sub-section (6) of section 73, the term "existing officer" or "existing servant" means an officer or servant respectively of an existing panchayat within the meaning of section 323.

Powers and duties of Chief Officer. 34

75. (1) The Chief Officer shall-

(a) subject to the control, direction and supervision of the President, supervise the financial and executive administration of the Council and exercise such powers and perform such duties and functions as may be conferred or imposed upon him or allotted to him by or under this Regulation;

(b) take steps to give effect to all the decisions or resolutions of the Council;

(c) cause to be maintained and supervise the accounts and registers of the Council:

(d) subject to the orders of the competent authority, take prompt steps to remove any irregularity pointed out by the Municipal Auditor;

(e) prepare budget estimates and submit them to the Standing Committee;

(f) report to the President and the Committee concerned all cases of fraud, embezzlement, theft or loss of municipal money and property;

(g) exercise supervision and control over the acts and proceedings of all the officers and servants of the Council;

(h) subject to the rules, by laws and general or special orders made under this Regulation, dispose of all questions such as the pay and allowances, leave and other privileges in respect of the officers and servants of the Council.

(2) The Chief Officer may, with the sanction of the Council, delegate any of the powers, duties or functions conferred or imposed upon or allotted to him by or under this Regulation, to any municipal officer or servant:

Provided that such delegation shall be subject to such limitations, if any, as may be prescribed by the Council and also to the control and revision by the Chief Officer.

Powers and duties and servants.

76. The powers and duties of all officers and servants of the Council, other than of other officers the Chief Officer, shall be such as the Standing Committee may specify from time to time.

Punishment of officers and servants.

77. (1) Without prejudice to the provisions of any law for the time being in force, the following penalties may, for good reasons, be imposed upon any officer or servant of the Council,-

(i) censure;

employment

(ii) withholding of increments or promotion including stoppage at an efficiency bar;

(iii) reduction to a lower post on a fixed pay or a time scale or to a lower stage in a time scale;

(iv) recovery from his pay of the whole or part of any pecuniary loss caused to the Council by negligence or breach of orders;

(v) removal from the service, which does not disqualify from future employment;

(vi) dismissal from the service, which ordinarily disqualifies from future

(2) Any of the penalties mentioned in sub-section (1) may be imposed on an officer or servant of the Council by the authority competent to make the appointment of the officer or servant:

Provided that the penalty mentioned in items (i) and (ii) of sub-section (1) may be imposed on an officer of the Council (other than an officer belonging to the common cadre) specified in sub-section (5) of section 73 or a servant of the Council, by the Chief Officer of the Council:

Provided further that suspension of an officer or servant pending inquiry into the allegations against such officer or servant shall not be deemed to be a penalty and shall be ordered only by the authority competent to make appointment to the post held by such officer or servant.

(3) No officer or servant shall be reduced to a lower post or rank or removed or dismissed from service under this section unless he has been given a reasonable opportunity of showing cause against such reduction, removal or dismissal:

Provided that this sub-section shall not apply----

(a) where a person is reduced, removed or dismissed on the ground of conduct which has led to his conviction on a criminal charge; or

(b) where the competent authority is satisfied that, for reasons to be recorded in writing by such authority, it is not reasonably practicable to give that person an opportunity of showing cause.

(4) In the case of any officer or servant holding any post permanently the minimum salary of which (exclusive of allowances) is rupees one thousand two hundred or more, no order of dismissal, removal or reduction in post or rank shall be passed without the prior approval of the Director.

(5) In every case referred to the Director under the last preceding sub-section the Director shall not refuse to give his approval unless he is satisfied that—

(i) the finding at the inquiry is perverse; or

(*ii*) the penalty of removal or dismissal or reduction, as the case may be, is too severe.

(6) Where the Director informs the Council or the Standing Committee that the finding at the inquiry is perverse, no further proceedings shall be taken against the officer or servant concerned in respect of the same matter.

(7) An appeal against any order imposing any penalty mentioned in sub-section (1) may be made to the authority superior to the authority imposing the penalty as shown below,—

Authority imposing the penalty	Superior authority to which appeal may be made
(i) Chief Officer	Standing Committee;
(ii) Standing Committee	Council;
(iii) Council	Administrator.

(8) No such appeal may be entertained if not preferred within one month from the date of receipt of the order appealed against by the officer or servant concerned.

 (9) Any officer or servant aggrieved by an order of removal, dismissal or reduction in a post or rank passed against him with the approval of the Director under sub-section
 (4) may file a revision application to the Administrator. Such application shall be filed within sixty days from the date of such order.

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PART II

Bye-laws to be made regulating certain conditions of service.

78. Every Council shall in respect of the officers and servants of the Council, other than those referred to in sub-sections (1) and (2) of section 73, make bye-laws on the following matters, namely:—

(a) fixing the amount and nature of the security to be furnished by any employee who is required to handle property, cash or securities belonging to the Council or by any other employee from whom it may be deemed expedient to require security;

(b) regulating the grant of leave to the employees and the payment of leave salary and allowances to them while absent on leave;

(c) determining the remuneration to be paid to the persons appointed to act for any of the said employees during their absence on leave;

(d) authorising the payment of travelling or conveyance allowance to the employees;

(e) regulating the period of service of all employees;

(f) determining the conditions under which the employees or any of them shall on retirement or discharge or in the event of injury or disability receive pension, gratuity or compassionate allowance and under which heirs or surviving relatives shall receive pension, gratuity or compassionate allowance and the rate of amount of such pension, gratuity or compassionate allowance;

(g) authorising payment of contributions out of the Municipal Fund, to any pension or provident fund which may be established for the benefit of the employees;

(h) determining subsistence allowance, in lieu of pay, during the period of suspension of any employee, pending inquiry;

(i) generally prescribing any other conditions of service of the employees.

CHAPTER VI

CONDUCT OF BUSINESS

Meetings

79. The following provisions shall be observed with respect to the meetings of a Council:

(1) There shall be held six ordinary meetings in each year for the disposal of general business, in every alternate month commencing from the month in which the first meeting of the Council under section 53 is held, and such other ordinary meetings as the President may find necessary. It shall be the duty of the President to fix the dates for all ordinary meetings and to call such meetings.

(2) The President may, whenever he thinks fit, and shall, upon the written request of not less than one-fourth of the total number of Councillors and on a date not later than fifteen days after the receipt of such request by the President, call a special meeting.

(3) If the President fails to call a meeting within the period specified in clause (1) or clause (2), the Councillors who had made a request for the special meeting being called, may request the Director to call a special meeting. On receipt of such request, the Director, or any officer whom he may designate in this behalf, shall call the special meeting on a date within fifteen days from the date of receipt of such request by the Director. Such meeting shall be presided over by the Director or the officer designated, but he shall have no right to vote.

(4) (a) Seven clear days' notice of an ordinary meeting, and three clear days' notice of a special meeting specifying the date, hour and place at which such

Provision in regard to C meetings of Council.

meeting is to be held and the business to be transacted thereat shall be served upon the Councillors, and posted up at the municipal office. The notice shall include any motion or proposition of which a Councillor shall have given written notice, not less than ten clear days previous to the meeting, of his intention to bring forward thereat and in the case of a special meeting, any motion or proposition mentioned in any written request made on such meeting.

(b) Notwithstanding anything contained in sub-clause (a) in an emergency, for reasons to be recorded in writing, the President may call a special meeting of the Council with only one day's notice served upon the Councillors and posted up at the municipal office.

(5) Every meeting of a Council shall, except for reasons to be specified in the notice convening the meeting, be held in any of the buildings used as a municipal office by such Council.

(6) Every meeting shall, in the absence of both the President and the Vice-President, be presided over by such one of the Councillors present as may be chosen by the meeting to be the Chairman for the occasion and such Chairman shall exercise thereat the powers vested in the President by clause (a) of subsection (1) of section 60.

(7) (a) The presiding authority shall preserve order at the meeting. All points of order shall be decided by the presiding authority with or without discussion as it may deem fit, and the decision of the presiding authority shall be final.

(b) (i) The presiding authority may direct any Councillor whose conduct is in its opinion disorderly to withdraw immediately from the meeting of the Council and any Councillor so ordered to withdraw shall do so forthwith and shall absent himself during the remainder of the day's meeting:

Provided that the presiding authority may withdraw such order on receiving an apology from the Councillor or without such apology.

(*ii*) If any Councillor who has been ordered to withdraw continues to remain in the meeting, the presiding authority may take such steps as it may deem fit to cause him to be removed.

(8) Every meeting shall be open to the public unless the presiding authority considers that any inquiry or deliberation pending before the Council should be held in private:

Provided that the presiding authority may at any time cause any person to be removed who interrupts the proceedings.

(9) (a) The quorum necessary for the transaction of business-

(i) at an ordinary meeting shall be one third of the total number of Councillors;

(ii) at a special meeting shall be one half of the total number of Councillors:

Provided that computing the quorum, a fraction shall be ignored.

(b) If at any time during a meeting the presiding authority notices or if it is brought to the notice of the presiding authority that the number of Councillors present including the presiding authority falls short of the quorum required, the presiding authority shall after waiting for not less than fifteen minutes and not more than thirty minutes adjourn the meeting to such hour on the following or some other future day as it may reasonably fix. A notice of such adjournment shall be posted up at the municipal office and the business which would have been brought before the original meeting, had there been a quorum thereat, but no other business shall be brought before the adjourned meeting and may be disposed of at such meeting.

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(10) Except with the permission of the presiding authority (which shall not be given in the case of a motion or proposition to modify or cancel any resolution within three months after the passing thereof) no business shall be transacted and no proposition shall be discussed at any meeting unless it had been mentioned in the notice convening such meeting or in the case of a special meeting in the written request for such meeting.

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(11) Subject to any rules made in this behalf, the order in which the business shall be transacted at any meeting shall be determined by the presiding authority:

Provided that, if it is proposed by any Councillor that priority should be given to any particular item of business, or to any particular proposition, the presiding authority shall put the proposal before the meeting and be guided by the majority of votes of the Councillors present and voting, given for or against the proposal.

(12) Minutes containing the names of the Councillors and of the Government officers, if any, present under the provisions of clause (17), and of the proceedings at each meeting shall be kept in English in a book to be maintained for this purpose. Except when votes are recorded by ballot, the names of the Councillors voting for or against any proposal or motion shall be recorded in the minute book. The minutes shall be signed as soon as practicable by the presiding authority of such meetings and shall at all reasonable times be open to inspection by any inhabitant of the municipal area. Such minutes shall be placed before the next meeting of the Council and shall, after confirmation by the meeting, be signed by the presiding authority of such meeting.

(13) Except as otherwise provided by or under this Regulation, all questions shall be decided by a majority of votes of the Councillors present and voting, the presiding authority having a second or casting vote in all cases of equality of votes. Votes shall be taken and results recorded in such manner as may be prescribed by rules.

(14) Any meeting may, with the consent of a majority of the Councillors present, be adjourned from time to time to a later hour on the same day or to any other day; but no business shall be transacted at any adjourned meeting other than that left undisposed of at the meeting from which the adjournment took place. A notice of such adjournment posted up at the municipal office shall be deemed to be sufficient notice of the adjourned meeting. Notwithstanding anything contained in clause (9), no quorum shall be necessary for such adjourned meeting.

(15) No resolution of a Council shall be modified or cancelled within three months after the passing thereof except by a resolution supported by not less than one-half of the total number of Councillors and passed at the meeting of which notice shall have been given fulfilling the requirements of clause (4) and setting forth fully the resolution which it is proposed to modify or cancel at such meeting and the motion or proposition for the modification or cancellation of such resolution.

(16) Except for reasons which the presiding authority deems emergent, no business relating to any work which is being or is to be executed for the Council by any Department of the Government shall be transacted at any meeting of a Council unless at least seven days previous to such meeting, a letter has been addressed to the concerned officer of the Government informing him of the intention to transact such business thereat and of the motions or propositions to be brought forward concerning such business.

(17) If it appears to a Council that the presence of any Government officer or an officer of a village panchayat is desirable for the purpose of discussion or consideration of any question, on which, by virtue of the duties of his office, his opinion or information which he could supply will be useful to such Council, at any meeting of such Council, it shall be competent for such Council, by letter addressed to such officer not less than fifteen days previous to the intended meeting, to invite him to be present thereat; and the said officer shall so far as possible; attend such meeting:

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section

Provided that such officer on receipt of such letter may, if unable to be present himself, instruct a Deputy or Assistant or other competent subordinate, as to his views, and may send him to the meeting as his representative, instead of attending himself.

(18) No officer attending a meeting of the Council under clause (16) or clause (17) shall be entitled to vote on any proposition at such meeting.

(19) The Government may make rules in respect of matters relating to the conduct of business at meetings of the Council not provided for in this section.

80. The following provisions shall apply to meeting of Committees:

Meetings of Committees.

(1) Subject to any general or special orders of the Committee, the ordinary meetings of a Committee shall be held on such days and at such time as the Chairman may fix.

(2) Upon the written request of the President or of not less than one-fourth of the members of the Committee, the Chairman shall call a special meeting of the Committee on a date not later than seven days after the receipt of such request:

Provided that in computing one-fourth of the members, a fraction shall be ignored.

(3) If the Chairman of a Committee has been absent from the municipal area for a period exceeding fifteen days or if the Chairman fails to call a meeting within the period specified in clause (2), the President or in his absence the Vice-President may call a meeting of the Committee.

(4) If the Chairman, the President and the Vice-President fail to call a meeting as required by clause (2) or clause (3), one-third of the members of the Committee or two members, whichever is more, may call such meeting :

Provided that, in computing one-third of the members a fraction shall be ignored.

(5) (a) A notice of every meeting specifying the date on which and the time and the place at which such meeting is to be held and the business to be transacted thereat shall be served upon each member of the Committee and shall also be posted up at the municipal office at least three clear days before the date of the meeting.

(b) Notwithstanding anything contained in sub-clause (a), in an emergency, for reasons to be recorded in writing, the Chairman may call a meeting of the Committee with only one day's notice served upon the members and posted up at the municipal office.

(6) One-half of the members of a Committee shall form a quorum but such number shall not be less than two:

Provided that, in computing one-half of the members, a fraction shall be ignored.

(7) Every meeting of a Committee shall be presided over by the Chairman and in the absence of the Chairman, by one of the members of the Committee as may be chosen by the members of the meeting to preside.

(8) The Government may make rules in respect of matters relating to the conduct of business at meetings of Committees not provided for in this section.

(9) Save as otherwise provided by clauses (1) to (7) and the rules made under clause (8), the provisions of clauses (5), (7), (10), (11), (12), (13), (14), (15), (17) and (18) of the last preceding section and the rules made under clause (19) of that section shall *mutatis mutandis* apply to the meetings of all Committees.

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Chief Officer to be present at every meeting of the Council and ifrequired at a meeting of a Committee, but not to vote or make any proposition.

Power of Council or Committee to require information, document, etc., from Chief Officer.

Joint Committees of local bodies. 81. (1) The Chief Officer shall, unless prevented by reasonable cause, be present at every meeting of the Council. The Chief Officer may and if so required by a Committee shall be present at the meeting of the Committee.

(2) The Chief Officer may, with the permission of the presiding authority or the Council, make an explanation or a statement of facts in regard to any subject under discussion at such meeting, but shall not vote upon or make any proposition at such meeting.

(3) The Council or a Committee may require any of the officers of the Council to attend any meeting of the Council or the Committee at which any matter with which such officer is concerned is being discussed. When any officer is thus required to attend any such meeting, he may be called upon to make a statement or explanation of facts or supply any information, but shall not be entitled to vote or to make any proposition at such meeting.

82. (1) The Council or any Committee may require from the Chief Officer-

(a) any return, statement, estimate, statistics or plan or other information regarding any matter pertaining to the administration of the Council;

(b) report or clarification on any such matter; and

(c) a copy of any record, correspondence, plan or other document which is in his possession or under his control in his official capacity or which is recorded or filed in his office or in the office of any officer or servant subordinate to him.

(2) The Chief Officer shall comply with any requisition under sub-section (1) unless he is of opinion that compliance therewith will be prejudicial to the interest of the Council or of the public, in which case, he shall refer such requisition to the President and abide by the decision of the President.

83. (1) A Council may, from time to time, concur with any other local authority,---

(a) in appointing, out of their respective bodies, a joint committee for any purpose in which they are jointly interested and in appointing a Chairman of such Committee;

(b) in delegating to any such Committee powers to frame terms binding on each such body as to the construction and future maintenance of any joint work and any power which might be exercised by either or any of such bodies; and

(c) in framing and modifying regulation for regulating the proceedings of any such Committee and the conduct of correspondence relating to the purpose for which the Committee is appointed.

(2) A Council may, from time to time, enter into an agreement with any other local authority for the levy of any tax falling under entry 52 or 59 in List II in the Seventh Schedule to the Constitution, whereby the tax leviable by the bodies so contracting may be levied together instead of separately within the limits of the area subject to the control of the said bodies.

(3) Where a Council has requested the concurrence of any other local authority under the provisions of sub-section (1) in respect of any matter and such other local authority has refused to concur, the Government may pass such order as it may deem fit, requiring the concurrence of such other local authority, not being a cantonment authority, in the matter aforesaid; and such other local authority shall comply with such order.

(4) If any difference of opinion arises between bodies having joined or entered into an agreement for any purpose under this section, the decision the coupon of the Government or of such officer as it may designate in this behalf shall be final:

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Provided that, if one of the bodies concerned is a cantonment authority any such decision shall be subject to the concurrence of the Central Government.

(5) For the purposes of this section, the expression "local authority" includes a Cantonment Board.

Validity of proceedings

84. (1) No disqualification of or defect in the selection or appointment of any person acting as Councillor or as the President or presiding authority of any meeting or a Chairman or member of a Committee appointed under this Regulation shall be deemed to vitiate any act or proceedings of the Council or of any such Committee, as the case may be, in which such person has taken part, wherever the majority of persons, parties to such act or proceedings, were entitled to act.

(2) No resolution of a Council or of any such Committee shall be deemed invalid on account of any irregularity in the service of notice upon any Councillor or member, provided that the proceedings of the Council or Committee were not prejudicially affected by such irregularity.

(3) Until the contrary is proved, every meeting of a Council or of a Committee appointed under this Regulation in respect of proceedings whereof a minute has been made and signed in accordance with this Regulation or the rules made thereunder, shall be deemed to have been duly convened and held and all the members of the meeting shall be deemed to have been duly qualified; and where the proceedings are the proceedings of a Committee, such Committee shall be deemed to have been duly constituted and to have had the powers to deal with the matters referred to in the minute.

(4) During any vacancy in a Council or Committee the continuing Councillors or members may act as if no vacancy had occurred.

CHAPTER VII

MUNICIPAL PROPERTY, FUNDS, CONTRACTS AND LIABILITIES

85. (1) Subject to any special reservation made or to any special conditions imposed by Government, all property of the nature hereinafter in this section specified (not being of private ownership) and situate within the limits of the municipal area shall vest in and be under the control of the Council, and with all other property which has already vested or may hereafter vest in the Council, shall be held and applied by it for the purposes of this Regulation, that is to say,—

(a) all public town-walls, gates, markets, slaughter-houses, manure and nightsoil depots and all public buildings of every description which have been constructed or are maintained out of the Municipal Funds;

(b) all public sewers and drains, and all sewers, drains, culverts and watercourses, alongside or under any street, and all works materials and things appertaining thereto; constructed or maintained out of the Municipal Funds;

(c) all dust, dirt, dung, ashes, refuse, animal, matter or filth, or rubbish of any kind and, or unclaimed dead bodies of animals, collected by the Council from the streets, houses, privies, sewers, cesspools or elsewhere, or deposited in places fixed by the Council in that behalf;

(d) all public lamps, lamp-posts and apparatus connected therewith or appertaining thereto, constructed or maintained out of the Municipal Funds:

(e) all lands, buildings or other property transferred to the Council by the Central Government or the Government or acquired by gift, purchase or otherwise for local public purposes;

Power to acquire and hold property.

Acts and proceedings of Council and Committees not vitiated by disqualifications, etc., of members thereof.

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(f) all lands, buildings or other property specified in clauses (a), (b) and (d) belonging to or constructed by the Central Government or the Government and which may be transferred to the Council by the said Government; and

(g) all public streets (excluding national highways and such roads as may be specified by the Government in this behalf by order published in the Official Gazette), not being open spaces or lands owned by the Government and the pavements, stones and other materials thereof and also all trees, erections, materials, implements and things provided for such streets.

(2) The lands and buildings belonging to the Government and transferred to a Council under clause (e) of sub-section (1) shall not, unless otherwise expressly provided in the instrument or order of transfer, belong by right of ownership to the Council, but shall vest in it subject to the terms and conditions of the transfer. On the breach of any of the said terms or conditions, the land or the building, as the case may be, with all things attached to such land or building including all fixtures and structures shall revest in Government and it shall be lawful for Government to resume possession thereof and make such orders as to its management or disposal, as it may deem fit, without payment of compensation.

Decision of claims to property by or against the Council.

86. (1) In any municipal area to which a survey of lands, other than lands ordinarily used for the purposes of agriculture only, has been or shall be extended under any law for the time being in force, where any property or any right in or over any property is claimed by or on behalf of the Council, or by any person as against the Council, it shall be lawful for the Collector after inquiry of which due notice has been given, to pass an order deciding the claim.

(2) Any suit instituted in any civil court after the expiration of one year from the date of any order passed by the Collector under sub-section (1) or, if one or more appeals have been made against such order within the period of limitation, than from the date of any order passed by the final appellate authority as determined according to law for the time being in force in the Union territory shall be dismissed (although limitation has not been set up as a defence) if the suit is brought to set aside such order if the relief claimed is inconsistent with such order, provided that the plaintiff has had due notice of such order.

(3) (a) The powers conferred by this section on a Collector may also be exercised by Deputy Collector.

(b) The inquiry referred to in this section shall be conducted in accordance with the provisions relating to conduct of formal inquiry or inquiry contained in any relevant law for the time being in force in the Union territory.

Municipal Fund. 87. (1) All moneys received by or on behalf of a Council by virtue of this Regulation or any other law for the time being in force, all taxes, fines and penalties paid to or levied by it under this Regulation, other than fines imposed by any court, all proceeds of land or other property sold by the Council, and all rents accruing from its land or property, and all interests, profits and other moneys accruing by gift or transfer from the Government or private individuals or otherwise, shall constitute the Municipal Fund, and shall be held and deal: with in a similar manner to the property specified in section 85 and section 94, respectively:

Provided that-

(a) nothing in this section or in section 85 shall in any way affect any obligation accepted by or imposed upon any Council by any declarations of trust executed by or on behalf of such Council or by any scheme settled under the Charitable Endowments Act, 1890, for the administration of any trust, or by a trust of the nature specified in clause (b);

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(b) a Council may, subject to the condition that reasonable provision shall be made for the performance of all obligations imposed or that may be imposed on it

by or under this Regulation or any other law for the time being in force, after crediting the necessary sums to the funds created under section 87, credit to a separate heading in the municipal accounts any portion of the Municipal Fund received or set apart by it specially for such purposes as the Director in this behalf approves, and the Council shall apply sums so credited exclusively to the special purposes for which such sums were received or set apart;

(c) (i) every Council which levies a tax on pilgrims resorting periodically to a shrine within its area shall, subject to the condition that reasonable provision shall be made for the purposes specified in sub-clause (ii), credit the proceeds of the said tax to a separate heading in the municipal account to be called the "Pilgrim Fund Account";

(*ii*) the purposes for which provision shall be made by a Council before the proceeds of the pilgrim tax are credited to the Pilgrim Fund Account shall be the following, namely, the payment to the Council of such percentage of the proceeds of the said tax as may be determined from time to time by the Council with the approval of the Director for—

(A) making reasonable provision for the performance of all obligations imposed or which may be imposed on it by or under this Regulation or any other law for the time being in force;

(B) such general duties of the Council as are connected with the health, convenience and safety of the said pilgrims; and

(C) the cost of collection of the said tax;

(*iii*) the sums credited under clause (c) (*i*) shall be devoted to such works conducive to the health, convenience and safety of the said pilgrims as may be approved by the Director.

(2) The Government may under appropriation duly made in this behalf make such grants to every Council every year and subject to such terms and conditions and in such manner as it deems fit for all or any of the following purposes, namely:—

(a) water supply;

(b) drainage;

(c) primary and secondary education;

(d) development plan and town planning schemes under any law for the time being in force in the Union territory;

(e) dearness allowance to the officers and servants of the Council;

(f) pay and allowances to the officers belonging to the common cadre constituted under section 73;

(g) public health;

(h) fire brigade;

(i) construction and maintenance of roads; and

(j) such other amenities as the Government may from time to time determine, and such grants shall be credited to the Municipal Fund and applied for the purposes for which they are sanctioned.

88. Every Council shall build up a salary reserve fund within a period of three financial years by transferring annually on or before the 31st day of December a sum equal to the total of one month's salary and allowances of all the officers and servants of the Council. Neither during the period of three years aforesaid nor thereafter, shall it be

Constitution of salary reserve fund.

[PART II---

competent for the Council to incur any expenditure from this fund, except with the previous sanction of the Director. The Director may give his sanction if he is satisfied that the proposed expenditure is for the payment of salaries and allowances, and cannot be incurred from the unreserved funds of the Council. Such sanction shall further be subject to the condition that no expenditure from the Municipal Fund shall be incurred thereafter except for the purposes specified below in order of priority, till the salary reserve fund is fully recouped---

(a) recoupment of the 'salary reserve fund';

(b) payment of salaries and allowances.

The Director shall also prescribe the period and the monthly instalment by which the said fund shall be recouped, which period in no case shall exceed six months.

89. (1) No Council shall transfer any of its immovable property without the sanction of the Government.

(2) A proposal of such transfer shall be accompanied by a resolution of the Council passed at a meeting by a majority of not less than two-third of the total number of Councillors and shall in no way be inconsistent with the rules made in this behalf by the Government.

(3) Notwithstanding anything contained in sub-section (1), a Council may lease its immovable property for a period not exceeding three years, and the lessee shall not be allowed to make any permanent construction on such immovable property. Such lease may be renewed by the Council beyond the period of three years with the permission of the Director, so, however, that the total period of any lease shall not exceed seven years. No such lease or any renewal thereof shall be granted unless supported by a resolution passed at a meeting of the Council.

90. (1) In the case—

Provisions relating to contracts and tenders.

Provisions

transfer of municipal

regarding

property.

im on

(a) of every contract which will involve expenditure not covered by a budget grant;

(b) of every contract the performance of which cannot be completed within the official year current at the date of the contract, the sanction of the Council by a resolution passed at an ordinary meeting shall be necessary.

(2) (a) Every contract under or for any purpose of this Regulation shall be made on behalf of the Council by the Chief Officer.

(b) No such contract which the Chief Officer is not empowered by this Regulation to carry out without the approval or sanction of some other municipal authority shall be made by him until or unless such approval or sanction has first of all been duly given.

(c) No contract which will involve an expenditure exceeding rupees fifteen thousand, shall be made by the Chief Officer unless otherwise authorised in this behalf by the Council, except with the approval or sanction of the Council.

(d) Every contract made by the Chief Officer involving an expenditure exceeding seventy five per cent. of the limit in clause (c) but not exceeding that limit shall be reported by him within fifteen days after the same has been made to the Council.

(e) The foregoing provisions of this section shall apply to every variation or discharge of a contract to the same extent as to an original contract.

(3) Every contract entered into by a Chief Officer on behalf of a Council shall be entered into in such manner and form as would bind such Chief Officer if such contract were on his own behalf, and may in the like manner and form be varied or discharged:

Provided that-

(a) where any such contract, if entered into by a Chief Officer, would require to be under seal, the same shall be, sealed with the common seal of the Council;

(b) every contract for the execution of any work or for the supply of any material or goods which will involve an expenditure exceeding five hundred rupees shall be in writing and shall be sealed with the common seal of the Council and shall specify the work to be done or the materials or goods to be supplied, as the case may be, the price to be paid for such work, materials or goods and in the case of a contract for work, the time or times within which the same or specified portions thereof shall, be completed.

(4) The common seal of the Council shall not be affixed to any contract or other instrument except in the presence of two members of the Standing Committee who shall attach their signatures to the contract or instrument in token that the same was sealed in their presence. The signature of the said members shall be distinct from the signatures of any witnesses to the execution of any such contract or instrument.

(5) A contract not executed in the manner provided in this section shall not be binding on the Council.

(6) Except as is otherwise provided in sub-section (2), a Chief Officer shall before entering into any contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding one thousand rupees give notice by advertisement in a local newspaper, inviting tenders for such contract:

Provided that at least clear seven days shall be allowed to clapse between the date of the publication of the advertisement in the newspaper inviting tenders and the last date fixed for the receipt of tenders by the Chief Officer.

(7) The Chief Officer shall not be bound to accept any tender which may be made in pursuance of such notice, but may, with the approval of the Council, accept any of the tenders so made which appears to him upon a view of all the circumstances, to be the most advantageous or may reject all the tenders submitted to him.

(8) A Council, after obtaining the approval of the Collector, may authorise the Chief Officer, for reasons which shall be recorded in its proceedings, to enter into a contract without inviting tenders as herein provided or without accepting any tenders which he may receive after having invited them.

(9) A Chief Officer shall require security for the due performance of every contract into which he enters under sub-section (6) and may, in his discretion, require security for the due performance of any other contract into which he enters under this Regulation.

91. (1) No officer or servant of a Council shall, without the written permission of the Director, in anyway be connected with or interested in any bargain or contract made with the Council for any of the purposes of this Regulation.

(2) If any such officer or servant is so concerned or interested or under colour of his office or employment, accepts any fee or reward whatsoever other than his propersalary or allowances, the appropriate authority may declare that he shall be incapable afterwards of holding or continuing in any office or employment under the Council.

(3) Nothing in this section shall bar a prosecution under the next succeeding section.

92. (1) If the Councillor, or any officer or servant of the Council, without the written permission of the Director, is directly or indirectly interested in any contract made with such Council, he shall be deemed to have committed an offence under section 168 of the Indian Penal Code.

Bar against officers and servants being interested in contract.

Penalty to Councillors, officers and servants for improper interest in contracts, etc.

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(2) A Councillor or an officer or servant of a Council shall not, by reason only of being a shareholder in, or a member of any company, or co-operative society, be deemed to be interested in any contract entered into between the company or the society and the Council.

93. (1) If any Councillor or officer or servant of the Council makes or directs to be made any payment or application of any money or other property belonging to or under the control of such Council to any purpose not authorised by or under this Regulation, or assents to, or concurs with or participates in any affirmative vote or proceeding relating thereto, he shall be individually liable to such Council for the loss or damage caused thereby, unless he proves that he acted in good faith and with due care and attention.

(2) Every Councillor or officer or servant of the Council shall be liable to such Council for the loss of any money or the loss of, or damage to, other property belonging to it or under its control, if such loss or damage is a direct consequence of his negligence or misconduct.

(3) No suit shall be instituted by a Council against the Councillor thereof under subsection (1) or sub-section (2), except with the previous sanction of the Government.

(4) Notwithstanding anything contained in sub-section (3), a suit under sub-section (1) or sub-section (2) may be instituted by the Government.

(5) No suit shall be instituted under this section after the expiration of six years from the date when the cause of action arose.

94. The Municipal Fund and all property vested in a Council shall be applied for the purposes of this Regulation within its area:

Provided that it shall be lawful for the Council with the sanction of the Director or any officer duly authorised by him in this behalf,---

(a) to incur expenditure in the acquisition of land or in the construction, maintenance, repair or purchase of works beyond the limits of its area for the purpose of obtaining a supply of water required for the inhabitants of the municipal area or of providing the supply of electrical energy or gas for the use of the inhabitants of the municipal area or of establishing slaughter-houses or places for the disposal of night soil or sewage or carcasses of animals or for drainage works or for the purpose of providing mechanically propelled transport facilities for the conveyance of the public or for the purpose of setting up of dairies or farms for the supply, distribution and processing of milk or milk products for the benefit of the inhabitants of the municipal area, or for any other purpose calculated to promote the health, safety or convenience of the inhabitants of the municipal area; or

(b) to make a contribution towards expenditure incurred by any other local authority or out of any public funds for measures affecting the health, safety or convenience of the public and calculated to benefit directly the residents within the limits of the contributing Council:

Provided further that nothing in this section or in any other provision of this Regulation shall be deemed to make it unlawful for a Council when with such sanction as aforesaid it has constructed works beyond the limits of the municipal area for the supply of water or electrical energy or gas or for drainage as aforesaid—

(*i*) to supply or extend to or for the benefit of any persons or buildings or lands in any place whether such place is or is not within the limits of the municipal area, any quantity of water or electrical energy or gas not required for the purposes of this Regulation within the municipal area, or the advantages afforded by the system of drainage works on such terms and conditions with regard to payment and to the continuance of such supply or advantages as shall, be settled by agreement between the Council and such persons or the occupiers or owners of such buildings or lands, or

officers and servants for loss or damage.

Liability of Councillors,

Application of municipal property and funds within and without the municipal arca. (*ii*) to incur any expenditure, on such terms with regard to payment as may be settled as aforesaid, for the construction, maintenance, repairs, or alteration of any connection pipes or any electric or gas supply lines or other works necessary for the purpose of such supply or for the extension of such advantages; or

(*iii*) to make contribution towards the construction, establishment or maintenance of institution referred to in clause (t) of sub-section (3) of section 52, subject to the condition that the total of such contributions in any financial year shall not exceed two per cent. of the general revenues (excluding Government grants) of the Council for the previous financial year:

Provided also that such contribution may, with the prior approval of the Government, exceed two per cent. but not five per cent. of such revenues.

95. It shall not be necessary for the Council to obtain sanction of the Director under the last preceding section, if the Council, in an emergency, decides to give on loan its fire fighting equipment, road-roller, bull-dozer or ambulance car to any other local authority in the District. The terms and conditions of the loan shall be such as the Council and the borrowing local authority may mutually agree.

96. (1) It shall be lawful for a Council to deposit with the State Bank of India or such other bank as may hereafter be appointed to conduct the business of Government treasury or in any other scheduled bank or with the sanction of the Government in any co-operative bank in the Union territory any surplus funds in its hands which may not be required for current charges, and to invest such funds in public securities in the name of the Council, and from time to time, to dispose of such securities as may be necessary.

(2) All surplus funds over and above what may be required for current expenses, unless deposited or invested as provided for in sub-section (I), shall be deposited in the local Government treasury or such other place of security as may be approved by the Director.

97. Subject to rules made under this Regulation, a Council may compromise any suit instituted by or against it, or any claim or demand arising out of any contract entered into by it in accordance with this Regulation for such sum of money or other compensation as shall be deemed sufficient.

CHAPTER VIII

BUDGET AND ACCOUNTS

98. (1) The Chief Officer shall each year on or before the 31st day of December Budget. prepare and place before the Standing Committee—

(i) a statement showing the income and expenditure of the Council for the previous financial year;

(*ii*) a statement showing the income and expenditure of the Council from the 1st day of April to the 30th day of November of the financial year then current and an estimate of the income and expenditure for the remaining portion of the current year;

(*iii*) an estimate of the income and expenditure of the Council during the ensuing financial year and an estimate of the closing balance in the Municipal Fund at the end of the current year;

(iv) proposals for any change in the taxes, fees or other charges to be levied for the ensuing year.

(2) Such statements and estimates shall be prepared under such heads of accounts and in such form as may be prescribed by the Government.

Special provision regarding loan of fire fighting equipment, etc.

Depositing or investing of surplus funds of a Council.

Power of Council to compromise suits.

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(3) The Standing Committee shall consider the estimates and the proposals of the Chief Officer and submit them to the Council with such recommendations as it may deem fit to make, before the 31st day of January:

Provided that, if the Standing Committee fails to make its recommendations before the 31st day of January, the President shall place the statements and estimates before the Council without the recommendations of the Standing Committee.

(4) The Council shall consider the estimates prepared by the Chief Officer and the recommendations of the Standing Committee, if any, and adopt the budget estimates with or without modifications not later than the last day of February:

Provided that when a Council is indebted to Government, the budget of the Council shall be adopted only with the previous sanction of the Director:

Provided further that nothing in the first proviso shall be deemed to prevent the Council during the first quarter of the financial year or till the budget is sanctioned, whichever is earlier, from paying from its Municipal Fund, cost of the sanctioned establishment and contingencies.

(5) No budget shall be approved by the Council unless provision is made therein-

(a) for the payment as they fall due of all sums and of all instalments of principal and interest for which the Council may be liable under this Regulation or any other law for the time being in force;

(b) for the payment of contributions to the special funds constituted under this Regulation such as the salary reserve fund;

(c) for the payment of salaries and allowances of the officers and servants of the Council;

(d) for a minimum cash balance at the end of the year (exclusive of the balance, if any, in any statutory fund) of such amount as may be prescribed by rules made by the Government.

(6) The budget so sanctioned may be varied or altered by the Council, from time to time, as circumstances may render desirable:

Provided that the Standing Committee or any other Committee appointed under this Regulation may within the budget so sanctioned, sanction reappropriations not exceeding such limits as may in respect of each class of Council be prescribed by rules, from one sub-head to another or from one minor head to another under the same major head and controlled by the same Committee. A statement of such reappropriations shall be submitted to the Council at its next meeting:

Provided further that no such reappropriation shall be done from the amounts earmarked towards the repayment of any loan and interest thereon and towards contribution to any fund or funds constituted under the provisions of this Regulation.

(7) (a) Save in an emergency, no sum shall be expended by or on behalf of any Council unless such sum is included in the budget for the time being in force.

(b) If any sum which is not so included in the budget, is expended in an emergency, the circumstances in which such sum was expended shall forthwith be reported by the President to the Council and the Director, with an explanation of the way in which it is proposed to cover such extra expenditure.

99, (1) Accounts of the receipts and disbursements of every Council shall be kept in accordance with the rules contained in the Municipal Account Code prescribed by the Government and shall be placed before the Council in the prescribed manner.

(2) After the end of each official year the Chief Officer shall arrange to get prepared, and if so required by section 101 get audited by the Municipal Auditor, the accounts of

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Municipal accounts.

the Council for the year and shall place them before the Council not later than the 30th day of June of the following year.

(3) An abstract of the annual accounts as passed by the Council showing the receipts and disbursements of the Municipal Fund under each head of receipt and disbursements, the charges for establishment, the balance, if any, of the fund remaining unspent, and such other information as may be required by the Government shall be forwarded by the Council to the Director, not later than the 31st day of July of the next financial year.

100. The quarterly and annual accounts, receipts and disbursements, and the Publication of budget when sanctioned, shall be open to inspection by any adult inhabitant in the municipal area. A note to that effect that a statement of such accounts and the budget are so kept for inspection shall be published in the local newspapers.

101. The accounts of all municipal Councils shall be subject to audit in all respects, Audit of accounts in such manner as the Government may, by rules prescribe.

CHAPTER IX

MUNICIPAL TAXATION

Imposition of compulsory and voluntary taxes

102. (1) Subject to any general or special orders which the Government may make in this behalf, a Council shall impose, for the purposes of this Regulation, the taxes listed below:—

(a) a consolidated property tax on lands or buildings or both situated within municipal area, based on their rateable value as determined in accordance with section 110;

(b) a tax on professions, trades, callings and employments;

(c) a theatre tax;

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(d) a tax on advertisements other than advertisements published in the newspapers:

Provided that the maximum and minimum rates at which the taxes aforesaid shall be levied and other matters relating to imposition, assessment, collection and exemptions thereof shall be such as may be prescribed by rules.

(2) The consolidated tax on property shall include—

(a) a general tax;

(b) a general water tax;

(c) a lighting tax;

(d) a general sanitary tax.

103. If under any special or general order issued under sub-section (1) of the last preceding section, the Government grants exemption in respect of any class of property or persons from levy of the taxes specified in sub-sections (1) and (2) of that section, the Government may under appropriation duly made by law in this behalf, annually reimburse to the Council concerned, an amount approximately equal to the loss that the Council thereby incurs. The decision of the Government regarding,—

(i) the mode of assessing the loss; and

(ii) the amount of loss incurred by each Council concerned each year shall be final.

104. Subject to any general or special orders which the Government may make in this behalf, a Council may impose, for the purposes of this Regulation, any of the following taxes, namely:—

Loss of income from tax due to exemption to be reimbursed by Government.

Other taxes which Council

may impose.

Imposition of compulsory taxes.

[PART II----

(a) a tax on all vehicles (excluding motor vehicles as defined in the Motor Vehicles Act, 1988) boats or animals used for riding, draught or burden and kept 59 of 1988. for use within the municipal area, whether they are actually kept within or outside such area;

(b) a toll on vehicles and animals used as aforesaid, entering the municipal area but not liable to taxation under clause (a);

(c) a tax on dogs kept within the municipal area;

(d) a special sanitary tax upon private latrines, premises or compounds cleansed by municipal agency, after notice given as hereinafter required;

(e) a drainage tax;

(f) a special water tax for water supplied by the Council in individual cases, charges for such supply being fixed in such mode or modes as shall be best suited to the varying circumstances of any class of cases or of any individual case;

(g) a tax on pilgrims resorting periodically to a shrine within the limits of the Council;

(h) a special educational tax:

Provided that no special sanitary tax in respect of private latrines, premises or compounds shall be levied, unless and until the Council has---

(i) made provision for the cleansing thereof by manual labour, or for conducting or receiving the sewage thereof into municipal sewers, and

(*ii*) issued either severally to the persons to be charged, or generally to the inhabitants of the municipal area or part thereof to be charged with such tax, one month's notice of the intention of the Council to perform such cleansing and to levy such tax.

105. A Council before imposing any of the taxes referred to in section 104 shall observe the following preliminary procedure—

Procedure preliminary to imposing tax under section 104.

(a) it shall, by resolution passed at a special meeting, select for the purpose one or other of the taxes specified in that section and approve the bye-laws concerning the tax selected, and in such bye-laws specify—

(i) the classes of persons or of property or of both, which the Council proposes to make liable, and any exemptions which it proposes to make;

(*ii*) the amount or rate at which the Council proposes to assess each such class;

(*iii*) the mode of levying and recovering the tax and the dates on which it or instalments, if any, thereof shall be payable;

(*iv*) all other matters which the Government by rules made in this behalf may require to be specified therein;

(b) when such a resolution is passed, the Council shall take further action to obtain the previous sanction of the Government to the bye-laws under section 501.

Discretionary tax when sanctioned not to be abolished without previous sanction of Government. 106. After the bye-laws in respect of any discretionary tax are sanctioned by the Government under the last preceding section, such tax shall be brought into force on or after a date to be specified by the Government in its sanction. Such a tax shall not then be abolished without the previous sanction of the Government.

107. The bye-laws referred to in sections 105 and 106, as sanctioned and published in the Official Gazette by the Government, shall be republished by the Council in a local newspaper with a notice in the prescribed form. The notice shall specify the date on which the bye-laws shall come into force. Such date shall, however, not be less than thirty days from the date of publication of such notice:

Provided that—

(a) a tax leviable by the year shall not come into force except on one of the following days, namely, the first day of April, the first day of July, the first day of October or the first day of January in any year; and if it comes into force on any day other than the first day of April, it shall be leviable by the quarter till the first day of April than next ensuing;

(b) if the levy of a tax, or a portion of a tax, has been sanctioned for a fixed period only, the levy shall cease at the conclusion of that period, except so far as regards recovery of arrears which may have become due during that period.

108. (1) Notwithstanding any rule, bye-law or resolution specifying the amount or rate at which a tax is leviable, a Council may, by a resolution passed at a special meeting, decide to increase or reduce the amount or rate at which such tax is leviable and to that extent the bye-laws already sanctioned by the Government shall be deemed to have been suitably amended with effect from the date specified in the notice referred to under subsection (2):

Provided that—

(a) such increase or reduction shall be within the maximum and minimum limits fixed in respect of such tax under the rules;

(b) such increase or reduction shall not exceed ten per cent. of the amount or rate at which such tax was leviable during the preceding official year.

(2) When a Council has by a resolution decided to increase or reduce the amount or rate at which any tax is leviable, the Council shall publish in the municipal area the resolution together with notice specifying a date, which shall not be less than thirty days from the date of publication of such notice, from which the amount or rate at which any tax is leviable shall be increased or reduced. The tax at the amount or rate so increased or reduced shall be leviable from the date specified in such notice.

Assessment and liability to tax on buildings and lands

109. (1) The Government may by notification in the Official Gazette,---

(a) appoint such officers including those of Public Works Department of the Government to be authorised Valuation Officers for the purposes of this Regulation; and

(b) define the municipal areas within which such officers shall exercise the powers conferred and perform the duties imposed upon them by or under this Regulation.

(2) Each Council shall every year pay to the Government such sum out of its revenue for the services rendered or to be rendered in that year by any authorised Valuation Officer or officers for its purposes, as the Government may by general or special order determine.

(3) Till such time as an authorised Valuation Officer is appointed for any municipal area, the powers conferred and duties imposed by or under this Regulation on such officer shall in that area be exercised and performed by the Standing Committee.

110. (1) In order to fix the rateable value of any building or land assessable to a property tax, there shall be deducted from the amount of rent for which such building or land might reasonably be expected to let or for which it is actually let, from year to year, whichever is greater, a sum equal to ten per cent. of the said annual rent, and the said deduction shall be in lieu of all allowances for repairs or on any other account whatever.

Rateable value how to be determined.

Appointment of authorised Valuation

Local publication of bye-laws relating to taxes with notice.

Council may vary rates of

tax within

prescribed

limits.

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(2) The value of any machinery contained or situated in or upon any building or land shall not be included in the rateable value of such building or land.

111. (1) When a tax on building or land or both is imposed, the Chief Officers shall cause an assessment list of all buildings or lands or lands and buildings in the municipal area to be prepared in the prescribed form.

(2) For the purpose of preparing such assessment list, the Chief Officer or any person acting under his authority may inspect any building or land in the municipal area and on the requisition of the Chief Officer, the owner or occupier of any such building or land shall, within such reasonable period as shall be specified in the requisition, be bound to furnish a true return to the best of his knowledge or belief and subscribe with his signature the name and place of abode of the owner or occupier or of both and the annual rent, if any, obtained and his estimate of the value of such building or land.

112. (1) When the name of the person primarily liable for the payment of a tax on buildings or lands or both in respect of any premises cannot be ascertained, it shall be sufficient to designate him in the assessment book, and in any notice which it may be necessary to serve upon the said person under this Regulation, "the holder" of such premises, without further description.

(2) If, in any such case, any person in occupation of the premises shall refuse to give such information as may be requisite for determining who is primarily liable as aforesaid, such person shall himself be liable, until such information is obtained, for all taxes on buildings or lands or both leviable on the premises of which he is in occupation.

113. When the list of assessment has been completed by the Chief Officer, he shall submit the same to the authorised Valuation Officer appointed by the Government for the municipal area. The authorised Valuation Officer shall verify the assessment as done by the Chief Officer, if necessary by inspection of properties concerned, and return the list duly checked and corrected to the Chief Officer within a period of two months.

114. When the list of assessment is returned by the authorised Valuation Officer under the last preceding section, the Chief Officer shall give public notice thereof and of the place where the list or copy thereof may be inspected; and every person claiming to be either the owner or occupier of property included in the list, and any agent of such person, shall be at liberty to inspect the list and to make extracts therefrom without charge.

115. (1) The Chief Officer shall, at the time of the publication of the assessment list under the last preceding section, give public notice of a date not less than thirty days, after such publication, before which objections to the valuation or assessment in such list shall be made; and in all cases in which any property is for the first time assessed or the assessment is increased, he shall also give notice thereof to the owner or occupier of the property if known, and if the owner or occupier of the property is not known, he shall affix the notice in a conspicuous position on the property.

(2) Objections to the valuation and assessment on any property in such list shall, if the owner or occupier of such property desires to make an objection, be made by such owner or occupier or any agent of such owner or occupier to the Chief Officer before the time fixed in the aforesaid public notice, by application in writing, stating the grounds on which the valuation or assessment is disputed; all applications so made shall be registered in a book to be kept by the Chief Officer for the purpose.

116. After the period given in the public notice referred to in section 114 expires the Chief Officer shall forward to the authorised Valuation Officer for the municipal area, the assessment list along with objections received. The authorised Valuation Officer shall investigate and dispose of the objections after allowing the objector an opportunity of being heard in person or by agent and cause the result thereof to be noted in the book kept under the last preceding section and cause any amendment necessary in accordance with such result to be made in the assessment list:

Preparation of assessment list.

Person primarily liable for a property tax how to be designated if his name cannot be ascertained,

Authorised Valuation Officer to check assessment.

Publication of notice of assessment list.

Public notice of time fixed for lodging objections.

Objections how to be dealt with. SEC. 1]

Provided that before any such amendment is made, the reasons therefor shall be recorded in the book aforesaid.

117. (1) The list so finally made by the authorised Valuation Officer shall be authenticated by him under the seal of his office and his signature and he shall endorse a certificate thereon that no valid objection has been made to the valuation and assessment contained in the list, except in cases in which amendments have been made therein.

(2) The list so authenticated shall be deposited in the municipal office, and shall there be open for inspection during office hours to all owners and occupiers of property entered therein or to the agents of such persons, and a notice that it is so open shall be forthwith published.

118. Subject to such alterations as may be made therein under the provisions of the next succeeding section and to the result of any appeal or revision made under section 160 or section 162, the entries in the assessment list so authenticated and deposited and the entries, if any, inserted in the said list under the provisions of the next succeeding section shall be accepted as conclusive evidence---

(i) for the purposes of all municipal taxes, of the valuation, or annual rent, on the basis prescribed in section 110 of buildings or lands or both buildings and lands to which such entries respectively refer; and

(ii) for the purposes of the tax for which such assessment list has been prepared of the amount of the tax leviable on such buildings or lands or both buildings and lands in any official year in which such list is in force.

119. (1) The Chief Officer, in consultation with the authorised Valuation Officer, may at any time alter the assessment list by inserting or altering an entry in respect of any property, such entry having been omitted from or erroneously made in the assessment list through fraud, accident or mistake or in respect of any building constructed, altered, added to or reconstructed in whole or in part, where such construction, alteration, addition or reconstruction has been completed after the preparation of the assessment list, after giving notice to any person interested in the alteration of the list of a date, not less. than one month from the date of service of such notice, before which any objection to the alteration should be made.

(2) An objection made by any person interested in any such alteration, before the time fixed in such notice, and in the manner provided by section 115 shall be dealt with in all respect as if it were an application under the said section.

(3) An entry or alteration made under this section shall subject to the provisions of sections 160 and 162 have the same effect as if it had been made in the case of a building constructed, altered, added to or reconstructed on the day on which such construction, alteration, addition or reconstruction was completed or on the day on which the new construction, alteration, addition or reconstruction was first occupied, whichever first occurs, or in other cases, on the earliest day in the current official year on which the circumstances justifying the entry or alteration existed; and the tax or the enhanced tax, as the case may be, shall be levied in such year in the proportion which the remainder of the year after such day bears to the whole year.

120. The assessment of every property in the municipal area shall as far as possible be done not less than once in four years and once done shall remain in force for four years. Subject to rules made in this behalf, the Chief Officer may for the purpose of assessment divide the municipal area into such suitable divisions as he deems fit or may undertake the work for the whole municipal area simultaneously. The publication of the authenticated assessment list shall be done not later than the 31st day of July of the official year to which it relates.

Authentic list

how far

conclusive.

Authentication of list of

assessment.

Amendment of assessment list.

Reassessment

to be done after every

four years.

Primary responsibility for property taxes on whom to rest.

121. (1) Subject to the provisions of sub-section (2), property taxes assessed upon any premises shall be primarily leviable as follows, namely:---

(a) if the premises are held immediately for the Government or for the Council, from the actual occupier thereof :

Provided that property taxes due in respect of buildings vesting in the Government and occupied by servants of the Government or other persons on payment of rent shall be leviable primarily from the Government;

(b) if the premises are not so held —

(i) from the lessor if the premises are let;

(*ii*) from the superior lessor if the premises are sub-let;

(*iii*) from the person in whom the right to let the premises vests if they are unlet;

(*iv*) from the person in possession, if the premises are not let out to him.

(2) If any land has been let for any term exceeding one year to tenant, and such tenant has built upon the land, the property taxes assessed upon the said land and upon the building erected thereon shall be primarily leviable from the said tenant or any person deriving title from the said tenant by the operation of law or by assignment or transfer but not by sub-lease or the legal representative of the said tenant or person whether the premises be in the occupation of the said tenant or person or legal representative or a sub-tenant.

122. (1) If the sum due on account of any property tax remains unpaid after a bill for the same has been duly served upon the person primarily liable for the payment thereof and the said person be not the occupier for the time being of the premises in respect of which the tax is due, the Chief Officer may serve a bill for the amount upon the occupier of the said premises, or, if there are two or more occupiers thereof, may serve a bill upon each of them for such portion of the sum due as bears to the whole amount due to the same ratio which the rent paid by such occupier bears to the aggregate amount of rent paid by them both or all in respect of the said premises.

(2) If the occupier or any of the occupiers fails within thirty days from the service of any such bill to pay the amount therein claimed, the said amount may be recovered from him.

(3) No arrear of a property tax shall be recovered from any occupier under this section which has remained due for more than one year, or which is due on account of any period for which the occupier was not in occupation of the premises on which the tax is assessed.

(4) If any sum is paid by, or recovered from, an occupier under this section, he shall be entitled to credit therefor in account with the person primarily liable for the payment of the same.

123. (1) Where any building or land the tax whereof is payable by the year, or in respect of which a special sanitary tax is payable by the year or by instalments, has remained vacant and unproductive of rent throughout the year or portion of the year for which such tax is leviable, or throughout the period in respect of which any instalment is payable, the Council shall remit or refund not more than one-half of the amount of the tax or instalment of the tax, as the case may be:

Provided that no such remission or refund shall be granted unless notice in writing of the fact of the building or land being vacant and unproductive of rent has been given to the Chief Officer, and that no remission or refund shall take effect for any period previous to the day of the delivery of such notice.

When occupiers may be held liable for payment of property taxes.

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Partial remission in respect of property remaining unoccupied.

(2) Where any such building or land as aforesaid ---

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(a) has been vacant and unproductive of rent for any period of not less than ninety consecutive days, or

(b) consists of separate tenements one or more of which has or have been vacant and unproductive of rent for any such period as aforesaid, or

(c) wholly or in great part demolished or destroyed by fire or otherwise deprived of value, the Council may remit or refund such portion, if any, of the tax or instalment as it may think equitable.

(3) The burden of proving the facts entitling any person to claim relief under this section shall be upon him.

124. For the purposes of clause (a) of sub-section (2) of the last preceding section, a building or land shall be deemed to be productive of rent, if let to a tenant who has a continuing right of occupation thereof, whether it is actually occupied by such tenant or not.

125. (1) Whenever the title of any person primarily liable for the payment of a tax on buildings or lands or both to or over such land or building or both is transferred, the person whose title is so transferred and the person to whom the same is transferred shall, within three months after execution of the instrument of transfer or after its registration if it be registered, or after the transfer is effected if no instrument be executed, give notice of such transfer in writing to the Chief Officer.

(2) In the event of the death of any person primarily liable as aforesaid, the person to whom the title of the deceased shall be transferred as heir or otherwise shall give notice of such transfer to the Chief Officer within one year from the death of the deceased.

(3) If the person liable to give the notice referred to in sub-section (1) or sub-section (2) fails to give such notice, he shall, on conviction, be punished with fine which may extend to fifty rupees.

126. (1) The notice to be given under the last preceding section shall be in the form of Schedule I or Schedule II, as the case may be, and shall state clearly and correctly all the particulars required by the said form.

(2) On receipt of any such notice, the Chief Officer may, if he thinks it necessary, require the production of the instrument of transfer, if any, or a copy thereof obtained under section 57 of the Indian Registration Act, 1908.

127. (1) Every person primarily liable for the payment of a tax on buildings or lands or both who transfers his title to or over such building or land or both without giving notice of such transfer to the Chief Officer as aforesaid shall, in addition to any other liability which he incurs through such neglect, continue to be liable for the payment of the said tax on the building or land or both until he gives such notice, or until the transfer shall have been recorded by the Council.

(2) But nothing in this section shall be held to diminish the liability of the transferee for the said tax or to affect the prior claim of the Council on the said building and land conferred by section 153, for the recovery of the tax on the land or building or both.

128. Where a Council has made provision for the cleansing of any factory, hotel or club or any group of buildings or lands used for any one purpose and under one management, it may, instead of levying in respect thereof any special sanitary tax imposed under this Chapter, fix a special rate and the dates and other conditions for periodical payments thereof; such rate, dates and conditions shall be determined either—

(a) in accordance with the bye-laws for the time being in force; or

(b) by written agreement with the person who would have been otherwise

When building or land deemed to be productive of rent.

Parties to transfer of property to give notice of transfer.

Form of notice.

In absence of notice, liability to taxes to continue on original holder.

Power to fix special rate in lieu of special sanitary tax.

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Recovery of sums claimed under the last two preceding sections.

Council may sell surplus water for use outside municipal area.

Tables of tolls to be shown on demand.

Power to seize vehicle or animal or goods for non-payment of octroi or toll and to dispose off seized property.

Farming of tolls.

liable for the tax provided that in fixing the amount of such rate proper regard shall be had to the probable cost to the Council of the service to be rendered.

129. Every sum claimed by a Council as due under any of the provisions contained in section 128 shall be deemed to be an amount claimed on account of a tax and shall be recoverable in the same manner as an amount of a tax is recoverable under this Regulation.

130. A Council may contract with any person or department to supply for use beyond the municipal area any quantity of water belonging to it but not required by it at such rates and on such conditions as it may think fit:

Provided that such rate shall be in no case lower than the rate chargeable for water supplied for similar purposes within the municipal area.

131. A Council imposing any toll under this Regulation shall cause to be kept at each place where such toll is to be collected, a table showing the amounts leviable in all cases provided for in the bye-laws including the terms, if any, on which the liability to pay such tolls may be compounded by periodical payments; and it shall be the duty of every person authorised to demand payment of a toll, to show such table on the request of any person from whom such demand is made.

132. (1) In the case of non-payment on demand of any toll leviable by a Council, any person appointed to collect such toll may seize any vehicle or animal on which the toll is chargeable, or any part of the burden of such vehicle or animal which is of sufficient value to satisfy the demand, and may detain the same. He shall thereupon give the person in possession of the vehicle, or animal seized, a list of property together with a written notice in the form of Schedule V.

(2) When the expense of keeping the property seized together with the amount of the toll chargeable is likely to exceed its value, the person seizing such property may inform the person in whose possession it was that it will be sold at once; and shall sell it or cause it to be sold accordingly unless the amount of toll demanded be forthwith paid.

(3) If at any time before a sale has begun, the person from whose possession the property has been seized, tenders at the municipal office the amount of all expenses incurred and of the toll payable, the Chief Officer shall forthwith deliver to him the property seized.

(4) If no such tender is made, the property seized may be sold and the proceeds of such sale shall be applied in payment of such toll, and the expenses incidental to the seizure, detention and sale.

(5) The surplus, if any, of the sale-proceeds shall be credited to the municipal fund, and may, on application made to the Chief Officer in writing within three years next after the sale, be paid to the person in whose possession the property was when seized, and if no such application is made, shall be the property of the Council.

133. (1) It shall be lawful for a Council to lease by public auction the levy of any toll that may be imposed under this Regulation:

Provided that the lessee shall give security for the due fulfilment of the conditions of the lease.

(2) Where any toll has been leased under this section, any person employed by the lessee to collect such toll shall, subject to the conditions of the lease, exercise the powers and perform the duties conferred and imposed by sub-sections (1) and (2) of section 132 on a person appointed to collect a toll, and any property seized, shall be dealt with as if it has been selzed under the provisions of that section:

Provided that no property seized may be sold except under the orders of the Chief Officer.

Supplementary provisions regarding taxes

134. Where a Council has imposed a tax on vehicles (other than motor vehicles) or animals used for riding, draught or burden and kept for such use within the municipal area, it may compound with the keeper of any livery-stable or of horses or such vehicles kept for sale or hire, for the payment of a lump sum for any period not exceeding one year at a time, in lieu of any amount which such keeper would otherwise have been liable to pay on account of the tax imposed as aforesaid.

135. No assessment and no charge or demand of any tax made under the authority of this Regulation shall be invalid by reason of any clerical error or other defect of form and when any property is described for the purpose of assessing any such tax, it shall be sufficient to describe it so that it shall be generally known, and it shall not be necessary to name the owner or occupier thereof.

136. Where it appears to the Government that the balance of the municipal fund of a Council is insufficient for meeting any expenditure incurred under section 292 or for the performance of duties for the performance of which the Director had fixed a period under section 295, the Government may by notification require the Council to impose, within the, municipal area, any tax specified in the notification which may be imposed under section 104 and which is not at the time imposed, within the said area or to enhance any existing tax in such manner or to such extent as the Government considers fit and the Council shall forthwith proceed to impose or enhance in accordance with the requisition, such tax under the provisions of this Chapter as if a resolution of the Council had been passed for the purpose under section 105.

137. The Administrator with the prior approval of the Central Government, shall—

(a) assign to the Council, such taxes, duties, tolls and fees levied and collected by the Central Government for such purposes and subject to such conditions and limits as may be prescribed;

(b) provide for making such grants-in-aid to the Council as may be determined from time to time, by an order published in the Official Gazette.

Fees

138. (1) When any licence is granted under this Regulation, or when permission is given thereunder for making any temporary erection or for putting up any projection, or for the temporary occupation of any public street or other land vested in the Council, the authority granting or giving such licence or permission may charge a reasonable fee for the same as determined by the bye-laws:

Provided that, when permission is given for putting up a projection, the authority giving such permission may charge every year accruing fee until the projection is removed.

(2) The Council may charge a higher fee by way of penalty for any erection or projection, or for the use or occupation of any public street or other land vested in the Council, by any person without its permission or licence. Such fee shall be leviable irrespective of any other penalty or liability to which the person liable to pay the same may be subject under any other provisions of this Regulation or any other law for the time being in force. The rates of such higher fees shall also be determined by the byelaws.

139. With effect from such date as the President may, by notification, specify the Finance Commission constituted under section 186 of the Andaman and Nicobar, Islands (Panchayats) Regulation, 1994 shall also be the Finance Commission for the Union territory of Dadra and Nagar Haveli and shall make recommendations to the Administrator as to-

Finance Commission.

Fees may be charged fe certain licences, permission. etc.

Assessment not invalid

for defect of

form

Powers to compound

vehicles or

tax on

animals.

Power of

Government to require

Council to

Assignment of certain

taxes.

impose taxes.

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(a) the principles which should govern,—

(*i*) the determination of the taxes, duties, tolls and fees which may be assigned to or appropriated by the Council;

(*ii*) the Grants-in-aid to the Council;

(b) the measures needed to improve the financial positions of the Council;

(c) any other matter referred to the Finance Commission by the Administrator in the interests of sound finance of the Council.

CHAPTER X

RECOVERY OF MUNICIPAL CLAIMS

Mode of recovery of any money claimable under this Regulation.

Presentation of bill for sums due to Council and discount for prompt payment.

> When notice of demand issued.

140. All amounts on account of taxes, fees or penalties imposed or as may hereafter be imposed by or under this Regulation or rules or bye-laws made thereunder and all amounts on accounts of contract, auction, lease, or any money claimable under this Regulation or under the rules or bye-laws made thereunder shall, save as otherwise provided, be recoverable in the manner provided in this Chapter.

141. (1) When any amount becomes due to the Council under this Regulation or the rules or bye-laws made thereunder, the Chief Officer shall, with the least practicable delay, cause to be presented to the person liable for the payment thereof a bill for the sum claimed as due.

(2) Every such bill shall specify the period for which, and the property, occupation or thing in respect of which, the sum is claimed and shall also give notice of the liability incurred in default of payment and of the time within which an appeal may be preferred as hereinafter provided against such claim.

(3) If a person to whom such bill is presented pays, within fifteen days from the presentation thereof, the whole sum claimed as due, then a discount equal to one per cent. of such sum shall be paid by the Council to him in such manner and within such period as may be prescribed.

142. If the person to whom a bill has been presented as provided under the last preceding section does not, within fifteen days from the presentation thereof, either---

(a) pay the sum claimed as due in the bill; or

(b) show cause to the satisfaction of the Chief Officer why he is not liable to pay the same; or

(c) prefer an appeal in accordance with the provisions of section 160 against the claim,

the Chief Officer may cause to be served upon the person liable for the payment of the said sum a notice of demand in the form of Schedule III or to the like effect.

When warrant may issue.

To whom warrant:

addressed

143. If the person on whom a notice of demand has been served under the last preceding section, does not, within fifteen days from the service of such notice, pay the sum demanded in the notice, such sum with all costs of the recovery may be levied under a warrant signed by the Chief Officer in the form of Schedule IV or to the like effect, by distress and sale of the movable or immovable property of the defaulter:

Provided that, where any measures precautionary or otherwise, have been taken in respect of any such property for the recovery of any sum claimed by the Government, any proceedings under this Chapter in respect of such property shall abate.

144. (a) Where the property is in the municipal area, the warrant issued under the last preceding section shall be addressed to an officer of the Council.

(b) Where the property is in another municipal area, the warrant shall be addressed to the Chief Officer of that area.

(c) Where the property is in a Cantonment, the warrant shall be addressed to the Executive Officer of the Cantonment.

(d) Where the property is not within the limits of a municipal area or a Cantonment, the warrant shall be addressed to a Government Officer not lower in rank than a Mamlatdar:

Provided that such Chief Officer or Government officer may endorse such warrant to a subordinate officer.

145. It shall be lawful for any officer to whom a warrant issued under section 143 is addressed or endorsed, if the warrant contains a special order authorising him in this behalf, to break open at any time between sunrise and sunset any outer or inner door or window of a building, in order to make any distress directed in the warrant, if he has reasonable grounds for believing that such building contains property which is liable to seizure under the warrant and if after notifying his authority and purpose and duly demanding admittance he cannot otherwise obtain admittance:

Provided that such officer shall not enter or break open the door of any apartment appropriated for women until he has given three hours' notice of his intention and has given such women an opportunity to remove.

146. It shall also be lawful for any such officer if authorised by the warrant to w distrain, wherever it may be found, any movable property or attach any immovable to property of the person named in the warrant issued under section 143 as defaulter, subject to the following conditions, exceptions and exemptions, namely :---

(a) the following property shall not be distrained :---

(*i*) the necessary wearing apparel and bedding of the defaulter, his wife and children;

(*ii*) the tools of artisans;

(*iii*) when the defaulter is an agriculturist, his implements of husbandry and such cattle and seedgrain as may be necessary to enable the defaulter to earn his livelihood;

(b) the property distrained shall be as nearly as possible equal in value to the amount recoverable under the warrant; and if any property has been distrained which, in the opinion of the Chief Officer or the person to whom the warrant was addressed, should not have been so distrained, it shall forthwith be returned to the defaulter;

(c) the officer shall, on distraining or attaching the property, forthwith make an inventory thereof and give to the person in possession thereof at the time of distraint or attachment a written notice in the form of Schedule V;

(d) (i) when the property is immovable, the attachment shall be made by an order prohibiting the defaulter from transferring or charging the property in any way and all persons from taking any benefit from such transfer or charge;

(*ii*) the order shall be proclaimed at some place on or adjacent to the property by beat of drum or other customary mode, and a copy of the order shall be fixed on a conspicuous part of the property and then upon the notice board of the municipal office and also, when the property is land paying revenue to the Government, in the office of the Collector of the district in which the land is situated;

Warrant how to be executed.

Power of entry by

force under

special order.

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against all claims of the Council enforceable under the attachment.

(e) any transfer of or charge on the property attached or of any interest therein made without the written permission of the Chief Officer shall be void as

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Sale of property distrained or attached; application of proceeds of sales.

147. (1) When the property seized is not subject to speedy and natural decay, the property distrained or attached, or in the case of immovable property a sufficient portion thereof, may, unless the warrant is suspended by the Chief Officer or the sum due by the defaulter together with all costs incidental to the notice, warrant, and distress or attachment and detention of the property, is paid, be, on the expiry of the time specified in the notice served by the officer executing the warrant, sold by public auction under the orders of the Chief Officer, and the proceeds or such part thereof as shall be requisite, shall be applied firstly in discharge of the sum due and of all such incidental costs as aforesaid. Where the sum due to the Council together with the cost and a sum equal to five per cent. of the purchase money for payment to the purchaser is paid by the defaulter, before the confirmation of the sale, the attachment, if any, of immovable property shall be deemed to have been removed and movable property seized shall be returned to the defaulter. Sales of movable and immovable property under this section shall be held in the manner laid down in the rules framed in that behalf.

(2) After sale of the property by auction as aforesaid, the Chief Officer shall put the person declared to be the purchaser in possession of the same and shall grant him a certificate to the effect that he has purchased the property to which the certificate refers.

(3) It shall be lawful for the Council to offer a nominal bid in the case of any immovable property put up for auction, provided that the previous approval of the Director has been obtained to such bidding.

148. The surplus, if any, remaining after the sale of property under the last preceding section, shall be forthwith credited to the municipal fund and notice of such credit shall be given at the same time to the person in whose possession the property was at the time of distraint or attachment. If such person claims the surplus by written application to the Chief Officer within three years from the date of the notice given under this section, the Chief Officer shall refund the surplus to such person. Any sum not claimed within three years from the date of such notice shall be the property of the Council.

149. Where the warrant is addressed outside the municipal area under section 144, the Chief Officer may by endorsement direct the officer to whom the warrant is addressed to sell the property distrained or attached; in such case it shall be lawful for such officer to sell the property and to do all things incidental to the sale in accordance with the provisions of sections 146, 147 and 148 and to exercise the powers and perform the duties of the Chief Officer under sections 147 and 148, in respect of such sale except the power of suspending the warrant. Such officer shall, after deducting all costs of recovery incurred by him and after confirmation of the sale remit the amount recovered under the warrant to the Chief Officer by whom it was issued who shall dispose of the same in accordance with the provisions of sections 147 and 148.

150. Fees for every notice, issued under section 142, every warrant issued under section 143 or distress or attachment made under section 146 and the maintenance of any livestock seized under the said section shall be chargeable at the rates respectively specified in that behalf in the bye-laws of the Council and shall be included in the costs of recovery.

151. (1) If the Chief Officer shall at any time have reason to believe that any person from whom any sum recoverable under the provisions of this chapter is due or is about to become due, is about to leave the municipal area, the Chief Officer may direct the immediate payment by such person of the sum so due or about to become due by him and cause a bill for the same to be presented to him.

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Surplus, if any, how. dealt with.

Sale outside municipal area.

Fees and costs chargeable.

Summary proceedings may be taken against person about to leave municipal area. (2) If, on presentation of such bill, the said person does not forthwith pay the sum due or about to become due by him, the amount shall be leviable by distress and sale of the movable property or the attachment and sale of the immovable property of the defaulter in the manner herein before prescribed, except that it shall not be necessary to serve upon the defaulter any notice of demand and the Chief Officer's warrant for distress and sale may be issued and executed without any delay.

152. The Government may make rules for prescribing such supplemental or incidental provisions as it deems fit for ordering and holding and confirming sales by public auction of any property or class of property distrained or attached under this Regulation.

153. All sums due on account of any tax on lands or buildings or both shall, subject to the prior payment of land-revenue, if any, due to the Government thereupon, be a first charge upon the building or land, in respect of which such tax is leviable and upon the movable property, if any, found within or upon such building or land, and belonging to any person liable for such tax:

Provided that no arrears of any such tax shall be recovered from any occupier who is not the owner if such arrears have been due for more than one year for a period during which such occupier was not in occupation.

154. For all sums paid on account of any tax under this Regulation, a receipt stating the amount, and the tax on account of which it has been paid, shall be tendered by the person receiving such payments.

155. Where any amount referred to in section 140 has become due and cannot be recovered under the foregoing provisions of this Chapter by reason of the person liable for the payment thereof being outside the Union territory or his not having any or sufficient property in the Union territory, and such person has property outside the Union territory, then such amount shall be recoverable as an arrear of land revenue and the provisions of the Dadra and Nagar Haveli Land Revenue Administration Regulation, 1971 or any other law in force in the Union territory in this behalf shall apply to the recovery thereof.

156. When a warrant is issued under section 143, no authority other than the Chief Officer who issued the warrant shall have the power to hold back the execution of the warrant:

Provided that the appellate authority to whom an appeal has been preferred under section 160 or the authority to whom a revision application is made under section 162 may issue a stay order if the circumstances of the case so demand, only after the appeal or application for revision is duly admitted, and after recording the reasons for making such order.

157. If a person on whom a notice of demand has been served under section 142 does not, within fifteen days from the service of such notice, pay the sum demanded in the notice, he shall be liable to pay by way of interest, in addition to the sum and other charges due,---

(a) one-half per cent. of the sum due for each complete month for the first six months, from the date of the expiry of the period of fifteen days aforesaid; and

(b) one per cent. of the sum due for each complete month thereafter, during the time he continues to make default in the payment of the sum due,

and the amount of interest shall be recovered in the same manner as the sum due is recoverable:

Sales in other cases by whom to be ordered and the manner of making and confirming them.

Liability of lands, buildings, etc., for taxes.

Receipts to be given for all payments.

Certain amounts to be recovered as arrears of land revenue.

Stay orders on warrants by whom to be issued

Interest payable on

dues for

taxes.

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Provided that the Chief Officer may, in such circumstances as may be prescribed, and an appellate authority or the authority to whom revision application is made may, remit the whole or any part of the interest payable in respect of any period.

Power to write off.• 158. Subject to the approval of the Director and subject to such rules as the Government may make in this behalf, a Council may write off any tax, fee or other amount due to it which in its opinion is irrecoverable:

Provided that no amount shall be written off unless a resolution to that effect is passed by a majority of not less than three-fourths of the total number of Councillors:

Provided further that no approval of the Director need be obtained if the sum to be written off, not being a sum under a contract, is not more than one hundred rupees in any case.

Appointment of Recovery Officer. 159. (1) Notwithstanding any other mode of recovery provided by this Regulation, any arrears of any tax, or any amount due to the Council under a contract, agreement, lease, auction, security or indemnity bond or any other money due to the Council under this Regulation or the rules or bye-laws made thereunder, together with any sum on account of process fees, interest and other costs, shall be recoverable by the Recovery Officer to be appointed for the purpose by the Director:

Provided that no such Recovery Officer shall be appointed unless the Council by a resolution passed at a special meeting for that purpose, makes a written request to the Director.

(2) In case the arrears of all kinds due to a Council as on the 31st day of December, are in excess of fifty per cent. of the total of such arrears as at the close of the previous financial year, the Director may, without reference to the Council, order appointment of a Recovery Officer.

(3) In either case, the expenses on the salary and allowances of the Recovery Officer and such other subordinate staff as the Director may appoint to assist the Recovery Officer shall be paid by the Council.

(4) The Recovery Officer so appointed shall have all the powers of a Revenue Officer under the corresponding law for the time being in force, but only for the purposes of recovery of municipal arrears recoverable under this Regulation as arrears of land revenue.

Appeals to Magistrates. 160. Appeals against any claim for taxes or other dues included in a bill presented to any person under section 141 or any other provisions of this Regulation may be made to any Judicial Magistrate by whom under the direction of the Sessions Judge such class of cases is to be tried.

Procedure in appeal.

161. No appeal under the last preceding section shall be entertained unless-

(a) the appeal is brought within fifteen days next after the presentation of the bill complained of;

(b) an application in writing stating the grounds on which the claim of the Council is disputed, has been made to the Council in the case of a tax on buildings or lands or both within the time fixed in the notice given under section 115 or section 119 of the assessment or alteration thereof according to which the bill is prepared; and

(c) the amount claimed from the appellant has been deposited by him in the municipal office.

Revision by court. 162. The decision of the Magistrate in any appeal made under section 160 shall, at the instance of either party, be subject to revision by the court to which appeals against the decision of such Magistrate ordinarily lie.

163. No objection shall be taken to any valuation, assessment or levy nor shall Bar of other the liability of any person to be assessed or taxed be questioned, in any other manner proceedings. or by any other authority than is provided in this Regulation.

CHAPTER XI

STREETS AND OPEN SPACES

164. (1) It shall be lawful for a Council—

(a) to lay out and make new public streets, including tunnels, bridges, subways and other works subsidiary to public streets;

(b) to widen, open, extend or otherwise improve any public street or any work subsidiary to a public street;

(c) to divert, or close temporarily any public street;

(d) subject to the provisions of sub-section (2), to close any public street permanently.

(2) Before any resolution to close any public street permanently is passed by the Council, the Chief Officer shall, by a notice put up in the street which is proposed to be closed permanently and also on the notice board in the municipal office, declare the intention of the Council to close the street permanently. The Council shall consider all objections to the said proposal made in writing and delivered at the municipal office within one month from the date of the publication of the notice under this sub-section before passing a resolution so to close the street permanently.

(3) In laying out, making, turning, diverting, widening, opening, extending or otherwise improving any public street, in addition to the land required for the carriage-way and footways and drains thereof, the Council may acquire the land required for the construction of buildings to form the said street, and subject to the provisions of section 89 may sell and dispose of such additional land in perpetuity or on lease for a term of years, with such stipulations as to the class and description of buildings to be erected thereon as it may think fit.

165. (1) The Council may, at any time, by notice fixed up in any street or part of a street which is not a public street, give intimation of its intention to declare the same to be a public street, and unless within one month next after such notice has been so put up, the owner, or if there are more than one owner, the owners of the greater portion of such street or of such part of a street lodges or lodge objections thereto at the municipal office, the Council may, by notice in writing put up in such street, or such part, declare the same to be a public street.

(2) If such owner or owners object to the proposal under sub-section (1), the Council may, after considering such objections and with the previous sanction of the Collector, declare such street to be a public street, and the owner or owners so objecting shall be entitled to compensation determined in the manner provided in section 309.

(3) Every such street which becomes a public street under this section shall vest in the Council.

166. (1) Where a Council considers that in any street not being a public street, or in any part thereof, within the municipal area, it is necessary for the public health, convenience or safety that any work should be done for the levelling, paving, metalling, flagging, channelling, draining, lighting or cleaning thereof, the Council may by written notice require the respective owners of the lands or buildings fronting, adjoining, or abutting upon such street or part thereof, to carry out such work in a manner and within a time to be specified in such notice.

Power to require repair.

etc., of

private

streets.

streets and to

declare them as public

Powers to declare any

street a

public street.

objections by owners.

subject to

Power In respect of public streets.

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(2) After such work has been carried out by such owners, or as provided in section 307 by the Council at the expense of such owners, and if all land revenue payable to the Government in respect of the land comprised in such street or part thereof has been paid, by such owners, the Council may, and on the joint requisition of the owners of such streets or of the greater portion of such street, shall, under the provisions of section 165 and in the manner prescribed in that section, declare such street to be a public street, and such street shall thereafter vest in the Council.

(3) If the notice under sub-section (1) is not complied with and such work is executed by the Council as provided in section 307, the expenses thereby incurred shall be apportioned by the Council between such owners in such manner as it may think fit, regard being had to the amount and value of any work already done by the owners or occupiers of any such lands or buildings.

167. (1) The Chief Officer shall, subject to the approval of the Council, prescribe a line on each side of every public street within the municipal area.

(2) The Chief Officer shall give a public notice of the proposal to prescribe such line for any street and shall also put up a special notice thereof in the street for which such line is proposed to be prescribed. The Council shall, before approving the line of the street, consider all objections or suggestions in respect of the said proposal made in writing and delivered at the municipal office within one month from the date of the publication of the notice under this sub-section.

(3) The line for the time being so prescribed shall be called "the regular line of the public street".

(4) The Chief Officer may from time to time in the manner laid down in sub-sections (1) and (2) prescribe a revised line in substitution of any regular line of street already prescribed and any reference in this Regulation to the regular line of the public street shall be deemed to include a reference to such revised line.

(5) No resolution approving a regular line of a public street under sub-section (1) or approving a revised line under sub-section (4) shall be passed by the Council if such line or revised line has the effect of reducing the width of the street or shifting any such line towards the centre of the street, without the previous sanction of the Collector.

(6) (a) Except under the provisions of section 171, no person shall construct or reconstruct any portion of any building within the regular line of a public street or within such distance behind the regular line of the public street as may be prescribed by byelaws, without the permission of the Chief Officer.

(b) Where the Chief Officer refuses permission to construct or reconstruct any building in any area within the regular line of the public street, such area shall, with the approval of the Council, be added to the street and shall thenceforth be deemed part of the public street and shall be vested in the Council.

(c) Compensation, the amount of which shall, in case of dispute, be ascertained and determined in the manner provided in section 309 shall be paid by the Council to the owner of any land added to a street under clause (b) for the value of the said land, and to the owner of any building for any loss, damage or expense incurred by such owner in consequence of any action taken or order passed by the Chief Officer under this subsection:

Provided that no such compensation shall be payable in respect of any building or portion thereof in respect of which a notice has been issued under sub-section (1) of section 188.

(7) The provisions of sub-sections (8), (9), (10) and (11) of section 180 shall *mutatis* mutantis apply to any building or portion of a building constructed in contravention of the provisions of clause (a) of sub-section (6).

Regular line of a public street.

168. (1) If any part of the building projects beyond the regular line of a public street as prescribed under section 167, the Council may—

Setting back projecting buildings.

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(a) (i) if the projecting part thereof is any structure external to the main building, then at any time; or

(*ii*) if the projecting part is not an external structure as aforesaid, then whenever the greater portion of such building or whenever any material portion of such projecting part has been taken down or burned down or has fallen down require by written notice either that the part or some portion of the part projecting beyond the said regular line shall be removed or that such building when rebuilt shall be set back to or towards the said regular line;

(b) if the provisions of clause (a) do not apply and if in the opinion of the Council it is necessary to set back the building to the regular line of the public street require by written notice to show cause within such period as may be specified in such notice, why such projecting part shall not be pulled down and the land within the said line acquired by the Council.

(2) If such owner fails to show sufficient cause to the satisfaction of the Council why such projecting part shall not be pulled down and the land within the said line acquired as aforesaid, the Council may require the owner by a written notice to pull down the projecting part.

(3) The Council shall at once take possession of the portion of the land within the regular line of the public street theretofore occupied by the projecting part so removed or set back under clause (a) or clause (b) of sub-section (1) or sub-section (2) and such land shall thenceforward be deemed a part of the public street and shall vest as such in the Council.

(4) If any land not vested in the Council, whether open or enclosed, lies within the regular line of a public street and is not occupied by a building other than a structure external to a main building, the Council, after giving the owner of the land not less than thirty clear days' written notice of its intention, or if the land is vested in the Government then with the permission in writing of the Collector, may take possession of the said land with its enclosing wall, hedge or fence, or such external structure, if any, and if necessary, clear the same, and the land so acquired shall thenceforward be deemed a part of the public street, and be vested in the Council.

(5) Compensation, the amount of which shall, in case of dispute, be ascertained and determined in the manner provided in section 309 shall be paid by the Council to the owner of any land added to a street under sub-section (3) or acquired under sub-section (4), for the value of the said land, and to the owner of any building for any loss, damage or expense incurred by such owner in consequence of any action taken by the Council under either of the said sub-section:

Provided that no such compensation shall be payable in respect of any building or portion thereof in respect of which a notice has been issued under sub-section (1) of section 188.

(6) When the amount of compensation has been so ascertained and determined or when a ruinous or dangerous building falling under sub-section (1) has been taken down under the provisions of section 188, the Council may, after tendering the amount of compensation, if any, as may be payable take possession of the land so added to the street, and if necessary, niay clear the same.

(7) When no regular line of public street has been prescribed under section 167 in respect of any portion of a public street, if any part of a building projects beyond the front of the harding on either side thereof, such projecting part shall be deemed to be within the regular inte of the street and the provisions of this section shall mutatis mutanelis apply to such part.

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Setting forward to regular line of street. 169. (1) If any building adjoining a public street is in rear of the regular line of such street,---

(a) the Council may, upon such terms as it thinks fit, permit it to be set forward for the purpose of improving the line of the street; and

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(b) whenever it is proposed to rebuild such building or to alter or repair such building in any manner that will involve the removal or re-erection of such building or of the greater portion thereof which adjoins the said street, the Council may, in granting any permission for such work, require such building to be set forward for improving the line of the street.

(2) If the land which will be included in the premises of any person permitted or required to set forward a building under sub-section (1) belongs to the Council, the permission or the requisition of the Council so to set forward the building shall be a sufficient conveyance to the said owner of the said land; and the price to be paid to the Council by the said owner for such land and other terms and conditions of the conveyance shall be set forth in the said permission or the requisition, as the case may be.

(3) For the purposes of this section, a wall separating any premises from a public street shall be deemed to be a building and it shall be deemed to be a sufficient compliance with a permission or requisition so to set forward a building to the regular line of a street if a wall of such material and dimensions as are approved by the Council is erected along the said line.

170. (1) No person shall, except with the written permission of the Chief Officer under sub-section (4),—

(a) build or set up, any fence, rail, post, stall, platform or any projecting structure or thing, or make any other encroachment or obstruction;

(b) place or deposit or cause to be placed or deposited any box, bale, package or merchandise or any other thing,

in any public street or upon any drain, gutter, sewer or aqueduct in such street.

(2) Whoever contravenes any provision of sub-section (1), shall, unless the provisions of clause (a) of sub-section (6) of section 167 apply, on conviction, be punished with fine which may extend to one hundred rupees, and in the case of a continuing contravention with further fine which may extend to twenty rupees for every day after the first during which such contravention continues.

(3) The Chief Officer shall have power to remove without notice any such projection, obstruction or encroachment-

(i) made in contravention of sub-section (1) or contrary in any manner to any permission granted under sub-section (4); or

(*ii*) in respect of which the period specified in the permission under subsection (4), has expired.

(4) Subject to the provisions of the bye-laws, if any, the Chief Officer may allow any temporary occupation of or erections in any public street---

(i) on occasions of festivals and ceremonies in such manner as not to inconvenience the public or any individual;

(*ii*) for depositing timber, bricks, or other material that has been or is intended to be used for building purposes;

(iii) for any other purpose specified in the bye-laws.

(5) Permission granted under sub-section (1) or sub-section (4) shall be terminable at the discretion of the Chief Officer on his giving not less than twenty-four hours' written

Surface projections, obstructions and encroachments in respect of public streets. notice to the person to whom such permission was granted. Such notice shall state the reasons for such action.

(6) Every person to whom any permission is granted under sub-section (1) or subsection (4) shall, at his own expense, cause the place where he has set up any erection or deposited anything, to be properly fenced and guarded, anc, in all cases in which the same is necessary to prevent accident, shall cause such place to be well lighted during the night.

(7) Every person to whom any permission is granted under sub-section (1) or subsection (4) shall immediately after the removal of the erection made or thing placed or deposited restore and make good the street to the satisfaction of the Chief Officer.

(8) Whoever contravenes the conditions of any permission granted under subsection (4), or fails to comply with the provisions of sub-section (6) or sub-section (7), shall, on conviction, be punished with fine which may extend to one hundred rupees, and in the case of continuing contravention with further fine which may extend to twenty rupees for every day after the first during which such contravention continues.

171. (1) Except as provided in sub-section (2), no person shall erect, set up, add to or place against or in front of any premises any structure or fixture which will-

(a) overhang, jut or project into or over, or obstruct in anyway the safe or convenient passage of the public along any public street; or

(b) jut or project into or over any drain or open channel in any public street or interfere with the use of proper working of such drain or channel or to impede the inspection or cleansing thereof.

(2) The Council may, subject to any bye-laws made \hat{u} this behalf, give written permission to the owner or occupier of any building in a public street to put up verandahs, balconies or rooms projecting from any upper storey of such building, or roofs, caves, weather boards, and similar projections, to an extent not exceeding four feet beyond the line of the plinth or basement wall of the building.

(3) Permission granted under sub-section (2) may be permanent or for such period at a time as may be specified in writing when such permission is granted.

(4) Notwithstanding any proceedings which may be taken under sub-section (7), the Council may, by written notice, require the owner or the occupier of any such building to remove or alter any such projection, or obstruction -

(i) which has been constructed or made whether with or without or contrary in any manner to the permission granted under sub-section (2);

(*ii*) which has been constructed or made contrary to the provision of any law for the time being in force if such projection or obstruction was constructed or made before the appointed day;

(*iii*) when the period for which the permission 1 ider sub-section (2) was granted has expired

(3) The Council may also after giving opportunity to the owner or occupier of a building of making representation require him by notice to remove or alter any projection or obstruction constructed or made to which sub-section (4)_edoes not apply:

Provided that the Council shall make reasonable compensation to every person who suffers demage by such removal or alteration under this sub section.

(5) If excupier of any building removes or alters any struct re or fixture in accordance with such notice, he shall be entitled, unless the structure or fixture was erected, set up or placed by humself, to credit in account with the owner of the suilding for all reasonable expenses incurred by thim in complying with the said potice

Prohibition of projections other than surface projections upon streets, etc.

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(7) Any such owner or occupier putting up any projection or obstruction without the permission of the Council under sub-section (2), or in contravention of such permission any owner or occupier who fails to remove any projection, encroachment or obstruction after the receipt of a notice from the Council under sub-section (4) or sub-section (5) shall, on conviction, be punished with fine which may extend to one hundred rupees and in the case of a continuing offence with further fine which may extend to twenty rupees for every day after the first during which such offence continues.

172. (1) The provisions of section 171 shall *mutatis mutandis* apply to any public place or any open space, vesting in the Council or not.

(2) The provisions of sub-sections (2) and (3) of section 171 shall apply to any public place or any open space which is not a private property and which does not vest in the Council :

Provided that, if such public place or open space is vested in Government, the permission of the Collector shall first be obtained.

(3) Whoever not being duly authorised in that behalf, removes earth, sand or other material from, or makes any encroachment in or upon, any open space which is not a private property, shall, on conviction, be punished with fine which may extend to one hundred rupees, and in the case of continuing offence with further fine which may extend to twenty rupees for every day after the first during which such offence continues.

173. The Council may, by notice, require the owner or occupier of any land abutting on any public street—

(a) to remove partially or wholly from the land any boundary wall, hedge, or other fence which is, in its opinion, likely to obstruct or cause a hindrance to traffic or is otherwise objectionable;

(b) to construct on the land sufficient boundary walls, hedges or other fences of such material, description and dimensions as may be specified in the notice;

(c) to maintain the boundary walls, hedges or other fences on the land in good order;

(d) to cut or trim trees growing on the land and overhanging the street and obstructing the traffic or causing danger to such traffic.

174. (1) Every person intending to lay out or make a new street shall give notice thereof in writing to the Chief Officer and shall furnish along with such notice plans and sections showing:----

(a) the intended level, direction and width of the street;

(b) the situation and the boundaries of any buildings or plots abutting on such street or likely to be served by such street;

(c) the position of any public street or streets which the new street may have an access to;

(d) the arrangements to be made for the levelling, paving, metalling, flagging, channelling, draining, lighting, or cleansing of the street,

and shall also furnish such other particulars as may be required by the bye-laws, if any, made in this behalf.

(2) If such person fails to furnish all the information and documents required by sub-section (1), or if the Council deems it necessary to call for any further information or documents, the Chief Officer may, within thirty days of the receipt of the said notice, by a written notice require such person to furnish the required information or documents.

Projections, encroachment, etc., in public places and open spaces whether vesting in Council or not.

Power to require boundary walls, hedges, etc., to be constructed or removed 68

New private streets.

(3) Within sixty days after the receipt by the Chief Officer of the notice and the information and documents specified in sub-section (1), or if any further information or documents have been called for under sub-section (2), then within sixty days of the receipt of such further information and documents, the Council may—

(a) sanction the laying out or making of the new street subject to such modifications or conditions as it may think fit; or

(b) disallow it for reasons which shall be communicated to the applicant in writing.

(4) If the Council fails to issue any order under sub-section (3) within the period specified in that sub-section, the person giving notice shall be entitled to lay out and make the proposed street in such manner as may have been specified in the notice under sub-section (1) and as is not inconsistent with any provision of this Regulation or of any bye-law for the time being in force thereunder.

(5) If any person who is entitled to proceed with any work under sub-section (3) or sub-section (4) fails to carry out such work within one year from the date on which he becomes so entitled, his right to proceed with such work shall lapse.

(6) Whoever lays out or makes any such street either without giving the notice required by sub-section (1) or otherwise than in accordance with the instructions issued by the Council under clause (a) of sub-section (3), or in any manner contrary to the provisions of this Regulation, or of any bye-laws in force thereunder shall, on conviction, be punished with fine which may extend to one thousand rupees, and the Council may cause any street so laid out or made, to be altered and any building constructed in such street to be altered or removed and the expense thereby incurred shall be paid to the Council by the offender, and shall be recoverable in the same manner as an amount due on account of a property tax.

(7) Save as otherwise provided by or under this Regulation, the provisions of this Regulation and of any rules or bye-laws made thereunder as to the level and width of public streets and the height of buildings abutting thereon, shall apply also in the case of new private streets referred to in sub- section (1); and all particulars referred to in that sub-section shall be subject to the approval by the Council.

175. The Council may, by notice, require the owner of any building or land in any street to put up and keep in good condition proper troughs and pipes for receiving and carrying the water from the building or land and for discharging the same so as not to cause any damage to the street or inconvenience to persons passing along the street.

Troughs and pipcs for rain water.

Naming and numbering

streets and numbering of

premises.

176. (1) The Council shall ----

(a) give a name or a number to every public street;

(b) cause to be put up or painted on a conspicuous part of any building, wall or any other place at or near each end or corner of or entrance to a public street, the name or the number by which such street is to be known;

(c) determine the number or sub-number by which any premises or part thereof shall be known,

and may by written notice require the owner of any premises or part thereof either to put up a metal plate showing the number or sub-number of such premises or part determined under clause (c) in such position and manner as may be specified in such notice or to signify in writing his desire that such work shall be executed under the orders of the Council.

(2) Any person who destroys, pulls down or defaces any such name or number of a public street or number or sub-number of any premises or part thereof or puts up any name, number or sub-number different from that determined by the Council and any owner of any premises or part thereof who does not at his own expense put up such number or sub-number of such premises or part thereof, shall, on conviction, be punished with fine which may extend to fifty rupees.

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(3) Where a number or sub-number is put up on any premises or part thereof under the orders of the Council in accordance with sub-section (1), the expenses of such work shall be payable by the owner of such premises or part thereof, as the case may be.

Explanation.— For the purposes of this section, "premises" means any building, but does not include only walls, compound walls, fencing, verandahs, fixed platforms, plinths, door-steps or the like.

177. (1) No person shall, without the permission of the Chief Officer or any other lawful authority, displace, take up, or make any alteration in, or make any hole in, or otherwise damage, the pavement, gutter, flags or other materials of any public street, or the fences, walls, or posts thereof, or any municipal lamp, lamp-post, bracket, water-post, hydrant, or other accessories of a lamp, water-post or hydrant or such other municipal property therein, or extinguish a municipal lamp.

(2) Every person to whom any permission is granted under sub-section (1) shall, at his own expense, cause the place where the soil or pavement has been opened or broken up, materials have been taken up or any erection or other thing set up, to be properly fenced and guarded, and in all cases in which the same is necessary to prevent accidents, shall cause such place to be well lighted during the night.

(3) Any person who contravenes any provision of sub-section (1) shall, on conviction, be punished with fine which may extend to one hundred rupees.

(4) Any person who has displaced, taken up or made alteration in or made a hole in or otherwise damaged any such pavement, gutter, flags, or other materials, of any public street or such fences, walls, posts, municipal lamp, lamp-post, bracket, water-post, hydrant or other accessories of a lamp, water-post or hydrants or other municipal property or extinguished a municipal lamp, whether with or without the permission required under sub-section (1), shall, in addition to any penalty under sub-section (3), be liable to pay the expenses which the Council may incur in replacing or restoring the same. Such expenses shall be recoverable in the same manner as an amount due on account of a property tax.

178. (1) No person shall hawk or sell or expose for sale any article in any public street or public place, except under and in accordance with a licence granted under the bye-laws made by the Council in this behalf.

(2) Any person who contravenes any provision of sub-section (1) or of any licence issued to him shall, on conviction, be punished with fine which may extend to fifty rupees.

(3) The Chief Officer or any other municipal officer authorised by him in this behalf may seize any article hawked or sold or exposed for sale in contravention of sub-section (1).

179. (1) No person shall ply any hand-cart in any public street or place except under and in accordance with a licence granted under the bye-laws made by the Council in this behalf.

(2) Any person who contravenes any provision of sub-section (1) or of any licence issued to him shall, on conviction, be punished with fine which may extend to fifty rupees.

(3) The Chief Officer or any other municipal officer authorised by him in this behalf may seize any hand-carts used in contravention of sub-section (/).

Displacing pavements, etc.

Prohibition of sale of articles in public streets without

Prohibition of plying

hand-carts

without licence.

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THE GAZETTE OF INDIA EXTRAORDINARY

CHAPTER XII

CONTROL OVER BUILDINGS

180. (1) The expression "to construct a building" throughout this Chapter includes-

(a) any material alteration, enlargement or reconstruction of any building, or of any wall including compound wall and fencing, verandah, fixed platform, plinth, door step or the like, whether constituting part of a building or not;

(b) the conversion into a place for human habitation of any building not originally constructed for human habitation;

(c) the conversion into more than one place for human habitation of any place originally constructed as one such place;

(d) the conversion of two or more places of human habitation into a greater number of such places;

(e) such alterations of the internal arrangements of a building, as affect its drainage, ventilation or other sanitary arrangements, or its security or stability; and

(f) the addition of any rooms, buildings or other structures to any buildings, and a building so altered, enlarged, reconstructed, converted or added to, is throughout this Chapter included under the expression a new building.

(2) Before beginning to construct any building, the person intending so to construct shall give to the Chief Officer notice thereof in writing and shall furnish to him at the same time, if required by a bye-law or by a special order to do so, a plan showing the levels, at which the foundation and lowest floor of such building are proposed to be laid by reference to some level known to the Chief Officer and all information required by the byelaws or demanded by the Chief Officer regarding the limits, designed ventilation and materials of the proposed building and the intended situation and construction of the drains, privies, water-closets, house-gullies and cess-pools, if any, to be used in connection therewith and the location of the building with reference to any existing or projected streets, the means of access to such building and the purpose for which the building will be used:

Provided that, if the bye-laws of the Council so require, such notice shall be in such form as the Council may from time to time prescribe and such plans shall be signed by a person possessing the qualifications laid down in the bye-laws or licensed under the bye-laws so to sign such plans.

(3) If the person giving notice under sub-section (2) fails to-

(i) furnish all the information and documents required under sub-section (2); or

(*ii*) the Chief Officer deems it necessary to call for any further information or documents,

the Chief Officer shall, within sixty days of the receipt of the notice, require such person by an order in writing to furnish such information or documents.

(4) Within sixty days of the receipt by the Chief Officer of the notice under subsection (2), or if any further information and documents have been called for under subsection (3) then within sixty days of the receipt of all such further information and documents, the Chief Officer may—

(a) grant the necessary permission to construct according to the plans and information furnished under sub-sections (2) and (3);

(b) impose any conditions in accordance with this Regulation or the rules and bye-laws made thereunder, as to the level, drainage, sanitation, materials or to the number of storeys to be erected, or with reference to the location of the building

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Notice of construction

of building.

[PART II---

in relation to any street existing or projected or to the means of access to such building and the purpose for which the building is to be used;

(c) direct that the work shall not be proceeded with unless and until all questions connected with the respective location of the building or street have been decided to his satisfaction;

(d) subject to the provisions of the next succeeding section, refuse such permission for reasons which shall be communicated to the applicant in writing.

(5) The Council may, before any work has been commenced in pursuance of any permission granted by the Chief Officer under sub-section (4), revoke such permission and may give fresh permission in lieu thereof or issue any other order as may be passed by the Chief Officer under sub-section (4).

(6) If the Chief Officer fails to issue an order under clause (c) or clause (d) of subsection (4) within the period prescribed in that sub-section, the person giving notice under sub-section (2) shall, after the expiry of the said period, be entitled to proceed with the work in respect of which such notice has been given under sub-section (2), in the manner specified in such notice, provided that such manner is not inconsistent with any provision of this Regulation or any rule or bye-law for the time being in force thereunder.

(7) No person who becomes entitled under sub-section (4) or sub-section (5) or sub-section (6) to proceed with any intended work of which notice is required by sub-section (2), shall commence such work after the expiry of the period of one year from the date on which he first became entitled so to proceed therewith, unless he shall have again become so entitled by a fresh compliance with the provisions of sub-sections (2) to (6).

(8) If any person begins any construction of a building of which notice is required to be given under sub-section (2)—

(*i*) without the permission of the Chief Officer under sub-section (4) or of the Council under sub-section (5), save as otherwise provided under sub-section (6); or

(*ii*) having received permission under clause (a) of sub-section (4), contrary to the plans and information furnished under sub-sections (2) and (3); or

(*iii*) having received permission under clause (b) of sub-section (4), contrary to the conditions imposed under that clause or contrary to the plans and information submitted under sub-sections (2) and (3) insofar as such plans and information are not modified by such conditions; or

(iv) contrary to the provisions of sub-section (6), when construction is begun under that sub-section,

the Chief Officer may, by a written notice, require such person to stop such construction and to alter or demolish any construction already made as specified in the notice. If, within fifteen days from the service of such notice for demolishing any such construction, the work of demolishing it is not commenced, the Chief Officer may cause such work to be done and the expenses incurred therefor shall be recoverable from the person concerned in the same manner as an amount due on account of a property tax.

(9) Any person who fails to comply with the notice issued by the Ghief Officer under sub-section (8) shall, on conviction, be purished with fine which may extend to five thousand rupeus.

(10) The Court convicting such person may also direct such person to seen (sh) or alter the building in accordance with the order of the Chief Officer or in such 0.207 manner as the Court may deem proper and within the period theetford by 8.5% of the such person fails to demolish or alter the building within the period specified by the Caution or in the manner required by the Court, he shall, on conviction, be punished with forther

fine which may extend to twenty-five rupees for every day after the expiry of the period for compliance specified by the Court in its order during which such non-compliance continues.

(11) Nothing in sub-section (8) or sub-section (10) shall be deemed to affect the power of the Council or the Chief Officer to demolish or alter the building under section 188.

(12) The Chief Officer may, at any time, inspect without giving notice of his intention to do so, any work of which notice is required by sub-section (2); and at any time during the execution of any work may, by written notice, specify any matter in respect of which the execution of such work is in contravention of any provision of this Regulation or of any bye-laws made under this Regulation or of any order passed under this section; and require the person executing such work to cause anything done contrary to any such provision or bye-law or order to be amended or to do anything which by any such provision or bye-law or order he is required to do but which has been omitted.

181. Every Council shall prepare every year a development plan and submit it to the District Planning Committee constituted under section 182.

182. (1) The Administrator shall constitute for the District of Silvassa one District Planning Committee to consolidate the plans prepared by the Panchayats and the Council in the Union territory and to prepare a draft development plan for the district as a whole.

(2) The District Planning Committee shall consist of---

(a) the Development Commissioner who shall be Chairperson of the Committee;

(b) three members, who shall have special knowledge or, experience in planning, economic, financial and such other matters as may be prescribed, to be nominated by the Administrator; and

(c) fifteen members, who shall be elected by and from amongst, the elected members of the District Panchayat and of the Councils in the Union territory in proportion to the ratio between population of the rural areas and of the urban areas in the Union territory.

(3) The Committee shall perform such other functions as may be prescribed.

(4) The District Planning Committee shall, in preparing the draft development plan,-

(a) have regard to (i) matters of common interest between the Panchayats and the Councils including spatial planning; sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation; (ii) the extent and type of available resources whether financial or otherwise;

(b) consult such institutions and organisations as the Administrator may by order specify.

(5) The Chairperson of the Committee shall forward the draft development plan, as recommended by it, to the Administrator.

183. (1) When a person has given notice to the Chief Officer under sub-section (2) of section 180 in regard to his intention to construct a building, it shall be lawful to the Chief Officer to refuse the permission applied for—

(i) if the Council passes a resolution proposing to acquire the land on which the building is proposed to be constructed; or

Powers of Chief Officer and Council to refute permission

District Planning Committee.

Preparation

development plan.

of

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(*ii*) if the proposed construction would contravene the provisions of this Regulation, or any other law for the time being in force or any schemes, rules, byelaws or other orders under this Regulation or any other law for the time being in force; or

(*iii*) if the notice under sub-section (2) of section 180 is not in accordance with the provisions of that sub-section or is not accompanied by the information and documents required by that sub-section or if the person giving such notice fails to furnish all the information and documents required under sub-section (3) of that section; or

(iv) if no plan has been prepared for the laying out of streets for the area in which the building is to be constructed; or

(v) if there is no adequate provision for access to the building; or

 (νi) if the proposed construction be an encroachment on Government or municipal land; or

(vii) for any other reasons to be recorded in writing, which may be deemed sufficient by the Chief Officer.

(2) Where the permission applied for is refused, the decision taken and reasons therefor shall be communicated to the applicant.

(3) Refusal under clause (i) of sub-section (1) shall be subject to the following conditions—

(a) if the property is acquired and no agreement is arrived at as regards the amount of compensation payable to the person giving notice under sub-section (2) of section 180, the same shall be determined in accordance with the provisions of section 309 regard being had to the likely benefit, which would have accrued to such person, if the permission had not been refused;

(b) if within a period of six months from the date of the resolution of the Council proposing to acquire the land, the land is not acquired by the Council by agreement upon payment, or if within such period, an application has not been made to the Collector for the institution of proceedings for compulsory acquisition under the provision of the Land Acquisition Act, 1894, or if the Council abandons the proposal to acquire the land, the notice given under sub-section (2) of section 180 shall be deemed to have been revived with effect from the date on which the said period of six months expires, or with effect from the date on which the decision of the Council to abandon the proposal is arrived at, as the case may be. Such decision shall be communicated to the person giving notice, within fifteen days from the date of the decision; and the notice shall be dealt with as if the Council had not passed a resolution to acquire the land. The Council shall be liable to pay compensation to the said person in respect of the loss which he may prove to have incurred by reason of the Council's refusal to grant the permission:

Provided that the Council shall not be liable to pay compensation if the notice under sub-section (2) of section 180 is given subsequent to the passing of the resolution by the Council to acquire the land.

Level of buildings.

Roofs and external walls of buildings not to be made of inflammable materials 184. After the appointed day, no building shall be constructed upon a lower level than will allow of the drainage thereof being led into some public sewer or drain either then existing or projected by the Council or into some stream or river or into the sea or some cesspool or other suitable place which may be approved of by the Chief Officer.

185. (1) The external roofs and walls of buildings constructed or renewed after the appointed day, shall not be made of grass, wood, cloth, canvas, leaves, mats or other inflammable material, except with the written permission of the Chief Officer which may be given either specially in individual cases, or generally in respect of any area specified therein.

l of 1894.

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(2) The Council may by bye-laws prescribe-

(*i*) the areas in which permission shall be granted by the Chief Officer for the construction of external roofs and walls of buildings from any inflammable material;

(*ii*) the conditions which may be imposed by the Chief Officer in granting permission for such construction in any other area.

(3) The Chief Officer may at any time by written notice require the owner of any building which has an external roof or wall made of any such material as aforesaid to remove such roof or wall within such reasonable time as shall be specified in the notice, whether such roof or wall was or was not made before the appointed day and whether it was made with or without the permission of the Chief Officer.

(4) An appeal shall lie to the Council against any order of the Chief Officer refusing the permission under sub-section (1) or against any notice given by the Chief Officer under sub-section (3), if made within fifteen days of the receipt of such refusal or notice, as the case may be.

(5) Whoever, without such permission as is required by sub-section (1), makes or causes to be made, or in disobedience to the requirements of a notice given under subsection (2) suffers to remain, any roof or wall of such material as aforesaid, shall, on conviction, be punished with fine which may extend to one hundred rupees, and in the case of a continuing offence with further fine which may extend to twenty-five rupees for every day after the first during which such offence continues.

186. (1) Every person constructing a building shall, within one month after the completion of construction of such building, deliver or send or cause to be delivered or sent to the Chief Officer at his office, notice in writing of such completion and shall give to the Chief Officer all necessary facilities for inspection of such building:

Completion certificate, permission to occupy or use.

Provided that-

 $\langle \sigma \rangle$ such inspection shall be commenced within seven days from the date of receipt of the notice of completion; and

(b) the Chief Officer may, not later than one month from the date of receipt of the notice of completion, by written intimation addressed to the person from whom the notice of completion was received—

(i) give permission for the occupation of such building or for the use of the building or part thereof affected by such construction; or

(*ii*) refuse such permission in case such building has been constructed so as to contravene any provision of this Regulation or of any bye-law made under this Regulation at the time in force or of any order passed under section 180 intimating to the person who gave the notice under sub-section (2) of that section, the reasons for such refusal and requiring such person, or if the person responsible for giving notice under sub-section (2) of the said section is not at the time of such notice owner of such building, then such owner to cause anything which is contrary to any provision of this Regulation or of any hye-law made under this Regulation at the time in force or of any order passed under section 180 to be amended or to do anything which by any such provision or bye-law or order he is required to do but which has been omitted.

(2) No perion shall occupy or permit to be occupied or use or permit to be used any such building constructed or part thereof affected by such construction, until-

(a) we permission referred to in the proviso to clause (b) of sub-section (7) has been received, or

(5) the Chief Officer has failed for one month after the receipt of the notice of comparison to instituate at after all his to fast of the said permission

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(3) Whoever-

(a) occupies or permits to be occupied any such building or part thereof affected by such construction without giving any notice as required under subsection (1) or in contravention of the provisions of sub-section (2); or

(b) fails to comply with any order or requisition made under sub-section (1),

shall, on conviction, be punished with fine which may extend to five hundred rupees, and in the case of continuing contravention or non-compliance with further fine which may extend to twenty-five rupees for every day after the first, during which such contravention or non-compliance continues.

187. (1) No person shall, without the written permission of the Chief Officer or otherwise than in conformity with the terms of such permission,—

(*i*) use or permit to be used any building or part thereof originally constructed or authorised to be used for human habitation as a godown, warehouse, workshop, workplace, factory, stable or a motor garage; or

(*ii*) use or permit to be used for human habitation any part of a building not originally constructed or authorised to be used for that purpose.

(2) If any person contravenes any provision of sub-section (1), he shall, on conviction, be punished with fine which may extend to five hundred rupees, and in the case of continuing contravention with further fine which may extend to ten rupees for every day after the first during which such contravention continues.

188. (1) If it shall at any time appear to the Chief Officer that any building or other structure or anything affixed to such building or structure is in a ruinous condition or likely to fall, or in any way dangerous to any person occupying, resorting to or passing by such building or structure or any other structure or place in the neighbourhood thereof, the Chief Officer may, by written notice, require the owner or occupier of such building or structure to pull down, secure, remove or repair such building, structure or thing or do one or more such things and to prevent all causes of danger therefrom.

(2) The Chief Officer may also, if he thinks fit, require the said owner or occupier, by the said notice, either forthwith or before proceeding to pull down, secure, remove or repair the said building, structure or thing, to set up a proper and sufficient hoard or fence for the protection of passers-by and other persons.

(3) If it appears to the Chief Officer that the danger from a building, structure or thing which is ruinous or about to fall is of hourly imminence, he shall, before giving notice as aforesaid or before the period of notice expires, fence of, take down, secure or repair the said structure or take such steps or cause such work to be executed as may be required to arrest the danger.

(4) Any expenses incurred by the Chief Officer under sub-section (3) shall be paid by the owner or occupier of the structure and shall be recoverable in the same manner as an amount due on account of a property tax.

189. Any person-

(a) who, without the consent of the owner or occupier, and in the case of municipal property without the permission in writing of the Chief Officer, affixes any posting bill, placard or other paper or means of advertisement against or upon any building, wall, board, fence, pale, post, lamp-post or the like; or

(b) who, without such consent or permission, as aforesaid, writes upon, soils, defaces or marks any such building, wall, board, fence, pale, post, lamp-post or the like, with chalk or paint or in any other way whatsoever,

shall, on conviction, be punished with fine which may extend to fifty rupees

Building for human habitation not to be used as godown, etc., and vice versa.

Removal of

buildings,

structures.

etc., which

are in ruins or likely to

fall.

Penalty for defacing building, etc. 76

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SEC, 1] THE GAZETTE OF INDIA EXTRAORDINARY

190. The Chief Officer may erect or fix to the outside of any building brackets for lamps to be lighted with oil or gas, or subject to the provisions of the Indian Electricity Act, 1910, for lamps to be lighted with electricity or otherwise, or subject to the provisions of the Indian Telegraph Act, 1885, for telegraph wires or telephone wires or wires for the conduct of electricity for locomotive purposes. Such brackets shall be erected or fixed so as not to occasion any inconvenience or nuisance to the occupants of the said building or of any others in the neighbourhood, or to the public.

191. It shall not be lawful for any person to erect any hut or range or block of huts or to add any hut to any range or block of huts already existing on the appointed day, without giving previous notice to the Chief Officer. The Chief Officer may require such huts to be built so that they stand in regular lines, with a free passage or way in front of and between every two lines, of such width as the Chief Officer may think proper for ventilation and to facilitate scavenging, and at such a level as will admit of sufficient drainage; and may require such huts to be provided with such number of privies and such means of drainage as he may deem necessary. If any hut or range or block be built without such notice being given to the Chief Officer, or otherwise than as required by the Chief Officer, the Chief Officer may give written notice to the owner of building thereof, or to the owner or occupier of the land on which the same is erected or is being erected, requiring him within such reasonable time as shall be specified in the notice to take down and remove the same, or to make such alterations therein or additions thereto as having regard to sanitary considerations the Chief Officer may think fit.

192. (1) Where the Council is of opinion that any hut, whether used as a dwelling or for any other purpose, and whether existing on the appointed day or subsequently erected is by reason—

(a) of insufficient ventilation or of the manner in which such hut is crowded together with other huts; or

(b) of the want of a plinth or of a sufficient plinth or of sufficient drainage; or

(c) of the impracticability of scavenging, attended with risk of disease to the inhabitants of the neighbourhood, the Council shall cause a notice to be affixed to some conspicuous part of such hut, requiring the owner or occupier thereof, or the owner of the land on which such hut is built, within such reasonable time as may be fixed by the Council in this behalf, to take down and remove such hut or to carry out such alteration or works as the Council may deem necessary for the avoidance of such risk.

(2) Where any such owner or occupier refuses or neglects to take down and remove such hut or to carry out such alterations or works within the time appointed, the Chief Officer may cause such hut to be taken down, or such alterations or works to be carried out, in accordance with the requirements of the Council.

(3) Where such hut is taken down by the Chief Officer, he shall cause the materials of the hut to be sold if such sale can be effected; and the proceeds, after deducting all expenses, shall be paid to the owner of the hut or if the owner is unknown or the title disputed shall be held in deposit by the Council until the person interested therein shall obtain an order of a competent Court for the payment of the same:

Provided that, where any such hut, which had not been constructed in contravention of any law for the time being in force at the time of such construction, is taken down and removed under this section, compensation shall further be paid to the owner or owners thereof and the amount thereof, in case of dispute, shall be ascertained and determined in the manner provided in section 309.

Improvement

of huts.

of 1910. 11 of 1885. 77

Fixing of lamps.

to house.

brackets. etc..

Regulation of huts.

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CHAPTER XIII

DRAINAGE

193. (1) All drains, sewers, privies, water closets, house-gullies, gutter and cesspools within the municipal area shall be under the survey and control of the Council.

(2) All covered drains, sewers and cesspools, whether public or private, shall be provided by the Council or other persons to whom they severally belong with proper traps, coverings or other means of ventilation; and the Chief Officer may by written notice call upon the owner of any such covered drains, sewers and cesspools to make provision accordingly.

194. (1) It shall be lawful for a Council for any drainage purposes to carry any drain, conduit, tunnel, culvert, pipe or watercourse through, across or under any street or any place laid out as or intended for a street, or under any cellar or vault which may be under any street, and, after giving reasonable notice in writing to the owner or occupier, into, through or under any land whatsoever within the municipal area.

(2) The Council or any person acting under its authority, may construct a new drain in the place of an existing drain in any land wherein any drain vested in the Council has been already constructed or repair or alter any drain vested in the Council.

(3) The Council may also erect upon any premises or land or affix to the outside of any building or structure or to any tree, any such shaft or pipe as it may deern necessary for the proper ventilation of the municipal drains, and such shaft or pipe shall be carried to a height of not less than six feet above the highest part of the adjacent house and erected so as not to cause any nuisance or inconvenience to the occupants of the building to which such shaft or pipe has been affixed or of any other building in the neighbourhood or to the public.

(4) In exercise of any power under sub-sections (1), (2) and (3), no unnecessary damage shall be done, and compensation, which shall, in case of dispute, be ascertained and determined in the manner provided in section 309 shall be paid by the Council to any person who sustains damage by the exercise of such power.

(5) The Council may discontinue, close up or destroy any municipal drain which has, in the opinion of the Council, become useless or unnecessary or prohibit the use of any such drain either entirely or for the purpose of foul water drainage or for the purpose of surface drainage:

Provided that, if by reason of anything done under this section, any person is deprived of the lawful use of any drains, the Council shall, as soon as may be, provide for his use some other drain as effectual as the one which has been discontinued, closed up or destroyed or the use of which has been prohibited.

195. (1) If any building or land as at any time undrained, or not drained to the satisfaction of the Chief Officer, the Chief Officer, subject to the control of the Council, may by written notice call upon the owner to construct or lay from such building or land a drain or pipe of such size and materials, at such level, and with such fall as he may thick necessary for the drainage of such building or land into-

(a) some drain or sewer, if there be a suitable drain or sewer within fifty taxes of any part of such building or land; or

(b) a covered cesspool to be provided by such owner and approved by the Chief Officer.

(2) The Chief Officer may, subject to the control of the Council by written notice require any court-yard, alley or passage between two or more boildings to be paved by the owners of such buildings with such materials and in such manner as he may direct.

Power of making and repairing drains.

Municipal control over

drainage.

require sufficient drainage of houses

Power: to

(3) Whoever fails to comply with the notice issued by the Chief Officer under subsection (1) or sub-section (2) shall, on conviction, be punished with fine which may extend to one hundred rupees, and in the case of continuing offence with further fine which may extend to ten rupees for every day after the first during which such offence continues.

196. (1) It shall not be lawful to construct or reconstruct any building, or to occupy or permit occupation of any building newly constructed or reconstructed, unless and until---

(a) a drain is constructed of such size, materials and description, at such level and with such fall, as may be required by the bye-laws or if no bye-laws have been framed by the Council, as shall appear to the Chief Officer to be necessary for the effectual drainage of such building;

(b) there have been provided for and set up in such building and in the land appurtenant thereto, all such appliances and fittings as may be required by the byelaws or if no bye-laws have been framed by the Council as may appear to the Chief Officer to be necessary for the purposes of gathering and receiving the drainage from, and conveying the same off, the said building and the said land; and of effectually flushing the drain of the said building and every fixture connected therewith.

(2) The drain to be constructed as aforesaid shall empty into a municipal drain, or into some place set apart by the Council for the discharge of drainage, situated at a distance not exceeding fifteen metres from such building; but if there is no such drain or place within that distance, then such drain shall empty into a cesspool provided by the owner of such building and approved by the Chief Officer.

197. (1) The owner or occupier of any building or land within the municipal area shall be entitled to cause his drains to empty into a municipal drain:

Provided that he first obtains the written permission of the Chief Officer and complies with such conditions as the Chief Officer may, subject to the provisions of byelaws, if any, prescribe as to the mode in which and the superintendence under which the communications are to be made to the Chief Officer.

(2) An appeal shall lie to the Council against any order of the Chief Officer under sub-section (1), if made within fifteen days of the receipt of such order.

198. (1) If the owner or occupier of any building or land desires to connect the same with any municipal drain, by means of a drain to be constructed through any land, or to be connected with a drain, belonging to or occupied by or in the use of some other person, he may make a written application in that behalf to the Chief Officer.

(2) Subject to the control of the Council, the Chief Officer thereupon, after giving to such other person a reasonable opportunity of stating any objection to such application, may, if no objection is raised, or if any objection which is raised is in his opinion insufficient, by an order in writing authorise the applicant to carry his drain into, through, or under the said land, or into the said drain, as the case may be, in such manner and on such conditions as to the payment of rent or compensation, and as to the respective responsibilities of the parties for maintaining, repairing, flushing, cleaning and emptying the said drains as may appear to him to be adequate and equitable.

(3) Every such order shall be a sufficient authority to the person in whose favour it is made, or to any agent or other person employed by him for this purpose, after giving or tendering to the owner, occupier or user of the said land or drain the compensation or rent, if any, specified in the said order, and otherwise fulfilling as far as possible the conditions of the said order, and after giving to the said owner, occupier or user reasonable notice in writing, to enter upon the land specified in the said order with assistants and

New building not to be erected without drains.

Powers of owners and occupiers of buildings or lands to drain into municipal drains.

Right to carry drain through land or into drain belonging to other persons.

[PART I]----

workmen at any time between sunrise and subject to the provisions of this Regulation, to do all such work as may be necessary—

(a) for the construction or connection of the drain, as may be authorised by the said order;

(b) for renewing, repairing or altering the same as may be necessary from time to time; or

(c) for discharging any responsibility attaching to him under the terms of the order as to maintaining, repairing, flushing, cleaning or emptying the said drain or any part thereof.

(4) In executing any work under this section as little damage as possible shall be done and the owner or occupier of the buildings or lands for the benefit of which the work is done, shall—

(a) cause the work to be executed with least practicable delay;

(b) fill in, reinstate and make good at his own cost and with the least practicable delay the ground or any portion of any building or other construction opened, broken up or removed for the purpose of executing the said work; and

(c) pay compensation to any person who sustains damage by the execution of the said work.

199. If the owner of any land into, through or under which a drain has been carried under the last preceding section, whilst such land was unbuilt upon, shall at any subsequent time desire to construct a building thereon, the Chief Officer, subject to the control of the Council, shall, if he sanctions the construction of such building, by written notice, require the owner or occupier of the building or land, for the benefit of which such drain was constructed, to close, remove or divert the same, and to fill in, reinstate and make good the land in such manner as he may deem fit to be necessary, in order to admit the construction or safe enjoyment of the proposed building.

200. (1) Where the Chief Officer is of opinion that any privy or cesspool, or additional privies or cesspools, should be provided in or on any building or land, or in any municipal area in which a water-closet system has been introduced, that water-closet or additional water-closets should be provided in or on any building or land, or that water-closet should be substituted for the existing privies in such number as may be considered necessary by him, the Chief Officer, subject to the control of the Council, may by written-notice call upon the owner of such building or land, to provide such privies, cesspools or water-closets or to substitute water-closets for the existing privies at such sites as he may deem proper.

(2) The Chief Officer, subject to the control of the Council, may by written notice require any person or persons employing workmen or labourers exceeding twenty in number, or owning or managing any market, school or theatre or other place of public resort, to provide such privies or water-closets at such sites as he may direct and to cause the same to be kept in proper order, and to be daily cleaned.

(3) The Chief Officer, subject to the control of the Council, may by written notice require the owner or occupier of any land upon which there is a privy or water-closet, to have such privy or water-closet shut out, by a sufficient roof and a wall or fence, from the view of persons passing by or resident in the neighbourhood, or to alter as he may direct any privy door or water-closet door or trap door which opens on to any street, and which he deems to be a nuisance.

Rights of owner of land through which drain is carried in regard to subsequent building thereon.

Provision of privies, etc.

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201. (1) All drains, privies, water-closets, house-gullies, gutters and cesspools and drainage works of every description within a municipal area shall, unless constructed at the cost of the Council, be altered, repaired and kept in proper order at the cost and charge of the owners of the lands or buildings to which they belong, or for the use of which they have been constructed or continued; and the Chief Officer, subject to the control of the Council, may by written notice require any such owner to alter, repair, and put the same in good order in such manner as he may think fit.

(2) It shall be the duty of every such owner of land or building to get such drains, privies, water-closets, house-gullies, gutters and cesspools cleansed either by the municipal agency or such other agency as the Chief Officer may approve and at such intervals as the Chief Officer may require.

(3) Subject to the control of the Council, the Chief Officer may by written notice require the owner to demolish or close any privy or cesspool, whether constructed before or after the appointed day, which in the opinion of the Chief Officer is a nuisance, or is so constructed as to be inaccessible for the purpose of scavenging or incapable of being properly cleaned or kept in good order.

202. When any building or land within municipal area has a drain communicating with any cesspool or a municipal drain or any other place set apart for the discharge of drainage, the Chief Officer, if he considers that such drain, though it may be sufficient for the drainage of such building or land and though it may be otherwise unobjectionable, is not adapted to the general drainage of the locality, may, subject to the control of the Council, close such drain and such cesspool or municipal drain, whether they are or are not on land vested in the Council, on providing a drain or drains or cesspool equally effectual for the drainage of such building or land, and the Chief Officer may, subject as aforesaid, do any work necessary for the purpose.

203. (1) No person shall, without the written consent of the Chief Officer,--

(*i*) make or cause to be made any drain into or out from any of the drains vested in the Council; or

(*ii*) construct a building over any drain, culvert or gutter vested in the Council.

(2) The Chief Officer may, by written notice, require any person-

(*i*) to demolish, alter, remake or otherwise deal with any drain constructed incontravention of sub-section (1), as he may think fit; or

(*ii*) to pull down or otherwise deal with any building or part thereof constructed in contravention of sub-section (1) as he may think fit.

(3) Any person who contravenes any provision of sub-section (1) shall, on conviction, be punished with fine which may extend to one hundred rupees.

204. (1) If any drain privy, water-closet, house-gully or cesspool on any land within a municipal area, is constructed, rebuilt or unstopped either without the consent or contrary to the orders, directions or bye-laws of the Council or contrary to the provisions of any enactment in force at the time when it was so constructed, rebuilt or unstopped, the Chief Officer, subject to the control of the Council, may, by written notice, require such drain, privy, water-closet, house-gully or cesspool to be demolished amended or altered as it may deem fit.

(2) Any person who fails to comply with any notice issued by the Chief Officer under sub-section (I) shall, on conviction, be punished with fine which may extend to one hundred runees.

Power in respect of drains, etc., unauthorisedly constructed, rebuilt or unstopped.

-Power to close private drains and cesspools.

> Encroachment on municipal drains.

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Power to require

owners to

etc., in

keep drains.

proper order; or to

demolish or

close a privy or cesspool.

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Inspection of drains, etc.

205. (1) The Chief Officer, after due notice to the occupier, may inspect any drain, privy, water-closet, house-gully, gutter or cesspool; and for that purpose, at any time between sunrise and sunset may enter upon any lands or buildings with assistants and workmen, and cause the ground or any other structure to be opened or broken where he or they may think fit, doing as little damage as may be.

(2) The expense of such inspection and of causing the ground or the structure to be closed or repaired and made good as before shall be borne by the Council, unless the drain, privy, water-closet, house-gully, gutter or cesspool is found to be in bad order or condition, or was constructed in contravention of the provisions of any enactment or of any bye-laws or orders thereunder in force at the time or issued in respect of such construction; in which case such expense shall be paid by the owner of such drain, privy, water-closet, house-gully, gutter or cesspool, and shall be recoverable in the same manner as an amount due on account of a property tax.

Council may execute certain works without option to person concerned of executing the same.

Pipes, etc., constructed by Council to be municipal property.

Prohibition of certain acts affecting the municipal water works. **206.** (1) The Council may, if it thinks fit, cause any work, the execution of which may be ordered by or on behalf of the Council under any of the foregoing provisions of this Chapter, to be executed by municipal or other agency under its own orders, without first of all giving the person by whom the same would otherwise have to be executed the option of doing the same.

(2) The expenses of any work so done shall be paid by the person aforesaid, unless the Council shall, by a general or special order or resolution, sanction the execution of such work at the charge of the municipal fund.

207. Any pipes, fittings, receptacles or other appliances for or connected with the drainage of any private building or land shall, if supplied, constructed or erected at the expense of the Council, be deemed to be municipal property, unless the Council shall have transferred its interest therein to the owner of such building or land.

CHAPTER XIV

WATER SUPPLY

208. (1) A Council may, with the sanction of the Director, demarcate and notify the limits of the water-shed of any lake, tank, well or reservoir from which water is derived for the municipal water-work or use by the residents of the municipal area.

(2) Except with the permission of the Council, no person shall—

(a) erect any building for any purpose whatever within such limits;

(b) remove, alter, injure, damage or in any way interfere with any boundary marks of such water-shed;

(c) extend, alter or apply to any purpose different to that to which the same has been heretofore applied, any building already existing within the said limits; or

(d) carry on, within the said limits, any operation of manufacture, trade or agriculture in any manner, or do any act whatever, whereby injury may arise to any such lake, tank, well or reservoir or to any portion thereof or whereby the water of such lake, tank, well or reservoir may be fouled or rendered less wholesome.

(3) Except with the permission of the Chief Officer, no person shall-

(a) cause or suffer to percolate or drain into or upon any municipal water-work or to be brought there into or thereupon anything, or to be done any act, whereby the water therein may be in any way fouled or polluted or its quality altered;

(b) alter the surface of any municipal land adjacent to or forming part of any such work by digging therein to or depositing thereon any substance;

(c) cause or suffer to enter into the water in such work any animal;

(d) bathe in or near such work;

(e) throw or put anything into or upon the water in such work;

(f) wash or cause to be washed in or near such work any animal or thing.

(4) Whoever contravenes any provision of sub-section (2) shall, on conviction, be punished with imprisonment for a term which may extend to one month, or with fine which may extend to one hundred rupees, or with both.

(5) Whoever contravenes any provision of sub-section (3) shall be deemed to have committed an offence punishable under section 277 of the Indian Penal Code.

(6) When any person is convicted under sub-section (4), the Magistrate who convicts him may order the immediate removal of any building, or the immediate discontinuance of the operation or use of land, in respect of which such conviction has been held.

(7) If any order made under sub-section (6) is disobeyed or the execution thereof resisted, the offender shall, on conviction, be punished with imprisonment for a term which may extend to three months, or with fine which may extend to three hundred rupees, or with both.

209. (1) No person shall wilfully or negligently-

(a) injure or suffer to be injured any meter belonging to the Council or any of the fittings of any such meter;

(b) break, injure or open any lock, seal, cock, valve, pipe, work engine, cistern or fitting appertaining to any municipal water-work;

(c) do any act or suffer any act to be done whereby the water in, or derived from, any municipal water-work, shall be wasted;

(d) obstruct, divert or in any way injure or alter any water-main or duct;

(e) except with the permission of the Chief Officer, open, break, injure or tamper with any lock furnished under the provisions of this Regulation.

(2) Whoever contravenes any provision of sub-section (1) shall, on conviction, be punished with fine which may extend to one hundred rupees.

210. (1) The Chief Officer may, by a written notice, require the owner or occupier on whose land any drain, privy, water-closet, cesspool or other receptacle for filth or refuse for the time being exists within such distance as may be prescribed by bye-laws, from any spring, well stream, channel, tank, reservoir or other source from which water is or may be derived for public use, and which would be in a position where such source of water is likely to be injured or the water therein polluted, to remove or close such drain, privy, water-closet, cesspool or other receptacle for filth or refuse, within one week from the date of service of the notice.

(2) Whoever fails to comply with the notice under sub-section (1) shall, on conviction, be punished with fine which may extend to fifty rupees and in the case of continuing offence with further fine which may extend to five rupees for every day after the first during which such offence continues.

211. For the purpose of obtaining a supply or an additional supply of water or of distributing the same, the Council shall have the same powers and be subject to the same restrictions for carrying, renewing, repairing, altering and inspecting water mains, pipes and ducts within or without the municipal area as it has and is subject to under the provisions hereinbefore contained for carrying, renewing, repairing, altering, altering and inspecting and inspecting drains within the municipal area.

Prohibition of wilful or neglectful acts relating to water works.

Prohibition

constructing drains, etc.. near sources of water supply.

Power of carrying water mains.

[PART II----

Power to require water supply to be taken. 212. If at any time it appears to the Chief Officer that any building or land in the municipal area is without a proper supply of protected water, the Chief Officer, subject to the control of the Council, may by written notice require the owner, lessee or occupier of the building or land to obtain from any public works such quantity of water as may be adequate for the requirements of the persons usually occupying or employed upon the building or land, and to provide communication pipes of such size, materials and description and to take all necessary steps for the purpose as prescribed by bye-laws, if any, and if no bye-laws have been framed, then as the Chief Officer may consider necessary.

213. (1) The Chief Officer may, at any time by written notice, require that the owner of or any person who has the control over any well, stream, channel, tank or other source of water supply, shall, whether such source is private property or not, within a reasonable time to be specified in the notice, or in any case falling under clause (d) within twenty-four hours of such notice,—

(a) keep and maintain any such source of water supply, other than a stream in good repairs; or

(b) cleanse any such source of water supply from silt, refuse and decaying vegetation; or

(c) in such manner as the Chief Officer may prescribe, protect any such source of water supply from pollution or contamination; or

(d) repair, protect or enclose in such manner as the Chief Officer approves any such source of water supply, if for want of sufficient repair, protection or enclosure; such source of water supply is, in the opinion of the Chief Officer, dangerous to the health or safety of the public or of any person having occasion to use or to pass or approach the same; or

(e) desist from using and from permitting others to use for drinking purposes any such source of water supply, which is proved to the satisfaction of the Chief Officer to be unfit for drinking; or

(f) if, notwithstanding any such notice under clause (e), such use continues and cannot in the opinion of the Chief Officer be otherwise prevented, close either temporarily or permanently or fill up or enclose or fence in such manner as the Chief Officer considers sufficient to prevent such use of such source of water supply as aforesaid; or

(g) drain off or otherwise remove from any source of water supply or from any land or premises or receptacle or reservoir attached or adjacent thereto, any stagnant water which the Chief Officer considers to be injurious to health or offensive to the neighbourhood.

(2) If the owner or person having control as aforesaid, fails or neglects to comply with any notice under sub-section (1) within the time specified therein, the Chief Officer may and if in his opinion immediate action is necessary to protect the health or safety of any person shall, at once proceed to execute the work required by such notice; and all the expenses incurred therein by the Chief Officer shall be paid by the owner of, or person having control over, such water supply, and shall be recoverable in the same manner as an amount due on account of a property tax:

Provided that, in the case of any well or private stream or of any private channel, tank or other source of water supply, the water of which is used by the public or any section of the public as of right, the expenses incurred by the Chief Officer or necessarily incurred by such owner or person having such control, may if the Council so directs, be paid from the municipal fund.

Powers and duties with regards to dangerous. stagnant or insanitary sources of water supply.

Sec. 11

(3) The Chief Officer may, by written notice, require the owner or occupier of any land to cut down, lop or trim all trees or shrubs which so overhang any public tank, well or other source of water supply as to pollute or be likely to pollute the water thereof.

214. (1) The Council may set apart suitable places for the purpose of bathing, and may specify the times at which, and the sex of persons by whom, such places may be used, and may also set apart suitable places for washing animals, clothes or vessels or for any other purpose connected with the health, cleanliness or comfort of the inhabitants of the municipal area.

(2) The Council may by public notice prohibit bathing or washing animals, clothes or vessels or doing any other thing in any public place not so set apart, or at times or by persons other than those specified under sub-section (1) or may prohibit other act by which water in public places may be rendered foul or unfit for use or which may cause inconvenience or annoyance to persons using the bathing or washing places.

(3) Any person who contravenes any provision of sub-section (2), shall, on conviction, be punished with fine which may extend to fifty rupees.

215. (1) No new well, tank, pond, cistern or fountain shall be dug or constructed, without the previous permission in writing of the Chief Officer.

(2) If any such work is begun or completed without such permission, the Chief Officer may either—

(a) by written notice require the owner or other person who has done such work to fill up or demolish such work in such manner as the Chief Officer shall prescribe; or

(b) grant written permission to retain such work but such permission shall not exempt such owner from any proceedings for contravening the provisions of subsection (1).

CHAPTER XV

PUBLIC SAFETY AND CONVENIENCES

216. (1) The Chief Officer shall, during the construction or repair of any of the streets, drains or other premises vested in the Council, take proper precaution for guarding against accident, by shoring up and protecting the adjoining buildings, and shall cause such bars, chains or post as he shall think fit, to be fixed across or in any street to prevent the passage of carriages, carts or other vehicles, or of cattle or horses, while such construction or repair is being carried on and shall cause any such construction or repair work in a street to be sufficiently lighted and guarded during the night.

(2) Whoever takes down, alters or removes any of the said bars, chains or posts or removes or extinguishes any such light without the authority or consent of the Chief Officer, shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

217. (1) If in the opinion of the Chief Officer, the working of any quarry or the removal of stone, earth or other material from the soil in any place, is dangerous to persons residing in or having a right of access to the neighbourhood thereof, or creates or is likely to create a nuisance, the Chief Officer may, by written notice, require the owner of the said quarry or place or the person responsible for such working or removal not to continue or permit the working of such quarry or place as the Chief Officer shall direct for the purpose of preventing the danger or of abating the nuisance arising or likely to arise therefrom:

Fencing and lighting during repairs, etc.

washing places.

bathing and

Power to regulate

Digging of wells, etc., without permission prohibited.

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Dangerous quarrying.

[Part II—

Provided that, if such quarry or place is vested in the Government or if such working thereof or removal therefrom as aforesaid is being carried on by or on behalf of the Government or any person acting with the permission or under the authority of the Government or of any Government officer acting as such, the Chief Officer shall not take such action, unless and until the Collector has consented to his so doing:

Provided further that, the Chief Officer shall immediately cause a proper hoard or fence to be put up for the protection of passengers, near such quarry or place, if it appears to him to be necessary in order to prevent imminent danger.

(2) Any expense incurred by the Chief Officer in taking action under this section shall be paid by such owner or the person responsible for such working or removal, and shall be recoverable in the same manner as an amount due on account of property tax.

218. (1) A person intending to construct or take down any building or to alter or repair any building externally shall, if the position or circumstances of the work is or are likely to cause or may cause obstruction, danger or inconvenience in any street, before beginning such work —

(a) first obtain permission in writing from the Chief Officer so to do; and

(b) cause sufficient hoards or fences to be put up in order to separate the area where the work is to be carried on from the street, and shall maintain such hoard or fence standing and in good condition to the satisfaction of the Chief Officer during such time as the Chief Officer considers necessary for the public safety or convenience, and shall cause the same to be sufficiently lighted during the night, and shall remove the same when directed by the Chief Officer.

(2) Whoever contravenes any provision of sub-section (1) shall, on conviction, be punished with fine which may extend to fifty rupees, and in the case of continuing contravention with further fine which may extend to ten rupees for every day after the first during which such contravention continues.

219. (1) It shall be the duty of the manager or proprietor of any place for public entertainment to make such provision as may be prescribed by the bye-laws or if no bye-laws have been framed, as the Chief Officer may by written notice require, for the prevention and extinction of fire, and for the easy exit of the audience in case of fire.

(2) Any person who contravenes any provision of sub-section (I) shall, on conviction, be punished with fine which may extend to five hundred rupees and in the case of continuing contravention with further fine which may extend to twenty-five rupees for every day after the first during which such contravention continues.

Powers for suppression s of fires.

Power to

precaution in

require

place of

public entertainments

220. (1) It shall be the duty of all police officers and all municipal officers and servants to aid the fire brigade in the execution of its duties.

(2) On the occasion of a fire within the limits of a municipal area, any Magistrate, the President, the Chief Officer or any member of a fire-brigade maintained by the Council or by the Government directing the operations of the brigade, and if directed so to do by any of the persons aforesaid any police officer above the rank of a constable, may-

(a) remove or order removal of any person who by his presence interferes with or impedes the operations for extinguishing the fire or for saving life or property:

(b) close any street or passage in or near which any fire is burning;

(c) for the purpose of extinguishing the fire, break into or through or pull down or cause to be broken into or through or pulled down, or use for the passage of hoses or other appliances, any premises;

(d) cause mains and pipes to be shut off so as to give greater pressure of water in or near the place where the fire has occurred;

Boards to be set up during repairs, etc. (e) call on the persons in charge of any fire-engine to render such assistance as may be possible; and

(f) generally, take such measures as may appear necessary for the preservation of life or property.

(3) When any Government building is endangered by such fire, any Government officer for the time being in charge of the building may exercise the powers conferred by sub-section (2).

(4) No compensation shall be payable by any person for any act done by him in good faith under sub-section (1) or sub-section (2).

CHAPTER XVI

NUISANCES

221. (1) Whoever deposits or causes or suffers any member of his family or household to deposit any dust, dirt, dung, ashes, refuse or filth of any kind or any animal matter or any broken glass or earthenware or other rubbish or any other thing that is or may be a nuisance or danger, in any street or in any arch under a street or in any drain beside a street or on any open space not being private property or on any quay, jetty or landing place or on any part of the seashore, or the bank of a tidal river, or whether above or below highwater mark, or on the bank of the river, water course or nullah, except at such places, in such manner and at such hours as shall be fixed by the Chief Officer, and whoever commits or suffers any members of his family or household to commit nuisance in any such place as aforesaid, shall, on conviction, be punished with fine which may extend to one thousand rupees.

(2) Whoever throws or puts or causes or suffers any members of his family or household to throw or put any of the matters described in sub-section (1) except night-soil or except with the permission of the Chief Officer, any night-soil into any drain, culvert, tunnel, gutter or water-course, and whoever commits nuisance or suffers any member of his family or household to commit nuisance in any such drain, culvert, tunnel, gutter or water-course, or in such close proximity thereto as to pollute the same, shall, on conviction, be punished with fine which may extend to one thousand rupees.

222. Whoever causes or allows the water of any sink, sewer or cesspool or any other liquid or other matter which is or which is likely to become a nuisance, from any building or land under his control, to run, drain or be thrown or put upon any street or open space, or to soak through any external wall, or causes or allows any offensive matter from any sewer or privy to run, drain or be thrown into a surface drain in any street, without the permission in writing of the Chief Officer or who fails to comply with any condition prescribed in such permission, shall, on conviction, be punished with fine which may extend to one thousand rupees.

223. Whoever, being the owner or occupier of any building or land, keeps or allows to be kept for more than twenty-four hours, or otherwise than in some proper receptacle, any dirt, dung, bones, ashes, night-soil, filth or any noxious or offensive matter, in or upon such building or land, or suffers such receptacle to be in a filthy or noxious state, or neglects to employ proper means to remove the filth from and to cleanse and purify such receptacle, or keeps or allows to be kept in or upon such building or land any animal in such a way as to cause a nuisance, shall, on conviction, be punished with fine which may extend to one thousand rupees, and in the case of continuing offence with further fine which may extend to two hundred rupees for every day after the first during which such contravention continues.

224. (1) The Chief Officer may from time to time fix the hours within which and the routes by which only it shall be lawful to remove any night-soil or such other offensive matter.

Depositing dust. etc., committing nuisance.

Discharging sewage, etc.

Non-removal of fifth, etc.

Removal of inight-soil.

(2) The Chief Officer shall cause a notice of such hours and routes to be given in the manner prescribed in section 305.

(3) Whoever,---

(a) when the Chief Officer has fixed such hours and routes and given such public notice, removes or causes to be removed along any street any such offensive matter at any time except within the hours so fixed, or by any route other than that fixed by the Chief Officer; or

(b) at any time, whether such hours or routes have been fixed by the Chief Officer or not,---

(*i*) uses for any such purpose any cart, carriage receptacle or vessel, not having a covering sufficient for preventing the escape of the contents thereof and of the stench therefrom; or

(*ii*) wilfully or negligently slops or spills any such offensive matter in the removal thereof; or

(*iii*) does not carefully sweep and clean every place in which any such offensive matter has been slopped or spilled; or

(*iv*) places or sets down in any public place any vessel containing such offensive matter,

shall, on conviction, be punished with fine which may extend to one thousand rupees.

225. Whoever, except with the written permission of the Chief Officer, and in accordance with the conditions of such permission, stores or uses night-soil or other manure or substance emitting an offensive smell in such manner as to be a nuisance to the neighbourhood shall, on conviction, be punished with fine which may extend to one thousand rupees.

226. If, in the opinion of the Chief Officer-

(a) any pool, ditch, quarry, hole, excavation, tank, well, pond, drain, water course or any collection of water; or

(b) any cistern or other receptacle for water whether within or outside a building, or

(c) any land on which water is accumulated, is or is likely to become a breeding place of mosquitoes or in any other respect a nuisance, the Chief Officer may, by notice in writing, require the owner thereof to—

(*i*) fill up, cover over or drain off the same in such manner and with such materials as the Chief Officer shall prescribe; or

(*ii*) take such measure with respect to the same including treatment by such physical, chemical or biological methods for removing or abating the nuisance as may be prescribed in the notice.

Buildings or rooms in buildings unfit for human habitation

227. (1) If, for any reason, it shall appear to the Council that any building or any room in a building intended for or used as a dwelling is unfit for human habitation, the Council shall give to the owner or occupier of such building notice in writing, stating such reasons, and signifying its intention to prohibit the further use of the building or room, as the case may be, as a dwelling, and shall, in such notice, call upon the owner or occupier aforesaid to state in writing any objection thereto within thirty days after the receipt of such notice; and if no objection is raised by such owner or occupier within such period as aforesaid; or if any objection which is raised

Using offensive manure, etc.

Abatement of nuisance from wells, etc. by such owner or occupier within such period appears to the Council invalid or insufficient, the Council may, by an order in writing, prohibit the further use of such building or room as a dwelling.

(2) When any such prohibition as aforesaid has been made by the Council, the Chief Officer shall cause notice of such prohibition to be affixed to, and the words "Unfit for human habitation" to be painted on the door or some conspicuous part of such building or room, as the case may be; and no owner or occupier of such building or room shall use or suffer the same to be used for human habitation until the Council certifies in writing that the building or room, as the case may be, has been rendered fit for human habitation.

228. (1) If any building or land, whether tenantable or otherwise, is-

Filthy buildings, etc.

(i) in an insanitary, filthy or unwholesome state; or

(*ii*) in the opinion of the Chief Officer a nuisance to persons residing in the neighbourhood; or

(iii) overgrown with prickly-pear or rank and noisome vegetation,

the Chief Officer may, by written notice, require the owner or occupier of such building or land to clean, lime-wash internally or externally, clear or otherwise put such building or land in a proper state.

(2) Any person who fails to comply with the notice issued under sub-section (1) shall, on conviction, be punished with fine which may extend to one thousand rupees, and in the case of continuing non-compliance with further fine which may extend to hundred rupees for every day after the first, during which such non-compliance continues.

(3) Where any building, by reason of dilapidation, neglect, abandonment, disuse or disputed ownership, or of its remaining untenanted and thereby—

(a) becoming a resort of idle and disorderly persons, or of persons who have no ostensible means of subsistence or who cannot give a satisfactory account of themselves; or

(b) coming into use for any insanitary or immoral purpose; or

(c) affording a shelter to snakes, rats or other dangerous or offensive animals, is open to objection that it is a source of nuisance or danger or so unwholesome or unsightly as to be a source of discomfort, inconvenience or annoyance to the neighbourhood or to persons passing by such building, the Council, if it considers such objection cannot under any other provision of this Regulation be otherwise removed, may, if there is any person known or resident within the municipal area who claims to be the owner of such building, by written notice direct to such person, require such person, or in any other case by written notice fixed on the door or any other conspicuous part of the building, require all persons claiming to be interested in such building, within a period which shall be specified in the notice and which shall not be less than one month from the date of such notice, to—

(i) take such measure as may be specified in the notice to remove or to prevent such nuisance, danger, discomfort, inconvenience or annoyance, or

(*ii*) cause such building to be taken down and the materials thereof to be removed.

Sec. 1]

[PART II—

CHAPTER XVII

PREVENTION AND CONTROL OF DANGEROUS DISEASES

229. For the purpose of this Chapter, the expression "dangerous disease" means any of the following diseases, namely:---

(*i*) Anthrax;

(ii) Cerebrospinal fever;

(*iii*) Chicken-pox;

(iv) Cholera;

(v) Diphtheria;

(vi) Enteric group of fevers;

(vii) Erysipelas;

(viii) Influenzal Pneumonia--acute influenza;

(ix) Leprosy;

(x) Measles;

(xi) Plague;

(xii) Poliomyelitis;

(xiii) Rabies;

(xiv) Relapsing fever;

(xv) Scarlet fever;

(xvi) Small-pox;

(xvii) Tuberculosis of lungs and intestines;

(xviii) Typhus;

(xix) Yellow fever;

(xx) continuous pyrexia of unknown origin of more than four days' duration;

(xxi) any other disease which the Government may, from time to time, by notification in the Official Gazette, declare to be a dangerous disease.

Power to prohibit use of public conveyances for carriage of persons suffering from dangerous diseases. Restrictions on persons suffering from dangerous diseases

230. In any municipal area in which the Council has provided suitable conveyance for the free carriage of persons suffering from any dangerous diseases, it shall be lawful for the Council by public notice to prohibit the conveyances, of such persons in all or any public conveyances, and to direct that any conveyance that may, at any time, be used for conveying any such person, be immediately disinfected.

231. (1) No person suffering from any dangerous disease shall wilfully expose himself, and no person in charge of any person suffering from a dangerous disease shall expose such person, without proper precautions against spreading the said disease, in any street or in any school or factory, or in any inn, dharmashala, theatre, hotel, market or other place of public resort.

(2) No person suffering from any dangerous disease shall---

(a) make or offer for sale any article of food or drink for human consumption or any medicine or drug; or

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Dangerous

diseases

(b) wilfully touch any such article, medicine or drug when exposed for sale by others; or

(c) take any part in the business of washing or carrying clothes.

(3) No person on whom an order has been served in this behalf by the Chief Officer shall remove to another place, or transfer to another person, except for the purpose of disinfection, any article which the person prohibited knows or has reason to believe has been exposed to infection of any kind whatsoever from any dangerous disease.

232. (1) In the event of a municipal area being threatened or visited at any time by the outbreak of any dangerous disease, the Council shall take measures for the prevention, treatment and control of the disease, including isolation of persons suffering from such disease and for investigating the causes of the prevalence or the outbreak of the disease.

(2) The Collector may, by notification published in the Official Gazette and locally in such other manner as he deems fit, declare that a municipal area is visited or is threatened by the outbreak of a dangerous disease and thereupon the Collector may, by an order, require the Council to take such measures for the prevention, treatment and control of such disease and within such period as may be specified in the order and it shall be the duty of the Council to comply with any order issued by the Collector.

(3) If the Council fails to comply with any order issued by the Collector under subsection (2), the Collector may appoint any person to take such other steps as may be necessary to give effect to the order and all the expenses incurred by the person so appointed or by the Collector shall be borne by the Council.

233. It shall be the duty of—

(*i*) every medical practitioner who, in the course of his practice, becomes cognizant of a case or a suspected case of a dangerous disease in any house or place other than a public hospital;

(*ii*) the medical officer in charge of any hospital or dispensary at which any person suffering from or suspected to be suffering from any dangerous disease is treated or brought for treatment;

(*iii*) the manager of a factory or the headmaster of a school or the keeper of a lodging house who knows or has reason to believe that any person in any premises under his management or control is suffering from or has died of any dangerous disease;

(iv) any head of the house-hold who knows or has reason to believe that any person residing with him is suffering from a dangerous disease,

to give information of the same with the least practicable delay to the Chief Officer or the Health Officer of the Council.

234. The Chief Officer, the Health Officer or any person duly authorised by the Chief Officer or the Health Officer may, at any time, by day or night, enter with or without assistants, into or upon any place in which a case of a dangerous disease is reported or suspected to exist, after giving such notice as may appear to him reasonable and without any notice in the case of factories, workshops, workplaces, offices, business places and the like, for the purposes of inspection, investigation and adoption of such measures as he may consider necessary to prevent the spread of disease, including the removal of an infected person to any hospital or place at which persons suffering from the said disease are received for medical treatment, and to prohibit the person so removed from leaving such hospital or place without the permission of the officer or person under whose orders he was removed or of the officer in charge of such hospital or place:

Power of entry into places where cases of dangerous disease suspected.

Information to be given to Chief Officer or Health Officer about incidence of dangerous

diseases.

Control and prevention of dangerous diseases.

Provided that, where the Collector has made a declaration under sub-section (2) of section 232, it shall be lawful for the Chief Officer, the Health Officer or any authorised person to enter any place in which a case of dangerous disease is reported or suspected to exist without notice.

235. The Chief Officer or the Health Officer or any other municipal officer duly authorised by the Chief Officer or the Health Officer in this behalf may by written notice—

(a) require the owner or the occupier of any building or part of a building in which a case of a dangerous disease occurs, to get such building cleaned, white-washed or disinfected or get any article in such building cleansed or disinfected to the satisfaction of the officer issuing such notice;

(b) prohibit the letting of or the providing of accommodation in any hotel, inn, dharmashala or sarai in which a person has, or in which there is reason to believe that a person has been suffering from a dangerous disease. unless and until the person desiring so to let or provide accommodation.shall have had the building, or part thereof, cleansed, white-washed or disinfected or any article therein cleansed or disinfected to the satisfaction of the officer issuing such notice:

Provided that-

(*i*) if, in the opinion of the Chief Officer, or the Health Officer, or such authorised officer, the owner or occupier is too poor to pay for the cost of disinfecting, cleansing or white-washing, he may direct such disinfecting, cleansing or white-washing to be done at the cost of the municipal fund;

(*ii*) when a declaration has been made by the Collector under sub-section (2) of section 232, the Chief Officer, the Health Officer or such authorised officer may at any time get such disinfecting, cleansing or white-washing done without notice by the municipal staff at the cost of the municipal fund.

236. (1) If it appears to the Council that the water of any well, tank or other place is likely, if used for the purpose of drinking, bathing, washing or for any other purpose, to endanger health or cause the spread of any dangerous disease, the Council may—

(*i*) require the owner or the person in charge of such well, tank or other place by a written notice to take such measures as may be necessary to prevent danger to public health or prevent the spread of any dangerous disease:

(*ii*) by public notice, prohibit the removal or use of the said water for any such purpose and may take such steps as may be necessary to prevent any person from removing or using water from such well, tank or other place:

Provided that, when a declaration under sub-section (2) of section 232 has been made by the Collector, it shall be lawful for the Chief Officer or the Health Officer to take action under this sub-section and report the action taken to the Council for approval.

(2) No person shall remove or use the water from any well, tank or other place in respect of which any such public notice has been issued.

237. If a declaration is made by the Collector under sub-section (2) of section 232, the Collection shall have power—

(a) to order with the previous permission of an Executive Magistrate, the evacuation of an infected building used as a dwelling or of any part thereof, or of any building so used adjacent to such building by the person or persons residing, whether habitual or temporarily therein, provided that accommodation for all persons affected by the order is available or is provided elsewhere;

(b) to order with the previous permission of an Executive Magistrate, the destruction of any insanitary shed or hut in which there is or has been a case of a dangerous disease or which is likely to spread any dangerous disease:

Chief Officer or Health Officer may direct owner or occupier to take certain precautionary measures and in default, carry out the same.

Prohibition of use of water likely to spread dangerous discases.

Additional

powers of

Council on

threatened outbreak of

Jangerous

disease.

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(c) to prohibit either generally or by special order in any individual case, assemblages consisting of any number of persons exceeding fifty, in any place whether public or private or in any circumstances, or for any purpose, if in the opinion, recorded in writing, of the Health Officer of the Council or of the Civil Surgeon, such assemblages in such place or in such circumstances, or for such purpose, would be likely to become a means of spreading the disease or of rendering it more virulent;

(d) to direct the examination by a medical officer of persons and if necessary, the disinfection of the clothing, bedding or other articles suspected of being infected, belonging to persons either arriving from places outside the municipal area or residing in any building adjacent to any infected building, and to direct that any such person shall give his name and address and present himself daily for a medical examination at such times and places as may be prescribed, for a period not exceeding ten days.

238. (1) Whoever knowingly contravenes any provision of section 230 or section 231 or section 233 or section 234 or section 235 or section 236 or clause (d) of section 237, or disobeys any order or requisition made under any of the aforesaid sections, or obstructs any officer of the Council or other person acting under the authority of the Council in carrying out executively any such order shall, on conviction, be punished with fine which may extend to two hundred rupees, and in the case of continuing offence with further fine which may extend to twenty rupees for every day after the first during which such contravention continues.

(2) Whoever contravenes any provision of clause (a) or clause (b) or clause (c) of section 237, or disobeys any order or requisition made under any of the aforesaid clauses, or obstructs any officer of the Council or other person acting under the authority of the Council in carrying out executively any such order shall, on conviction, be punished with fine which may extend to one thousand rupees, and in the case of continuing offence with further fine which may extend to fifty rupees for every day after the first during which such contravention continues.

239. The Council may, in its discretion, give compensation to any person who sustains substantial loss or damage by reason of any action taken or required to be taken under sections 234, 235, 236 and 237, but except as allowed by the Council, no claim for compensation shall lie for any loss or damage caused by the exercise of any of the powers specified in the aforesaid section.

240. In the event of a municipal area being threatened or visited at any time by the outbreak of any infectious disease amongst cattle, sheep, goats or other animals, the Council shall take all such measures as it deems necessary for the purpose of preventing, meeting, mitigating or suppressing the disease or the outbreak or introduction thereof, and the provisions of sections 230 to 239, shall *mutatis mutandis* apply.

241. (1) Whenever the Council considers the interior of a building is so overcrowded as to be or to be likely to become dangerous or prejudicial to the heath of the inhabitants of that or of any neighbouring building, the Council may cause proceedings to be taken before an Executive Magistrate for the purposes of obtaining an order to prevent such overcrowding.

(2) Such Magistrate may, on the production of a certificate by a medical officer stating his opinion that the overcrowding complained of is likely to cause disease or risk of disease and after such further inquiry, if any, as may appear to such Magistrate necessary, require the owner of the building within a reasonable time, not being more than six weeks or less than ten days, to abate the number of lodgers, tenants or other inmates of the said buildings to such extent as he shall deem necessary to prescribe, or may pass such other order as he shall deem just and proper.

Penalty for contravention of provisions relating to dangerous diseases.

Payment of compensation.

Diseases among animals.

Proceedings to abate overcrowding of interiors of buildings.

[PART 11----

(3) If the owner of the said building shall have let the same, the landlord of the lodgers, tenants or other actual inmates of the same shall, for the purposes of this section, be deemed to be the owner of the building.

(4) It shall be incumbent on any owner, to whom a requisition is issued under subsection (2), forthwith to give to so many of the lodgers, tenants or other actual inmates of the said building as may be necessary to fulfil the conditions prescribed in such requisition, written notice to vacate the said building within the period specified in such requisition, and any such lodgers, tenants or inmates receiving such notice shall be bound to comply therewith.

(5) Any owner who after the date specified in any requisition issued under subsection (2) permits the overcrowding of any building in contravention of such requisition, and any person who omits to vacate any such building in accordance with the notice given to him under sub-section (4), shall, on conviction, be punished with fine which may extend to ten rupees for each day subsequent to the date specified in such requisition during which such overcrowding, or such omission to vacate, continues.

242. (1) The Government may, by notification in the Official Gazette, at any time,—

(a) withdraw all or any of the powers conferred under sections 230 to 241 from any Council; or

(b) impose any limitations, restrictions or conditions on any Council in respect of the exercise of any such powers; or

(c) cancel any order passed by a Council in the exercise of any such power.

(2) Every order issued by a Council or any authority or officer subordinate to the Council in exercise of any such power as aforesaid shall, on the withdrawal of such power, cease to be in force in the municipal area, except as respects things done or omitted to be done before such order ceases to be in force.

(3) The Government may by like notification at any time reconfer any such powers on a Council from which they are withdrawn under sub-section (1).

243. (1) If the Council is of opinion that risk of disease has arisen or is likely to arise either to any occupier in, or to any inhabitant in the neighbourhood of, any part of the municipal area by reason of any of the following defects, namely:—

(a) the manner in which either buildings or blocks of buildings, already existing or projected therein, are, or are likely to become, crowded together; or

(b) the impracticability of cleansing any such buildings or blocks of buildings, already existing or projected; or

(c) the want of drainage or scavenging, or the difficulty of arranging therein for the drainage or scavenging of any such buildings or blocks as aforesaid; or

(d) the narrowness, closeness, bad arrangement or bad condition of the streets or buildings or group of buildings,

the Council may, if any of its powers are not withdrawn under the last preceding section, exercise the following powers, namely:—

(i) power when any building or block already existing or in course or erection, by reason of any defect specified in clause (a) or clause (b) or clause (c) or clause (d), has given or is in the opinion of the Council likely to give rise to such risk as aforesaid, to require by a written notice, to be fixed upon some conspicuous part of such building or block and addressed; as the Council deems fit, either to the owners thereof or to the owners of the land on which such building or block is erected or is in course of erection that the persons so addressed shall, within such reasonable time as shall be specified in the notice, either pull down or remove such

Withdrawal and modification of powers and orders under this Chapter.

Special powers in respect of overcrowding area.

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building or block, or execute such works or take such action in connection therewith as the Council deems necessary to prevent such risk;

(*ii*) power by municipal or other agency to pull down or remove such building or block, or to execute such works or to take such action as aforesaid, if the persons addressed in the said notice neglect so to do within the time specified therein.

(2) When, in pursuance of any notice under sub-section (1), any building has been pulled down, the Council shall, unless such building has been erected contrary to any provision of this Regulation or of any bye-law in force thereunder, pay to such owner or occupier as may have sustained damage thereby, reasonable compensation, the amount of which shall, in case of dispute, be ascertained or determined in the manner provided in section 309.

(3) Whoever commits a breach of any notice given or of any condition imposed by the Council in exercise of any power under this section shall, on conviction, be punished with fine which may extend to five hundred rupees.

CHAPTER XVIII

DISPOSAL OF DEAD BODIES AND CARCASSES OF ANIMALS

244. (1) A Council may, with the previous sanction of the Collector, provide suitable places for burning or burying or otherwise disposing of dead bodies and may charge for the use of any such place or for the supply of any material such fees as the Council may from time to time determine.

(2) No person shall, after the appointed day, open or provide any new place within the municipal area for the disposal of dead bodies, except with the permission of the Council:

Provided that-

(i) no such permission shall be granted by the Council without the sanction of the Collector;

(*ii*) in granting such permission, it shall be lawful for the Council to impose, with the sanction of the Collector, such condition as it may deem fit.

(3) The Council may at any time by a general or special notice require any person owning or maintaining any place for the disposal of the dead on the appointed day, to take such measures to maintain such place in good order and in a safe sanitary condition as may be specified in the notice or may apply to the Collector under the next succeeding section to close the place.

(4) The condition to be imposed under sub-section (2) or the measures required to be taken under sub-section (3) shall not be inconsistent with any bye-laws framed by the Council for the maintenance of places for the disposal of the dead, due regard being had to the religious usages of the community or section of the community entitled to use of such place.

(5) Any person who contravenes any provision of sub-section (2) shall, on conviction, be punished with fine which may extend to five hundred rupees.

245. (1) Where the Council is of opinion that any place for the disposal of the dead is in such a state as to be, or to be likely to become, injurious to health, or that any such place should be closed for any other reason, the Council may submit its opinion with the reasons therefor to the Collector and the Collector thereupon, after such further inquiry, if any, as he shall deem fit to cause to be made, may by notification direct that such place shall cease to be so used from such date as may be specified in that behalf in the said notification.

Council to provide or permit burning and burial grounds.

> Closing of places for disposal of dead.

[Part II----

(2) A copy of the said notification together with a translation thereof shall be published in the local newspapers, if any, and shall be posted up at the municipal office and in one or more conspicuous spots on or near the place to which the same relates.

(3) Any person who buries or otherwise disposes of any corpse in any such place, after the date specified in the said notification for closure of the same, shall, on conviction, be punished with fine which may extend to two hundred and fifty rupees.

246. (1) Except with the permission of the Chief Officer, no person shall-

(a) burn, bury or otherwise dispose of any corpse except at a place provided or maintained for the purpose;

(b) retain a corpse, on any premises, without burning, burying or otherwise lawfully disposing of the same, for so long a time after death as to create a nuisance;

(c) carry a corpse along any street without having and keeping the same decently covered or without taking such precautions to prevent risk of infection or injury to the public health as the Council may, by public notice, from time to time, think fit to require;

(d) except when no other route is available, carry a corpse along any street along which the carrying of corpses is prohibited by a public notice issued by the Council in this behalf;

• (e) remove a corpse which has been kept or used for purposes of dissection, otherwise than in a closed receptacle or vehicle;

(f) whilst conveying a corpse, place or leave the same on or near any street without urgent necessity;

(g) reopen for the interment of a corpse a grave or vault already occupied:

(h) after bringing or causing to be brought to a burning ground any corpse fail to burn or cause the same to be burnt within six hours from the time of the arrival thereof at such ground;

(*i*) when burning or causing to be burnt any corpse, permit the same or any portion thereof to remain without being completely reduced to ashes or permit any cloth or other article used for the conveyance or burning of such corpse to be removed or to remain on or near the place of burning without its being completely reduced to ashes;

(j) exhume any body except under the provision of section 176 of the Code of Criminal Procedure, 1973 or of any other law for the time being in force, from an i = 2 of 1974 place for the disposal of the dead.

Explanation—For the purposes of this section, the expression "corpse" includes any part thereof.

(2) Any person who contravenes any provision of sub-section (1), shall, on conviction, be punished with fine which may extend to one hundred rupees.

247. No person in charge of any place for the disposal of the dead shall permit the disposal of any dead body at such place except on the production of a certificate signed by a registered medical practitioner specifying the date, time and cause of death or a no objection certificate signed by the Chief Officer or a Councillor residing in the locality.

248. (1) A Council may provide places for the disposal of carcasses of dead, animals and may make bye-laws regulating the disposal of carcasses of dead animals.

(2) The Council may also charge fees at such rates as it may from time to time determine for the disposal of a carcass at any place provided by the Council or through the agency of the Council.

Acts prohibited in connection with disposal of dead. 96

Disposal of dead animals

Certificate for disposal

of the dead

CHAPTER XIX

MARKETS, SLAUGHTER-HOUSES, TRADES AND OCCUPATIONS

Markets and slaughter-houses

249. (1) The Council may construct, purchase, take on lease or otherwise acquire any building or land for the purpose of establishing a municipal market or a municipal slaughter-house or of extending or improving any existing municipal market or slaughterhouse, and may from time to time build and maintain such municipal markets and slaughterhouses and such stalls, shops, sheds, pens and other buildings or conveniences for the use of the persons carrying on trade or business in, or frequenting, such municipal markets or slaughter-houses, and provide and maintain in such municipal markets such machines, weights, scales and measures for weighing and measuring goods sold therein as the Council shall think fit.

(2) The Council may, at any time, close either temporarily or permanently any municipal market or municipal slaughter-house or any portion thereof.

250. (1) No person shall use or allow to be used any place in any municipal area—

(*i*) as a private market; or

(*ii*) as a private slaughter-house; or

(iii) for the storage or sale of flesh or fish or animals or birds intended for human food,

except under and in accordance with the conditions of a licence granted in accordance with the provisions of the bye-laws made in this behalf:

Provided that no licence under this section shall be required for selling or storing of flesh or fish contained in hermatically sealed receptacles.

(2) Whoever uses or allows to be used any place for any of the purposes specified in sub-section (1), without a licence, or in contravention of any condition subject to which a licence may have been granted under sub-section (1) shall, on conviction, be punished with fine which may extend to five hundred rupees if the contravention is of clause (i) or clause (i) of sub-section (1) and with fine which may extend to one hundred rupees if the contravention is of clause (i) of that sub-section, and in the case of continuing contravention of the said clause (i) or (i) with further fine of fifty rupees, and of the said clause (i) with further fine of ten rupees, for every day after the first during which such contravention continues.

251. (1) It shall be lawful for a Council with the sanction of the Collector to establish municipal slaughter-houses or to license private slaughter-houses beyond the limits of the municipal area and all provisions of this Regulation and of bye-laws in force thereunder relating to such slaughter-houses within the municipal area shall have full force in respect of slaughter-houses established or licensed under this section, as if they were within the municipal area.

(2) It shall be lawful for the Council to prohibit the import into the municipal area of meat except of animals slaughtered at a municipal slaughter-house or a slaughter-house licensed by the Council under sub-section (1).

(3) Nothing in sub-section (2) shall be deemed to apply to cured or preserved meat.

252. (1) No person shall, without written permission of the Chief Officer, slaughter or cause to be slaughtered any animal for sale or supply of meat in the munisipal area except in a municipal slaughter-house or a licensed private slaughter-house.

(2) Any person who contravenes any provision of sub-section (1) shall, on conviction, be punished with fine which may extend to one hundred rupees.

(3) The Chief Officer may seize the carcass or meat of any animal slaughtered contrary to the provisions of sub-section (1) and may cause it to be sold, destroyed or disposed of in such other manner as he may think fit.

Power to provide and maintain municipal markets and slaughterhouses.

Private markets, etc., not to be held without licence.

> Slaughterhouse, etc.. beyond municipal area.

Restriction on slaughter of animals fcr sale. t.

Provisions for requiring private market buildings and slaughterhouses to be properly paved and drained. 98

Provisions regarding approaches and environs of private markets.

Levy of

stallages.

rents and

fees.

253. The Council may, by a written notice, require the owner, or the person in charge, of any private market or slaughter-house, to cause—

(a) the whole or any portion of the floor of the market place or slaughterhouse to be raised or paved with dressed stone or other suitable material;

(b) such drains to be made in or from the market-building, market-place or slaughter-house, of such material, size and description, at such level and with such outfall, as to the Council may appear necessary;

(c) a supply of water to be provided for keeping such market-building, marketplace or slaughter-house in a clean and wholesome state;

(d) any shop, stall, shed, standing or other structure, in any private market to be altered or improved, in such manner as the Council may consider necessary;

(e) any privy, water-closet or urinal or any other sanitary arrangement to be constructed or made at such site and in such manner as the Council may deem necessary and expedient; and

(f) any other measurers to be taken which in its opinion are necessary in the interest of public health or sanitation.

254. (1) The Council may---

(a) define or determine the limits of any private market or declare what portions of such market shall be made part of the existing approaches, streets, passages and ways to and in such market; and

(b) after hearing the owner or the person in charge of such market, by written notice, require such owner or person to—

(i) lay out, construct, alter, clear, widen, pave, drain and light, to the satisfaction of the Council, such approaches, streets, passages and ways to or in such market,

(*ii*) provide such conveniences for the use of persons resorting to such market, and

(*iii*) provide adequate ventilation and lighting of the market-building, or any portion thereof including shops and stalls, as the Council may think fit.

(2) The Council may, by written notice, require such owner or occupier to maintain in proper order the approaches, streets, passages and ways to and in such market and such other conveniences as are provided for the use of persons resorting thereto.

255. (1) The Council may----

(a) charge such stallages, rents or fees as may from time to time be fixed by it in this behalf—

(i) for the occupation or use of any stall, shop, stand, shed, pen or space in a municipal market or municipal slaughter-house;

(ii) for the right to expose articles for sale in a municipal market:

(*iii*) for the use of machines, weights, scales and measures provided for any municipal market; and

(iv) for the right to slaughter animals in any municipal slaughter-house and for the feeding and watering of such animals before they are ready for slaughter; or $\frac{1}{2}$

(h) put up to public auction or dispose of by private sale, the privilege of occupying or using any stall, shop, stand, shed, pen or space in a municipal market or trad cloughter-house for such period and on such conditions as it may think fit.

(2) The Chief Officer shall issue to every person authorised to occupy or use any stall, shop, stand, shed, pen or space or to expose any articles for sale in a municipal market or to slaughter animals in a municipal slaughter-house, under sub-section (I). a licence granted in accordance with the provisions of the bye-laws made in this behalf.

(3) Any person who, without a licence from the Chief Officer under sub-section (2), shall occupy any stall, shop, stand, shed, pen or space in a municipal market or sell or expose for sale any article in a municipal market or use a municipal slaughter-house, shall, on conviction, be punished with fine which may extend to fifty rupees.

(4) It shall be lawful for the Chief Officer or any officer in charge of a municipal market or a slaughter-house to expel from the market or slaughter-house any person—

(*i*) occupying any stall, shop, stand, shed, pen or space in such market or slaughter-house or exposing for sale therein any articles without a licence from the Council; or

(*ii*) using or attempting to use any municipal slaughter-house without a licence; or

(iii) contravening any bye-laws pertaining to such markets or slaughter-houses; or

(iv) suffering from any infectious or contagious disease; or

(v) creating disturbance in such market or shughter-house.

256. (1) It shall be lawful for the Council to lead by public auction or by inviting tenders or by private contract the collecting of any stallages, rents or fees which may be imposed under sub-section (1) of the last preceding section after obtaining adequate security from the lessee for the due fulfilment of the conditions of the lease.

(2) Any person to whom the right to collect stallages, rents or fees has been so leased shall have the power to expel from the market or slaughter-house any person occupying any stall, shop, stand, shed, pen or space or exposing any goods for sale in the market or using or attempting to use any such slaughter-house, without payment of the stallage, rent or fees.

Other occupations and trades

257. (1) No person shall use or permit to be used any premises in the municipal area-

(a) as an eating house, tea or coffee shop, restaurant, dining-saloon, refreshment room or for a like purpose; or

Control on preparation of food, eating houses, hotels, lodging

(b) for the preparation or sale for the purposes of trade of any article of human houses. food or drink; or

(c) as a hotel or a lodging house,

except under and in accordance with the conditions of a licence granted under the provisions of the bye-laws made in this behalf.

(2) The Chief Officer may enter and inspect any premises used for any of the purposes specified in sub-section (I) and may inspect any goods, vessels or implements or other articles used for such purposes and may by written notice require the owner or the person in charge of such premises to take such reasonable measures as may be specified in the notice for the cleanly conduct of such business or may require the use of the premises for such purpose to be discontinued.

(3) Whoever uses or permits the use of any premises in contravention of the provisions of sub-section (1), or whoever refuses to comply with any notice issued by the Chief Officer under sub-section (2); shall, on conviction, be punished with fine which.

may extend to five hundred rupees and in the case of continuing offence with further fine which may extend to fifty rupees for every day after the first during which such offence continues.

258. (1) No person shall-

(a) carry on the trade or business of a dealer in, or importer or seller of, sweetmeats, milk, butter or other milk-products; or

(b) use or permit to be used for the purposes of trade, any premises for storing or selling milk or for making, storing or selling butter or other milk-products or sweet-meats,

except under and in accordance with the conditions of a licence granted under the provisions of the bye-laws made in this behalf.

(2) The Chief Officer may enter and inspect any premises used for any of the purposes specified in sub-section (1) and may inspect any goods, vessels or implements or other articles used for such purpose and may by written notice require the owner or the person in charge of such premises to take such reasonable measures as may be specified in the notice for the cleanly conduct of such business or may require the use of the premises for such purpose to be discontinued.

(3) Whoever uses or permits the use of any premises in contravention of the provisions of sub-section (1), or whoever refuses to comply with any notice issued by the Chief Officer under sub-section (2), shall, on conviction, be punished with fine which may extend to five hundred rupees and in the case of continuing offence with further fine which may extend to fifty rupees for every day after the first during which such offence continues.

Control of stables

259. (1) No person shall use any premises in the municipal area-

(a) as a stable for milch cattle; or

(b) for the stallage or keeping of horses, camels, donkeys and animals other than milch cattle and animals intended for human food,

except under and in accordance with a licence granted under the provisions of the byelaws made in this behalf.

(2) The Chief Officer may enter and inspect any premises used for any of the purposes specified in sub-section (1) and may inspect any animals kept on such premises or any vessels or implements used on such premises and may by written notice require the owner or the person in charge of such premises to take such reasonable measures as may be specified in the notice for the proper ventilation, sanitation or drainage of such premises, or for the proper supply of water to the animals kept on such premises or may require the use of such premises for such purpose to be discontinued.

(3) Whoever uses or permits the use of any premises in contravention of the provisions of sub-section (1), or whoever refuses to comply with any notice issued by the Chief Officer under sub-section (2), shall, on conviction, be purished with fine which may extend to five hundred rupees, and in the case of continuing offence with further fine which may extend to fifty rupees for every day after the first during which such offence continues.

No separate licence necessary' if one is obtained under Prevention of Food Adulteration. Law

260. Notwithstanding anything contained in sections 257 and 258 no licence shall be required under the said sections for the use of any premises for any purpose or for carrying on any trade specified therein, in respect of which a licence has been obtained under the law for the time being in force in the Union territory regarding prevention of food adulteration.

Control on

dairies and business in

milk, milk

products and sweet-meats.

261. (1) No person shall, without a licence granted in accordance with the byelaws made in this behalf, establish or materially alter, enlarge or extend or permit the establishment, material alteration, enlargement or extension of any factory, workshop or place of business in which it is intended to employ steam, electricity, water or other mechanical power.

(2) The Council may after giving the applicant a reasonable opportunity of being heard and recording the reasons refuse to grant a licence if it is of the opinion that the establishment, alteration, enlargement or extension of such factory, workshop or place of business would be objectionable by reason of the density of the population in the neighbourhood thereof, or would be a nuisance or danger to the inhabitants of the neighbourhood.

(3) Whoever establishes, alters, enlarges or extends or permits the establishment, material alteration, enlargement or extension of any such factory, workshop or place of business without a licence or in contravention of any condition subject to which the licence may have been granted shall, on conviction, be punished with fine which may extend to one thousand rupees.

Explanation.—Nothing in this section and section 263 shall be deemed to affect any provision of the Indian Boilers Act, 1923, or authorise any order relating to the fixing or fencing of any engine, mill-gearing, hoist or other machinery in any factory to which the provisions of the Factories Act, 1948, are applicable.

262. (1) No person shall use or employ in any factory or any other premises any whistle or trumpet operated by steam or mechanical means for the purpose of summoning or dismissing workmen or persons employed, except under and in accordance with the conditions of a licence granted under the provisions of the bye-laws made in this behalf.

(2) Whoever uses or employs any such whistle or trumpet as aforesaid in contravention of any provision of sub-section (1) shall, on conviction, be punished with fine which may extend to fifty rupees and in the case of continuing offence with further fine which may extend to five rupees for every day after the first during which such offence continues.

263. (1) No person shall use any premises in the municipal area for any of the purposes specified in Schedule VI except under and in accordance with the conditions of a licence granted under the provisions of the bye-laws made in this behalf.

(2) The Chief Officer may enter and inspect any premises used for any of the purposes specified in sub-section (I) and may inspect any goods, vessels or implements or other articles used for such purpose and may by written notice require the owner or the person in charge of such premises to take such reasonable measures as may be specified in the notice for the prevention of any nuisance or danger therefrom or may require the use of the premises for such purpose to be discontinued.

(3) Whoever uses or permits the use of any premises in contravention of the provisions of sub-section (I), or whoever refuses to comply with any notice issued under sub-section (2) shall, on conviction, be punished with fine which may extend to five hundred rupees, and in the case of continuing offence with further fine which may extend to fifty rupees for every day after the first during which such offence continues.

264. (1) No person shall keep or allow to be kept in or upon any premises any article specified in Schedule VII, except under and in accordance with the conditions of licence granted under the provisions of the bye-laws made in this behalf.

(2) No person shall, except under and in accordance with the conditions ef a licence granted under the provisions of the bye-laws made in this behalf, keep or allow to be kept-

(a) any of the articles specified in Part I of Schedule VIII in or upon any premises in quantities exceeding at any one time the respective maximum quantities specified opposite such article; or

Factory, etc., not to be established without licence.

Prohibition of use of steam whistles. etc.

Certain other trades and occupations not to be carried on without licence.

Certain articles not to be kept without licence.

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(b) any of the articles specified in Part II of the said Schedule in or upon any premises for sale or for purposes other than domestic use.

(3) Whoever keeps in or upon any premises any article in contravention of the provisions of sub-section (1) or sub-section (2), or in contravention of any conditions subject to which a licence may have been granted shall, on conviction, be punished with fine which may extend to two hundred rupees, and in the case of continuing offence with further fine which may extend to twenty rupees for every day after the first during which such offence continues.

(4) The Chief Officer may at any time enter upon any premises and may seize any article kept in contravention of the provisions of sub-section (1) or sub-section (2) or in contravention of any condition subject to which a licence may have been granted under sub-section (1) or sub-section (2).

CHAPTER XX

CATTLE-POUNDS AND OTHER PROVISIONS RELATING TO ANIMALS

Cattle-pounds

265. The provisions of the law for the time being in force in the Union territory pertaining to cattle trespass (hereinafter in this section referred to as "the said Regulation") shall cease to apply in relation to the municipal area to which this Regulation applies:

Provided that-

(a) nothing in this section shall affect the liability of any person to any penalty under the said Regulation so ceasing to be in force;

(b) any appointment, notification, order, rule made or issued or deemed to be made or issued under the said Regulation in respect of any cattle-pounds within the limits of any municipal area shall, so far as it is not inconsistent with the provisions of this Regulation, be deemed to have been made or issued under this Regulation, and continue in force until superseded by any appointment, notification, order or rule made under this Regulation;

(c) any cattle-pound in the local area established or deemed to be established under the said Regulation so ceasing to be in force shall be deemed to be vested in the Council within whose limits it is situated and shall be maintained and managed by the Council in accordance with the provisions in this Regulation.

Explanation.—For the purposes of this Chapter, "cattle" means and includes bulls, bullocks, heifers, cows and their youngs, elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, swine, sheep, rams, lambs, goats and kids.

266. (1) Notwithstanding anything contained in any law for the time being in force, every Council within the limits of its jurisdiction shall, from time to time, appoint such places as it thinks fit to be public pounds, and may appoint suitable persons to be keepers of such pounds.

(2) Every pound-keeper so appointed shall, in the performance of his duties, be subject to the direction and control of the Council.

267 (D) Every pound keeper shall maintain such registers and prepare such return

267. (1) Every pound-keeper shall maintain such registers and prepare such returns as the Government may from time to time by rules prescribe.

(2) When cattle are brought to a pound, the pound-keeper shall enter in his register-

(a) the number and description of the animals;

Cattletrespass Act to cease to apply to municipal areas. 102

Power to establish cattle-pounds and appoint poundkeepers.

Duties of pound-

keepers.

(b) the day and hour on and at which they were so brought;

(c) the name and residence of the seizer;

(d) the name and residence of the owner, if known,

and shall give the seizer or his agent a copy of the entry.

(3) The pound-keeper shall take charge of, feed and water, the cattle until they are disposed of as hereinafter provided.

268. (1) It shall be the duty of every police officer and it-shall be lawful for any municipal officer or servant authorised by the Chief Officer in this behalf to seize and take to any public pound for confinement therein, any cattle found straying in any street or trespassing upon any private or public property within the municipal area.

(2) It shall be lawful for any person who is the owner or who is in charge of any private or public property to seize and take to any such public pound for confinement therein, any cattle trespassing upon such property or causing damage thereto.

(3) Whoever forcibly opposes the seizure of cattle liable to be seized under this section, and whoever rescues the same after seizure, either from a pound or from any person taking or about to take them to a pound, shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

269. If the owner of cattle which are impounded under section 268 or his agent appears and claims such cattle, the pound-keeper shall deliver them to him on payment of the pound-fees and expenses chargeable in respect of such cattle under section 272.

270. (1) Every pound-keeper shall, before releasing any impounded cattle, require the owner of the impounded cattle or his agent to make, in the form prescribed by rules, a declaration regarding the ownership of such cattle and to deposit by way of security such sum as the Government may, by rules, prescribe. Different scales may be prescribed for different areas or different classes of cattle.

(2) If any cattle belonging to such owner are impounded within a period of six months from the date on which the security is deposited, and if the seizure is not adjudged illegal, the amount of deposit or a part thereof, as may be prescribed by rules, shall stand forfeited to the Council. If cattle are not impounded as aforesaid, the amount of security deposit shall, on an application made by or on behalf of the depositor, be refunded to him on the expiry of that period.

271. (1) If within ten days after any cattle has been impounded, no person appearing to be the owner of such cattle claims the cattle under section 268, such cattle shall be forthwith sold by auction.

(2) If within the period specified in sub-section (1), the owner or his agent claims the cattle but refuses or fails to pay the pound-fees and the expenses chargeable under section 272, the cattle or as many of them as may be necessary, shall be sold by auction:

Provided that, if the cattle is not sold at auction under sub-section (1) or subsection (2), it shall be disposed of in such other manner as the Government may by rules prescribe.

(3) The Government may frame rules prescribing the manner in which auction under sub-section (1) or sub-section (2) may be held.

(4) The surplus remaining after deducting the pound-fee and expenses aforesaid from the proceeds of the sale, shall be paid to any person, who within fifteen days after the sale, proves to the satisfaction of the Chief Officer, that he was the owner of such eattle and shall in any other case, form part of the municipal fund.

Impounding cattle.

Delivery of cattle claimed.

Security in respect of impounded cattle.

Sale of cattle not claimed.

(5) No police officer or Councillor or officer or servant of the Council, including the pound-keeper, shall, directly or indirectly, purchase any cattle at a sale under sub-section (1) or sub-section (2).

272. (1) The pound-fee chargeable shall be such as the Government may, from time to time, by rules prescribe for each kind of cattle.

(2) The expenses chargeable shall be at such rates for each day during any part of which any cattle is impounded, as the Council may by bye-laws fix.

273. (1) Any person whose cattle have been seized under this Chapter, or having been so seized, have been detained, in contravention thereof, may, at any time, within ten days from the date of the seizure, make a complaint to a Magistrate of the first class.

(2) The complaint shall be made by the complainant in person, or by an agent personally acquainted with the circumstances. If the Magistrate on examining the complainant or his agent has reason to believe that the complaint is well founded, he shall summon the persons complained against, and make an inquiry into the case.

(3) If the seizure or detention be adjudged illegal, the Magistrate shall award to the complainant for the loss caused by the seizure or detention reasonable compensation not exceeding one hundred rupees to be paid by the person who made the seizure or detained the cattle, together with all fees paid and expenses incurred by the complainant in procuring the release of the cattle, and if the cattle have not been released, the Magistrate shall, besides awarding such compensation, order their release and direct that the fees and expenses leviable under this Chapter shall be paid by the person who made the seizure or detained the cattle.

(4) The compensation, fees and expenses mentioned in this section, may be recovered as if they were fines imposed by the Magistrate.

Other provisions relating to animals

274. (1) Whoever, within a municipal area, allows any cattle which are his property or in his charge to stray in any street or to trespass upon any private or public property shall, on conviction, be punished—

(i) for the first offence, with fine which may extend to three hundred rupees;

(*ii*) for a second or subsequent offence, with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(2) The Magistrate trying the offence under sub-section (1) may order-

(a) that the accused shall pay such compensation not exceeding two hundred and fifty rupees as the Magistrate considers reasonable, to any person for any damage proved to have been caused to his property or to the produce of land, by the cattle under the control of the accused, trespassing on his land; and

(b) that the cattle in respect of which an offence has been committed shall, be forfeited to the Government.

(3) Any compensation awarded under sub-section (2) may be recovered as if it were a fine imposed under this section.

(4) An offence under this section shall be cognizable.

Tethering . cattle: etc. 275. Whoever tethers cattle or other animals, or causes or suffers them to be tethered by any member of his family or household, in any public street or place so as to obstruct or endanger the public traffic therein, or to cause a nuisance, or who causes or suffers such animals to stray about without a keeper, shall, on conviction, be punished—

be fixed.

Pound-fees

and expenses

chargeable to

Complaints of illegal seizure or detention.

Penalty for

allowing

cattle to

stray in street or to

trespass upon

private or public

property.

(b) for a second or subsequent offence, with fine which may extend to two hundred and fifty rupees.

276. (1) A Council may by public notice require that every dog while in the street and not being led by some person shall be muzzled in such a way as to allow the dog freely to breathe and to drink, while effectually preventing it from biting.

(2) When a notice under sub-section (1) has been issued, the Chief Officer may take possession of any dog found wandering unmuzzled in any public street or place and may either detain such dog until its owner has within three clear days claimed it, provided a proper muzzle for it and paid all the expenses of its detention or may, subject to the provisions of sub-sections (3) and (4), cause it to be sold or destroyed.

(3) When a dog which has been detained under sub-section (2) is wearing a collar with the owner's name and address thereon, or a number ticket or any other mark by which the owner of the dog can be identified, such dog shall not be destroyed until a letter stating the fact that it has been so detained has been sent to the said address and the dog has remained unclaimed for three clear days.

(4) Any dog which is not claimed within the period specified in sub-section (3), or any dog the owner of which has failed to comply with the provision of sub-section (2) within the specified period therein, may be sold or destroyed by the Chief Officer after having been detained for the period of three days specified in sub-section (3):

Provided that any dog which is found to be rabid may be destroyed at any time.

(5) The Chief Officer may at any time destroy, or cause to be destroyed, or confine or cause to be confined, for such period as he may consider necessary, any dog or other animal suffering from rabies or reasonably suspected to be suffering from rabies or bitten by any dog or other animal suffering or suspected as aforesaid.

(6) All expenses incurred by the Chief Officer under this section may be recovered from the owner of any dog which has been taken possession of or detained in the same manner as an amount due on account of a property-tax.

(7) No damages shall be payable in respect of any dog destroyed or otherwise disposed of under this section.

277. (1) Where it appears to any Council at any time that nuisance or annoyance is caused to the public by keeping of pigs within the municipal area or any part thereof, the Council may direct by public notice that no person shall, without the written permission of the Chief Officer, or otherwise than in conformity with the terms of such permission, keep any pigs in the municipal area or any specified part thereof.

(2) Whoever after such direction keeps any pigs in any place within the municipal area or specified part thereof without the permission required as aforesaid, or otherwise than in accordance with the terms thereof, shall, on conviction, be punished with fine which may extend to fifty rupees.

(3) Any pigs found straying may be forthwith destroyed and carcass thereof disposed of as the Chief Officer shall direct. No claim shall lie for compensation for any pigs so destroyed.

278; (1) No person shall feed or cause or permit to be fed any animal which is kept - Feeding for dairy purpose or is intended for human food, on excrementitious matter, stable refuse, filth or other offensive matter.

(2). Whoever contravenes any provision of sub-section (1) shall, on conviction, be punished with fine which may extend to one hundred rupees.

Provision as to keeping of pigs

animals: on

prohibited.

filth

Provision as to dogs.

SEC. 1]

PART II---

CHAPTER XXI

PROSECUTIONS, SUITS AND POWERS OF POLICE

279. (1) Subject to the general control of the Council, the Chief Officer may take proceedings against any person who is charged with-

(a) any offence against this Regulation or any rules or bye-laws made thereunder;

(b) any offence which affects or is likely to affect any property or interest of the Council or the due administration of this Regulation; or

(c) committing any nuisance whatever:

Provided that the Chief Officer shall not, except with the previous approval of the Council, direct a prosecution or other proceedings to be taken for the punishment of any person offending against the provisions of the following sections, namely:—

(*i*) sub-section (7) of section 167 read with sub-sections (8) and (9) of section 180;

(ii) sub-section (6) of section 174;

(*iii*) sub-section (5) of section 241.

(2) No prosecution for any offence under this Regulation or the rules or bye-laws made thereunder shall be instituted, except within six months next after the date of the commission of the offence, or if such date is not known or the offence is a continuing one within six months after the commission or discovery of such offence.

(3) Any prosecution under this Regulation or the rules or bye-laws made thereunder may, save as therein otherwise provided, be instituted before any Magistrate; and every fine or penalty imposed under or by virtue of this Regulation or any rule or bye-law, and any compensation, expenses, charges or damages for the recovery of which no special provision is otherwise made in this Regulation, may be recovered on application to any Magistrate, by the distress and sale of an movable property within the limits of his jurisdiction belonging to the person from whom the money is claimable.

(4) Notwithstanding anything contained in section 257 of the Code of Criminal Procedure, 1973, no Magistrate shall permit withdrawal of a complaint under that section in respect of an offence punishable under this Regulation or the rules and bye-laws made thereunder, unless the Magistrate is satisfied that although the complaint was made in good faith it was based on incorrect facts or insufficient information.

(5) Notwithstanding anything contained in the Code of Criminal Procedure. 1973, all offences punishable under this Regulation or the rules or bye-laws made thereunder may be compounded by the Chief Officer, but only with the permission of the court before which any prosecution for such offence is pending, or when the accused has been committed for trial or when he has been convicted and an appeal is pending, with the leave of the court to which he is committed, or, as the case may be, before which the appeal is to be heard.

(6) The Chief Officer shall, before compounding any offence under sub-section (5), obtain the approval of the Standing Committee, and the Standing Committee shall not accord its approval unless the accused pays by way of composition of the offence such sum as may be determined by it. Such sum shall not be less than one-fourth of the maximum amount of fine prescribed for the offence, and if the fine prescribed therefor is unlimited shall not be less than two hundred and fifty rupees.

(7) The composition of an offence under this section shall have the effect of an acquittal of the accused with which the offence has been compounded.

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Provisions as

respects

etc., of

criminal actions.

institution. compounding.

2 of 1974.

2 of 1974

(8) The expenses of all prosecutions or proceedings shall be paid out of the municipal fund.

280. No distress levied or attachment made by virtue of this Regulation shall be deemed unlawful nor shall any party making the same be deemed a trespasser on account of any defect or want of form in any summons, conviction or warrant of distress or attachment or other proceeding relating thereto, nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards commuted by him; but all persons aggrieved by such irregularity may recover full satisfaction for the special damage in any court of competent jurisdiction.

281. If through any act, neglect or default, on account whereof any person shall have incurred any penalty imposed by or under this Regulation, any damage to the property of a Council shall have been committed by such person, he shall be liable to make good such damage as well as to pay such penalty and the amount of damage shall, in case of dispute, be determined by the Magistrate by whom the person incurring such penalty is convicted; and on non-payment of such damage on demand the same shall be levied by distress, and such Magistrate shall issue his warrant accordingly.

282. Whoever-

(a) does or omits to do any act in contravention of any provisions of this Regulation, or the rules or bye-laws made thereunder; or

(b) disobeys or fails to comply with any lawful direction given by any written notice or order issued by or on behalf of a Council under any power conferred by or under this Regulation; or

(c) fails to comply with the conditions subject to which any permission or licence was given to him by or on behalf of a Council under any power conferred by or under this Regulation; or

(d) when lawfully called upon by the Chief Officer or any officer duly authorised to supply an information in his possession which may be required for the purpose of this Regulation or of any rules or bye-laws made thereunder, fails to supply such information or wilfully supplies false information,

shall, if no other penalty is provided for the offence, on conviction, be punished with fine which may extend to one hundred rupees, and in the case of continuing offence with further fine which may extend to ten rupees for every day after the first during which such contravention continues:

Provided that, when a notice or order fixes a time within which a certain act is to be done, and no time is specified by or under this Regulation, it shall rest with the Magistrate to determine whether the time so fixed was reasonable time.

283. In every case in which a person is convicted for an offence punishable by or under this Regulation and the court considers that he should be sentenced with fine only, then in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, the fine to be imposed on him shall not be less than one-fourth of the maximum amount of fine prescribed for that offence, and if the fine prescribed for that offence is unlimited, shall not be less than two hundred and fifty rupees.

284. (1) Subject to the general control of the Council, the Chief Officer may--

(a) institute and prosecute any suit or other proceeding for any claim or demand on behalf of the Council or for any injury to any property, rights or privileges of the Council;

(b) withdraw from or compremise or compound any suit or any claim or demand which has been instituted or made on lobid of the Councile

Minimum penalty for offences under this Regulation.

Power to institute, detend suits

General

penalty.

Distress

form

lawful though

defective in

Damage to municipa!

property how

made good.

(c) institute, withdraw from or compromise or compound any suit or proceeding for the recovery of expenses or compensation claimed to be due to the Council;

(d) defend, admit or compromise or compound any appeal against a rateable value or tax;

(e) defend any suit or other legal proceedings brought against the Council or any municipal officer or servant in respect of anything done or omitted to be done by them, respectively, in their official capacity;

(f) admit or compromise any claim, suit or legal proceeding brought against the Council or any municipal officer or servant, in respect of anything done or omitted to be done as aforesaid:

Provided that—

(*i*) if any sanction in the making of any contract is required by this Regulation, the like sanction shall be obtained for compounding or compromising any claim or demand arising out of such contract;

(*ii*) if any such suit is in respect of land leased or sold under sub-section (3) of section 164 or in respect of any immovable property sold or leased for a term exceeding three years or otherwise transferred, it shall not be lawful for the Council to compound or compromise in respect of the suit except with the previous sanction of the Director.

(2) A Council may make compensation out of the municipal fund to any person sustaining any damage by reason of the exercise of any of the powers vested in it, its committees, officers or servants under this Regulation.

(3) The expenses of any civil proceedings prosecuted or defended on behalf of the Council shall be payable from the municipal fund.

285. Every Councillor and every officer or servant of a Council, every contractor or agent appointed by it for the collection of any tax and every person employed by such contractor or agent for the collection of such tax shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

286. No suit shall lie in respect of anything in good faith done or intended to be done under this Regulation, against any Council or against any committee constituted under this Regulation, or against any officer or servant of a Council or against any person acting under and in accordance with the directions of any such Council, committee, officer or servant or of a Magistrate.

287. (1) No suit shall lie against a Council or against any committee constituted under this Regulation, or against any officer or servant of a Council in respect of any act done in pursuance or execution or intended execution of this Regulation, or in respect of any alleged neglect or default in the execution of this Regulation,—

(a) unless it is commenced within six months next after the accrual of the cause of action; and

(b) until the expiration of one month after notice in writing has been, in the case of a Council or its committee, delivered or left at the municipal office and, in the case of an officer or servant of a Council, delivered to him or left at his office or place of abode; and all such notices shall state with reasonable particularity the causes of action and the name and place of abode of the intending plaintiff and of his advocate, pleader or agent, if any, for the purpose of the suit:

(2) At the trial of any such suit,-

(a) the plaintiff shall not be permitted to adduce evidence relating to any cause of action save such as is set-forth in the notice delivered or left by him as aforesaid;

Councillors, officers, servants, etc., to be public servants.

Bar of suits against Council, ils officers. servants, etc., for acts done in good faith Limitation of suits against Council, its committees. officers and servants for acts done in

pursuance or execution of this Regulation. 47 of 1963.

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(b) if the suit be for damages and if tender of sufficient amends shall have been made before the action was brought, the plaintiff shall not recover more than the amount so tendered and shall pay all costs incurred by the defendant after such tender.

(3) If the defendant in any such suit is an officer or servant of a Council payment of any sum or part thereof payable by him in or in consequence of the suit may, with the sanction of the Council, be made from the municipal fund.

(4) Nothing in clauses (a) and (b) of sub-section (1) shall apply to any suit under section 38 of the Specific Relief Act, 1963 or under sub-section (1) or sub-section (2) of section 93 of this Regulation.

288. (1) Any police officer may arrest any person committing in his view any offence against any of the provisions of this Regulation or of any rule or of any byelaw made thereunder, if the name and address of such person is unknown to him, and if such person declines to give his name and address or if the police officer has reason to doubt the accuracy of such name and address if given; and such person may be detained at the station house until his name and address have been correctly ascertained:

Provided that no police officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 167, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

(2) It shall also be the duty of all police officers to give immediate information to the Council of the commission of any offence against the provision of this Regulation or of any rule or byc-law made thereunder and to assist all municipal officers and servants in exercise of their lawful authority.

CHAPTER XXII

CONTROL

289. The Director, the Collector or any officer of the Government authorised by Pow the Government, the Director or the Collector, shall severally have power ins

(a) to enter on and inspect, or cause to be entered on and inspected any immovable property occupied by or movable property belonging to any Council or any institution under its control or management or any work in progress under it or under its direction;

(b) to call or inspect any extract from any Council's or its committee's proceedings and any book or document in the possession of or under the control of the Council or any of its committees.

290. The Director shall have power-

(a) to call for any return, statement, account or report which he may think fit to require any Council to furnish;

(b) to require the Council to take into its consideration any objection which appears to him to exist to the doing of anything which is about to be done or is being done by or on behalf of such Council or any information which he is able to furnish and which appears to him to necessitate the doing of a certain thing by the Council, and to make a written reply to him within a reasonable time stating its reasons for not desisting from doing, or for not doing, such thing.

Powers of police officers.

Power of inspection and supervision.

> Power to call for returns and reports.

[PART II---

Powers to suspend execution of orders and resolutions of Council on certain grounds.

291. (1) If, in the opinion of the Collector, the execution of any order or resolution of a Council, or the doing of any thing which is about to be done or is being done by or on behalf of a Council, is causing or is likely to cause injury or annoyance to the public or is against public interest or to lead to a breach of the peace or is unlawful, he may by order in writing under his signature suspend the execution or prohibit the doing thereof.

(2) When the Collector makes any order under his signature, he shall forward to the Council affected thereby a copy of the order indicating therein the reasons for making it and also submit a report to the Director along with a copy of such order.

(3) Within twenty days from the receipt of such order of the Collector, the Council shall, if it so desires, forward a statement to the Director indicating therein why the order of the Collector should be rescinded, revised or modified. If no such statement is received by the Director within time, the Director shall presume that the Council has no objection if the order of the Collector is confirmed.

(4) On receipt of such report from the Collector and the Council's statement referred to in sub-section (3), if any, the Director may rescind the order or may revise or modify or confirm the order or direct that the order shall continue to be in force with or without modification:

Provided that the Director shall take into account the statement of a Council, if received, before such an order is made by him.

292. (1) In case of emergency, the Collector may provide for the execution of any work, or the doing of any act, which may be executed or done by or on behalf of a Council and the immediate execution or doing of which is, in his opinion, necessary for the health or safety of the public; and may direct that the reasonable expense of executing the work or doing the act, with a reasonable remuneration to the person appointed to execute or to do it, shall forthwith be paid by the Council.

(2) If the expense and remuneration are not so paid, the Collector may make an order directing any person, who for the time being has custody of any moneys on behalf of the Council as its officer, treasurer, banker or otherwise, to pay such expense and remuneration from such moneys as he may have in his hands or may from time to time receive, and such person shall be bound to obey such order. Every payment made in pursuant to such order shall be a sufficient discharge to such person from all liability to the Council in respect of any sum or sums so paid by him out of the moneys of the Council held or received by him.

(3) The provisions of sub-sections (2), (3) and (4) of section 291 shall apply so far as may be to any order made under this section.

293. If in the opinion of the Director the number of persons who are employed by a Council as officers or servants, or whom a Council proposes to employ or the remuneration assigned by the Council to those persons or to any particular person is excessive, the Council shall, on the requirement of the Director, reduce the number of the said persons or the remuneration of the said person or persons:

Provided that the Council may appeal against any such requirement to the . Government, whose decision shall be conclusive.

294. (1) The Government may order an inquiry to be held by any officer appointed by it in this behalf into any matters concerning the municipal administration of any Council or any matters with respect to which sanction, approval or consent of the Government is required under this Regulation.

(2) The officer holding such inquiry shall for the purpose thered? Live the powers which are vested in a courr under the Code of Crud Procedure, 1998, in respect of the 15 or (9) following matters: ---

Extraordinary powers of execution of certain works in case of emergency.

Power of Director to prevent extravagance in the employment of establishment.

Inquiry into municip**a**l matters by. Government.

(a) discovery and inspection;

(b) enforcing the attendance of witnesses, and requiring the deposits of their expenses;

(c) compelling the production of documents;

(d) examination of witnesses on oath;

(e) granting adjournments;

(f) reception of evidence on affidavit; and

(g) issuing commissions for the examination of witnesses,

and may summon and examine *suo motu* any person whose evidence appears to him to be material; and shall be deemed to be a civil court within the meaning of sections 345 and 346 of the Code of Criminal Procedure, 1973.

2 of 1974.

Sec. 1]

Explanation.—For the purpose of enforcing the attendance of witnesses, the local limit of such officer's jurisdiction shall be the limits of the Union territory.

(3) The reasonable expenses incurred by any person in attending to give evidence may be allowed by the officer holding the inquiry to such person and shall be deemed to be part of the costs.

(4) Costs shall be in the discretion of the Government and the Government shall have full power to determine by and to whom and to what extent such costs are to be paid and such costs shall be recoverable as an arrear of land revenue.

295. (1) When the Director is informed, on a complaint made or otherwise, that default has been made in the performance of any duty imposed on a Council by or under this Regulation or by or under any enactment for the time being in force, the Director, if satisfied after due inquiry that the alleged default has been made, may by order fix a period for the performance of that duty and communicate such order to the Council.

(2) If the duty is not performed within the period so fixed the Director may appoint some person to perform it, and may direct that the expense of performing it, with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the Council.

(3) If the expense and remuneration are not so paid, the Director may make an order directing the bank in which any moneys of the Council are deposited or the person in charge of the local Government treasury or of any other place of security in which the moneys of the Council are deposited to pay such expense and remuneration from such moneys as may be standing to the credit of the Council in such bank or may be in the hands of such persons or as may from time to time be received from or on behalf of the Council by way of deposit by such bank or person, and such bank or person shall be bound to obey such order. Every payment made pursuant to such order shall be a sufficient discharge to such bank or person from all liability to the Council in respect of any sum or sums so paid by it or him out of the moneys of the Council so deposited with such bank or person.

296. (1) If, in the opinion of the Administrator,-

(a) the Council is not competent to perform duties imposed upon it by or under this Regulation or any other law for the time being in force; or

(b) persistently makes default in the performance of such duties, or in complying with the lawful directions and orders issued by the Collector, the Director, the Administrator of any other authority empowered under any law for the time being in force to issue such direction or orders to the Council; or

Power of Director to enforce performance of duties.

Dissolution of the Council.

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(c) exceeds or abuses its powers; or

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(d) a situation has arisen in which the administration of the Council cannot be carried out in accordance with the provisions of this Regulation; or

(e) the financial position and the credit of the Council is seriously threatened,

the Administrator may, by an order published together with a statement of reasons therefor, in the Official Gazette, dissolve the Council:

Provided that the Council shall be given a reasonable opportunity of being heard before its dissolution.

(2) When the Council is dissolved by an order under sub-section (1),---

(a) all Councillors shall, on the date of dissolution, vacate their office as such Councillors and the persons referred to in sub-section (2) of section 9 shall cease to be represented in the Council;

(b) during the period of dissolution of the Council, all the powers and functions vesting in or exercisable by the Council, the President, the Vice-President, the various Committees, the Councillors and the Chief Officer under this Regulation or any other law, for the time being in force, shall vest in and be exercisable by such officer or authority as the Administrator may appoint in that behalf;

(c) all property vested in the Council shall, until it is reconstituted, vest in the Central Government.

(3) Subject to the provisions of section 43, an election to constitute the Council shall be completed before the expiration of a period of six months from the date of its dissolution.

Revisional powers of Government.

297. The Government may, at any time, for the purpose of satisfying itself as to the legality or propriety of any order passed by, or as to the regularity of the proceedings of, any Council or any officer subordinate to such Council or the Government, acting in exercise of any power conferred on it or him by or under this Regulation, call for and examine the record of any case pending before or disposed of by such Council or officer and may pass such order in reference thereto as it thinks fit:

Provided that no order shall be varied or reversed unless notice has been given to parties interested to appear and be heard:

Provided further that no such order shall be passed in any case in which an appeal is provided and has been preferred or has been decided:

Provided also that no such record shall be called by the Government after one year from the date of the passing of the order by the Council or the officer concerned

Government's powers to enforce its orders

298. In all matters connected with this Regulation, if a Council makes default in carrying out any order made by the Government or by any authority other than the Council in exercise of any of the powers conferred on it by this Regulation or any rule or bye-law made thereunder, the Government shall have all the powers necessary for the enforcement of such order at the cost of the Council.

299. The Government may, either on its own motion or on the application of any party interested, review any order passed by itself or any sanction or approval given under this Regulation, and the Director or the Collector may, similarly, review an order passed by himself or any sanction or approval given by him under this Regulation, and pass such order in reference thereto as it or he thinks fit:

Provided that-

(i) no order shall be varied or reversed or no sanction or approval reviewed unless notice has been given to the parties interested to appear and be heard;

(ii) no order from which an appeal has been made, or which is the subject of any revision proceedings, shall so long as such appeal or proceedings are pending, be reviewed:

Powers of review

(*iii*) no order affecting any question of right between private person shall be reviewed, except on the application of a party to the proceedings and no application for the review of such order shall be entertained unless it is made within ninety days from the passing of the order.

CHAPTER XXIII

RULES AND BYE-LAWS

300. (1) The power to make all rules under this Regulation shall be exercisable by the Government by notification in the Official Gazette.

(2) Without prejudice to any power to make rules contained elsewhere in this Regulation, the Government may make rules consistent with this Regulation generally to carry out the purposes of this Regulation.

(3) All rules made under this Regulation shall be subject to the condition of previous publication for fifteen days.

(4) Every rule made under this Regulation shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that, any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

301. (1) The power to make all bye-laws under this Regulation shall be exercisable by each Council, subject to the previous sanction of the Director or the Government as hereinafter provided.

(2) Without prejudice to any power to make bye-laws contained elsewhere in this Regulation, a Council may make bye-laws consistent with this Regulation and the rules made thereunder for the administration of its affairs and for the guidance of its Committees, officers and servants.

(3) (a) The Council whenever it desires to make bye-laws under this Regulation, shall by a resolution at a special meeting approve a draft of such bye-laws.

(b) The Council shall put up the draft on its notice board and publish it in a local newspaper, as soon as may be possible, after such resolution is passed, inviting the inhabitants to submit their objections and suggestions to the Council within a reasonable period to be specified in such notice.

(c) The Council at a special meeting shall then consider the objections and suggestions received, if any, and shall by a resolution approve the final draft of the bye-laws.

(d) Within seven days of the passing of such resolution, the Council shall send such final draft to the Director.

(e) The Director shall examine the final draft of the bye-laws sent to him under clause (d) and may—

(i) refuse to sanction them or return them to the Council if in his opinion,

(A) the bye-laws are inconsistent with this Regulation or the rules made thereunder and the inconsistency cannot be removed except by materially altering the bye-laws; or

(B) objection, if any, to the bye-laws has not been duly considered by the Council; or

(C) there is any new objection to the bye-laws; or .

Power of Government to make rules.

Power of Council to make byelaws.

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(D) the rates of taxes or fees proposed in the bye-laws are inadequate; or

(*ii*) sanction them, with or without such modifications as he considers necessary.

(f) The Director shall publish the bye-laws as sanctioned by him in the Official Gazette and the bye-laws so published shall take effect from the date of their publication in the Official Gazette or such other subsequent date as may be mentioned therein.

(g) Notwithstanding anything contained in clause (e), if the bye-laws sent by any Council under clause (d) relate to imposition, abolition, remission, alteration or regulation of any tax, the Director shall forward them to the Government for sanction and thereupon the provisions of clause (e) shall apply as if for the word "Director" in the said clause the word "Government" had been substituted.

(4) If it appears to the Government that an amendment of any of the bye-laws of a Council is necessary or desirable in the interests of the general public or because they are inconsistent with any provisions of this Regulation or the rules made thereunder, the Government may, after consulting the Council, by notification in the Official Gazette, amend or cancel any of the bye-laws, and on the issue of such notification the bye-laws shall be deemed to have been duly amended or cancelled, as the case may be, accordingly, without prejudice to the validity of anything previously done or omitted to be done.

(5) Every bye-law made under this Regulation shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the bye-law or both Houses agree that the bye-law should not be made, the bye-law shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that, any such modification or annulment shall be without prejudice to the validity of anything previously done under that bye-law.

302. (1) The Government may make model bye-laws on all or any of the matters in respect of which a Council is empowered to make bye-laws and publish them in the Official Gazette for the guidance of the Council.

(2) If a Council has not already made bye-laws on a matter for which model byelaws are made by the Government, the Council may adopt the model bye-laws with such minimum changes as the peculiar local circumstances may warrant.

(3) If at any time it appears to the Director that the bye-laws made by a Council on any matters are inadequate to regulate such matters, and model bye-laws have been made by the Government for such matters, the Director may by an order in this behalf require the Council to adopt such model bye-laws modified to suit local conditions.

(4) The Council shall comply with orders of the Director under sub-section (3) above within two months of the date of such order.

(5) If the Council fails to comply with the orders of the Director, the Director may, by notification in the Official Gazette, apply such model bye-laws with such modification to suit local conditions as he thinks necessary to that Council in supersession of any byelaws which the Council may have made already on those matters. In that event, the model bye-laws so applied shall be deemed to have been duly made by the Council.

(6) If the model by c-laws made by the Government relate to the imposition, abolition, remission, alteration or regulation of any tax, the provision of sub-sections (3), (4) and (5) shall apply as if for the word "Director" therein, the word "Government" had been substituted.

303. Every Council shall keep at its head office, copies of this Regulation and of the rules and byc-laws made thereunder and in force in the municipal area, in English, open to inspection to the inhabitants of that area, free of charge, during office hours. The Council may also arrange for the sale of copies of these books.

Power to make and enforce acceptance of model hyelaws.

Copies of regulation rules and byc-laws to be made available at Council's effice for public inopedion and

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CHAPTER XXIV

SERVICE OF NOTICES, EXECUTION OF WORKS ON DEFAULT AND COMPENSATION

304. (1) When any notice is required by or under this Regulation to be served upon, issued or presented to any person, such service, issue or presentation shall, in all cases not otherwise provided for in this Regulation, be effected...

(a) by giving or tendering the notice to the person to whom it is addressed; or

(*h*) if such person is not found, by giving or tendering it to some adult member or servant of his family found at his usual place of residence or at his last known place of abode;

(c) if none of the means aforesaid be available, or if the person to whom such notice is given or tendered refuses to accept it, then by causing the notice to be affixed on some conspicuous part of the building or land, if any, to which the notice relates.

(2) When any notice under this Regulation is required or permitted by or under this Regulation to be served upon, issued or presented to, an owner or occupier of any building or land.—

(i) it shall not be necessary to name the owner or occupier in such notice.

(*ii*) if there be more owners or occupiers than one, such notice may be served upon or issued or presented to any one of them.

(3) Whenever it is provided by or under this Regulation, that any notice may be served upon, issued or presented to, the owner or occupier of any land or building, and the owner and occupier are different persons, such notice, shall be served upon, issued or presented to, the one of them primarily liable to comply with such notice, and in case of doubt, to both of them:

Provided that, in any such case, if there is no owner resident within the municipal area, the delivery of such notice to the occupier shall be sufficient.

(4) The provisions of sub-sections (l), (2) and (3) shall *mutatis mutandis* apply to any bill, requisition, order or summons or such other document to be served, issued or presented by or under this Regulation.

(5) Notwithstanding anything contained in sub-section (1), in the case of 'A' or 'B' Class Councils, a bill for any municipal tax may be served upon the person liable therefor by sending it by post with a pre-paid letter under a certificate of posting, addressed to such person at his last known place of abode or place of business in the municipal area, and every bill so sent shall be deemed to have been served on the day following the day on which such letter was posted, and, in proving such service, it shall be sufficient to prove that the letter was properly addressed and posted under a certificate of posting.

305. (1) Every general or public notice which by or under this Regulation, a Council or any municipal authority or officer is required or empowered to publish shall, in addition to any other procedure for its publication laid down by or under this Regulation, be published by putting up such notice on the municipal notice board.

Publication of public and general notices.

(2) Such general or public notice may also be published in addition in any of the following manners:---

(a) by putting up such notice at such prominent places within the municipal area or if such notice pertains to any locality in the municipal area only, then at such prominent places within that locality as the Council may from time to time select:

(b) by publishing such notice in such newspapers circulating within the municipal area as the Council may from time to time approve:

Service of notices, etc., addressed to individuals,

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(c) by beat of drum or any other customary mode of publicity within the municipal area.

(3) If, by or under this Regulation, the notice is required to be published in the manner specified in clause (b) of sub-section (2) and if in the opinion of the authority publishing such notice it is not practicable to publish the full text of the notice having regard to the cost of such publication, it shall be deemed to be sufficient compliance with clause (b) of sub-section (2), if such notice is placed on the municipal notice board and if a gist of such notice is published in the newspaper approved under clause (b) of sub-section (2), together with an announcement that the full text of the notice has been placed on the municipal notice board.

(4) The provisions of this section shall apply to any proclamation, order or other instrument which the Council or any municipal authority or officer is required or empowered to publish for general information of the residents of the municipal area.

306. Where any notice, order or requisition under this Regulation requires any act to be done for which no time is fixed by or under this Regulation, such requisition shall fix a reasonable time for doing the same.

307. (1) Where by or under this Regulation, any person is required to execute any work or do anything and default is made in the execution of such work or the doing of such thing, the Council, whether any penalty is or is not provided for such default, may cause such work to be executed; and the expenses thereby incurred shall, unless otherwise expressly provided in this Regulation, be paid to the Council by the person by whom such work ought to have been executed, and shall be recoverable in the same manner as an amount claimed on account of a property tax, either in one sum or by instalments, as the Council may deem fit:

Provided that,---

(a) except as otherwise provided by or under this Regulation, a notice shall be issued to such person requiring him to execute such work or to do such thing;

(b) where any drainage scheme or water works scheme has been commenced by any Council, it shall be lawful for the Council, without prejudice to its powers under section 193 or any other provision of this Regulation, to make a specialagreement with the owner of any building or land as to the manner in which the drainage or water connection thereof shall be carried out, and the pecuniary or other assistance, if any, which the Council shall render; and any payment agreed upon by the owner shall be recovered in accordance with the terms of such agreement or in default, in the manner described in sub-sections (2) and (3);

(c) where an order or requisition has been passed under sub-section (1) of section 166, section 174; sub-section (4) or sub-section (12) of section 180 or under section 193, 195, 200 or 201 or where permission has been given under section 197 or where an arrangement has been made under proviso (b) of this sub-section, the Council may, without prejudice to any other powers under this Regulation, if it thinks fit, declare any expenses incurred by the Council in the execution of such order or in the carrying out of such requisition, permission or arrangement to be improvement expenses. Improvement expenses shall be a charge upon the premises or land, and shall be levied in such instalments as the Council may decide, including interest at the rate of seven and a half per cent. per annum, and shall be recoverable in the manner described in sub-sections (2) and (3).

(2) If the defaulter be the owner of any building or land in respect of which he is required to execute any work or do anything, the Council may, by way of additional

Reasonable time to be fixed when no time fixed under the Regulation for any requisition.

Council in default of owner or occupier may execute works and recover expenses.

remedy, whether a suit or proceeding has been brought or taken against such owner or not, require, subject to the provisions of sub-section (3), the payment of all or any part of the expenses payable by the owner for the time being from the person who then, or any time thereafter, occupies the building or land under such owner; and in default of payment thereof by such occupier on demand, the same may be levied from such occupier, and every amount so leviable shall be recoverable in the same manner as an amount claimed on account of any property tax; every such occupier shall be entitled to deduct from the rent payable by him to his landlord so much as has been so paid by or recovered from such occupier in respect of any such expenses.

(3) No occupier of any building or land shall be liable to pay more money in respect of any expenses charged by this Regulation on the owner thereof, than the amount of rent which is due from such occupier for the building or land in respect of which such expenses are payable, at the time of the demand made upon him, or which at any time after such demand and notice not to pay rent to the land lord has accrued and become payable by such occupier, unless he neglects or refuses, upon application made to him for that purpose by the Council, truly to disclose the amount of his rent, and the name and the address of the person to whom such rent is payable, but the burden of proof that the sum demanded of any such occupier is greater than the rent which was due by him at the time of such demand, or which has since accrued, shall be upon such occupier:

Provided that nothing herein contained shall be taken to affect any special contract made between any such occupier and the owner respecting the payment of any such expenses as aforesaid.

308. If the occupier of any building or land prevents the owner thereof from carrying into effect in respect of such building or land, any of the provisions of this Regulation, after notice of his intention so to carry them into effect has been given by the owner to such occupier, any Executive Magistrate upon proof thereof, and upon application of the owner, may make an order in writing requiring such occupier to permit the owner to execute all such works, with respect to such building or land as may be necessary for carrying into effect the provisions of this Regulation, and may also, if he thinks fit, order the occupier to pay to the owner the costs relating to such application or order; and if, after the expiration of eight days from the date of the order, such occupier continues to refuse to permit such owner to execute any such work, such occupier shall, on conviction, for every day during which he so continues to refuse, be punished with fine which may extend to fifty rupees and every such owner, during the continuance of such refusal, shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such works.

309. (1) Save as otherwise expressly provided in this Regulation, if an agreement is not arrived at with respect to any compensation or damages which are by this Regulation directed to be paid, the amount, and if necessary, the apportionment of the same shall be ascertained and determined by the Council.

(2) Any person who is aggrieved by the amount of compensation or damages determined by the Council or the apportionment of such compensation or damages, may, within one month from the date of receipt by him of an intimation about the compensation or damages or the apportionment thereof determined by the Council, appeal to the District Court against the determination made by the Council.

(3) Any person who is aggrieved by the failure of the Council to determine the amount of compensation or damages or the apportionment thereof, may give to the Council a notice stating the circumstances of the case and requesting the Council to determine the amount of compensation or damages or the apportionment thereof. If the Council fails so to determine the amount of compensation or damages or the apportionment thereof within a period of one month from the receipt by it of the notice aforesaid, such person may apply to District Court to determine the amount of compensation or damages: or the apportionment thereof.

Proceedings, if any occupier opposes the execution of the Regulation.

Determination of damages, compensation, etc.

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(4) In cases in which the compensation is claimed in respect of land, the District Court in deciding any appeal or application under sub-section (2) or sub-section (3) shall follow, as far as may be, the procedure providing by the Land Acquisition Act, 1894, for 1 of 1894. proceedings in matters referred for the determination of the Court:

Provided that---

(a) no application to the Collector for a reference shall be necessary; and

(b) the Court shall have full power to give and apportion the costs of all proceedings in any manner it thinks fit.

(5) In any case where the compensation is claimed in respect of any land or building, the Council may, after the award has been made by the Council or the District Court, as the case may be, take possession of the land or building, after paying the amount of compensation determined by the Council or the District Court to the party to whom such compensation may be payable. If such party refuses to accept such compensation, or if there is no person competent to alienate the land or building, or if there is any dispute as to the title to the compensation or as to the apportionment of it, the Council shall deposit the amount of the compensation in the District Court.

310. If a dispute arises with respect to any costs or expenses which are by this Regulation directed to be paid, the amount, and, if necessary, the apportionment of the same, shall, save where it is otherwise expressly provided in this Regulation, be ascertained and determined by the Council and shall be recoverable in the same manner as an amount claimed on account of a property tax.

CHAPTER XXV

MISCELLANEOUS

311. (1) Any informality, clerical error, omission or other defect in any assessment made or in any distress levied or in any notice, bill, summons or other document issued under this Regulation or under any rule or bye-law made under this Regulation, may at any time, as far as possible be rectified—

(a) when any special procedure has been laid down by or under this Regulation for the rectification of such informality, clerical error, omission or other defect, after following such procedure; and

(b) where no such procedure has been laid down, after giving an intimation in writing to the person affected by such rectification.

(2) No such informality, clerical error, omission or other defect shall be deemed to have rendered the assessment, distress notice, bill summons or other document invalid or illegal, if the provisions of this Regulation or of the rules or bye-laws made thereunder have in substance and effect been complied with; but any person who sustains any special damage by reason of any such informality, clerical error, omission or other defect shall be entitled to recover full satisfaction for the special damage in any court of competent jurisdiction.

Entry for purposes of the Regulation. **312.** (1) Subject to the provisions of sub-sections (2) to (4), it shall be lawful for the President, the Vice-President, the Chief Officer or any officer authorised by or under this Regulation, or by the Chief Officer in this behalf, to enter for the purposes of this Regulation with such assistants as he may deem necessary, into and upon any building or land and to open or cause to be opened any door, gate or other barrier—

(a) if he considers the opening thereof necessary for the purpose of such entry; and

(b) if the owner or occupier is absent or being present refuses to open such door, gate or barrier.

Informalities and errors in assessment, etc., not to be deemed to invalidate such assessment, etc.

Costs or

and

expenses how

determined

recovered.

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(2) Save as otherwise provided in this Regulation or any rule or bye-law made thereunder, no entry authorised by or under this Regulation, shall be made except between the hours of sunrise and sunset.

(3) Save as otherwise provided in this Regulation or any rule or bye-law made thereunder, no land or building shall be entered into or upon without the consent of the occupier or, if there be no occupier, of the owner thereof and no such entry shall be made without giving the said occupier or owner, as the case may be, not less than twenty-four hours written notice of the intention to make such entry:

Provided that no such notice shall be necessary if the place to be inspected is a factory or workshop or tread premises or a stable for horses or a shed for cattle or a latrine or urinal or a work under construction, or for the purpose of ascertaining whether any animal intended for human food is slaughtered in that place in contravention of this Regulation or any bye-law made thereunder.

(4) When any place used as a human dwelling is entered under this Regulation, due regard shall be paid to the social and religious customs and usages of the occupants of the place entered, and no apartment in the actual occupancy of a female shall be entered or broken open until she has been informed that she is at liberty to withdraw and every reasonable facility has been afforded to her for withdrawing.

313. (1) Whenever any person is required to execute any work by or under the provisions of this Regulation and the Chief Officer is of opinion whether on receipt of an application from such person or otherwise that the only or the most convenient means by which such person can execute such work is by entering any of the adjoining premises belonging to some other person, the Chief Officer after giving the owner or occupier of such adjoining premises a reasonable opportunity of stating any objection, may, if no such objection is raised or if any objection which is raised appears to him invalid or insufficient, by an order in writing, authorise the person required to execute the work, to enter such adjoining premises:

Provided that, in an emergency, the Chief Officer may authorise any person to enter such adjoining premises, without giving the owner of such adjoining premises, opportunity to state his objection, if any.

(2) Subject to the provisions of sub-section (3), every such order bearing the signature of the Chief Officer shall be sufficient authority to the person in whose favour it is made, or to any agent or person employed by him for this purpose, to enter upon the said premises with assistants and workmen, and to execute the necessary work.

(3) The provisions of sub-sections (2), (3) and (4) of section 312, except the proviso to sub-section (3) of that section, shall *mutatis mutandis* apply to every entry made under this section.

(4) In making such entry or in executing such work, as little damage as can be shall be done to the property of the owner of the adjoining premises, and the owner or occupier of the premises for the benefit of which the work is done, shall—

(i) cause the work to be executed with the least practicable delay; and

(*ii*) pay compensation to any person who sustains damage by the execution of such work,

if there is any dispute as regards the amount of compensation to be paid, such amount shall be determined by the Chief Officer.

(5) If the owner of occupier of the premises for the benefit of which the work is done, refuses to pay the compensation payable under sub-section (4), the amount of such compensation may be recovered by the Chief Officer as an arrear of a property tax and paid to the person who sustains damage by the execution of such work.

Chief Officer may authorise any person to enter upon adjoining premises.

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Power of Chief Officer to call for information as to ownership of any property.

314. (1) The Chief Officer may, in order to facilitate the service, issue, presentation or giving of any notice, bill, summons or such other document upon or to any person, by written notice require the owner or occupier of any immovable property or of any portion thereof or the owner or person in charge of any movable property to state in writing, within such period as the Chief Officer may specify in the notice, the nature of his interest therein and the name and address of any other person having an interest therein whether as freeholder, mortgagee, lessee or otherwise so far as such name and address are known to him.

(2) Any person required by the Chief Officer in pursuance of sub-section (1) or any other provision of this Regulation to give the Chief Officer any information shall be bound to comply with the same, and give true information to the best of his knowledge and belief.

315. (1) Where on information received, the Director is of the opinion that any person, who in his capacity as a President, Vice-President, Councillor or officer or servant of a Council had in his custody any records, stores or money or other property belonging to the Council, in spite of the expiry of his term of office of his removal or suspension from office, as the case may be, has not delivered such records, stores, money or other property to his successor in the office, the Director may by a written order require that the records, stores, money or other property so detained, be delivered to such successor within the time to be specified in such order.

(2) If such President, Vice-President, Councillor or officer or servant of the Council fails to comply with the order of the Director under the foregoing sub-section, it shall be lawful for the Director,

(a) for recovering any such money, to direct that such money may be recovered as an arrear of land revenue and on such direction being given by the Director such money shall be recoverable as an arrear of land revenue from such person;

(b) for recovering any such records or stores or other property, to issue a search warrant and to exercise all such powers with respect thereto as may lawfully be exercised by a Magistrate under the provisions of Chapter VII of the Code of Criminal Procedure, 1973.

(3) No action shall be taken under this section unless the person concerned has been given a reasonable opportunity to show cause why such action should not be taken against him.

(4) The fact that action is or has been taken against an outgoing President or Vice-President under the provisions of this section shall not be a bar to the prosecution of such President or Vice-President under sub-section (4) of section 59.

316. Where by or under this Regulation, the previous sanction of any authority is required in respect of any staff or expenditure and such previous sanction is not obtained, such authority may accord *expost facto* sanction, if it is satisfied that such action was *bona fide* and has not caused or is not likely to cause injury to any person or that the action taken was in public interest.

317. (1) Whenever it is provided by or under this Regulation that a licence or a written permission may be given for any purpose, such licence or permission shall specify the period for which, and the restrictions and conditions subject to which, the same is granted and the date by which an application for the renewal of the same shall be made, and shall be given under the signature of the Chief Officer or of any other municipal officer empowered by or under this Regulation or by the Chief Officer to grant the same.

(2) Except as otherwise provided by or under this Regulation, there shall be charged a fee-

Power of Collector to recover record and money.

Power to grant expost facto sanction.

General provisions regarding grant, suspension or withdrawal of licences and written permission and levy of fees, etc,

(a) for every such licence at such rates as shall from time to time be specified in the respective provision of the bye-laws relating to the grant of such licence; and

(b) for every such written permission at such rates as shall from time to time be specified in the bye-laws made in this behalf:

Provided that-

(i) such fee may be a recurring fee;

(ii) the bye-laws may provide for the levy of a higher fee by way of penalty for any act done by any person without licence or written permission;

(*iii*) the higher fee levied under clause (*ii*) of this proviso shall be leviable in addition to any other penalty or liability to which such person may be liable under the provisions of this Regulation or any rules or bye-laws made thereunder.

(3) Any licence or written permission granted under this Regulation may at any time be suspended or revoked by the competent authority, if such authority is satisfied that it has been secured by the holder through misrepresentation or fraud or if any of its restrictions or conditions are infringed or evaded by the person to whom the same has been granted, or if the said person is convicted of an infringement of any of the provisions of this Regulation or of any rule or bye-law pertaining to any matter to which such licence or permission relates.

(4) When any such licence or written permission is suspended or revoked or when the period for which the same was granted has expired, the person to whom the same was granted shall, for all purposes of this Regulation, be deemed to be without a licence or written permission, until the order for suspending or revoking the licence or written permission is cancelled or until the licence or written permission is renewed, as the case may be:

Provided that, when an application has been made for the renewal of a licence or written permission by the date specified therein, the applicant shall be entitled to act as if it has been renewed, pending the receipt of orders.

(5) Every person to whom any such licence or written permission has been granted shall, at all reasonable times, while such written permission or licence remains in force, if so required by the Chief Officer of any municipal officer duly authorised in this behalf. produce such licence or written permission.

(6) Every application for a licence or written permission shall be addressed to the Chief Officer.

(7) The acceptance by or on behalf of the Council of the fee for a licence or permission shall not in itself entitle the person paying the fee to the licence or permission.

318. Upon a conviction being obtained in respect of the use of any place for any power to purpose without a licence or permission or in contravention of the conditions subject to which any licence or permission may have been granted, the Magistrate may, on the application of the authority competent to grant such licence or permission but not otherwise, order such place to be closed, and thereupon appoint any person or persons or take other steps to prevent such place being so used.

319. (1) In this section, unless the context otherwise requires,--

(a) "specified day" means the day from which any local area is declared to be a municipal area under sub-section (1) of section 3 or the day from which a change referred to in any of the clauses (a) to (d) of sub-section (1) of section 6 takes effect;

(b) "existing local authority", in relation to any local area, means the Panchayat having jurisdiction over such area immediately before the specified day;

order closure of place.

Power of Government to make suitable provisions by order when a municipal area is created or altered

SEC. 1]

[Part II----

3 of 1965.

(c) "successor local authority", in relation to any local area, means the Municipal Council or the Panchayat having jurisdiction over such area from the specified day;

(d) "Panchayat" means a village Panchayat established or deemed to be established for any village or group of villages under the Dadra and Nagar Haveli Village Panchayats Regulation, 1965 as amended from time to time.

(2) When-

(a) any local area is declared to be a municipal area;

(b) any local area is added to a municipal area;

(c) any local area is excluded from a municipal area;

(d) two or more municipal areas are amalgamated into one municipal area; or

(e) a municipal area is split up into two or more municipal areas, the Government may, notwithstanding anything contained in this Regulation or any other law for the time being in force, by an order published in the Official Gazette, provide for all or any of the following matters, namely:—

(*i*) in a case falling under clause (*a*) or clause (*d*), the constitution of an interim Council consisting of such number of Councillors appointed by the Government or of Councillors elected by the members or Councillors of the existing local authorities or consisting partly of such appointed Councillors and partly of such elected Councillors, as the Government may determine, until the successor Council is in due course constituted under this Regulation;

(*ii*) in a case falling under clause (*b*), the interim increase in the number of Councillors, either by appointment of the additional Councillors by the Government or by election by the members of the existing local authorities or partly by such appointment and partly by such election, as the Government may determine, until the successor Council is in due course constituted under this Regulation;

(*iii*) in a case falling under clause (c), the removal of the Councillors, who in the opinion of the Government, represent the area excluded from the municipal area;

(iv) in a case falling under clause (e) the appointment of an administrator or administrators to exercise the powers and to perform the duties and the functions of the successor Councils, until such Councils are in due course constituted under this Regulation;

(v) the term for which the Councillors appointed or elected under clause (i) or clause (ii) or the administrators appointed under clause (iv) shall hold office and the manner of holding election and filling casual vacancies;

(vi) the transfer, in whole or in part, of the assets, rights and liabilities of an existing local authority (including the rights and liabilities under any agreement or contract made by it) to any successor local authorities or the Government and terms and conditions for such transfer;

(vii) the substitution of any such transferee for an existing local authority or the addition of any such transferee as a party to any legal proceeding to which an existing local authority is a party; and the transfer of any proceedings pending before the existing local authority or any authority or officer subordinate to it to any such transferee or any authority of officer subordinate to it;

(viii) the transfer or re-employment of any employees of an existing local authority to, or by, any such transferee or the termination of service of

any employees of an existing local authority and the terms and conditions applicable to such employees after such transfer or re-employment or termination;

(*ix*) the continuance within the area of an existing local authority of all or any appointments, notifications, notices, taxes, orders, schemes, licences, permissions, rules, bye-laws, regulations or forms made, issued, imposed or granted by, or in respect of, such existing local authority and in force within its area immediately before the specified day, until superseded or modified under this Regulation;

(x) the extension and commencement of all or any appointments, notifications, notices, taxes, orders, schemes, licences, permissions, rules, bye-laws, regulations or forms made, issued, imposed or granted under this Regulation by, or in respect of, any existing Council and in force within its area immediately before the specified day, to and in all or any of the other areas of the successor Council, in supersession of corresponding appointments, notifications, notices, taxes, orders, schemes, licences, permissions rules, byelaws, regulations or forms, if any, in force in such other areas immediately before the specified day, until the matters so extended and brought into force are further superseded or modified under this Regulation;

(xi) the continuance within the area of an existing local authority of all or any budget estimates, assessments, assessment lists, valuations, measurements or divisions made or authenticated by, or in respect of, such existing local authority and in force within its area immediately before the specified day, until superseded or modified under the relevant law;

(xii) the removal of any difficulty which may arise on account of any change referred to in clauses (a) to (e).

(3) Where an order is made under this section transferring the assets, rights and liabilities of an existing local authority, then, by virtue of that order, such assets, rights and liabilities of the existing local authority shall vest in and be the assets, rights and liabilities of the transferee.

(4) (a) Where an order is made under this section, the Director shall, before the expiry of the term of the Councillors or municipal administrators appointed or elected under paragraph (i), (ii) or paragraph (iv) or of the Council in whose case the number of Councillors is reduced under paragraph (iii) of sub-section (2), take steps in accordance with section 9 of this Regulation, for the purpose of determining the number of Councillors of, and for holding election for, the new Council or Councils, as the case may be.

(b) The Councillors of the interim Council or of the Council in whose case there is an interim increase or reduction in their number or the administrator or administrators appointed or elected under such order, as the case may be, shall, notwithstanding the expiry of the term for which they may have been appointed or elected, continue in office for the area concerned, until immediately before the first meeting of the new Council or Councils, as the case may be.

(c) Save as otherwise provided by or under this section, the provisions of this Regulation shall *mutatis mutandis* apply to any such Council, its Councillors or municipal administrators.

320. When the whole of the local area comprising a municipal area ceases to be a municipal area, with effect from the day, on which such local area ceases to be a municipal area,—

Abolition of municipal Council.

(i) the Council constituted for such municipal area shall cease to exist or function;

(ii) the Councillors of the Council shall vacate office;

SEC. 1]

[PART II----

(*iii*) the Director may, notwithstanding anything contained in this Regulation or any other law for the time being in force, by an order published in the Official Gazette provide in respect of such area for all or any of the matters specified in paragraphs (vi) to (xii) (both inclusive) of sub-section (2) of section 319 and the provision of sub-section (3) of that section shall apply to such order.

CHAPTER XXVI

TRANSITORY PROVISION

Interpretation.

Special provisions regarding the term of members of existing Panchayat whose term is due to expire.

Consequences of replacement of existing Panchayats. **321.** The provisions of this Regulation shall have effect notwithstanding anything inconsistent therewith contained in any other law in force in the Union territory.

322. Notwithstanding anything contained in this Regulation or in any other law for the time being in force, the term or extended term of the office of the existing Panchayat or members of any of the existing Panchayat shall expire at 12 midnight of such day as the Administrator may by notification in the Official Gazette appoint.

323. With effect from the appointed day, the following consequences shall ensue, that is to say,—

(a) the Panchayats which were functioning immediately before the appointed day in the areas declared as municipal areas by the Government in accordance with the provisions of the clause (2) of article 243Q of the Constitution, shall be deemed to be succeeded by the Councils constituted against them;

(b) all property, movable and immovable, situated within the local area of a successor Council (and all interests of whatever nature and kind in such property) which vested in the corresponding existing Panchayat immediately before the appointed day and which was being used immediately before the said day for the performance of any of the functions or duties which are required to be performed by the successor Council, under the provisions of this Regulation, shall be deemed to be transferred to and shall vest, without further assurances to such successor Council, subject to all limitations, conditions and rights of interest of any person, body or authority in force or subsisting immediately before the appointed day;

(c) all property, movable and immovable, wherever situated (and all interests of whatsoever nature and kind in such property) which vested in an existing Panchayat immediately before the appointed day and which was being used by it for a function which on and from the appointed day is not required to be performed by an existing Panchayat under the provisions of the Dadra and Nagar Haveli Panchayats Regulation, 1965, shall be deemed to be transferred to and shall vest, without further assurances, in the Government, subject to all limitations, conditions and right or interests of any person, body or authority in force or subsisting immediately before the appointed day;

Reg. 3 of 1965.

(d) all rights, liabilities and obligations of an existing Panchayat (including those arising under an agreement or contract) shall be deemed to be the rights, liabilities and obligations of the corresponding successor Council; the Panchayat or the Government, accordingly as the function or duty out of which such rights, liabilities and obligations have arisen, is required to be performed on and from the appointed day by such successor Panchayat, or the Government, as the case may be:

(e) all sums due to an existing Panchayat, whether on account of any tax or otherwise, shall be recoverable by the successor Council, or the Government,

accordingly as the duty or function out of which such sum has become due, is required to be, performed on and from the appointed day by the successor Council, or the Government and the successor Council, or the Government, as the case may be, shall be competent to take any measure or institute any proceedings, which it would have been open to the existing village Panchayat or any authority thereof to that effect before the appointed day;

(f) the Municipal Fund and liabilities other than those specified in subparagraph (e) of an existing Panchayat shall be deemed to be the Municipal Fund and liabilities of the successor Council;

(g) all contracts made with and all instruments executed on behalf of an existing Panchayat, shall be deemed to have been made or executed on behalf of the successor Council, or the Government, accordingly as the duty and function, as a result of which such contract was made or the instrument executed is required on and from the appointed day to be performed by the successor Council, or the Government, as the case may be, and shall be performed accordingly;

(h) all proceedings and matters pending before any authority immediately before the appointed day, shall be deemed to be transferred to the corresponding authority under this Regulation competent to entertain and dispose of such proceedings or matters;

(*i*) in all suits and legal proceedings pending on the appointed day in or to which an existing Panchayat was a party, the successor Council or local authority shall be deemed to have been substituted therefor;

(*j*) any appointment, notification, notice, tax, order, scheme, licence, permission, rule, bye-law, regulation or form held, made, issued, imposed or granted by or in respect of an existing Panchayat under any of the laws or any other law for the time being in force in the area of such existing Panchayat, and in force immediately before the appointed day, shall, in so far as it is not inconsistent with the provisions of this Regulation, continue to be in force as if made, issued, imposed or granted in respect of the corresponding area of the successor Council, until superseded by an authority competent so to do:

Provided that—

(*i*) no rule made under any of the laws in respect of an existing Panchayat and in force immediately before the appointed day shall be deemed to be consistent with the provisions of this Regulation by reason only of the fact that under this Regulation it is permissible to make only a bye-law or any other instrument other than a rule in respect of the matter provided for in such rule;

(*ii*) the proviso of clause (*i*) of this provision shall *mutatis mutandis* apply to any bye-laws, regulations or any other instruments made under any of the laws in respect of an existing Panchayat and in force immediately before the appointed day;

(k) all budget estimates, assessments, assessment lists, valuations, measurements and divisions made by or in respect of an existing Panchayat under any of the law for the time being in force in the area of such existing Panchayat and in force immediately before the appointed day, shall, in so far as they are not inconsistent with the provisions of this Regulation, be deemed to have been made by, or in respect of the successor Council for that area;

(1) any reference in any law or in any instrument to the provisions of any existing law, shall unless a different intention appears, be construed as a reference to the corresponding provisions of this Regulation:

SEC. 1]

PART II-

(m) any reference in any law or in any instrument to an existing Panchayat shall, unless a different intention appears, be construed as a reference to the successor Council and such law or instrument shall apply to the successor Council;

(n) any reference in the above clauses to an existing Panchayat shall, in case such Council has been superseded or dissolved or is not otherwise functioning, be deemed to be a reference to the person or persons appointed to exercise the powers and discharge the duties and functions of such Council.

324. All officers and servants in the employment of an existing Panchayat immediately before the appointed day, shall be deemed to be transferred to the service of the successor Council and shall, until other provision is made by a competent authority, receive such salaries and allowances, pension, provident fund, gratuity and other retirement benefits and be subject to such other conditions of service to which they were entitled immediately before the date of commencement of this Regulation:

Provided that the conditions of service applicable immediately before that date to the case of any officer or servant so transferred to the service of the successor Council shall not be varied to his disadvantage except with the previous approval of the Government:

Provided further that nothing in this section shall affect the power of the successor Council to discontinue the service of any such officer or servant in accordance with the provisions of this Regulation.

325. Notwithstanding anything contained in section 52, it shall be the duty of every successor Council or local authority to continue to carry out any duty or to manage, maintain or look after any institution, establishment, undertaking, measure work or service, which the existing Panchayat had been responsible for carrying out, managing, maintaining or looking after immediately before the appointed day, until the Government by order relieves the successor Council or local authority of such duty or function.

326. (1) If any difficulty arises in giving effect to the provisions of this Regulation, the Government may as the occasion requires, by order do anything not inconsistent with the provisions of this Regulation for the purpose of removing the difficulty:

Provided that no such order shall be made under this section after the expiry of two years from the commencement of this Regulation.

(2) Every Order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Pension relating to officers and servants.

Obligation to carry out certain duties and functions of existing Panchayat.

Power to remove difficulty.

SEC.	1]	Tł	IE GAZ	ΈT	TEOFN	NDIA	EXTRA	ORDIN	ARY	 	12	7			
			I. A. B. hereby give notice as required by sub-section (1) of section 126 of the Dadra and Nagar Haveli Municipal Council Regulation, 2004 of the ving transfer of property:—	If any Remarks	instrument has been registered,	the date of registration					- -		Signed		
	NSTRUMENT		iicipal Council R		a Boundaries										
	TED BY D		veli Mun	PERTY	Dimension of Land										
	[See section $126(I)$] Given when the transfer has been effected by instrument		nd Nagar Ha	OF THE PROPERTY	Chief Officer's No.										
	(1)] ANSFER HAS		ie Dadra ai	DESCRIPTION O	No. in Assessment Book										
SCHEDULE I	[<i>See</i> section 126(<i>1</i>)] iven when the trans		n 126 of th	DESC	Situations										
SC	BE		(1) of sectio		Of what it consists					 					
	RANSFER TO		ib-section (nt of	consideration							-	-		
	E OF TR		l by su	Amount of		-									
	FORM OF NOTICE OF T	• • •	as required	Name of	purchaser or assignee			•		••••					
- / A unit of the second	FORM	cer,	give notice property:	Name of	vendor or assignor									-	
and a second		The Chief Officer, Council.	I. A. B. hereby give notion following transfer of property:-	Date of	ent	- - -									
an and a second s	ç		I. A. J following tr	Date of	Notice			4 1994 (1999)		 			Dated		

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[PART II-

SCHEDULE II [See section 126(1)]

FORM OF NOTICE OF TRANSFER TO BE GIVEN WHEN THE TRANSFER HAS TAKEN PLACE OTHERWISE THAN BY INSTRUMENT

То

The Chief Officer,Council.

128

l; A. B. hereby give notice as required by sub-section (1) of section 126 of the Dadra and Nagar Haveli Municipal Council Regulation, 2004 of the following transfer of property:—

	Date of	Name in	To whom it is to be transferred		DESCRIPTI	Remarks				
×	Notice	which the property is at present entered in the Chief Officer's record		Of what it consists situations	No. in Assessment Book	Chief Officer's No.	Dimension of Land	Boundaries		
										no no manana na manana na manana na manana na manana manana manana na manana na manana na manana na manana na m

Dated

SCHEDULE III

(See section 142)

FORM OF NOTICE OF DEMAND

То

A., B.,....residing at....

Take notice that the Council demand from..... the sum of... due from...on account of(Here describe the property or other thing in respect of which the tax is leviable) leviable under bye-law No.... for the period of... commencing on the ...day of....20..., and ending on theday of...20...., and that if, within fifteen days from the service of this notice, the said sum is not paid into the municipal office at...and sufficient cause for non-payment is not shown to the satisfaction of the Chief Officer, a warrant of distress or attachment will be issued for the recovery of the same with costs.

Dated this.....day of20 .

(Signed) Chief Officer.

[PART II—

SCHEDULE IV

(See section 143)

FORM OF WARRANT

(Here insert the name of the officer charged with the execution of the warrant).

Whereas A., B., of.. has not paid, and has not shown satisfactory cause for the non-payment of, the sum of ..due for the tax* (.....) for the period....commencing on theday of20....., and ending with the day....of ...20....., and leviable under rule/ bye-law No.....

And whereas fifteen days have elapsed since the service on him of notice of demand for the same;

This is to command you distrain/attach subject to the provisions of section 143 of the Dadra and Nagar Haveli Municipal Council Regulation, 2004 the goods and chattels/ property of the said A., B. to the amount of....being the amount due from him as follows:—

Ps.

Rs. On account of the said tax..... For service of the notice..... For issue of warrant.....

and forthwith to certify to me together with this warrant all particulars of the goods distrained/ property attached by you thereunder.

Dated thisday of ... 20 .

* Describe the tax

(Signed) ChiefOfficer.

SCHEDULE V

[See sections 132(1) and 146(c)]

FORM OF INVENTORY AND NOTICE

То

A., B.,....residing at.....

Take notice that I have this day distrained/attached the goods and chattels/property specified in the inventory beneath this, for the value of... due for the tax *(.....) for the period commencing with the ...day of...20....and ending with the...day of...20..., together with Rs....due as for service of notice of demand and Rs....due as for issue for warrant and that unless, within five days from the day of the date of this notice you pay into the municipal office at....the said amount together with the costs of recovery, the said goods and chattels/property will be sold.

Dated this...day of ... 20 .

Signature of Officer executing the warrant/collecting Octroi or toll

Inventory.

(Here state particulars of goods and chattels/property seized).

*Describe the tax.

[PART II---

SCHEDULE VI

[See section 263(1)]

PURPOSES FOR WHICH ANY PREMISES SHALL NOT BE USED WITHOUT A LICENCE

1. for boiling or storing offal, blood, bones or rags,

2. for salting, curing or storing fish,

3. for tanning,

4. for the manufacture of leather or leather goods,

5. for dyeing,

6. for melting tallow or sulphur,

7. for washing or drying wool or hair,

8. for manufacturing or preparing, by any process whatever, bricks, pottery or lime,

9. for soap making,

10. for oil-boiling or oil extracting,

11. as a manufactory of sago,

12. as a distillery,

13. as a manufactory of snuff,

14. for manufacturing fire-works,

15. as a hair dressing saloon or a barber's shop or hamamkhana,

16. as a manufactory or place of business of any other kind, from which offensive or unwholesome smells arise or which may involve the risk of fire and is or is likely to become by reason of such use and of its situation a nuisance to the neighbourhood.

Explanation.—For the purpose of item 16, nuisance shall include any contamination of the atmosphere whereby a deposit of soot is caused or any mechanical noise.

SCHEDULE VII

[See section 264(1)]

ARTICLES WHICH SHALL NOT BE KEPT IN OR UPON ANY PREMISES WITHOUT A LICENCE

- 1. Dynamite.
- 2. Blasting of powder.
- 3. Fulminate of mercury.
- 4. Gun-cotton or gunpowder.
- 5. Nitro-glycerine.
- 6. Phosphorous.

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[PART 11---

SCHEDULE VIII [See section 264(2)]

Part I

Articles which shall not be kept without a licence in or upon any premises in quantities exceeding at any one time the respective maximum quantities hereunder specified opposite such articles

		ARTICLES	MAXIMUM QUANTITY WHICH MAY BE KEPT AT ANY ONE TIME WITHOUT A LICENCE	
	1.	Bamboos	500 Kg.	
	2.	Bidi leaves	50 Kg.	<i>f</i>
	3.	Camphor	2 Kg.	
	4.	Celluloid	25 Kg.	
	5.	Celluloid goods	25 Kg.	
	6.	Cinematograph film	I Kg.	
	7.	Copra	50 Kg.	
	8.	Cotton refuse and waste	50 Kg.	
	9.	Cotton seed	200 Kg.	,
	10.	Dry leaves (patravali, etc.)	25 Kg.	
	11.	Fish (dried)	500 Kg.	
	12.	Gun-powder	500 Kg.	
	13.	Matches for lighting	1 gross boxes	
	14.	Methylated spirit and denatured spirit	5 litres	<u>Á</u>
una para menangka sara	<u> 5</u> .	Paints	50 Kg.	
,	16.	Petroleum as defined in the Petroleum Act,	1934 25 litres	
	· 17.	Oil (other sorts)	25 litres	
	18.	Oil-seeds other than cotton seed	500 Kg.	
	19.	Oil paper (waste) including news- papers, periodicals, magazines, etc.	50 Kg.	j.
	20.	Rags	500 Kg.	
· ·	21.	Sulphur	2 Kg.	
	22.	Tar, pitch, dammer or bitumen	5 <u>K</u> g;	
	23.	Turpentine	5 litres	1
•	24.	Vamish	10 litres	3
· .	25.	Wool (raw)	50 Kg.	

Part II

Articles which shall not be kept without a licence in or upon any premises for sale or for purposes other than domestic use

1. Bones.

SEC. 1]

- 2. Coconut fibre.
- 3. Charcoal.
- 4. Coal.
- 5. Coke.
- 6. Fat.
- 7. Firewood.
- 8. Fireworks.
- 9. Grass (Dry).
- 10. Gunny Bags.
- 11. Hair.
- 12. Hay and Fodder.
- 13. Hemp.
- 14. Hessian cloth (Gunny bag cloth).
- 15. Hides (dried).
- 16. Hides (raw).
- 17. Hoofs.
- 18. Horns.
- 19. Khokas or wooden boxes or barrels (manufacturing and storing).
- 20. Skins.
- 21. Timber.

A.P.J. ABDUL KALAM, President.

Z. S. NEGI, Joint Secy. to the Govt. of India.

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रजिस्ट्री सं॰ डी॰ एल॰-(एन)04/0007/2003-05

REGISTERED NO. DL---(N)04/0007/2003---05



असाधारण EXTRAORDINARY भाग II — खण्ड 1 PART II — Section 1 प्राधिकार से प्रकाशित PUBLISHED BY AUTHORITY

सं॰ 16] नई दिल्ली, वृहस्पतिवार, मार्च 31, 2005 / चैत्र 10, 1927 No. 16] NEW DELHI, THURSDAY, MARCH 31, 2005 / CHAITRA 10, 1927

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके (Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, 31st March, 2005/Chaitra 10, 1927 (Saka)

THE DAMAN AND DIU VALUE ADDED TAX REGULATION, 2005

No. 1 of 2005

Promulgated by the President in the Fifty-sixth Year of Republic of India.

A Regulation to consolidate and amend the law relating to levy of tax on sales or purchases of goods in the Union territory of Daman and Diu and to provide for matters connected therewith or incidental thereto.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:—

CHAPTER I

PRELIMINARY

1. (1) This Regulation may be called the Daman and Diu Value Added Tax Regulation, 2005.

Short title, extent and commencement

(2) It extends to the whole of the Union territory of Daman and Diu.

(3) It shall come into force on such date as the Administrator may, by notification, appoint, and different dates may be appointed for different provisions of this Regulation and any reference in any such provision to the commencement of this Regulation shall be construed as a reference to the coming into force of that provision.

[PART II---

Definitions.

2. In this Regulation, unless the context otherwise requires,-

(a) "accountant" means—

(i) a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 and who has obtained a 38 of 1949. certificate of practice under sub-section (1) of section 6 of that Act; or

(*ii*) a person, who, by virtue of the provisions of sub-section (2) of section 226 of the Companies Act, 1956, is entitled to be appointed to act as an auditor under that sub-section; or

(*iii*) an auditor appointed in pursuance of sub-section (2) of section 619 of the Companies Act, 1956;

1 of 1956.

1 of 1956.

(b) "Administrator" means the Administrator of the Union territory of Daman and Diu appointed by the President under article 239 of the Constitution;

(c) "Appellate Tribunal" means the Appellate Tribunal constituted under section 73;

(d) "business" includes ----

(i) any trade, commerce or manufacture,

(ii) any adventure or concern in the nature of trade, commerce or manufacture,

(*iii*) any transaction in connection with, or incidental or ancillary to, such trade, commerce, manufacture, adventure or concern,

(iv) any occasional transaction in the nature of such trade, commerce, manufacture, adventure or concern whether or not there is volume, frequency, continuity or regularity of such transaction, and

whether or not such trade, commerce, manufacture, adventure or concern transaction is carried on with a motive to make gain or profit and whether or not any gain or profit accrues from such trade, commerce, manufacture, adventure, concern or transaction.

Explanation.—For the purposes of this clause—

(A) any transaction of sale or purchase of capital assets pertaining to such trade, commerce, manufacture, adventure, concern or transaction referred to in sub-clauses (i) to (iv) shall be deemed to be business;

(B) purchase of any goods, the price of which is debited in the books of account of the dealer and sale of any goods, the proceeds of which are credited in the books of account of the dealer shall be deemed to be business;

(e) "business premises" means-

(i) the address of a dealer or, the place at which a dealer carries on the business and which is registered as such;

(*ii*) any building or place used by a person for carrying on his business, but does not include the building or place used for residential purposes;

(*f*) "capital goods" means plant, machinery and equipment used in the trade or manufacturing of goods;

(g) "casual trader" means a person who, whether as principal, agent or in any other capacity undertakes occasional transactions in the nature of business involving buying, selling, supply or distribution of goods or conducting any exhibition-cum-sale in Daman and Diu whether for cash, deferred payment, commission, remuneration or other valuable consideration;

(h) "Commissioner" means the Commissioner of Value Added Tax appointed under sub-section (1) of section 66;

(i) "dealer" means any person who carries on business in Daman and Diu and includes---

(*i*) any person who for the purposes of, or in connection with, or incidental to, or in the course of, his business buys, sells, supplies or distributes goods directly or otherwise, whether for cash or for deferred payment or for commission, remuneration or other valuable consideration;

(*ii*) any department of the Central Government or a State Government, a local authority, Panchayat, Municipality, Development Authority, Cantonment Board and an autonomous or a statutory body or an industrial, commercial, banking, insurance or trading undertaking whether or not of the Central Government or any of the State Governments or of a local authority, if it buys, sells, supplies or distributes goods, in the course of activities which may by notification specified from time to time;

(*iii*) a factor, commission agent, broker, *del credere* agent, or any other mercantile agent by whatever name called, who carries on the business of buying, selling, supplying or distributing goods on behalf of any principal, whether disclosed or not;

(iv) an agent of any of the persons referred to in sub-clauses (iii) or (vi) or (vii) or (viii) or (vi) of clause (i), whether or not the person referred to in the said sub-clauses is a dealer residing in Daman and Diu;

 (ν) a local branch of a firm or company or association of persons, outside Daman and Diu where such firm, company, association of persons is a dealer within the meaning of sub-clause (*i*), or sub-clause (*iii*), or sub-clause (νi), or sub-clause (νii), or sub-clause (νiii), or sub-clause (*ix*) of this clause;

(vi) a club, association, society, trust, or co-operative society, whether incorporated or not, which buys goods from, or sells goods to, its members for price, fee or subscription, whether or not in the course of business;

(vii) an auctioneer, who sells or auctions goods belonging to any principal, whether disclosed or not and whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of the principal;

(viii) a casual trader; or

(ix) any person who, for the purposes of, or in connection with, or incidental to, or in the course of, his business, disposes of any goods as unclaimed or confiscated, or unserviceable or scrap, surplus, old, obsolete or as discarded material or waste products by way of sale;

(j) "Daman and Diu" means the Union territory of Daman and Diu;

(k) "fair market value" means the value at which goods of like kind and quality are ordinarily sold or would be sold in the same quantities between unrelated parties in the open market at the same time in Daman and Diu;

(1) "goods" means every kind of moveable property (other than newspapers, actionable claims, stocks, shares and securities) and includes—

(1) livestock, all materials, articles or commodities including standing trees and things attached to or forming part of the land which are agreed to be severed before sale or under a contract of sale; and

(*ii*) property in goods (whether as goods or in some other form) involved in the execution of a works contract, lease or hire-purchase or those to be used in the fitting out, improvement or repair of movable property;

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(m) "goods vehicle" means a motor vehicle, vessel, boat, animal and any other form of conveyance used for carrying goods;

(n) "Government" means the Administrator;

(o) "import" means sale or purchase in the course of the import of goods into the territory of India if the sale or purchase either occasions such import or is effected by transfer of document of title to the goods before the goods have crossed the customs frontiers of India and includes procurement of goods from outside the Daman and Diu either as a result of purchase or otherwise.

Explanation.—In the case of goods arriving in Daman and Diu from a foreign country through customs, the "import of the goods in Daman and Diu" shall occur at the place where the goods are cleared by Customs for home consumption;

(p) "in the course of" includes activities done for the purposes of, in connection with, or incidental to and activities done as part of, the preparation for the activity and in the termination of, the activity;

(q) "input tax" in relation to the purchase of goods, means the proportion of the price paid by the buyer for the goods which represents tax under this Regulation;

(r) "net tax" means the amount calculated for a tax period under section 11;

(s) "non-creditable goods" means the goods listed in the Sixth Schedule;

(t) "notification" means a notification published in the Official Gazette and the expression "notify" shall be construed accordingly;

(u) "Official Gazette" means the Daman and Diu Gazette;

(v) "prescribed" means prescribed by rules made under this Regulation;

(w) "registered dealer" means a dealer who has been granted a certificate of registration under section 19;

(x) "related person" means a person who is related to another person (referred to in this definition as a "dealer") if the person—

(i) is a relative of the dealer;

(ii) is a partnership of which the dealer is a partner;

(*iii*) is a company in which the dealer [either alone or alongwith another person who is, or persons who are, related to the dealer under any of the subclauses (*i*), (*ii*), (*iv*), (*v*) or (*vi*) of this clause] directly or indirectly holds forty per cent. or more of stock or shares or voting rights;

(*iv*) is a person who [either alone or alongwith another person who is, or other persons who are, related to the person under any of the sub-clauses (*i*), (*ii*), (*iv*), (*v*) or (*vi*) of this clause] directly or indirectly owns forty per cent. or more of outstanding voting stock or shares of the dealer or voting rights;

(v) is a company in which forty per cent. or more of outstanding voting stock is held directly or indirectly by a person [either alone or alongwith another person who is, or other persons who are, related to the person under any of the sub-clauses (i), (ii), (iv), (v) or (vi) of this clause] who also holds forty per cent. or more of the outstanding voting stock or shares of the dealer; or

(vi) is controlled by the dealer, or a person whom the dealer controls, or is a person who is controlled by the same person who controls the dealer;

(y) "relative" means a relative as defined in clause (41) of section 2 of the Companies Act, 1956;

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(z) "sale", with its grammatical variations and cognate expression, means any transfer of property in goods by one person to another for cash or for deferred payment or for other valuable consideration and includes—

(*i*) a transfer of goods on hire-purchase or other system of payment by instalments, but does not include a mortgage or hypothecation of, or a charge, or pledge, on goods;

(*ii*) supply of goods by a society (including a co-operative society), club, firm, or any association to its members for cash or for deferred payment or for commission, remuneration or other valuable consideration, whether or not in the course of business;

(*iii*) transfer of property in goods by an auctioneer referred to in subclause (*vii*) of clause (*i*) of this section, or sale of goods in the course of any other activity in the nature of banking, insurance which in the course of their main activity also sells goods possession of which has been taken from borrower or reclaimed;

(*iv*) transfer, otherwise than in pursuance of a contract, of property in any goods for cash, deferred payment or other valuable consideration;

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

(vi) transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;

(vii) supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating), where such supply or service is for cash, deferred payment or other valuable consideration;

(viii) every disposal of goods referred to in sub-clause (ix) of clause (i) of this section,

and the expressions "sell", "buy" and "purchase", shall, with all their grammatical variations and cognate expressions, be construed accordingly;

(za) "sale price" means the amount paid or payable as valuable consideration for any sale, and includes—

(i) the amount of tax, if any, for which the dealer is liable under section 3;

(ii) in relation to the transaction, being delivery of goods on hire-purchase or any system of payment by instalments, the amount of valuable consideration payable to a person for such delivery including hire-charges, interest and other charges incidental to such transaction;

(iii) in relation to transfer of the right to use any goods for any purpose (whether or not for a specified period), the valuable consideration or charges received or receivable for such transfer;

(iv) any sum charged for anything done by the dealer in respect of goods at the time of, or before, the delivery thereof;

(v) the amount of duties levied or leviable on the goods under the Central Excise Act, 1944 or the Customs Act, 1962, or the Goa, Daman and Diu Excise Duty Act, 1964, as extended to the Union territory of Daman and Diu, whether such duties are payable by the seller or any other person;

(vi) the amount received or receivable by the seller by way of nonrefundable deposit which has been received or is receivable whether by way of separate agreement or not, in connection with, or incidental to or ancillary to the sale of goods; and

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(vii) in relation to works contract, the amount of valuable consideration paid or payable to a dealer for the execution of the works contract,

but does not include-

(a) any sum allowed as discount which reduces the sale price according to the practice normally prevailing in the trade;

(b) the cost of freight or delivery or the cost of installation in cases where such cost is separately charged;

(zb) "Schedule" means a Schedule appended to this Regulation;

(zc) "sufficient proof" means such documents, testimony or other evidence relevant for deposit of tax, filing of return or proceedings under this Regulation and which may be prescribed;

(zd) "tax" means tax leviable and payable under this Regulation;

(ze) "taxable quantum" means the amount specified in sub-section (2) of section 18;

(zf) "tax invoice" means a tax invoice of the nature referred to in section 50;

(zg) "tax period" means such period as may be prescribed;

(zh) "tax fraction" means the fraction calculated in accordance with formula given below-

r / (r+100)

where 'r' is the percentage rate of tax applicable to the sale under this Regulation;

(zi) "transporter" means any person who, for the purposes of, or in connection with, or incidental to, or in the course of, his business, transports or causes to transport goods, and includes any person whose business consists of shipping, air cargo, inland container depot, container freight station, courier service, airline or railways;

(z) "turnover of purchases" means the aggregate of the amounts of purchase price (including any input tax) paid or payable by a person in any tax period;

(zk) "turnover" means the aggregate of the amounts of sale price received or receivable by the person in any tax period, as reduced by any tax for which the person is liable under section 3;

(zl) "value of goods" means the fair market value of the goods and includes insurance charges, excise duties, countervailing duties, tax paid or payable under the Central Sales Tax Act, 1956, transport charges, freight charges and all other charges incidental to the sale of the goods;

(*zm*) "works contract" includes any agreement for carrying out, the construction of building, manufacture, processing, fabrication, erection, installation, fitting out, improvement, repair or commissioning of any moveable or immovable property, whether for cash or the deferred payment or for other valuable consideration;

(zn) "year" means the financial year.

CHAPTER II

INCIDENCE AND LEVY OF TAX

Incidence of tax.

3. (1) Every dealer, who is registered under this Regulation or required to be registered under this Regulation, shall be liable to pay tax calculated in accordance with section 11.

(2) The tax calculated under sub-section (1) shall be payable on every sale of goods effected by a dealer---

(a) on and from the day on which the dealer was required to be registered under this Regulation; or

(b) during the period he is registered as a dealer under this Regulation.

(3) The liability to pay tax shall be on the sales effected after a dealer exceeds the taxable quantum.

(4) The net tax shall be paid by a dealer within twenty-eight days from the last day of his tax period.

(5) Tax shall be paid in the manner specified in section 36.

(6) Every dealer, who becomes liable to pay tax under this Regulation on the sale of goods, shall continue to be so liable unless his taxable turnover during any preceding consecutive twelve months or such further period as may be prescribed, has remained below the taxable quantum and on the expiry of such twelve months or further period his liability to pay tax shall cease:

Provided that any dealer, whose liability to pay tax under this Regulation ceases for any other reason, may apply for the cancellation of his certificate of registration on or after the date on which his liability to pay tax ceases, and on such cancellation, his liability to pay tax shall cease:

Provided further that a dealer shall remain liable to pay tax until the date on which his certificate of registration is cancelled.

(7) Every dealer, whose liability to pay tax under this Regulation has ceased 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), at any subsequent day exceeds the taxable quantum within such year, be liable to pay such tax on and from the date on which his turnover subsequently exceeds the taxable quantum, on all sales effected by him on and after that day.

(8) Where it is found that any person registered as a dealer ought not to have been so registered, then notwithstanding anything contained in this Regulation, such person shall be liable to pay tax for the period during which he was so registered.

(9) If any person who transports goods or holds goods in custody for delivery to, or on behalf of any person, on being required by the Commissioner

(a) to furnish any information in his possession in respect of the goods; or

(b) to permit inspection thereof,

fails to furnish such information or permit such inspection, then, without prejudice to any other action which may be taken against such person, under this Regulation or any other law for the time being in force, a presumption may be raised that the goods in respect of which he has failed to furnish such information or permit such inspection, are owned by him and are held by him for sale in Daman and Diu and the provisions of this Regulation shall apply accordingly.

Explanation.—For the removal of doubts it is hereby declared that the tax levied under this section shall apply to every—-

(a) sale (including a sale by way of instalment or hire-purchase) of goods, made on and after the date of commencement of this Regulation;

(b) sale by way of the transfer of a right to use goods, to the extent that the right to use goods is exercised after the date of commencement of this Regulation.

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Rates of tax.

4. (1) The rates of tax payable on the taxable turnover of a dealer shall be-

(a) in respect of goods specified in the Second Schedule, at the rate of one per cent.;

(b) in respect of goods specified in the Third Schedule, at the rate of four per cent.;

(c) in respect of goods specified in the Fourth Schedule, at the rate of twenty per cent.;

(d) in the case of any other goods, not specified in the First, Second, Third and Fourth Schedules, at the rate of twelve and a half per cent.:

Provided that the rate of tax on packing materials or containers shall be the same as the rate at which the goods so packed or contained are chargeable to tax.

(2) Subject to such conditions as it may impose, the Government may, if it considers it necessary so to do in the public interest, by notification, specify a lower rate of tax than rate of tax specified under clauses (a) to (d) of sub-section (1).

(3) Every notification made under sub-section (2) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or both Houses agree that the notification should not be made, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that, any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

Determination of taxable turnover. 5. (1) For the purposes of this Regulation, taxable turnover means the turnover of a dealer during the tax period which remains after deducting therefrom—

(a) the turnover of sales not liable to tax under section 7; and

(b) the turnover of sales of such goods which are exempt under section 6.

(2) (a) In the case of turnover arising from the execution of a works contract, the taxable turnover means so much of turnover which represents the price and other charges in relation to goods in such works contract subject to such conditions as may be prescribed.

(b) Where the amount of price and other charges in relation to the goods in such contract is not ascertainable from the terms and conditions of the contract, the amount of such price and other charges shall be calculated as the sale price stipulated in the contract as reduced by the prescribed percentage.

Explanation.—For the removal of doubts, it is hereby declared that where an amount is paid or received prior to the date of commencement of this Regulation in respect of a sale or purchase occurring after the date of commencement of this Regulation, and the person calculates his turnover or turnover of purchases based on amounts paid and received, the amount shall be treated as forming part of the person's turnover or turnover of purchases in the tax period in which the sale or purchase occurs.

Sale of certain goods exempt from levy of 6. (1) The sale of goods specified in the First Schedule shall be exempt from tax:

Provided that the Government may, by notification, specify the conditions and exceptions, if any, for the purposes of such exemptions.

(2) Where a dealer sells capital goods used by him on and from the time of purchase exclusively for purposes other than making non-taxed sale of goods, and has not claimed a tax credit in respect of such capital goods under section 9, the sale of such capital goods shall be exempt from tax.

(3) Where any dealer has purchased any goods on the basis of a declaration or certificate under any order or scheme referred to in sub-section (5) and—

(a) any of the conditions subject to which such exemption was granted, or

(b) any of the recitals or the conditions of the declaration, or certificate,

are not complied with for any reason whatsoever, then, without prejudice to the other provisions of this Regulation, such dealer, shall, notwithstanding that such dealer or person was not liable to pay tax under any other provisions of this Regulation, be liable to pay tax on the sale price of the goods at the rates specified in section 4 and accordingly the dealer, who has become liable to pay tax under this sub-section shall, file a return in the prescribed form to the prescribed authority within a prescribed time, and include the sale price of such turnover in his return, and pay the tax in the prescribed manner.

(4) The tax due from any dealer referred to in sub-section (3) shall be assessed and tax recovered as if the dealer is a dealer liable to be proceeded against under the provisions of this Regulation.

(5) Subject to such conditions as the Government may, by notification, specify, all exports from the export, oriented unit, electronic hardware and technology park, software technology park unit and the special economic zone located within Daman and Diu, shall be exempted from the levy of tax.

Explanation.—For the purposes of this sub-section, "export oriented unit", "electronic hardware and technology park", "software technology park unit" and the "special economic zone" shall mean the delineated area as may be notified by the Central Government to be such 'Unit' or 'Park' or 'Zone', as the case may be.

(6) In a case where a dealer or a class of dealers had been granted exemption before the commencement of this Regulation from levy of tax under the Daman and Diu Sales Tax Act, 1964 repealed by section 106, the Government may, by general or special order, published in the Official Gazette, provide for a deferral scheme (including a scheme providing the manner in which such exemption from tax shall be continued) or grant exemption from levy of tax to such dealer or class of dealers and such deferral scheme or exemption shall be for the remaining period for which the dealer or class of dealers had been exempted under the Act so repealed.

7. Nothing contained in this Regulation or the rules made thereunder shall be deemed to impose or authorise the imposition of tax on any sale of goods when such sale takes place—

Certain sales not liable to tax.

Adjustments to tax

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

(b) outside Daman and Diu; or

(c) in the course of import of the goods into, or, export of the goods out of, the territory of India.

Explanation.—Sections 3, 4 and 5 of the Central Sales Tax Act, 1956 shall apply for determining whether or not a particular sale takes place in the manner specified in clause (a) or clause (b) or clause (c) of this section.

8. (1) The provisions of this section shall apply—

(i) where, in relation to the sale of goods by any dealer-

(A) such sale has been cancelled; or

(B) the nature of such sale has been varied or altered; or

(C) the consideration agreed for such sale has been altered by agreement with the recipient, whether due to the offer of a discount or for any other reason;

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(D) the goods or part of the goods sold have been returned to the dealer; or

(E) the whole or part of the price payable by the buyer for the purchase of the goods has been written-off by the dealer as a bad debt; and

(ii) the dealer has, in relation to the sale of goods,---

(A) provided a tax invoice in relation to such sale and the amount shown therein is not the tax properly chargeable on that sale; or

(B) furnished a return in relation to such sale and has accounted for an amount of tax on that sale which is not the amount properly chargeable on that sale.

(2) Where a dealer has accounted for an amount of tax improperly charged as referred to in sub-section (1), the dealer shall make an adjustment in calculating the tax payable in the return for the tax period during which it has become apparent that the tax is improperly charged.

(3) If the tax payable in relation to the sale referred to in sub-section (1), exceeds the tax actually accounted for by the dealer, the amount of the excess tax shall be deemed to accrue during the tax period in which the adjustment is made, and such excess tax shall not be attributable to any earlier tax period.

(4) If the tax actually accounted for exceeds the tax payable in relation to the sale referred to in sub-section (1), the amount of shortfall in tax shall be reduced from the tax payable by the dealer during the tax period in which the adjustment is made, and such shortfall in tax shall not be attributable to any earlier tax period.

(5) Where a dealer sells goods which have been used—

(a) partly for making the sales subject to tax under this Regulation or sales not liable to tax under section 7; and

(b) partly for other purposes,

the amount of tax on the sale of the goods shall be the higher of the following :---

$$(i) A - (A x B / C); or$$

(ii) A – B;

where

Tax credit.

A = the tax for which the dealer shall be liable in respect of the sales other than the tax liability arising under this section;

- B = the amount by which the tax credit of the dealer in respect of the goods was reduced under sub-section (4) of section 9;
- C = the amount of the tax credit before reducing tax credit under sub-section (4) of section 9.

9. (1) Subject to the provisions contained in sub-section (2), a dealer, who is registered or is required to be registered under this Regulation, shall be entitled to a tax credit in respect of the turnover of purchases made during the tax period where the purchase have been made as a dealer and the goods are meant to be used directly or indirectly by him for the purpose of making—

(a) the sales which are liable to tax under section 3; or

(b) the sales which are not liable to tax under section 7.

(2) No tax credit shall be allowed---

(a) in the case of purchase of goods from a person who is not a registered dealer;

(b) for the purchase of non-creditable goods specified in the Sixth Schedule;

(c) for the purchase of goods by a person which are to be used as a part of the structure of a building owned or occupied by such person.

Explanation.—For the removal of doubts, it is hereby declared that a tax credit shall be allowed in respect of the goods and building materials which are purchased by a person either for the purposes of re-sale without any alteration, or for the performance of a works contract in respect of a building owned or occupied by another person; and

(d) for the goods purchased from a dealer who has opted to pay tax under section 16;

(3) The amount of the tax credit to which a dealer is entitled in respect of the purchase of goods shall be the amount of input tax arising during the tax period as reduced in the manner specified in sub-sections (4) and (6).

(4) Where a dealer has purchased goods and the goods are to be used partly for the purpose of making the sales referred to in sub-section (1) and partly for other purposes, the amount of the tax credit shall be reduced proportionately.

(5) Every dealer shall determine, in fair and reasonable manner, the extent to which the goods are used in the manner specified in sub-section (4):

Provided that in case the Commissioner is of the opinion that the manner determined by the dealer is not fair and reasonable, he may—

(a) after recording the reasons in writing, reject the method adopted by the dealer and calculate the amount of tax credit after determining such extent in a fair and reasonable manner; or

(b) in consultation with the Government, specify, by notification, the methods for calculating the amount of tax credit or the amount of any adjustment or reduction of a tax credit in a case or a class of cases.

(6) Where—

(a) a dealer has purchased goods (other than capital goods) for which a tax credit arises under sub-section (1); and

(b) the goods so purchased or goods manufactured out of such goods so purchased are to be exported from Daman and Diu, by way of transfer to a---

(i) consignment agent who is not residing in Daman and Diu and such transfer is not by way of sale in the Daman and Diu; or

(*ii*) branch of the dealer when such branch is located outside Daman and Diu and such transfer is not by way of sale in the Daman an Diu,

the amount of the tax credit shall be reduced by such percentage as may be prescribed.

(7) No tax credit shall be allowed under this section for-

(a) the purchase of goods from an unregistered dealer;

(b) the purchase of goods which are used exclusively for the manufacture, processing or packing of goods specified in the First Schedule.

(8) The tax credit shall be claimed by a dealer only if he possesses a tax invoice at the time, prescribed under section 26 or section 27, for filing the return for the tax period.

Explanation .--- For the removal of doubts, it is hereby declared that---

(i) tax credits arising under this section shall be allowed only for-

(a) a purchase, including a purchase under an instalment sale and hirepurchase of goods, made on and after the date of commencement of this Regulation; or

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(b) a purchase by way of the acquisition of a right to use goods, to the extent that the right to use goods is exercised after the date of commencement of this Regulation;

(*ii*) Nothing contained in this section shall prevent any person from claiming tax credit allowed under section 14.

10. (1) Where any purchaser has been provided by the seller with a credit note or debit note under section 51 or if he returns or rejects goods purchased, as a consequence of which the tax credit, claimed by him in any tax period in respect of which the purchase of goods relates, becomes short or excess, he shall compensate such shortfall or excess by adjusting the amount of the tax credit allowed to him in respect of the tax period in which the credit note or debit note had been issued or goods are returned.

(2) If goods which have been purchased were,—

(a) intended to be used for any of the purposes specified under sub-section (1) of section 9 but are subsequently used, fully or partly, for purposes other than those specified under the said sub-section; or

(b) intended for purposes other than those specified under sub-section (1) of section 9, but are subsequently used, fully or partly, for any of the purposes specified in the said sub-section,

the tax credit claimed in respect of such purchase shall be reduced or increased, as the case may be, for the tax period during which the said utilisation has taken place.

(3) Where----

(a) the goods were purchased by a dealer;

(b) the dealer claimed a tax credit in respect of the goods, and the amount of tax credit has not been reduced under sub-section (6) of section 9; and

(c) the goods are exported from Daman and Diu, other than by way of a sale, to a branch of the dealer or to a consignment agent,

the dealer shall reduce, by the proportion prescribed under sub-section (6) of section 9, the amount of tax credit initially claimed by him.

(4) If goods, which have been purchased by a dealer,---

(a) were intended to be used for any of the purposes specified under sub-section (1) of section 9; and

(b) are subsequently used as a part of structure of a building owned or occupied by him,

the tax credit claimed in respect of such purchase shall be reduced in the tax period during which such use takes place.

Calculation of net tax.

11. (1) The net tax payable by a dealer for a tax period shall be the amount calculated by the formula given below:---

Net Tax = O - I - C

Where---

O = the amount of tax payable by the person at the rates specified in section 4 in respect of the taxable turnover arising during tax period, after making any adjustments to the tax as required by section 8;

I = the amount of the tax credit arising during the tax period to which the person is entitled under section 9, after making any adjustments to the tax credit as required

ljustment to

x credit.

C = the amount, if any, brought forward from the previous tax period under subsection (2).

(2) Where the net tax of a dealer calculated for a tax period under sub-section (1) amounts to a negative value, the dealer shall—

(a) adjust the said amount in the same tax period against the tax payable by him under the Central Sales Tax Act, 1956, if any; and

(b) carry forward the surplus amount, if any, after making adjustments under clause (a) to the next tax period within the same financial year.

(3) Where the net tax of the dealer at the end of the financial year is a negative value, the dealer shall be entitled to claim a refund of any excess amount of tax and the Commissioner shall deal with claim of refund in the manner specified in sections 38 and 39:

Provided that the dealer may opt to adjust the refund under this sub-section as a tax credit in any succeeding tax period falling in the next financial year.

12. (1) Subject to sub-sections (2), (3) and (4), the amount of the turnover and the turnover of purchases of a dealer during any tax period shall be the amount recorded in the books of account of the dealer, where those accounts are regularly and properly prepared and maintained, under this sub-section so as to give a true and fair view of his business.

(2) The Commissioner may, having regard to trade or accounting practice, by notification,---

(a) allow certain classes of dealer to record turnover on the basis of the amounts paid or received by such dealer; or

(b) require certain classes of dealer to record turnover on the basis of the amounts payable or receivable by such dealer.

(3) Where a dealer intends to change the method of determining the turnover and turnover of purchases, he shall make the change with the approval of the Commissioner and the Commissioner may grant such approval, subject to such terms and conditions as he may, having regard to trade or accounting practice, deem fit.

(4) The Government may prescribe the period for which turnover of a dealer, turnover of purchases made by a dealer and adjustment of tax or adjustment to a tax credit by a dealer shall be treated as arising for a class of transactions during that period.

CHAPTER III

SPECIAL PROVISIONS RELATING TO USED GOODS, COMPOSITION OF TAX, AND TRANSACTION BETWEEN RELATED PERSONS, ETC.

13. The provisions of this Chapter shall have effect, notwithstanding anything inconsistent therewith contained in any provisions of Chapter II.

14. (1) Within a period of four months of the commencement of this Regulation, all registered dealers desirous to claim the tax credit referred to in sub-section (2), shall furnish to the Commissioner a statement, in the form as may be prescribed, containing details of their trading stock, raw materials and packaging materials for trading stock (in this section referred to as "opening stock") which—

(a) is held in Daman and Diu on the date of the commencement of this Regulation;

(b) was purchased by the dealer after the 1st day of April, 2004.

(2) If---

(a) the dealer has furnished the statement referred to in sub-section (1);

Time at which turnover, turnover of purchases and adjustments arise.

Provisions of

this Chapter to override provisions of Chapter II.

Treatment of

stock brought forward during

transition.

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(b) the tax has been paid in respect of opening stock in accordance with the provisions of the Daman and Diu Sales Tax Act, 1964, as it stood before its repeal by 4 of 1964, section 106, at the point specified by the Government under section 8 of the said Act at full rate of tax specified in the Schedules to that Act; and

(c) the opening stock has been purchased by the dealer from a registered dealer for any of the purposes as are specified in sub-section (1) of section 9,

the amount of tax paid under the Daman and Diu Sales Tax Act, 1964, as it stood before its 4 of 1964. repeal by section 106, on such opening stock, determined in such manner and subject to such conditions and restrictions and to the extent as may be prescribed, shall be credited to the registered dealer as a tax credit under section 9:

Provided that no tax credit under this section shall be allowed unless the dealer has in his possession, invoices issued by a dealer registered under the Daman and Diu Sales Tax Act, 1964, as it stood before its repeal by section 106, in respect of the purchases of such 4 of 1964. stock:

Provided further that the dealer shall be eligible to claim the entire amount of credit to which he is entitled if such entire credit is indicated and claimed in a single statement, which accompanies a return furnished under this Regulation.

(3) No tax credit under sub-section (2) shall be claimed—

(a) for finished goods manufactured out of raw material or capital goods on which tax had been paid;

(b) for any goods, which were taxable at last point under the Daman and Diu Sales Tax Act, 1964 as it stood before its repeal by section 106, held at the time of the commencement of this Regulation;

(c) in any statement furnished after the expiry of four months after the commencement of this Regulation; or

(d) for opening stock which is held outside Daman and Diu.

(4) Every dealer, desirous to claim a tax credit for more than one lakh rupees in respect of the opening stock referred to in sub-section (1), shall furnish alongwith the statement a certificate signed by an accountant in the prescribed form certifying that the net credit claim specified in such statement is true and correct.

(5) Notwithstanding anything contained in section 3, if-

(a) a person was registered as a dealer under the Daman and Diu Sales Tax Act, 1964, as it stood before its repeal by section 106;

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(b) the person is not registered as a dealer under this Regulation in pursuance of section 24, and such person has not made an application for grant of certificate of registration as a dealer within one month of the date of the commencement of this Regulation; and

(c) on the date of the commencement of this Regulation, the dealer held opening stock of finished goods in respect of which tax has not been paid under the Daman and Diu Sales Tax Act, 1964, as it stood before its repeal by section 106,

the person shall be liable to pay tax under this Regulation at the rate or rates specified in section 4 on the fair market value of the opening stock of finished goods held on the date of the commencement of this Regulation.

(6) The tax due under sub-section (5) shall be paid within two months from the date of the commencement of this Regulation.

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15.(1) This section applies where ----

(a) a registered dealer sells used goods;

(b) the registered dealer has purchased goods from a resident seller who was not registered under this Regulation;

(c) the goods were purchased either as trading stock for re-sale without any alteration, or for use as raw materials;

(d) the registered dealer is liable to tax under section 3 on the sale of the goods or the goods which were manufactured after use of such goods as raw material or part of such goods so manufactured, as the case may be; and

(e) the registered dealer has sufficient proof of the amount paid for the goods.

(2) Subject to the provisions of sub-section (1), the registered dealer shall be entitled to an amount of tax credit which shall be the lowest of the following, namely:----

(a) the input tax borne by the seller who was residing in Daman and Diu when he purchased the goods;

(b) the tax fraction of the initial cost of the goods to the seller residing in the Daman and Diu;

(c) the tax fraction of the fair market value of the goods at the time of their purchase by the registered dealer;

(d) the tax fraction of the consideration paid by the registered dealer for the goods.

(3) Where the amount paid by the registered dealer for the goods exceeds two thousand rupees, the tax credit shall be allowed in the tax period during which such goods are sold by the registered dealer or the goods into which they have been used are sold by the registered dealer.

16. (1) Notwithstanding anything contained in this Regulation, every dealer, whose turnover in the year immediately preceding the commencement of this Regulation or in any subsequent year exceeds the taxable quantum under this Regulation but does not exceed twenty five lakh rupees or such other amount as may be specified by the Government by notification, shall have an option to pay tax under this section:

Provided that this section shall not apply to any dealer, who is registered as a dealer under the Central Sales Tax Act, 1956 or who procures goods from any place outside the Daman and Diu or sells or supplies goods to any place outside the Daman and Diu during the year in which he opts to pay tax under this section.

(2) Every dealer, referred to in sub-section (1), at the time of making an application for grant of certificate of registration under section 19, shall be required to specify whether he intends to pay tax under this section:

Provided that in case a dealer opts to pay tax under this section, he may, by an application made to the Commissioner within such time and in such manner as may be prescribed, withdraw his option at any time after the end of the year in which such option was made:

Provided further that in a case where a dealer withdraws his option to pay tax under this section, he shall be entitled to claim credit of the tax paid under this Regulation on the trading stock, raw material and packaging material held by him in the Daman and Diu on the date when such option was made subject to the condition or conditions specified in section 20 and applicable to such dealer.

(3) In case a person who intends to pay tax under this section and-

(a) who was registered under the Daman and Diu Sales Tax Act, 1964, at the time of the commencement of this Regulation;

Composition scheme for specified dealers.

Levy of tax and availing of tax credit on used goods.

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(b) whose turnover in the year preceding the commencement of this Regulation or any subsequent year exceeds the taxable quantum under this Regulation but does not exceed twenty five lakh rupees or such other amount as may be specified by the Government by notification,

he shall specify his intention, within such time and in such manner as may be prescribed, to pay tax under this section.

(4) Where a dealer opts or intends to pay tax under this section, net tax payable by the dealer shall be the amount determined at the rate of one per cent. of the turnover of the dealer.

(5) A dealer, who opts or intends to pay tax under this section shall,---

(a) not compute his net tax under section 11;

(b) not be entitled to claim credit under section 9 or section 14 or section 15;

(c) not be entitled to issue tax invoice;

(d) not collect any amount by way of tax under this Regulation; and

(e) retain tax invoices and retail invoices for all of his purchases, as required under section 48.

(6) Every dealer, who opts or intends to pay tax under this section, shall be required to pay tax on the trading stock, raw material, packaging material (in this sub-section referred to as "opening stock") and finished goods,—

(a) in the case of a dealer referred to in sub--section (3), held on the date of the commencement of this Regulation; or

(b) in the case of any other dealer, on the date on which he exercises his option or specifies intention under this section,

at the rates specified in section 4 on the fair market value of such opening stock and finished goods where no tax has been paid which was payable on such opening stock and finished goods under the Daman and Diu Sales Tax Act, 1964, repealed by section 106 or under this 4 Regulation.

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(7) Every dealer shall pay the tax due under sub-section (6) at any time before he opts to pay tax under this section.

(8) Every dealer, who opts or intends to pay tax under this section, shall furnish to the Commissioner the proof of payment of tax referred to in sub—section (6) along with a statement of opening stock and finished goods, in such form as may be prescribed.

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(a) a registered dealer enters into a transaction with the related person for sale of goods or sells or gives otherwise goods without adequate consideration to a related person; or

(b) the terms or conditions of such transaction or sale or giving of goods have been influenced by seller being related with such person,

the dealer shall not be entitled to a tax credit for the purchase of the goods or he shall be entitled to the proportionately reduced tax credit under sub—section (3) of section 9 and the transaction or sale or giving of goods shall be deemed to be a sale made by the registered dealer and the sale price of the goods shall be deemed to be their fair market value.

CHAPTER IV

REGISTRATION AND SECURITY

18. (1) Every dealer shall apply for grant of certificate of registration under this Regulation if -

(a) the turnover of the dealer in the year immediately preceding the commencement of this Regulation exceeded the taxable quantum; or

(b) the turnover of the dealer in the year during which this Regulation comes into force or any year thereafter, exceeds the taxable quantum; or

(c) the dealer is liable to pay tax, or is registered or required to be registered under the Central Sales Tax Act, 1956:

Provided that a dealer dealing exclusively in goods mentioned in the First Schedule shall not be required to obtain certificate of registration under this Regulation.

(2) For the purposes of this Regulation, "taxable quantum" of a dealer shall be five lakh rupees, or such other amount as may be specified, by the Government, by notification:

Provided that in the case of a dealer who imports for sale any goods into the Daman and Diu, the taxable quantum shall be "Nil" or such other amount as may be specified, by notification, by the Government.

(3) For the purposes of this section, in case of dealers involved in execution of works contracts, the taxable quantum shall be calculated with reference to the total contract amount received.

(4) The taxable quantum of a dealer shall not include turnover from-

(a) the sales of capital assets;

(b) the sales made in the course of winding up business of the dealer.

(5) Any person, who is not required by sub-section (1) to be registered, but who is a dealer; or intends from a particular date to undertake the business which would make him a dealer, may apply for grant of certificate of registration.

19. (1) An application for grant of certificate of registration shall, be made in the prescribed form, within such time, and containing such particulars and information and be accompanied by such fee, security and other documents as may be prescribed.

(2) The Administrator may, by order to be published in the Official Gazette, specify certain classes of persons who may not be required to furnish a security.

(3) Where---

(a) an applicant furnishes, in the prescribed manner, the security for the amount as may be prescribed; and

(b) all requirements and provisions of this Regulation for grant of certificate of registration have been complied with,

such applicant shall be granted a certificate of registration under this Regulation.

(4) Where the certificate of registration has not been granted to the applicant within fifteen days from the date on which the application is made, the Commissioner shall, after making such inquiries as he deems fit; either—

(a) grant certificate of registration forthwith to the applicant; or

(b) issue a notice to the applicant, clearly stating the grounds on which his application is proposed to be rejected and allowing him to show cause in writing, within further fifteen days, why his application should not be rejected:

Registration.

Compulsory and voluntary registration.

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Provided that where the certificate of registration has not been granted to the applicant or such applicant has not been issued a notice by the required date, the applicant shall be deemed to be registered for the purposes of this Regulation, and the Commissioner shall grant a certificate of registration to such applicant.

(5) Where the applicant submits a reply to the notice, under clause (b) of sub-section (4), the Commissioner may, either accept the application and grant a certificate of registration to the applicant, or reject the application for reasons to be recorded in writing.

(6) If the applicant fails to submit any reply to the notice issued under clause (b) of sub-section (4) within the stipulated time, the application for grant of certificate of registration shall stand rejected.

(7) Where a registered dealer has furnished a security as a condition for grant of certificate of registration, such security shall be necessary for the continuance in effect of the certificate of registration, unless otherwise provided by the Commissioner.

20. (1) If a certificate of registration is granted at any time after the commencement of this Regulation and—

(a) the dealer holds trading stock for the purpose of sale, or for use as raw materials for the production of trading stock;

(b) the dealer has paid input tax on the purchase of the trading stock or raw materials;

(c) the dealer furnishes a statement of its trading stock and raw materials in the prescribed form to the Commissioner; and

(a) the dealer possesses sufficient proof of the amount of input tax in respect of the purchases,

such dealer shall be entitled to a tax credit for the trading stock or raw materials held by the dealer on the date on which the certificate of registration come into force:

Provided that the dealer shall claim the entire amount of tax credit to which he is entitled, in a single claim which accompanies the first return furnished by the dealer under this Regulation.

(2) For the purposes of sub-section (1), the amount of the tax credit shall be the least of the following, namely:—

(a) the amount of input tax disclosed in the proof referred to in clause (d) of subsection (I); or

(b) the tax fraction of the cost of the goods; or

or

(c) the tax fraction of the fair market value of the goods at the time of registration;

(d) the amount specified under sub-section (3) of section 9.

(3) Where the registered dealer specifies in his books of account the turnover on the basis of amounts received and amounts paid, he shall exclude from his turnover—

(a) any amount received after he has been granted a certificate of registration in respect of sales made and such amount relates to the period during which he had not been granted a certificate of registration under this Regulation; and

(b) any amount paid after he is registered in respect of purchases made and such amount relates to the period during which he had not been granted a certificate of registration under this Regulation.

Effect of registration.

Amendment of registration.

Cancellation of certificate

of registration.

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21. (1) A registered dealer shall inform, the Commissioner in the prescribed manner, within one month, if he—

(a) sells or otherwise disposes of his business or any part of his business or any place of business, or effects, or comes to know of, any other change in the ownership of the business; or

(b) discontinues his business or changes his place of business or warehouse, or opens a new place of business, or closes the business for a period of more than one month; or

(c) changes the name, style, constitution or nature of his business; or .

(d) enters into partnership or other association in regard to his business or adds, deletes or changes the particulars of the persons having interest in his business.

(2) If any such registered dealer dies, his legal representative shall, in like manner specified under sub-section (1), inform the Commissioner.

(3) The Commissioner may, after considering any information furnished under this Regulation or otherwise received and after making such inquiry as he may deem fit, amend from time to time any certificate of registration granted under this Regulation.

(4) An amendment to certificate of registration made under sub-section (3) shall take effect from the date of contingency which necessitates the amendment whether or not information in that behalf is furnished within the time prescribed under sub-section (1).

(5) Any amendment to a certificate of registration under this section shall be without prejudice to any liability for tax or interest or penalty imposable or for any prosecution for an offence under this Regulation.

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

(a) effects a change to the nature of the goods ordinarily sold; or

(b) is a firm and there is a 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 Hindu undivided family and the business of such family is converted into a partnership business with all or any of the members of the family as partners thereof; or

(e) is a firm or a company or a trust or other organisation, and a change occurs in the management of the organisation,

then, merely by reason of the circumstances aforesaid, it shall not be necessary for the registered dealer to apply for a fresh certificate of registration and on information being furnished the certificate of registration shall be amended.

22. (1) Where---

(a) a registered dealer, who is required to furnish security under the provisions of this Regulation, has failed to furnish or maintain such security; or

(b) a registered dealer has ceased to carry on any activity or business which would entitle him to be registered as a dealer under this Regulation; or

(c) an incorporated body has been wound up or otherwise ceases to exist; or

(d) the owner of a proprietorship business dies leaving no successor to carry on the business; or

(e) in the case of a firm or association of persons, it is dissolved; or

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(f) registered dealer has ceased to be liable to pay tax under this Regulation; or

(g) a registered dealer knowingly furnishes a return which is misleading or deceptive in a material particular; or

(h) a registered dealer has committed one or more offences or contravened the provisions of this Regulation; or

(i) the Commissioner, after conducting proper inquiries, is of the view that it is necessary to do so,

the Commissioner may, after service of a notice in the prescribed form and after giving the dealer an opportunity of being heard, cancel the certificate of registration of the dealer with effect from the date, as may be, specified by him in the notice.

(2) Where---

(a) a registered dealer has ceased to carry on any activity which would entitle him to be registered as a dealer under this Regulation; or

(b) an incorporated body has been wound up or otherwise ceases to exist; or

(c) the owner of a proprietorship business dies leaving no successor to carry on business; or

(d) in the case of a firm or association of persons, it is dissolved; or

(e) a registered dealer has ceased to be liable to pay tax under this Regulation,

the registered dealer or the dealer's legal representative in case of clause (c) above, shall make an application for cancellation of his certificate of registration to the Commissioner in the manner and within the time as may be prescribed.

Explanation.— For the purpose of this sub-section, "legal representative" has the same meaning as assigned to it in clause (11) of section 2 of the Code of Civil Procedure, 1908.

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(3) On receipt of such application, if the Commissioner is satisfied that the dealer has ceased to be entitled to be registered, he may cancel the certificate of registration.

(4) If a registered dealer ceases to be registered, the Commissioner shall cancel the certificate of registration of the dealer.

(5) If certificate of registration of a dealer, which has been cancelled under this section, has been restored as a result of an appeal or other proceeding under this Regulation, the certificate of registration of such dealer shall be restored and he shall be liable to pay tax as if his registration had never been cancelled.

(6) If any registered dealer, whose certificate of registration has been restored under sub-section (5), satisfies the Commissioner that an excess tax has been paid by him during the period of his certificate of registration was not in force which, but for the cancellation of his certificate of registration, he would not have paid, then the amount of such tax shall be adjusted or refunded in such manner, as may be prescribed.

(7) Every registered dealer, who applies for cancellation of his certificate of registration, shall surrender with his application the certificate of registration granted to him and every registered dealer whose certificate of registration is cancelled otherwise than on the basis of his application shall surrender the certificate of registration within seven days of the date of communication to him of the cancellation.

(8) The Commissioner shall, at intervals not exceeding three months, publish in the Official Gazette, such particulars as may be prescribed, of registered dealers whose certificate of registration has been cancelled.

(9) The cancellation of certificate of registration shall not affect the liability of any person to pay tax due for any period and unpaid as on the date of such cancellation or which is assessed thereafter notwithstanding that he is not otherwise liable to pay tax under this Regulation.

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23. (1) Every person, whose certificate of registration has been cancelled, shall pay in respect of all goods held on the date of cancellation an amount equal to the amount of -

(a) the tax which would be payable in respect of those goods if the goods were sold at their fair market value on that date; or

(b) the tax credit previously claimed in respect of those goods,

whichever is higher.

(2) Where the dealer has specified in his books of account the turnover on the basis of amounts received and amounts paid, he shall include in the turnover of his last return—

(a) any amount not yet received in respect of sales made while he was registered as a dealer under this Regulation; and

(b) any amount not yet paid in respect of purchases made while he was registered as a dealer under this Regulation.

24. (1) Every dealer-

(a) who has been registered under the Daman and Diu Sales Tax Act, 1964, on or before the commencement of this Regulation; and

(b) whose turnover, in the year preceding the year in which this Regulation comes into force, exceeds the taxable quantum,

shall be deemed to be registered under this Regulation from the date on which this Regulation comes into force.

(2) The security furnished by a dealer registered under the Daman and Diu Sales Tax Act, 1964, and such security being valid on the date of the commencement of this Regulation, shall be deemed to have been furnished under this Regulation and shall be valid under this Regulation for a period of six months from the commencement of this Regulation or till a fresh security as required under sub-section (3) is furnished, whichever is later.

(3) Every dealer referred to in sub-section (1) shall, within a period of six months of the commencement of this Regulation, be required to furnish a fresh security under this Regulation:

Provided that the Commissioner may, having regard to the financial position of the dealer and any other matter which the Commissioner considers relevant, by notification, exempt a class or classes of dealers from the requirement of furnishing a fresh security under this sub-section.

25. (1) The Commissioner may, for the purpose of —

(a) granting a certificate of registration to a person as a dealer; or

(b) making a refund under section 38,

require such person to furnish security, for the proper discharge of obligations by him under this Regulation or under the Central Sales Tax Act, 1956, for such amount equivalent to the amount which may be prescribed and in the manner and within such time, as may be prescribed.

(2) Notwithstanding anything contained in sub-section (1), the Commissioner may increase, reduce or waive the prescribed amount of the security, having regard to—

(a) the nature and size of the business activities of the person;

(b) the amount of any tax, interest or penalty for which the person may be, or is likely to become, liable at any time under this Regulation;

(c) the creditworthiness of the person;

Effect of cancellation of certificate of registration.

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Registration during transition.

Requirement of furnishing security.

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(d) the nature of the security; and

(e) any other matter which the Commissioner considers relevant.

(3) Where the security or additional security furnished by a person is in the form of a surety bond and the surety dies or becomes insolvent, the person shall, within one month of the occurrence of such event, inform the death or insolvency of such surety to the Commissioner and execute a fresh surety bond within three months of such occurrence.

(4) Where the surety bond has been executed in favour of a person by another registered dealer and the certificate of registration of such dealer has been either cancelled or he has closed down his business, the person shall furnish a fresh surety as may be prescribed and in the manner as stated in sub-section (3).

(5) The Commissioner may, for good and sufficient cause, order the forfeiture of the whole or any part of the security furnished by a person.

(6) Where the security furnished by any person is forfeited in whole or is rendered insufficient, he shall furnish a fresh security of the requisite amount or, as the case may be, shall make up the deficiency in such manner and within such period as may be specified.

CHAPTER V

Returns

26. Every registered dealer, who is liable to pay tax under this Regulation, shall furnish to the Commissioner such returns in the prescribed form for each tax period and by such dates as may be prescribed.

27. In addition to the returns specified in section 26, the Commissioner may require any person (including an agent or trustee of such person), whether a registered dealer or not, to furnish him with such other returns as the Commissioner may specify and such other returns shall be furnished within such time and in such form as may be prescribed.

28. (1) If, within four years of the making of an assessment, any person discovers any mistake or error in any return furnished by him under this Regulation, and he has, as a result of the mistake, or error, paid less tax than was due under this Regulation, he shall, within one month after the discovery, furnish a revised return and pay the tax owed and interest thereon.

(2) If, within four years of the making of an assessment, any person discovers any mistake or error in any return furnished by him under this Regulation, and he has, as a result of the mistake or error, paid more tax than was due under this Regulation, he may file an appeal against the assessment in the manner and subject to the conditions stipulated in section 74,

29. (1) Every return under this Chapter shall be signed and verified---

(a) in the case of an individual, by the individual himself, and where the individual is absent from India, either by the individual or by some person duly authorised by him in this behalf and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;

(b) in the case of a Hindu undivided family, by a Karta and where the Karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family;

(c) in the case of a company or local authority, by the principal officer thereof;

(d) in the case of a firm, by any partner thereof, not being a minor;

(e) in the case of any other association, by any member of the association or persons;

(f) in the case of a trust, by the trustee or any trustee; and

Furnishing of periodical returns.

Furnishing of other returns.

Furnishing of revised return for rectification of mistake.

Signing returns.

(g) in the case of any other person, by some person competent to act on his behalf.

(2) For the purposes of this section,----

(a) the expression "principal officer" shall have the meaning assigned to it under clause (35) of section 2 of the Income-tax Act, 1961;

(b) any return signed by a person, who is not authorised under this section, to sign and verify the return, shall be treated as if no return has been furnished.

CHAPTER VI

Assessment and Payment of tax, interest and penalties and making refunds

30. The Commissioner shall direct any person to pay any amount of tax, interest or penalty or other amount due under this Regulation after making of an assessment for such amount payable by such person.

31. (1) Where a return is furnished by a person as required under section 26 or section 27 and which contains the prescribed information and accompanies the relevant documents required to be accompanied under this Regulation and such person has complied with the other requirements specified under this Regulation and the rules and orders made thereunder, an assessment of the tax payable of the amount specified in the return shall be deemed to have been made, under this Regulation, on the day on which such return was furnished.

(2) No assessment shall be deemed to have been made under sub-section (1), if the Commissioner has already made an assessment of tax in respect of the same tax period under any other provision of this Regulation.

32. (1) If any person—

(a) has not furnished returns required under this Regulation by the prescribed date; or

(b) has furnished incomplete or incorrect returns; or

(c) has furnished a return which is not accompanied by the documents required to be filed along with the return under this Regulation or rules made thereunder; or

(d) has furnished a return which is not in comformity with the provisions of this Regulation or rules made thereunder,

the Commissioner may, for reasons to be recorded in writing, assess or re-assess to the best of his judgment the amount of net tax due for any tax period or tax periods.

(2) Where the Commissioner has made an assessment under sub-section (1), the Commissioner shall forthwith serve on concerned person a notice of assessment of the amount of any additional tax due for that tax period.

(3) Where the Commissioner has made an assessment under sub-section (1) and subsequently any further tax is assessed as due, the amount of further tax so assessed as due shall also be payable on the same date being the date on which the net tax for the tax period was due.

33. (1) Where the Commissioner has reason to believe that a liability to pay a penalty under section 86 has arisen, the Commissioner, after recording the reason in writing, shall serve on the person concerned a notice of assessment of the penalty which has become due under this Regulation.

(2) The amount of any penalty assessed under this section shall become due on the date on which the notice of assessment has been served by the Commissioner.

Default assessment of iax payable.

Assessment of tax, interest or

penalty.

Self assessment.

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Limitation on assessment and reassessment. 24

34. (1) No assessment or re-assessment shall be made by the Commissioner after the expiry of four years from—

(a) the date on which the person furnished a return under section 26 or sub-section (I) of section 28; or

(b) the date on which the Commissioner made an assessment of tax under section 32,

whichever is the earlier:

Provided that where the Commissioner has reason to believe that tax was not paid by reason of concealment, omission or failure to disclose material particulars on the part of the person, the assessment or re-assessment may be made by the Commissioner within six years from the dates specified in clause (a) or clause (b), as the case may be.

(2) Notwithstanding anything contained in sub-section (1), the Commissioner may make an assessment of tax within one year from the date of any decision of the Appellate Tribunal or court where the assessment is required to be made in consequence of, or to give effect to, the decision of the Appellate Tribunal or court which requires the re-assessment of the person.

35. (1) Subject to the provisions of sub-sections (2) and (4), where an amount of tax or penalty has been assessed under section 32 or section 33, the Commissioner may not proceed to enforce payment of the amount assessed until two months after the date of service of the notice of assessment.

(2) Where a person has made an appeal to an assessment or part of an assessment in the manner provided in section 74, the Commissioner shall not enforce the payment of any amount in dispute under that assessment until the appeal is decided by the Commissioner.

(3) Nothing in this section shall stay any proceedings by the Commissioner or before a court for the recovery of any amount due under this Regulation—

(a) which are not the subject of a dispute before the Commissioner; or

(b) which has not been stayed by the Appellate Tribunal or Court.

(4) Notwithstanding anything contained in sub-section (1), where an amount of tax or penalty has been assessed by the Commissioner and he is satisfied that it may not be possible to recover the amount assessed if collection of such amount is delayed, or it will be detrimental to revenue if the full period of two months referred to in sub-section (1) is allowed, the Commissioner may specify a date in the notice of assessment as the date being earlier than said two months after the date of service of the notice of assessment.

36. Every person, liable to pay tax, interest, penalty or any other amount under this

Manner of payment of tax, penalties and interest.

Order of application of payments. manner as may be prescribed.
37. Where an amount of tax, interest, or penalty is payable by any person under this Regulation and such person pays in part, or the Commissioner recovers in part, an amount of such tax, interest, or penalty due under this Regulation, the amount of tax, interest, or penalty so paid or recovered shall be adjusted from interest, penalty and tax payable under this Regulation and thereafter from the interest, penalty and tax payable under the Central Sales

Regulation, shall pay the amount to the Government Treasury of Daman and Diu, or a branch

in Daman and Diu of a bank which may be prescribed, or at such other place or in such other

Tax Act, 1956 if such interest, penalty and tax payable relate to the sale of goods from the Daman and Diu under that Act.
 38. (1) Subject to the other provisions of this section and the rules made thereunder, the Commissioner shall refund to a person the amount of tax, penalty and interest, if any, paid by such person in excess of the amount assessed or deemed to have been assessed and due

Collection of assessed tax and penalties.

Refunds.

from him.

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(2) Before making any refund, the Commissioner shall first apply such excess referred to in sub-section (1) towards the recovery of any other amount due under this Regulation, or thereafter from the dues under the Central Sales Tax Act, 1956 if such dues relate to sale of goods from the Daman and Diu under that Act.

(3) Subject to the provisions of sub-section (4), any amount remaining at the end of the financial year after the application of the excess amount referred to in sub-section (2) shall, at the option of the dealer, either—

(a) be refunded to the person within one year after the date on which the claim was made for the refund; or

(b) be carried forward to the next tax period as a tax credit in that period.

(4) Where the Commissioner has issued a notice to the person under section 58 informing him that an audit, investigation or inquiry into his business affairs shall be undertaken, the excess amount referred to in sub-section (2) shall be carried forward to the next tax period as a tax credit in that period.

(5) The Commissioner may, as a condition of the payment of a refund under this section, demand security from the person pursuant to the powers conferred in section 25.

(6) Notwithstanding anything contained in this section, where-

(a) a registered dealer has sold goods to a person who is not registered as a dealer under this Regulation;

(b) the price charged for the goods includes an amount of tax payable under this Regulation; and

(c) the dealer claims refund of this amount or to apply this amount under clause (b) of sub-section (3),

no amount shall be refunded to the dealer or may be applied by the dealer under clause (b) of sub-section (3) unless the Commissioner is satisfied that the dealer has refunded the amount to the purchaser.

(7) Where--

(a) a registered dealer (hereafter referred to as seller) has sold goods to another registered dealer (hereafter referred to as the buyer); and

(b) the price charged for the goods expressly includes an amount of tax payable under this Regulation,

the amount of tax may be refunded to the seller or may be applied by the seller under clause (b) of sub-section (3) and in that case the Commissioner may reassess the buyer to disallow him the amount of the corresponding tax credit claimed by such buyer, whether or not the seller refunds the amount to the buyer.

(8) Where a registered dealer sells goods and the price charged for the goods expressly indicate inclusion of an amount of tax payable under this Regulation, the amount of the tax may be refunded to the seller or may be applied by the seller under clause (b) of sub-section (3) without the seller being required to refund an amount of the tax to the purchaser.

(9) Notwithstanding anything contained in this section, if a registered dealer has filed any return as required under this Regulation and the return shows any amount of the tax as refundable to the dealer on account of sales in course of export out of the territory of India, then, the dealer may apply in the manner and form prescribed, to the Commissioner for grant of provisional refund pending audit and investigation to establish the correctness of the claim and consequent assessment, if any, subject to the provisions of sub-section (10).

(10) Subject to the provisions of sub-section (3), the Commissioner may require the dealer to furnish a bank guarantee or other security, as may be prescribed, for an amount

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equal to the amount of refund of tax and on receipt of such guarantee or other security, the Commissioner shall grant the dealer a provisional refund which may be determined as refundable within ninety days of application of claim of such refund.

(11) The Commissioner may direct the assessment or reassessment of such dealer in respect of the year containing the period covered by the said return as expeditiously as possible and adjust the grant of provisional refund against tax due, if any, as a result of such assessment.

(12) If, on assessment or reassessment, the provisional refund granted under subsection (2) is found to be in excess, then the excess shall be recovered as if it is tax due from the dealer under this Regulation.

(13) In a case the excess amount of tax has been refunded under sub-section (3), the interest shall be payable on such excess amount at the rate of two per cent. per month from the date of grant of provisional refund till the date of assessment or reassessment, as the case may be.

39. (1) Where a person is entitled to a refund and any proceeding under this Regulation is pending against him, or a notice under section 58 had been issued and assessment or reassessment in pursuance of the notice is pending and the Commissioner is of the opinion that payment of such refund is likely to adversely affect the revenue and that it may not be possible to recover the amount later, the Commissioner may for reasons to be recorded in writing, either obtain a security equal to the amount to be refunded to the person or withhold the refund till such time the proceeding or the assessment or re-assessment has been concluded or made.

(2) Where a refund is withheld under sub-section (1), the person shall be entitled to interest as provided under sub-section (1) of section 42 if, as a result of the appeal, or any other proceeding he becomes entitled to the refund.

40. (1) No person who is not a registered dealer shall collect in respect of any sale of goods by him in Daman and Diu any amount by way of tax under this Regulation and no registered dealer shall make any such collection except in accordance with this Regulation and the rules made thereunder and at the rates specified under this Regulation.

(2) Tax collected by a person who is not a registered dealer shall, without prejudice to any penalty or prosecution under this Regulation, stand forfeited to the Government.

Refund of tax for Embassies, officials, international and public organizations.

Interest.

41. (1) The Embassies, diplomatic officials and international or public organisations specified in the Fifth Schedule shall be entitled to claim a refund of tax paid on goods purchased in the Daman and Diu, subject to such restrictions and conditions as may be prescribed.

(2) Any person entitled to a refund under sub-section (1) may apply to the Commissioner in the manner and within the time, as may be prescribed.

42. (1) (a) A person entitled to a refund under this Regulation, shall be entitled to receive, in addition to the refund, simple interest at such rate, as may be notified by the Government from time to time.

(b) The simple interest at the rate specified under sub-section (1) shall be calculated from —

(i) the date from which the refund was due to be paid to the person; or

(ii) the date on which the person paid the excess amount;

whichever is later, and such interest shall be calculated upto the date on which the refund is given.

(c) The interest shall be calculated on the amount of refund due after deducting therefrom any tax, interest, penalty or any other dues under this Regulation, or under the Central Sales Tax Act, 1956, if such dues relate to the sale of goods from Daman and Diu.

Power to withhold refund in certain cases.

Collection of

tax only by

registered

dealers.

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(d) If the amount of such refund is enhanced or reduced, as the case may be, such interest shall be enhanced or reduced accordingly.

(e) If the delay in granting the refund is attributable to the said person, whether wholly or in part, the period of the delay attributable to him shall be excluded from the period for which the interest is payable.

(2) When a person is in default in making the payment of any tax, penalty or other amount due under this Regulation, he shall, in addition to the amount assessed, be liable to pay simple interest on such amount at such rate, as may be notified by the Government from time to time from the date of such default until he makes such payment of tax, penalty or other amount.

(3) Where the amount of tax (including any penalty due) is wholly reduced, the amount of interest, if any, paid shall be refunded, or if such amount is varied, the interest due shall be calculated accordingly.

(4) Where the collection of any amount is stayed by the order of the Appellate Tribunal or any court or any other authority and the order is subsequently vacated, interest shall be payable for any period during which such order remained in operation.

(5) The interest payable by a person under this Regulation may be collected as tax due under this Regulation and shall be due and payable on and from the date on which the obligation to pay the interest has arisen.

CHAPTER VII

RECOVERY OF TAX, INTEREST AND PENALTIES

43. (1) The amount of any tax, interest, penalty or other amount due under this Regulation shall be paid in the manner specified in section 36 and a notice of assessment served on the person for such an amount shall constitute a demand for payment of the amount stated in the assessment by the time stipulated in the notice of assessment.

(2) On an application made before the expiry of the period under section 35, the Commissioner may, in respect of any dealer or person and for reasons to be recorded in writing, extend the time for payment or allow payment by instalments, subject to such conditions as he may think fit to impose in the circumstances of the case.

(3) Any amount of tax, interest or penalty or other amount due under this Regulation which remains unpaid, shall be recoverable as arrears of land revenue.

(4) Where security, other than in the form of surety bond, has been furnished under the Regulation, the Commissioner may, for reasons to be recorded in writing, recover any amount of tax, interest, penalty or other amount due or part thereof by ordering the forfeiture of the whole or any part of the security.

(5) Where any security tendered for the purposes of this Regulation is to be sold, it shall be sold in the manner stipulated in section 63.

44. For the purposes of recovery of any amount recoverable as arrears of land revenue under this Regulation, the provisions of the Goa, Daman and Diu Land Revenue Code, 1968, or any other law made applicable to Daman and Diu as to the recovery of arrears of land revenue in the Daman and Diu shall, notwithstanding anything contained in that Act or in any other enactment, be deemed to be in force throughout the Daman and Diu.

45. Where an assessment or notice of demand in respect of any tax, penalty or other amount payable under this Regulation (hereinafter in this section referred to as "Government dues") is served upon any person and any appeal has been filed by the person against the assessment or demand for such government dues, then---

(a) if the appeal is disallowed in whole or in part, any recovery proceedings taken for the recovery of such Government dues before the making of the appeal, may,

Application of Goa, Daman and Diu Land Revenue Code, 1968 for purposes of recovery.

Continuation of certain recovery proceedings.

Recovery of tax.

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without the service of any fresh assessment or notice of demand, be continued from the stage at which such recovery proceedings stood immediately before the person filed the appeal; and

(b) where such Government dues are reduced in any appeal-

(i) it shall not be necessary for the Commissioner to serve upon the person a fresh assessment or notice of demand; and

(*ii*) the Commissioner shall give intimation of such reduction to him and to the person with whom recovery proceedings are pending.

46. (1) Notwithstanding anything contained in any law or contract to the contrary, the Commissioner may, at any time, by notice in writing, a copy of which shall be forwarded to the person at his last known address, require, —

(a) any person from whom any amount of money is due, or may become due, to the person (in this section called "the taxpayer") liable to pay tax, interest or penalties under section 45, or

(b) any person who holds or may subsequently hold money, for or, on account of, the taxpayer,

to pay, either forthwith upon the money becoming due or being held or within the time specified in the first mentioned notice (but not before the money becomes due or is held as aforesaid) so much of the money as is sufficient to pay the amount due by the taxpayer in respect of the arrears of tax, interest and penalty under this Regulation, or the whole of the money when it is equal to or less than that amount.

Explanation.— For the purposes of this sub-section, the amount due to a taxpayer from, or money held for or on account of a taxpayer by any person, shall be calculated by the Commissioner after deducting therefrom such claims, if any, lawfully subsisting, as may have fallen due for payment by such taxpayer to such person.

(2) The Commissioner may amend or revoke any such notice referred to in this section or extend the time for making any payment in pursuance of the notice.

(3) Any person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the taxpayer, and the receipt thereof by the Commissioner shall constitute a good and sufficient discharge of the liability of such person to the extent of the amount specified in the receipt.

(4) Any person discharging any liability to the taxpayer after receipt of the notice referred to in this section, shall be personally liable to the Commissioner to the extent of the liability discharged or to the extent of the liability of the dealer for tax and penalty, whichever is less.

(5) Where a person to whom a notice under this section is sent, proves to the satisfaction of the Commissioner that the sum demanded or any part thereof is not due to the taxpayer or that he does not hold any money for or on account of the taxpayer, then, nothing contained in this section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, to the Commissioner.

(6) Any amount of money which the aforesaid person is required to pay to the Commissioner, or for which he is personally liable to the Commissioner under this section shall, if it remains unpaid, be recoverable as if arrears of land revenue.

(7) The Commissioner may apply to the court in whose custody there is money belonging to the taxpayer for payment to him of the entire amount of such money or if it is more than the tax, interest and penalty, if any, due, an amount sufficient to discharge such tax and the penalty.

Special mode of recovery.

Transfer of assets during

void.

pendency of

proceedings

Accounts and records

CONTRACTOR OF BUSINESS

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47. Where, during the pendency of any proceedings for the recovery of an amount due by a person under this Regulation, that person creates a charge on, or parts with the possession by way of sale, mortgage, gift or exchange or any other mode of transfer whatsoever, any of his assets in favour of any other person, such charge or transfer shall be void against any claim by the Commissioner in respect of the amount which is the subject of proceedings, unless the other person—

(a) acted bona fide and without notice of the recovery proceedings; and

(b) has paid the fair market value for the assets.

CHAPTER VIII

ACCOUNTS AND RECORDS

48. (1) Every----

(a) dealer; and

(b) person on whom a notice has been served to furnish returns under section 27,

shall prepare and retain sufficient records to allow the Commissioner to ascertain the amount of tax due under this Regulation, and to explain all transactions, events and other acts engaged in by the person that are relevant for any purposes of this Regulation.

(2) Notwithstanding the generality of sub-section (1)—

(a) every registered dealer shall preserve a copy of all tax invoices issued by him;

(b) every dealer shall preserve the original of all tax invoices received by him; and

(c) every person who has paid an amount of tax, interest, penalty or other amount due under this Regulation, shall preserve a copy of the challan evidencing the making of the payment.

(3) Every dealer shall prepare and maintain the accounts and records in the manner and form as may be prescribed.

(4) If the Commissioner considers that such records are not properly maintained to enable him to ascertain discharge of the obligations by the person under this Regulation, he may require such person by notice in writing to maintain such accounts (including records of purchases and sales) as may be specified in the notice.

(5) The Commissioner may, by notification, direct any class of dealers, transporters or operators of warehouses to maintain such accounts (including records of purchases and sales) as may be specified in the notification.

(6) Every person required to prepare or preserve accounts and records shall retain the required accounts and records for seven years after the conclusion of the events or transactions which they record unless any proceedings in respect of any event or transaction is pending in that case they shall be preserved till the final decision in those proceedings.

(7) Any loss, if any, of accounts and records referred to in sub-section (6) shall be reported to the Police and the Commissioner within a period of fifteen days from the date of such loss.

49. If in respect of any particular year, the gross turnover of a dealer exceeds forty lakh rupees or such other amount as may be prescribed, then, such dealer shall get his accounts in respect of such year audited by an accountant within six months from the end of that year and obtain within that period a report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed and a true copy of such report shall be furnished by such dealer to the Commissioner by the prescribed date.

Accounts to be audited in certain cases.

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Tax invoices.

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50. (1) A registered dealer, making a sale liable to tax under this Regulation, shall, at the request of the purchaser, provide the purchaser at the time of sale a tax invoice containing the particulars specified in sub-section (2) and retain a copy thereof:

Provided that a tax invoice shall not be issued-

(a) by a dealer who opts to pay tax under section 16; or

(b) for the sale in the course of inter-state trade or commerce or export by a dealer,

and in such cases a retail invoice shall be issued:

Provided further that not more than one tax invoice shall be issued for each such sale:

Provided also that if an invoice has been issued under the provisions of the Central Excise Act, 1944, it shall be deemed to be a tax invoice if it contains the particulars specified in sub-section (2).

Explanation.— For removal of doubts, a registered dealer shall be authorised to issue tax invoices only after a certificate of registration has been granted under this Regulation.

(2) The tax invoice issued under sub-section (1) shall contain the following particulars on the original as well as copies thereof, namely :—

(a) the words 'tax invoice' in a prominent place;

(b) the name, address and registration number of the selling registered dealer;

(c) the name and address of the purchaser and his registration number, where the purchaser is a registered dealer;

(d) an individual pre-printed serialised number and the date on which the tax invoice is issued;

(e) description, quantity, volume and value of goods sold and services provided and the amount of tax charged thereon indicated separately;

(f) the signature of the selling dealer or his manager, agent or servant duly authorised by him; and

(g) the name and address of the printer and first and last serial number of tax invoices printed and supplied by him to the dealer.

(3) A tax invoice in respect of a sale shall be issued in duplicate and the original of which shall be issued to the purchaser (or the person taking the delivery, as the case may be) and the duplicate shall be retained by the selling dealer.

(4) Except when a tax invoice is issued under sub-section (1), if a dealer sells any goods exceeding such amount in value as may be prescribed, in any one transaction to any person, he shall issue to the purchaser a retail invoice containing the particulars specified in sub-section (5) and retain a copy thereof.

(5) The retail invoice issued under sub-section (4) shall contain the following particulars on the original as well as copies thereof, namely :---

(a) the words 'retail invoice' or 'cash memorandum' or 'bill' in a prominent place;

(b) the name, address and registration number of the selling dealer, if registered;

(c) in case the sale is in the course of inter-state trade or commerce, the name, registration number and address of the purchasing dealer and type of any form, under the Central Sales Tax Act, 1956, if any, against which the sale has been made;

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(d) an individual pre-printed serialised number and the date on which the retail invoice is issued;

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(e) description, quantity, volume and value of goods sold and services provided, inclusive of amount of tax charged thereon; and

(f) the signature of the selling dealer or his servant, manager or agent, duly authorised by him.

(6) The retail invoice shall be issued in duplicate, and the original of which shall be issued to the purchaser and the duplicate copy of which shall be retained by the selling dealer.

(7) The Commissioner may, by notification, specify the manner and form in which the particulars on a tax invoice or retail invoice are to be recorded.

(8) If a purchaser claims to have lost the original tax invoice, the selling dealer may, subject to such conditions and restrictions as may be prescribed, provide a copy of such tax invoice clearly marked as a copy of original tax invoice.

51. Where a tax invoice has been issued in respect of a sale and—

(a) the amount shown as tax in that tax invoice exceeds the tax payable in respect of the sale, the dealer shall provide the purchaser with a credit note, containing such particulars as may be prescribed; or

(b) the tax payable in respect of the sale exceeds the amount shown as tax on the tax invoice, the dealer shall provide the purchaser with a debit note, containing such particulars as may be prescribed.

CHAPTER IX

LIABILITY IN SPECIAL CASES

52. (1) Where a dealer, liable to pay tax under this Regulation, transfers his business in whole or in part, by sale, gift, lease, leave or licence, hire or in any other manner whatsoever, the dealer and the person to whom the business is so transferred shall jointly and severally be liable to pay the tax, interest or penalty due from the dealer up to the time of such transfer, whether such tax, interest or penalty has been assessed before such transfer, but has remained unpaid or is assessed thereafter.

(2) Where the transferee or the lessee of a business referred to in sub-section (1) carries on such business either in his own name or in some other name, he shall be liable to pay tax on the sale of goods effected by him with effect from the date of such transfer and shall, if he is registered as a dealer, apply within the time specified in section 21 for the amendment of his certificate of registration.

53. (1) Every person—

(a) who is a liquidator of any company which is being wound up, whether under the orders of a court or otherwise; or

(b) who has been appointed the receiver of any assets of a company (hereinafter referred to as the "liquidator"),

shall, within one month after he has become such liquidator, give notice of his appointment as such to the Commissioner.

(2) The Commissioner shall, after making such inquiries or calling for such information as he may deem fit, notify the liquidator within three months from the date on which he received notice of the appointment of the liquidator, the amount which, in the opinion of the Commissioner, would be sufficient to provide for any tax, interest or penalty which is then, or is likely thereafter, to become payable by the company.

(3) The liquidator shall not part with any of the assets of the company or the properties in his hand until he has been notified by the Commissioner under sub-section (2) and on being so notified, the liquidator shall set aside an amount equal to the amount notified and,

Liability in case of transfer of business.

Liability in case of company in liquidation.

Credit and

debit notes.

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Province and an other states

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until he so sets aside such amount, he shall not part with any of the assets of the company or the properties in his hand:

Provided that nothing contained in this sub-section shall debar the liquidator from parting with such assets or properties in compliance with any order of a court or for the purpose of the payment of the tax, interest and penalty, if any, payable by the company under this Regulation or for making any payment to secured creditors whose debts are entitled under law to priority of payments over debts due to Government on the date of liquidation or for meeting such costs and expenses of the winding up of the company as are in the opinion of the Commissioner reasonable.

(4) If the liquidator fails to give notice in accordance with sub-section (1) or fails to set aside the amount as required by sub-section (3) or parts with any assets of the company or the properties in his hand in contravention of the provisions of that sub-section, he shall be personally liable for the payment of tax, interest and penalty, if any, which the company would be liable to pay under this Regulation:

Provided that if the amount of tax, interest and penalty, if any, payable by the company is notified under sub-section (2), the personal liability of the liquidator under this sub-section shall be to the extent of such amount.

(5) Where there is more than one liquidator, the obligations and liabilities attached to a liquidator under this section shall attach to all the liquidators jointly and severally.

(6) When any private company is wound up and any tax, interest and penalty, if any, assessed under this Regulation on the company for any period, whether before or in the course of or after its liquidation, cannot be recovered, then every person who was a director of the private company at any time during the period for which the tax is due, shall be jointly and severally liable for the payment of such tax, interest and penalty, if any, unless he proves to the satisfaction of the Commissioner that non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

(7) The provisions of this section shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

(8) For the purposes of this section, the expressions "company" and "private company" shall have the meanings respectively assigned to them under clauses (i) and (iii) of subsection (1) of section 3 of the Companies Act, 1956.

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Liability of partners of firm to pay tax.

Liability of

guardians,

trustees, etc.

54. Notwithstanding any contract to the contrary, where any firm is liable to pay any tax, interest or penalty under this Regulation, the firm and each of the partners of the firm shall be jointly and severally liable for such payment:

Provided that where any such partner retires from the firm, he shall intimate the date of his retirement to the Commissioner by a notice to that effect in writing and he shall be liable to pay tax, interest or penalty remaining unpaid at the time of his retirement and any tax, interest or penalty due up to the date of his retirement though unassessed on that date:

Provided further that if no such intimation is given within fifteen days from the date of retirement, the liability of the partner under the first proviso shall continue until the date on which such intimation is received by the Commissioner.

55. Where the business in respect of which tax is payable under this Regulation is carried on by, or is in the charge of any guardian, trustee or agent of a minor or other incapacitated person on his behalf and for the benefit of such minor or other incapacitated person, the tax, interest or penalty 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 assessed upon and recoverable from any such minor or other incapacitated person, if he were of full age and of sound mind and if he were conducting the business himself, and all the provisions of this Regulation shall, so far as may be; apply accordingly.

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56. Where the estate or any portion of the estate of a dealer owning a business in respect of which tax is payable under this Regulation is under the control of the Court of Wards, the Administrator-General, the Official Trustee or any receiver or manager (including any person, whatever be his designation, who in fact manages the business) appointed by or under any order of a court, the tax, interest or penalty shall be levied upon and be recoverable from such Court of Wards, Administrator-General, Official Trustee, receiver or manager in like manner and to the same extent as it would be assessable upon and be recoverable from the dealer if he were conducting the business.himself, and all the provisions of this Regulation shall, so far as may be, apply accordingly.

57. (1) Where a dealer is a firm or an association of persons or a Hindu undivided family, and such firm, association or family has discontinued business—

(a) the tax payable under this Regulation, by such firm, association or family up to the date of such discontinuance may be assessed as if no such discontinuance had taken place; and

(b) every person who was at the time of such discontinuance a partner of such firm, or a member of such association or family, shall, notwithstanding such discontinuance, be liable jointly and severally for the payment of tax assessed and penalty imposed and payable by such firm, association or family, whether such tax, interest or penalty has been assessed prior to or after such discontinuance, and subject as aforesaid, the provisions of this Regulation shall, so far as may be, apply as if every such person or partner or member were himself a dealer:

Provided that where the partner of a firm liable to pay such tax, interest or penalty, dies, the provisions of sub-section (4) shall, so far as may be, apply.

(2) Where a change has occurred in the constitution of a firm or an association of persons, the partners of the firm or members of the association as it existed before and as it exists after its reconstitution shall, without prejudice to the provisions of section 54, jointly and severally be liable to pay tax, interest or penalty due from such firm or association for any period before its re-constitution.

(3) The provisions of sub-section (1) shall, so far as may be, apply where the dealer, being a firm or association of persons is dissolved or, being a Hindu undivided family, has effected partition with respect to the business carried on by it and accordingly references in that sub-section to discontinuance shall be construed as references to dissolution or, as the case may be, to partition.

(4) Where a dealer liable to pay tax under this Regulation dies, then-

(a) if a business carried on by the dealer is continued after his death by his legal representative or any other person, such legal representative or other person, shall be liable to pay the tax, interest or penalty due from the dealer under this Regulation, whether such tax, interest or penalty had been assessed hefore his death but has remained unpaid, or is assessed after his death;

(b) if the business carried on by the dealer is discontinued after his death, his legal representative shall be liable to pay out of the estate of the deceased, to the extent the estate is capable of meeting the charge, the tax, interest or penalty due from the dealer under this Regulation, whether such tax, interest or penalty had been assessed before his death but has remained unpaid, or is assessed after his death,

and the provisions of this Regulation shall, so far as may be, apply to such legal representative or other person as if he were the dealer himself.

Explanation.— For the purposes of this section "legal representative" has the meaning assigned to it in clause (1) of section 2 of the Code of Civil Procedure, 1908.

Liability of Court of Wards, etc.

Liability in other cases.

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CHAPTER X

AUDIT, INVESTIGATION AND ENFORCEMENT

58. (1) The Commissioner may, serve on any person in the prescribed manner, a notice informing him that an audit of the affairs of his business shall be conducted and in a case where an assessment had already been concluded under this Regulation, reassessment may be made or assessment already made may be confirmed.

Explanation— A notice may be served notwithstanding the fact that the person may already have been assessed under sections 31 or section 32 or section 33.

(2) A notice served under sub-section (1) may require the person on whom it is served, to appear on a date and place specified therein, which may be at his business premises or at a place specified in the notice, to either attend and produce or cause to be produced the books of account and all evidence on which the dealer relies in support of his returns (including tax invoices, if any), or to produce such evidence as is specified in the notice.

(3) The person on whom a notice is served under sub-section (1) shall provide all cooperation and reasonable assistance to the Commissioner as may be required to conduct the proceedings under this section at his business premises.

(4) The Commissioner shall, after considering the return, the evidence furnished along with the returns, if any, the evidence acquired in the course of the audit, if any, or any information otherwise available to him, either—

(a) confirm the assessment; or

(b) serve a notice of the assessment or re-assessment of the amount of tax, interest and penalty, if any, pursuant to sections 32 and 33.

(5) Any assessment pursuant to an audit of the affairs of the business of the person referred to in sub-section (1) shall be without prejudice to prosecution for any offence under this Regulation.

Inspection of records. 59. (1) All records, books of account, registers and other documents, maintained by a dealer, transporter or operator of a warehouse shall, at all reasonable times, be open to inspection by the Commissioner.

(2) The Commissioner may, for the proper administration of this Regulation and subject to such conditions as may be prescribed, require---

(a) any dealer; or

(b) any other person, including a banking company, post office, a person who transports goods or holds goods in custody for delivery to, or, on behalf of, any dealer, who maintains or has in his possession any books of account, registers or documents relating to the business of a dealer, and, in the case of a person which is an organisation, any officer thereof—

(i) to produce before him such records, books of account, registers and other documents;

(ii) to submit such clarifications; and

(iii) to prepare and furnish such additional information,

relating to his affairs of business or to the activities of any other person connected with the affairs of his business, as the Commissioner may deem necessary.

(3) The Commissioner may require a person referred to in sub-section (2), to--

(a) prepare and provide any documents; and

(b) verify the clarifications submitted to the Commissioner,

Audit.

in the manner specified by him.

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(4) The Commissioner may retain, remove, take copies or extracts, or cause copies or extracts to be made of the said records, books of account, registers and documents without fee by the person in whose custody the records, books of account, registers and documents are held.

60, (1) All goods kept at any business premises by a dealer, transporter or operator of a warehouse shall, at all reasonable times, be open to inspection by the Commissioner.

(2) Where the Commissioner, upon information in his possession or otherwise has reasonable grounds to believe that any person or dealer is attempting to evade tax or is concealing his tax liability in any manner and it is necessary so to do, for the purposes of administration of this Regulation, the Commissioner may —

(a) enter and search any business premises or any other place or building;

(b) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause (a) where the keys thereof are not readily available;

(c) seize and remove any records, books of account, registers, other documents or goods;

(d) place marks of identification on any records, books of account, registers and other documents or make or cause to be made extracts or copies thereof without charge;

(e) make a note or any inventory of any such money or goods found as a result of such search or place marks of identification on such goods; and

(f) seal the premises including the office, shop, godown, box, locker, safe, almirah or other receptacle.

(3) Where it is not feasible to remove any records, books of account, registers, other documents or goods, the Commissioner may serve on the owner and any person who is in immediate possession or control thereof, an order directing that he shall not remove or part with or otherwise deal with them except with the previous permission of the Commissioner.

(4) Where any premises have been sealed under clause (f) of sub-section (2), or an order made under sub-section (3), the Commissioner may, on an application made by the owner or the person in occupation or in charge of such shop, godown, box, locker, safe, almirah or other receptacle, permit the desealing or release thereof, as the case may be, on such terms and conditions including furnishing of security for such sum in such form and manner as may be directed.

(5) The Commissioner may requisition the services of any police officer or any public servant, or of both, to assist him for all or any of the purposes specified in sub-section (2).

(6) Save as otherwise provided in this section, every search or seizure made under this section shall, as far as possible, be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 relating to searches or seizures made under that Code.

(7) The powers under this section may also be exercised in respect of a dealer or a third party for the purposes of undertaking an audit or to assist in recovery of dues under this Regulation,

61. (1) The Commissioner may, at any check-post or barrier or at any other place, to enable proper administration of this Regulation, require the driver or person in charge of a goods vehicle to stop the vehicle to examine the contents therein and inspect all records relating to the goods carried, which are in the possession of such driver or person in charge. Power to stop, search and detain goods vehicles.

Power to enter premises and seize records and goods.

2 of 1974

(2) The owner or person in charge of a goods vehicle shall carry with him such records, as may be prescribed, in respect of the goods carried in the goods vehicle and produce the same to the Commissioner on demand.

(3) The driver or person in charge of the goods vehicle shall, if required, inform the Commissioner of—

(a) his name and address;

(b) the name and address of the owner of the vehicle;

(c) the name and address of the consignor of the goods;

(d) the name and address of the consignee of the goods; and

(e) the name and address of the transporter.

(4) If, on an examination of the contents of a goods vehicle or the inspection of documents relating to the goods carried, the Commissioner has reason to believe that the owner or person incharge of such goods vehicle is not carrying the documents as required by sub-section (2) or is not carrying proper and genuine documents or is attempting to evade payment of tax due under this Regulation, he may, for reasons to be recorded in writing, do any one or more of the following, namely:---

(a) refuse to allow the goods or the goods vehicle to enter Daman and Diu;

(b) seize the goods and any documents relating to the goods; and

(c) seize the goods vehicle and any documents relating to the goods vehicle.

(5) Where the owner or the person in charge of the goods vehicle--

(a) requests for time to adduce evidence of payment of tax or the goods being exempted under this Regulation, in respect of the goods to be detained or impounded; and

(b) furnishes security for the prescribed amount to the satisfaction of the Commissioner in such form and in such manner as may be prescribed,

the goods vehicle, the goods and the documents so seized may be released.

(6) The Commissioner may permit the owner or person in charge of goods vehicle to remove any goods or goods vehicle seized under sub-section (4) subject to an undertaking-

(a) that the goods and goods vehicle shall be kept in the office, godown or other place within Daman and Diu, belonging to the owner of the goods vehicle and in the custody of such owner; and

(b) that the goods shall not be delivered to the consignor, consignee or any other person without the approval in writing of the Commissioner,

and for this purpose the person in charge of the goods vehicle shall furnish an authorisation from the owner of the goods vehicle authorising him to give such undertaking on his behalf.

(7) Save as otherwise provided in this section, every search or seizure made under this section shall, as far as possible, be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 relating to searches or seizures made under that Code.

2 of 1974.

24 of 1989.

(8) Nothing contained in this section shall apply to the rolling stock as defined in the Railway Act, 1989.

Custody and release of records.

62. (1) Where the Commissioner seizes any books of account or other documents, he shall give the dealer or the person present on his behalf, as the case may be, a receipt for the same and obtain acknowledgement of the receipt so given to him:

Provided that if the dealer or person from whose custody the books of account or other documents are seized refuses to give an acknowledgement, the Commissioner may leave the receipt at the premises and record this fact.

(2) The Commissioner shall keep in his custody the books of account, registers, other documents seized under section 60 for a period of exceeding one year, and thereafter shall return the same to the dealer or person from whose custody or power they were seized:

Provided that the Commissioner may, before returning the books of account, registers and other documents, require the dealer or the parson, as the case may be, to give a written undertaking that the books of account, register and other documents shall be presented whenever required by the Commissioner for any proceedings under this Regulation:

Provided further that the Commissioner shell, when requested, allow the person whose books of account, registers and documents have them seized, reasonable access to the books of account, registers and documents for the purphise of inspection and shall give the person the opportunity to make copies thereof at the person's own expense:

Provided also that the period of custody of the books of account, registers and other documents seized under section 60 may be extended beyond one year if any proceedings under this Regulation are pending or for reasons to be recorded by the Commissioner in writing.

63.(1) Where the Commissioner seizes an goods or goods vehicle, he shall give the dealer, person in charge of the goods vehicle or person present on his behalf, as the case may be, a receipt for the same and obtain acknow ledgement of the receipt so given to him:

Custody, return and disposal of goods, goods vehicle and security.

Provided that if the person, from whose ustody the goods or goods vehicle have been seized, refuses to give an acknowledgement the Commissioner may leave the receipt in his presence and record this fact.

(2) The Commissioner—

(a) shall keep any goods or goods veh cle seized under section 61 in his custody;

(b) may retain them for such time as ne considers reasonable; and

(c) subject to sub-section (3), shall eturn the goods or goods vehicle to the dealer or other person from whose custody or power they were seized.

(3) Where the Commissioner —

(a) has seized any goods; or

(b) has seized a goods vehicle; or

(c) holds any goods as security for the performance of an obligation under this Regulation,

the Commissioner may, not sooner than one month after the service of notice on-

(i) the person from whom the goods y ere seized;

(ii) the person from whom the goods chicle was seized;

(iii) the person for whom the security was given; and

(iv) any person against whom the security is to be enforced,

as the case may be, of his intention to sell the goods, direct the auction of such goods or goods vehicle to recover any arrears of tax, interest or penalty due under this Regulation.

(4) In auction of goods or a goods vehicle shall be carried out in the manner prescribed for the same of property held by the Commissioner

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[PART II-

Detention of goods pending disclosure.

64. (1) If any person on being required by the Commissioner, fails to give any information in respect of any goods in his possession or fails to permit the inspection thereof, the Commissioner may seize any goods in his custody or possession in respect of which the default is committed.

(2) The seizure shall remain in force until it is revoked or the person concerned furnishes the information required or makes proper arrangements for the inspection of the goods, whichever occurs first.

65. Every person shall provide all co-operation and reasonable assistance to the Commissioner as may be required to discharge his functions under the Regulation.

CHAPTER XI

VALUE ADDED TAX AUTHORITIES AND APPELLATE TRIBUNAL

66. (1) For carrying out the purposes of this Regulation, the Government shall appoint a person to be the Commissioner of Value Added Tax.

(2) The Government may, to assist Commissioner in the administration of this Regulation, appoint as many Joint Commissioners of Value Added Tax, Deputy Commissioners of Value Added Tax, Assistant Commissioners of Value Added Tax, Value Added Tax Officers and such other persons with such designations as the Government thinks necessary (hereinafter in this Chapter referred to as the "Value Added Tax Authority").

(3) The Commissioner may, with the previous sanction of the Government, engage other persons to assist him in discharge of his duties.

(4) The Commissioner and the Value Added Tax Authorities shall exercise such powers as may be conferred upon them, and perform such duties as may be required, by or under this Regulation.

67. (1) The Commissioner shall have responsibility for the due and proper administration of this Regulation and have jurisdiction over the whole of Daman and Diu.

(2) Subject to sub-section (3), the Commissioner may, from time to time, issue such orders, instructions and directions to any Value Added Tax Authorities or persons referred to in sub-section (3) of section 66 as he thinks fit for the due and proper administration of this Regulation and all such persons engaged in the administration of this Regulation shall observe and follow such orders, instructions and directions of the Commissioner.

(3) No order, instruction or direction shall be issued by the Commissioner to any person or authority under this Regulation exercising the power under this Regulation to-

(a) dispose of an appeal filed or to be filed under section 74 in a particular manner; or

(b) determine a particular question under section 84 in a particular manner.

(4) Nothing in sub-section (3) shall prevent the Commissioner from issuing general orders, instructions and directions being clarific tory in nature on any issue or matter under this Regulation.

Delegation of Commissioner's powers

68. (1) Subject to such restrictions and conditions as may be prescribed, the Commissioner may delegate any of his powers under this Regulation to any Value Added Tax Authorities.

(2) Where the Commissioner delegates his powers under Chapter X, the person, to whom such power has been delegated, shall carry and produce on demand evidence in the prescribed form of the delegation of these powers when exercising the powers.

(3) Where the Commissioner has delegated a power to any Value Added Tax Authority. the Commissioner may supervise, review and rectify any decision made or action taken by that Authority.

Value Added Tax

Authorities

Obligation to

provide

reasonable assistance. 38

Powers and responsibilities of

Commissioner.

(4) The exercise of power of supervision, review or rectification referred to in subsection (3) shall not be construed as power to make an assessment or re-assessment after the expiry of the time referred to in section 34.

69. Whenever in respect of any proceeding under this Regulation a person being the Commissioner or any Value Added Tax Authority is succeeded by another person-

(a) the person so succeeding shall exercise all such powers under this Regulation which were exercised by the preceding person; and

(b) the person so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor.

70. (1) The Commissioner may notify and publish any forms which may be necessary for the reporting of information to the Value Added Tax authorities.

(2) Where the Commissioner has notified a form for a particular purpose, all persons shall be required to report the information using the form.

(3) In particular and without prejudice to the generality of the foregoing power, a notification issued by the Commissioner may stipulate all or any of the matters which in the opinion of the Commissioner are necessary or convenient for the proper administration of this Regulation.

71. The Commissioner, all Value Added Tax authorities and all members of the Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.

72. No suit, prosecution or other legal proceedings shall lie against the Government, the Administrator, the Commissioner, any Value Added Tax Authorities, or member of the Appellate Tribunal for anything which is done or intended to be done under this Regulation or rules made thereunder.

73. (1) The Government shall, as soon as may be after the commencement of this Regulation, constitute an Appellate Tribunal consisting of one or more members, as it thinks fit, to exercise the powers and discharge the functions conferred on the Appellate Tribunal by or under this Regulation:

Provided that where the Appellate Tribunal consists of one member, that member shall be a person who has held a civil judicial post for at least ten years or who has been a member of the Indian Legal Service not below Grade III for at least three years or who has been in practice as an advocate for at least ten years, and where the Appellate Tribunal consists of more than one member, one such member shall be a person qualified as aforesaid:

Provided further that the Government may, until the Appellate Tribunal is constituted under this Regulation, notify any other Appellate Tribunal constituted or established, under any State law for the time being in force, with the consent of the concerned State Government and such other Appellate Tribunal shall hear and dispose of the appeal in accordance with the provisions of this Regulation till such time the Appellate Tribunal is constituted under this Regulation.

(2) Where the number of members of the Appellate Tribunal is more than one, the Government shall appoint one of those members to be the Chairperson of the Appellate Tribunal.

(3) Subject to the provisions of sub-section (1), the qualifications and other conditions of service of the member or members constituting the Appellate Tribunal and the period for which such member or members shall hold office, shall be such as may be prescribed.

(4) The members of the Appellate Tribunal shall be appointed by the Government on the recommendation of a selection committee consisting of such person as may be prescribed

Change of an incumbent of an office

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Power of Commissioner to notify certain forms

Persons to be public servants.

Immunity from civil suit.

Appellate Tribunal.

45 of 1860.

(5) Any vacancy in the membership of the Appellate Tribunal shall be filled up by the Government as soon as practicable.

(6) Where the number of members of the Appellate Tribunal is more than one and if the members differ in opinion on any point, such point shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, the decision of the Chairperson of the Appellate Tribunal thereon shall be final.

(7) Subject to the previous sanction of the Government, the Appellate Tribunal shall, for the purpose of regulating its procedure and disposal of its business, make regulations in consistent with the provisions of this Regulation and the rules made thereunder.

(8) The regulations made under sub-section (6) shall be published in the Official Gazette.

(9) The Appellate Tribunal shall, for the purpose of discharging its functions, have all the powers which are vested in the Commissioner under section 75 and any proceeding before the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code, 1860 and the Appellate Tribunal shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

45 of 1860.

2 of 1974.

CHAPTER XII

APPEALS, DISPUTES AND QUESTIONS

74. (1) Any person who is aggrieved by an assessment under this Regulation or any other order or decision made under this Regulation (including an assessment of penalty under section 33 or penalty imposed under this regulations) may,—

(a) file an appeal to the Joint Commissioner or Deputy Commissioner or Assistant Commissioner, having jurisdiction, when such decision has been made or order has been passed or assessment has been made by any Value Added Tax Officer or Assistant Value Added Tax Officer;

(b) file an appeal to the Commissioner, when such decision has been made or order has been passed or assessment has been made by the Assistant Commissioner or Deputy Commissioner or Joint Commissioner:

Provided that no appeal against an assessment shall be entertained unless the amount of tax, interest or penalty assessed that is not in dispute has been paid:

Provided further that only one appeal shall be made by the person against any assessment, decision or order:

Provided also that in the case where an assessment or order or decision has been revised, the appeal may be made in respect of such revision or amendment from which a person is aggrieved.

(2) A person, who is aggrieved by the failure of the Commissioner to make a decision or pass an order or make any assessment under this Regulation, within six months after a request in writing was served by the person, may file an appeal against such failure.

(3) An appeal shall be filed in writing in the prescribed form and shall state fully and in detail the grounds upon which the appeal is filed.

(4) (a) Every appeal under sub-section (1) shall be filed within two months of the date of service of the assessment, or order or decision, as the case may be, or

(b) Every appeal under sub-section (2) shall be filed after the expiry of six months but before eight months after the written request was served by the person:

Provided that where the Commissioner is satisfied that the person was prevented for sufficient cause from filing the appeal within the time specified, he may allow an appeal to be filed within a further period of two months.

Appeals.

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860.

(5) The Commissioner may conduct its proceedings under this section by an examination of the assessment, or order or decision, as the case may be, consider the objections or grounds mentioned in the appeal filed, and any other document or information as may be relevant:

Provided that where the person aggrieved requests a hearing in person, such person shall be given an opportunity of being heard in person.

(6) Where a person has requested a hearing under sub-section (5) and the person fails to attend the hearing at the time and place stipulated, the Commissioner may proceed and dispose of the appeal in the absence of the person.

(7) Within three months after the receipt of the appeal filed under sub-section (1), the Commissioner shall, either—

(a) allow the relief prayed in the appeal in whole or in part and take appropriate action to give effect to the relief allowed (including the remission of any penalty assessed either in whole or in part); or

(b) refuse the relief prayed in the appeal in whole or part,

and in either case, serve on the appellant, a notice in writing of the decision and the reasons for it, including a statement of the evidence on which it is based:

Provided that the Commissioner may, after communicating the reasons to the appellant, extend the said period of three months to six months for the purposes of allowing or refusing the relief prayed in appeal:

Provided further that the person may, in writing, request the Commissioner to extend the said period by a further period of not exceeding three months to produce proper and relevant documents for properly contesting the appeal, in which case the period of the adjournment at the request of appellant shall be excluded for the purposes of computing period of three months or six months as the case may be.

(8) Where the Commissioner does not dispose of the appeal within the time specified under sub-section (7), the person may submit a written request requiring him to dispose of the appeal within fifteen days.

(9) If the appeal has not been disposed of within the said period of fifteen days after submission of written request referred to in sub-section (8), then, at the end of that period, the Commissioner shall be deemed to have allowed the relief prayed in the appeal.

75. (1) The Commissioner or any person considering the appeal under section 74, for the purposes of this Regulation, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 when trying a suit, in respect of the following matters, namely:—

(a) enforcing the attendance of any person and examining him on oath or affirmation;

(b) compelling the production of accounts and documents; and

(c) issuing commissions for the examination of witnesses,

and any proceeding under this Regulation before the Commissioner or person considering the appeal under section 74 shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code, 1860.

(2) Subject to any rules made in this behalf, the Commissioner or any person considering the appeal under section 74 may impound and retain in his custody, any books of account or other documents produced before him in any proceedings under this Regulation until such proceedings are concluded:

Power of Commissioner and other authoritics to take evidence on oath, etc.

Provided that the Commissioner or the person considering the appeal under section 74 shall not impound any books of account or other documents without recording in writing his reasons for so doing.

76. (1) Any authority objecting any decision or order made under section 74 or any person aggrieved by a decision or order made by the Commissioner under section 74, may appeal to the Appellate Tribunal against such decision or order.

(2) Subject to the provisions contained in section 77, no appeal shall be entertained unless it is made within two months from the date of service of the decision or order appealed against.

(3) Every appeal made under this section shall be in the prescribed form, verified in the prescribed manner and shall be accompanied by such fee as may be prescribed.

(4) No appeal against an assessment shall be entertained by the Appellate Tribunal unless the appeal is accompanied by satisfactory proof of the payment of the amount in dispute and any other amount assessed as due from the person:

Provided that the Appellate Tribunal may, if it thinks fit, for reasons to be recorded in writing, entertain an appeal against such order without payment of whole or part of the amount in dispute, on the appellant furnishing in the prescribed manner security for such amount as it may direct:

Provided further that no appeal shall be entertained by the Appellate Tribunal unless it is satisfied that such amount as the appellant admits to be due from him has been paid.

(5) In proceedings before the Appellate Tribunal the person aggrieved may be permitted to adduce evidence not presented to the Commissioner for good and sufficient reasons.

(6) The Appellate Tribunal shall—

(a) in the case of an appeal filed against an assessment, confirm, reduce, or annual the assessment (including any penalty and interest imposed);

(b) in the case of any other decision or order of the Commissioner, affirm or reject the decision; or

(c) pass such other order for the determination of the issue or disposing of the appeal as it thinks fit:

Provided that the Appellate Tribunal shall give reasons in writing for its decision which shall include its findings on material questions of fact and the evidence or other material on which those findings were based.

(7) The Appellate Tribunal shall not set aside an assessment and remit the matter to the Commissioner or any other authority under this Regulation for a further assessment, unless it has first-

(a) communicated the aggrieved person of the proposed order;

(b) offered the person an opportunity to adduce such further evidence before it may assist the Appellate Tribunal to reach a final determination of the issue and disposing the appeal.

(8) Where the Appellate Tribunal sets aside an assessment and remits the matter to the Commissioner or any other authority under this Regulation for a further assessment, the Appellate Tribunal may at the same time order the Commissioner to refund to the person whole or part of the amount in dispute

(9) Where a person has failed to attend the hearing at the time and place stipulated, the Appellate Tribunal may adjourn the proceedings; reject the appeal or proceed to make an order determining the issue or disposing of the appeal in the absence of the person.

36 of 1963.

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(10) Save as provided in section 81 and sub-section (11), an order passed by the Appellate Tribunal on an appeal shall be final.

(11) The Appellate Tribunal may rectify any mistake or error apparent from the record of its proceedings.

77. (1) The Appellate Tribunal may admit an appeal under section 76 after the period of limitation laid down in that section, if the appellant satisfies the Appellate Tribunal that he had sufficient cause for not preferring the appeal within such period.

(2) In computing the period laid down under sections 76 and 81, the provisions of sections 4 and 12 of the Limitation Act, 1963, shall, so far as may be, apply.

(3) In computing the period of limitation prescribed by or under any provision of this Regulation, or the rules made thereunder, other than sections 76 or 81, any period during which any proceeding is stayed by an order or injunction of any court shall be excluded.

78. The burden of proving any matter in issue in proceedings under section 74, or before the Appellate Tribunal which relates to the liability to pay tax or any other amount under this Regulation shall lie on the person alleged to be liable to pay the amount:

Provided that nothing contained in this section shall apply to any proceedings for criminal offence or criminal prosecution.

79. (1) No appeal shall lie to any authority or the Appellate Tribunal under this Regulation against—

(a) a decision of the Commissioner to make an assessment of tax or penalty;

(b) a notice requiring a person to furnish a return;

(c) a notice issued under section 58 or section 59;

(d) a decision of the Commissioner to notify any matter under this Regulation;

(e) a notice asking a dealer to show cause why he should not be prosecuted for an offence under this Regulation;

(f) a decision relating to the seizure or retention of books of account, registers and other documents;

(g) a decision sanctioning a prosecution under this Regulation;

(h) a decision of the Commissioner on the administration of the Value Added Tax authorities;

(i) an assessment made by the Commissioner to give effect to an order of the Appellate Tribunal or a court.

(2) Save as provided in clause (i) of sub-section (1), nothing in sub-section (1) shall prevent the person from filing an appeal under section 74 objecting to the amount or the obligation to pay any amount assessed by the Commissioner.

80. (1) No assessment, notice, summons or other proceedings made or issued or taken or purported to have been made or issued or taken in pursuance of any of the provisions of this Regulation or under the earlier law shall be invalid or shall be deemed to be invalid merely by reason of any mistake, defect or omission in such assessment, notice, summons or other proceedings, if such assessment, notice, summons or other proceedings are in substance and effect in conformity with or according to the intent and purposes of this Regulation or any earlier law.

(2) The service of any notice, order or communication shall not be called in question if the said notice, order or communication, as the case may be, has already been acted upon by the dealer or person to whom it is issued or which service has not been called in question at or in the earliest proceedings commenced, continued or finalised pursuant to such notice, order or communication.

Extension of period of limitation in certain cases.

Burden of proof.

Bar on appeal against certain orders.

Assessment or proceedings, etc., not to be invalid on certain grounds.

(3) No assessment made under this Regulation shall be invalid merely on the ground that the action could also have been taken by any other authority under any other provisions of this Regulation.

Statement of case to High Court.

81. (1) Within two months from the date of an order passed by the Appellate Tribunal under sub-section (6) of section 76, a person aggrieved or the Commissioner may, by application in writing, and accompanied by such fee as may be prescribed, require the Appellate Tribunal to refer to the High Court any question of law arising out of such order, and, subject to the other provisions contained in this section, the Appellate Tribunal shall, within four months of the receipt of such application draw up a statement of the case and refer it to the High Court:

Provided that the Appellate Tribunal may, if it is satisfied that the person or the Commissioner was prevented by sufficient cause from presenting the application within the period hereinbefore specified, allow it to be presented within a further period not exceeding one month.

(2) If the Appellate Tribunal refuses to state the case which it has been required to do, on the ground that no question of law arises, the person or the Commissioner, as the case may be, may, within one month of the communication of such refusal either withdraw his application (and if he does so, any fee paid shall be refunded), or apply to the High Court against such refusal.

(3) If upon receipt of an application under sub-section (2), the High Court is not satisfied as to the correctness of the refusal of the Appellate Tribunal, it may require the Appellate Tribunal to state the case and refer it, and on receipt of such requisition, the Appellate Tribunal shall state the case and refer it accordingly.

(4) If the High Court is not satisfied that the statement in a case referred to it is sufficient to enable it to determine the question so raised thereby, the court may refer the case back to the Appellate Tribunal for the purpose of making such additions thereto or alterations therein as it may direct in that behalf.

(5) The High Court, upon the hearing of any such case, shall decide the question of law raised thereby, and shall deliver its judgment thereon containing the grounds in which such decision is founded, and shall send to the Appellate Tribunal a copy of such judgment under the seal of the court and the signature of the Registrar, and the Appellate Tribunal shall dispose of the case accordingly.

(6) Where a reference is made to the High Court under this section, the cost, which shall not include the fee referred to in sub-section (1), shall be in the discretion of the court.

(7) The payment of the amount of tax, interest or penalty, if any, due in accordance with the order of the Appellate Tribunal in respect of which an application has been made under sub-section (1) shall not be stayed pending the disposal of such application or any reference made in consequence thereof but if such amount is reduced as a result of such reference, the excess tax paid shall be refunded in accordance with the provisions of section 38.

Appearance before any authority in proceedings. 82. (1) Any person, who is entitled or required to attend before any authority in connection with any proceedings under this Regulation, may attend-

(a) by a person authorised by him in writing in this behalf, being a relative or a person regularly employed by him; or

(b) by a legal practitioner or chartered accountant or a cost accountant or companies secretary who is not disqualified by or under sub-section (2) of this section; or

(c) by a Value Added Tax practitioner who possesses the prescribed qualifications and is entered in the list, which the Commissioner shall maintain in that behalf, and who is not disqualified by or under sub-section (2)

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Explanation .--- For the purposes of this section,---

38 of 1949.

56 of 1980.

23 of 1959

(b) "company secretary" means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(a) "chartered accountant" means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 and who

(c) "cost accountant" means a cost accountant as defined in clause (b) of subsection (1) of section 2 of the Cost and Works Accountants Act, 1959 and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(d) "legal practitioner" means an advocate, vakil or an attorney of any High Court, and includes a pleader in practice.

(2) The Commissioner may, for reasons to be recorded in writing, disqualify for a period from appearing before any such authority under this Regulation, any legal practitioner, chartered accountant, cost accountant or company secretary or Value Added Tax practitioner—

(a) who has been dismissed from Government service; or

(b) who, being a legal practitioner or chartered accountant, cost accountant or company secretary is found guilty of misconduct in connection with any proceedings under this Regulation by an authority empowered to take disciplinary action against the members of the profession to which he belongs; or

(c) who, being a Value Added Tax practitioner, is found guilty of such misconduct by the Commissioner.

(3) No order of disqualification shall be made in respect of any particular person unless he has been given a reasonable opportunity of being heard.

(4) Any person who is disqualified under this section may, within one month of the date of disqualification, appeal to the Government to have the disqualification cancelled.

(5) The decision of the Commissioner shall not take effect until one month of the making thereof or when an appeal is preferred, until the appeal is decided.

(6) The Commissioner may, at any time, *suo motu* or on an application made to him in this behalf, revoke any decision made against any person under sub-section (2) and thereupon such person shall cease to be disgualified.

83. No suit shall be brought in any civil court to set aside or modify any assessment made or any order passed under this Regulation or the rules made thereunder.

84. (1) If any determinable question arises, otherwise than in proceedings before a court, a person may apply in the prescribed manner to the Commissioner for the determination of that question.

(2) Subject to sub-section (3), an application for the determination of a determinable question may be made in respect of a proposed transaction, a transaction that is being undertaken, or a transaction has been concluded.

(3) An application for the determination of a determinable question may not be made after—

(a) the Commissioner has commenced the audit of the person pursuant to section 58; or

(b) the Commissioner has made an assessment for the tax period in which the transaction that is the subject of the determinable question occurred.

Bar of suits in civil courts.

Determination of specific questions.

[PART II—

Explanation.—For the purposes of this sub-section, the Commissioner shall be deemed to have commenced the audit under section 58 when the Commissioner serves a notice to this effect.

(4) For the purposes of this section, the following shall be determinable questions, namely :---

(a) whether any person, society, club or association or any firm or any branch or department of any firm is or would be a dealer;

(b) whether any dealer is or would be required to be registered under this Regulation;

(c) the amount of the taxable quantum of a dealer for a period;

(d) whether a transaction is or would be a sale, or requires an adjustment to be made under section 8 arising out of a sale;

(e) whether a transaction is or would be in the nature of works contract, or transfer of right to use any goods;

(f) whether a sale is not liable to tax under section 7;

(g) whether a sale is exempt from tax under section 6;

(h) the sale price of a transaction;

(i) the proportion of the turnover or turnover of purchases of a dealer which arises in a tax period, and the time at which an adjustment to tax or tax credit arises;

(*j*) whether any transaction is or would be the import of goods;

(k) the value of any goods imported into Daman and Diu;

(*l*) the rate of tax that is payable on a sale or import of goods and the classification of the goods under the Schedules;

(m) whether a transaction is the purchase of goods, or requires an adjustment to be made under section 10 arising out of a purchase;

(n) the amount of any tax credit to which the dealer is entitled in respect of a purchase or import of goods;

(o) the amount of any tax credit in respect of any used goods purchased by a dealer;

(p) the location of any sale or purchase;

(q) the application of a composition scheme in the circumstances of the dealer; or

(r) the tax period of a dealer.

(5) The Commissioner shall make the determination within such period as may be prescribed.

(6) Where—

(a) the Commissioner fails to make a determination under this section within the time prescribed under sub-section (5);

(b) the person thereafter implements the transaction which is the subject of the application and in the manner described in the application; and

(c) the person has, in the application for the determination of the determinable question, indicated the answer to the determinable question which the person believes to be correct (in this section called the "proposed determination"),

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the Commissioner shall be deemed for the purposes of this Regulation to have made and issued to the person on the day after the expiry of the prescribed period, a determination of the determinable question in the terms of the proposed determination.

(7) The Commissioner may-

(a) direct that the determination shall not affect the liability of any person under this Regulation with respect to any transaction effected prior to the determination;

(b) limit the period for which the determination will apply;

(c) limit the transactions to which the determination will apply; and

(d) impose such other limitations or restrictions on the determination as seem appropriate.

of 1964.

(8) If any such question arises from any order already passed under this Regulation or under the Daman and Diu Sales Tax Act, 1964 as then in force in Daman and Diu, no such question shall be entertained for determination under this section but such question may be raised in an appeal against such order.

(9) Where—

(a) the Commissioner has issued to a person a determination in respect of a particular transaction; and

(b) the person implements the transaction based on the determination issued to him under this section and in the manner described in the application,

no assessment may be made by the Commissioner against that person which is inconsistent with the determination and no penalty may be imposed on the person if the determination is later held incorrect.

(10) The Commissioner may, by notice served on the person, withdraw or confirm or amend a determination issued under this section but such withdrawal or confirmation or amendment shall not affect the entitlement of any person to rely on the determination with respect to any transaction or action which he has commenced or which he has completed prior to the withdrawal or qualification.

(11) The determination by the Commissioner under this section shall be binding only-

(a) on the applicant who had sought it;

(b) in respect of the transaction in relation to which determination had been sought; and

(c) on the Commissioner and other Value Added Tax Authorities in respect of the applicant and the said transaction.

(12) The determination referred to in this section shall be binding as aforesaid unless there is a change in law or facts on the basis of which the determination has been made.

(13) Where the Commissioner finds, that a determination made by him has been obtained by the applicant by fraud or misrepresentation of fact, it may, by order declare such declaration to be void ab initio and thereupon all the provisions of this Regulation shall apply (after excluding the period beginning with the date of such determination and ending with the date of order under this sub-section) to the applicant as if such determination had never been made.

85. (1) The Commissioner may, by notification, publish his ruling on the answer to any question involving the interpretation of any issue under this Regulation or application of this Regulation to a class of persons or class of transactions.

Ruling on general questions

(2) A ruling issued by the Commissioner under this section may be issued subject to such restrictions and conditions as the Commissioner may deem fit.

(3) The ruling shall come into force on the date mentioned in the ruling or, if no date is stated in the ruling, on the date of publication in the Official Gazette.

(4) Where—

(a) the Commissioner has published a ruling in respect of a class of persons or transactions;

(b) a person implements a transaction or undertakes any action based on the ruling;

(c) the ruling has, at the time of implementing the transaction or undertaking the action, not been withdrawn by the Commissioner; and

(d) according to the terms of the ruling, the ruling purports to apply to the transaction or action undertaken by the person,

no assessment which is inconsistent with the ruling, shall be made by the Commissioner or any other authority against that person and no penalty may be imposed on the person if the ruling is later held incorrect.

Explanation.— A person may rely on the ruling of the Commissioner or on the determination made under section 84.

(5) The Commissioner may, by notification, withdraw or confirm or amend a ruling already issued under this section but such withdrawal or confirmation or amendment shall not affect the entitlement of any person to rely on the ruling with respect to any transaction or action commenced or completed by him prior to such withdrawal or confirmation or amendment.

CHAPTER XIII

PENALTIES AND OFFENCES

Penalties.

86. (1) For the purposes of this section "tax deficiency" means the difference between the tax payable by the person in accordance with the provisions of this Regulation and the amount of tax paid by the person in respect of a tax period.

(2) The penalty imposed under this section may be remitted by an order made by an appellate authority in any proceeding under this Regulation where a person is able to prove existence of a reasonable cause for the act or omission giving rise to penalty.

(3) Where a person, who is required to be registered under this Regulation, has failed to apply for grant of certificate of registration within one month from the day on which his liability to register arose, the person shall be liable to pay, by way of penalty, an amount equal to one thousand rupees for each day during which such failure continues or one lakh rupees, whichever is less.

(4) If, a registered dealer fails to comply with the provisions of sub-section (1) of section 21, such dealer shall be liable to pay, by way of penalty, a sum of one hundred rupees for each day during which such failure continues or five thousand rupees, whichever is less.

(5) If a registered dealer-

(a) fails to comply with the provisions of sub-section (2) of section 22; or

(b) fails to surrender his certificate of registration as provided in sub-section (7) of section 22,

such dealer shall be liable to pay, by way of penalty, a sum equal to one hundred rupees for each day during which such failure continues or five thousand rupees, whichever is less.

(6) If any person falsely represents that he is registered as a dealer under this Regulation, he shall be liable to a penalty equal to the amount of tax wrongly collected as such or one lakh rupees, whichever is higher.

(7) Where a person has applied for grant of certificate of registration under subsection (5) of section 18 as a dealer under this Regulation and he ---

(a) fails to undertake business which would entitle him to be a dealer, within the period specified in his application; or

(b) fails to comply with any of the restrictions or conditions subject to which certificate of registration was granted,

such dealer shall be liable to pay a penalty of ten thousand rupees.

(8) If a person required to furnish a return under the provisions of Chapter V-

(a) fails to furnish any return by the prescribed date; or

(b) fails to furnish alongwith the return any document that is required to be furnished alongwith the return; or

(c) being required to revise a return already furnished, fails to furnish the revised return by the prescribed date,

such person shall be liable to pay, by way of penalty, a sum of one hundred rupees for each day during which such failure continues or ten thousand rupees, whichever is less.

(9) Any person, who knowingly—

(a) furnishes a return under this Regulation which is false, misleading or deceptive in a material particular; or

(b) omits from a return furnished under this Regulation any material particular without which the return is false, misleading or deceptive; or

(c) claims tax credit in excess of the tax credit to which he is entitled under section 9 or under other provisions of this Regulation,

shall be liable to pay, by way of penalty, a sum of ten thousand rupees or the amount of the tax deficiency, whichever is the higher.

(10) Any dealer, who knowingly—

(a) has claimed tax credit under section 14 to which he is not entitled; or

(b) has claimed an excess tax credit than to which he is entitled under section

14,

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shall be liable to pay, by way of penalty, an amount equal to the amount of tax credit so claimed or ten thousand rupees, whichever is higher.

(11) Where a tax deficiency arises in relation to a dealer or any other person, such person shall be liable to pay, by way of penalty, a sum of one per cent. of excess tax deficiency per week for every week or fifty rupees per week for every week during which the tax deficiency continues, whichever is higher.

(12) Where a person is required under this Regulation to-

(a) prepare records or accounts in accordance with the provisions of Chapter X;

or

(b) prepare such records or accounts in the prescribed manner; or

(c) retain records or accounts in accordance with provisions of sub-section (6) of section 48,

and such person-

(i) fails to prepare the required records and accounts; or

(ii) fails to prepare records and accounts in the prescribed manner; or

(iii) fails to retain the records and accounts as required by sub-section (δ) of section 48,

the person shall be liable to pay, by way of penalty, a sum of fifty thousand rupees or twenty per cent. of the tax deficiency, if any, whichever is higher.

(13) Any person, who fails to comply with the provisions of sub-section (2) or subsection (3) of section 59, shall be liable to pay, by way of penalty, a sum of fifty thousand rupees.

(14) Where a person, who is required to prepare records and accounts under this Regulation, knowingly prepares records and accounts in a false, misleading or deceptive manner, such person shall be liable to pay, by way of penalty, a sum of one lakh rupees or the amount of the tax deficiency, if any, whichever is higher.

(15) Where a person----

or

(a) issues a tax invoice or retail invoice with incomplete or incorrect particulars;

(b) having issued a tax invoice or retail invoice, has failed to account it correctly in his books of account,

such person shall be liable to pay, by way of penalty, an amount of five thousand rupees or twenty per cent. of the tax deficiency, if any, whichever is higher.

(16) Where a person, who is not authorised under this Regulation to issue a tax invoice, issues a tax invoice, the person shall be hable to pay, by way of penalty, an amount of one lakh rupees or the tax deficiency, if any, whichever is higher.

(17) If any dealer fails to furnish a true copy of report of audi-referred to in section 49 within the prescribed time, the person shall be liable to pay, by way of penalty, a sum of ten thousand rupees.

(18) Where goods are being carried by a transporter without the documents or without proper documents or with such documents being false or without all documents referred to in sub-section (2) of section 61, the transporter shall be liable to a penalty equal to the amount of tax payable on such goods.

(19) Any person, who----

(a) makes a statement to the Commissioner or any authority under this Regulation which is false, misleading or deceptive in a material particular; or

(b) omits from a statement made to the Commissioner or any authority under this Regulation any material particular without which the statement is false, misleading or deceptive,

such person shall be liable to pay, by way of penalty, a sum of fifty thousand rupees, or the amount of the tax deficiency, whichever is higher.

Reduction or increase of penalty in certain cases. 87. (1) Where as a result of any proceedings the amount of tax has been wholly reduced, and a penalty has been levied with reference to such tax, the penalty so levied shall be reduced to nil and if the penalty has already been paid, it shall be refunded within two months of the reduction of such tax.(2) If a person is liable to pay a penalty under sub-section (11) of section 86, and the person voluntarily discloses in writing to the Commissioner the tax deficiency,—

(a) the amount of the penalty leviable under this Regulation shall be reduced by eighty per cent. of such penalty if such disclosure is made before the Commissionerissues the notice under section 58 for conducting of the audit of the business affairs of such person;

(b) the amount of the penalty leviable under this Regulation shall be reduced by fifty per cent. of such penalty if such disclosure is made after the Commissioner has issued the notice under section 58 for conducting of the audit of the business affairs of such person.

(3) If the tax deficiency has arisen in pursuance of determination by the Commissioner under section 84 or ruling given under section 85 and in pursuance of such determination or ruling, a person has become liable to pay a penalty under sub-section (11) of section 86, the amount of the penalty payable under this Regulation shall be reduced to nil and if the penalty has already been paid, it shall be refunded within two months of the reduction of such tax.

(4) Where penalty under this Regulation has been imposed upon a person and such penalty has not been reduced by any authority or Appellate Tribunal or court and has become final, and such person is subsequently assessed to a further penalty in respect of the same or a substantially similar failure or default occurring on another occasion (in this section called the "subsequent offence"), the penalty leviable under this Regulation shall be increased by-

(a) in the case of the first subsequent offence, fifty per cent. of the penalty leviable under this Regulation; and

(b) in the case of the second and any further subsequent offence, one hundred per cent. of the penalty leviable under this Regulation.

88. (1) The penalties shall be leviable under this Regulation notwithstanding that no assessment of tax under this Regulation has been made.

(2) Any penalty imposed under this Regulation shall be without prejudice to any prosecution for any offence under this Chapter or any other law for the time being in force.

89. (1) Whoever---

(a) not being a registered dealer, falsely represents that he is or was a registered dealer at the time when he sells or buys goods; or

(b) knowingly keeps false account or does not keep the account of the value of the goods bought or sold by him in contravention of section 48; br

(c) issues to any person a false invoice, bill, cash-memorandum, voucher or other document which he knows or has reason to believe to be false,

shall, on conviction, be punished with rigorous imprisonment for a term which may extend to six months and with fine.

(2) Whoever knowingly---

(a) furnishes a false return; or

(b) produces before the Commissioner, false bill, cash---memorandum, voucher, declaration, certificate, tax invoice or other document for claiming deduction on tax credit; or

(c) produces false accounts, registers or documents or knowingly furnishes false information,

he shall---

(i) in case where the amount of tax, which could have been evaded if the false return, bill, cash—memorandum, voucher, declaration, certificate, tax invoice or other document for claiming deduction on tax credit, accounts, registers or documents or false information, as the case may be, had been accepted as true exceeds, fifty thousand rupees, on conviction, be punished with rigorous imprisonment for a term which may extend to six months; and

(ii) in any other case, with rigorous imprisonment for a term which may extend to four months and with fine.

Imposition of penalties notwithstanding of assessment.

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Offences and criminal penalties.

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(3) Whoever, wilfully attempts, in any manner whatsoever, to evade payment of tax, penalty or interest or all of them under this Regulation, shall, on conviction, be punished—

(a) in any case where the amount of such tax, penalty or interest involved exceeds fifty thousand rupees during the period of a year, with rigorous imprisonment for a term which may extend to six months and with fine; and

(b) in any other case, with rigorous imprisonment for a term which may extend to three months and with fine.

(4) Whoever—

or

or

(a) carries on business as a dealer without being registered in wilfull contravention of sub-section (1) of section 18; or

(b) fails without sufficient cause to furnish any information required under section 21; or

(c) fails to surrender his certificate of registration as provided in sub-section (7) of section 22; or

(d) fails without sufficient cause to furnish any returns as required under section 26 or section 27 by the date or in the manner prescribed; or

(e) without reasonable cause, contravenes any of the provisions of section 40; or

(f) fails without sufficient cause, when directed so to do under section 48 to keep any accounts or record, in accordance with the directions; or

(g) without sufficient cause fails to issue invoice as required under section 50;

(h) fails without sufficient cause, to comply with any requirements under section 59, or obstructs any officer making inspection or search or seizure under sections 60 and 61; or

(i) being owner in charge of a goods vehicle fails, neglects or refuses to comply with any of the requirements contained in section 61; or

(j) obstructs or prevents any officer performing any function under Chapter X;

(k) interferes with or obstructs the Commissioner or any officer exercising any other power conferred under this Regulation,

he shall, on conviction, be punished with imprisonment for a term which may extend to six months and with fine.

(5) Whoever aids or abets any person in the commission of any act specified in subsections (1) to (3) shall, on conviction, be punished with rigorous imprisonment which may extend to six months, and with fine.

(6) Whoever commits any of the acts specified in sub-sections (1) to (5) and the offence is a continuing one under any of the provisions of these sub-sections, shall, on conviction, be punished with fine of not less than one hundred rupees per day during the period of the continuance of the offence, in addition to the punishments provided under this section.

(7) Notwithstanding anything contained in sub-sections (1) to (5), no person shall be proceeded under these sub-sections if the total amount involved is less than two hundred rupees during the period of a year.

(8) Where a dealer is accused of an offence specified in sub-section (1), or sub-section (2) or sub-section (3) of this section or in clause (a), or clause (b), or clause (c), or clause (d), or clause (e), or clause (f), or clause (g), or clause (h) and clause (f) of sub-section (4), or sub-section (6) of this section, the person deemed to be the manager of the business of such

dealer under section 95 shall also be deemed to be guilty of such offence, unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission thereof.

90. (1) Where an offence under this Regulation or the rules has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Regulation if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Regulation has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purposes of this section—

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

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

(3) Where an offence under this Regulation has been committed by a Hindu undivided family, the Karta thereof shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render the Karta liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence:

Provided further that where an offence under this Regulation has been committed by a Hindu undivided family and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any adult member of the Hindu undivided family, such member shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

91. (1) No court shall take cognizance of any offence under this Regulation or rules made thereunder except with the previous sanction of the Commissioner, and no court inferior to that of a Metropolitan Magistrate shall try any such offence.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences punishable under this Regulation or the rules made thereunder shall be cognizable and bailable.

92. (1) Subject to such conditions as may be prescribed, the Commissioner may authorise either generally or in respect of a particular case or class of cases any officer or person subordinate to him to investigate all or any of the offences punishable under this Regulation.

(2) Every officer or person so authorised shall, in the conduct of such investigation, exercise the powers conferred by the Code of Criminal Procedure, 1973 upon an officer in charge of a police station for the investigation of a cognizable offence.

Cognizance of offences.

Investigation of offences.

Offences by companies and Hindu undivided family, etc.

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PART II----

Compoundingof offences. 93. (1) The Commissioner may, before the institution of proceedings for any offence punishable under sub-section (4) of section 89 or under any rules made under this Regulation, accept from any person charged with such offence by way of composition of offence, a sum not exceeding fifty thousand rupees or a sum not exceeding three times the amount of tax which would thereby have been avoided, whichever is higher.

(2) On payment of such sum as may be determined by the Commissioner under subsection (1), no further proceedings shall be commenced against such person in respect of the same offence.

94. Nothing in Chapter XXXVI of the Code of Criminal Procedure, 1973 shall apply 2 of 1974. to---

(a) any offence punishable under this Regulation; or

(b) any other offence which under the provisions of that Code may be tried along with such offence, and

every offence referred to in clause (a) or clause (b) may be taken cognizance of by the court having jurisdiction under this Regulation as if the provisions of that Chapter were not enacted.

CHAPTER XIV

MISCELLANEOUS

95. (1) Every dealer, being a Hindu undivided family or an association of persons or club or society or firm or company or any person or body, who is engaged in business as the guardian or trustee or otherwise on behalf of another person, and who is liable to pay tax under this Regulation, shall, within the period prescribed, furnish a declaration in the manner prescribed, stating the name of the person or persons who shall be deemed to be the manager or managers of such person's business for the perposes of whis Regulation.

(2) The declaration furnished under sub-section (1) may be revised from time to time as required.

96. (1) Where Hindu undivided family has been partitioned, notices under this Regulation shall be served on the person who was the last manager of the Hindu undivided family, or if such person cannot be found, then, on all adults who were members of the Hindu undivided family, immediately before the partition.

(2) Where a firm or an association of persons is dissolved, notices under this Regulation may be served on any person who was a partner (not being a minor) of the firm, or member of the association, as the case may be, immediately before its dissolution.

97. Where an assessment is to be made in respect of business which has been discontinued; a notice under this Regulation shall be served in the case of a firm or an association of persons or any person who was a member of such firm or association at the time of its discontinuance or in the case of a company, on the principal officer thereof.

98. (1) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Regulation, or in any record of evidence given in the course of any proceedings under this Regulation, other than proceedings before a criminal court, shall, save as provided in sub-section (3), be treated as confidential, and norwithstanding anything contained in the Indian Evidence Act, 1872, no court shall, save as aforesaid, be entitled to require any servant of the Government to produce before it any such statement, return, account, document or record or any part thereof, or to give evidence before it in respect thereof.

(2) If, save as provided in sub-section (3), any servant of the Government discloses any of the particulars referred to in sub-section (1), he shall be punishable with imprisonment which may extend to six months, and shall also be liable to a fine.

XXXVI of Code of Criminal Procedure, 1973, not to apply to certain offences.

Chapter

Deales in decises the seame of transper of business

Service of notice when family is disrupted or firm is dissolved.

Service of notice in case of discontinued business.

Reiums, etc., to be confidential.

1 of 1872.

(3) Nothing in this section shall apply to the disclosure-

(a) of any of the particulars referred to in sub-section (1) for the purposes of investigation or prosecution under this Regulation or the Indian Penal Code 1860 or any other law for the time being in force;

(b) of such facts to an officer of the Central Government or any State Government as may be necessary for verification of such facts or for the purposes of enabling that Government to levy or realise any tax imposed by it;

(c) of any such particulars where such disclosure is occasioned by the lawful employment under this Regulation of any process for the service of any notice or the recovery of any demand;

(d) of any such particulars to a civil court in any suit or proceeding to which the Government or any Value Added Tax Authority is a party and which relates to any matter arising out of any proceeding under this Regulation or under any other law for the time being in force authorising any Value Added Tax Authority to exercise any powers thereunder;

(e) of any such particulars by any public servant where the disclosure is occasioned by the lawful exercise by him of his powers under the Indian Stamp Act, 1899, to impound an insufficiently stamped document;

(f) of any such particulars to the Reserve Bank of India as are required by that Bank to enable it to compile financial statistics of international investment and balance of payment;

(g) of any such particulars to any officer appointed by the Comptroller and Auditor-General of India for the purpose of audit of tax receipts or refunds;

(h) of any such particulars relevant to any inquiry into a charge of misconduct in connection with income-tax proceedings against a legal practitioner or chartered accountant or company secretary or cost accountant, to the authority empowered to take disciplinary action against members of the profession to which he belongs;

(i) of such particulars to the officers of the Central Government or any State Government for such other purposes, as the Government may, by general or special order, direct; or

(*j*) of any information relating to a class of dealers or class of transactions, if, in the opinion of the Commissioner it is desirable in the public interest to publish such information.

99. (1) Notwithstanding anything contained in this Regulation, if the Government is of the opinion that it is necessary or expedient in the public interest to publish or disclose the names of any dealers or other persons and any other particulars relating to any proceedings under this Regulation in respect of such dealers and persons, it may publish or disclose or cause to be published or disclosed such names and particulars in such manner as it thinks fit.

(2) No publication or disclosure under this section shall be made in relation to any tax levied or penalty imposed or interest levied or any conviction for any offence connected with any proceeding under this Regulation, until the time for presenting an appeal to the appropriate Appellate Authority or Tribunal or court has expired without an appeal having been presented or the appeal, if presented, has been disposed of.

(3) In the case of a firm, company or other association of persons, the names of the partners of the firm, the directors, managing agents, secretaries, treasurers or managers of the company or the members of the association, as the case may be, may also be published or disclosed, if, in the opinion of the Government, the circumstances of the case justify it.

Publication and disclosure of information in respect of dealers and other persons in public interest. A CONTRACTOR OF A CONTRACTOR O

5 of 1860

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of 1899

PART II----

Power to collect statistics. 56

100. (1) If the Commissioner considers that for the purposes of the better administration of this Regulation, it is necessary so to do, he may, by notification, direct that statistics be collected relating to any matter dealt with, by or in connection with this Regulation.

(2) Upon such direction being made, the Commissioner or any person or persons authorised by him in this behalf may call upon all dealers or any class of dealers or persons to furnish such information or statements as may be stated therein relating to any matter in respect of which statistics are to be collected and the form in which the persons to whom or, the authorities to which, such information or returns should be furnished, the particulars which they should contain, and the intervals in which such information or returns should be furnished, shall be such as may be prescribed:

Provided that information may be called by notification, or by notice in newspapers or in such other manner as, in the opinion of the Commissioner or the said person, is necessary to bring to the knowledge of dealers and other persons.

(3) Without prejudice to the generality of the foregoing provisions, the Government may by rules provide that every dealer or, as the case may be, any class of dealer shall furnish such statements as may be prescribed, with the self assessment, and different provisions may be made for different classes of dealers.

101. The Government may, by notification, set up check—posts or barriers, or both, at any place in the Daman and Diu with a view to preventing evasion of tax and other dues payable under this Regulation.

102. (1) The Government may, by notification, make rules to carry out the purposes of this Regulation.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:----

(a) the documents, testimony or other evidence constituting "sufficient proof" for the purpose of clause (zc) of section 2;

(b) the "tax period" for the purpose of clause (zg) of section 2;

(c) the further period, for the purposes of determining taxable turnover under sub-section (6) of section 3;

(d) the conditions subject to which the amount of price and other charges towards goods to be included in the turnover of a dealer engaged in works contract under clause (a) of sub-section (2) of section 5;

(e) the percentage of amount to be reduced for the purpose of calculation of the amount of price and other charges towards goods in case of a dealer engaged in works contract under clause (b) of sub-section (2) of section 5;

(f) the form in which, the authority ∞ whom, and time within which a dealer shall file a return and the manner of payment of tax under sub-section (3) of section 6;

(g) the percentage of reduction of the amount of tax credit by the dealer under sub-section (6) of section 9;

(h) the period for which the turnover of a dealer, turnover of purchases made by a dealer and adjustment of adjustment to tax or tax credit by a dealer shall be treated as arising for a class of transactions under sub-section (4) of section 12;

(i) the form of a statement, to be furnished by all registered dealers to the Commissioner under sub-section (1) of section 14;

(i) the manner and the conditions and restrictions and the extent to determine the tax paid on the opening stock under sub-section (2) of section 14;

and barriers. Power to make

Setting up of

check-post

rules.

(k) the form of certificate to be signed by an accountant under sub-section (4) of section 14;

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(l) the time and manner of making an application to the Commissioner for withdrawing option under first proviso to sub-section (2) of section 16

(m) the time and manner to specify the intention of a person to pay tax under sub-section (3) of section 16;

(*n*) the form in which the proof of payment of tax, statement of opening stock and finished goods shall be furnished to the Commissioner, under sub-section (δ) of section 16;

(o) the form of application for grant of certificate of registration, time within which such application is to be made, such other particulars and information relating to registration and accompanied by fee, security and other documents under sub-section (1) of section 19;

(p) the amount of security and manner in which an applicant may furnish such security as referred to in clause (a) of sub-section (3) of section 19;

(q) the form in which the statement of trading stock and raw materials may be furnished by the dealer under clause (c) of sub-section (1) of section 20;

(r) the manner in which the information shall be given to the Commissioner by a registered dealer under sub-section (1) of section 21;

(s) the form of notice by the Commissioner for cancellation of certificate of registration under sub-section (1) of section 22;

(t) the manner and time within which the registered dealer or the dealer's legal representative shall apply to the Commissioner for cancellation of certificate of registration under sub-section (2) of section 22;

(u) the manner in which the excess tax shall be adjusted or refunded under subsection (6) of section 22;

(ν) the particulars to be published, by the Commissioner relating to registered dealers, whose certificate of registration has been cancelled, under sub-section (8) of section 22;

(w) the surety, amount, manner and the time within which the Commissioner may require any person to furnish security under sub-section (1) of section 25;

(x) the amount of fresh surety to be furnished, where certificate of registration of the person who has executed surety bond is either cancelled or such person has closed down his business, under sub-section (4) of section 25;

(y) the date within which, and the form in which returns by every registered dealer shall be furnished under section 26;

(z) the time within which and the form in which the other returns specified by the Commissioner shall be furnished by a person under section 27;

(za) the branch of a bank in the Dadra and Nagar Haveli in which or other place where and the manner in which the tax, interest, penalty or any other amount shall be paid by every person under section 36:

(*zb*) the manner and form of application in which the dealer may apply to the Commissioner for grant of provisional refund under sub-section (9) of section 38;

(*zc*) the amount of bank guarantee or other security which the Commissioner may require the dealer to furnish under sub-section (*10*) of section 38;

(zd) the restrictions and conditions subject to which the Embassies, diplomatic officials and international or public organizations specified in the Fifth Schedule shall claim a refund of tax under sub-section (1) of section 41;

(*ze*) the manner and time within which a person, entitled to a refund of tax, may apply to the Commissioner under sub-section (2) of section 41;

(zf) the manner and form in which the accounts and records shall be prepared and maintained under sub-section (3) of section 48;

(zg) the other amount of gross turnover, the form of the audit report, the particulars to be set forth in such report and the time of furnishing true copy of such report under section 49;

(zh) the amount in value of goods sold in one transaction by a dealer, for issuing a retail invoice to the purchaser under sub-section (4) of section 50;

(zi) the conditions and restrictions subject to which a copy of tax invoice may be provided under sub-section (8) of section 50;

(zj) the particulars to be contained in the debit or credit notes under section 51;

(zk) the manner in which a notice shall be served, by the Commissioner informing the person to conduct an audit of his business affairs, under sub-section (1) of section 58;

(zl) the conditions subject to which the Commissioner may require any dealer or person and in the case of an organisation any officer thereof to produce records, books of account registers and other documents, to submit clarifications or to prepare and furnish additional information under sub-section (2) of section 59;

(zm) the records which an owner or person in charge of a goods vehicle shall carry with him in respect of the goods carried in the goods vehicle under sub-section (2) of section 61;

(zn) the form, manner and the amount of security for which the owner or person in charge of the goods vehicle shall furnish to the Commissioner under clause (b) of sub-section (5) of section 61;

(zo) the manner for the sale of property by which an auction of goods or a goods vehicle shall be carried out under sub-section (4) of section 63;

(zp) the restrictions and conditions subject to which the Commissioner may delegate any of his powers, and the form of evidence of such delegation under section 68;

 $(z\omega)$ the qualifications and other conditions of service of the member or members constitut ng the Appellate Tribunal and the period for which such member or members shall hold office under sub-section (3) of section 73;

(xr) the composition of the selection committee for the recommending for appointment of members of the Appellate Tribunal under sub-section (4) of section 73;

(.s) the form in which an appeal may be filed under sub-section (3) of section 74;

(31) the form in which appeals may be filed, the manner in which such appeals shall be verified and the fees payable in respect thereof under sub-section (3) of section 76;

(zu) the manner in which the appellant may furnish the security under first proviso to sub-section (4) of section 76.

zv) the amount of fee for making an application to the Appellate Tribunal under section 81;

(zw) the qualifications of a Value Added Tax practitioner under clause (c) of sub-section (1) of section 82;

(zx) the manner in which an application may be made under sub-section (1) of section 84;

(zy) the period within which the Commissioner shall make the determination under sub-section (5) of section 84;

(zz) the conditions subject to which, the Commissioner may authorize any officer or person subordinate to him to conduct investigations under section 92;

(zza) the period within which and manner in which a declaration shall be published under sub-section (1) of section 95;

(zzb) the form in which, the persons or authorities to whom, the particulars, and the intervals in which the information is to be furnished under sub-section (2) of section 100;

(zzc) the statements to be furnished by every dealer or any class of dealers as referred to in sub-section (3) of section 100;

(zzd) any other matter which is required to be, or may be, prescribed.

103. (1) If the Government is of opinion that it is expedient in the interest of general public so to do, it may, by notification, add to, or omit from, or otherwise amend, the First, the Second, the Third, the Fourth, the Fifth or the Sixth Schedules, prospectively, and thereupon the said Schedules shall be deemed to have been amended accordingly.

(2) Every notification made under sub-section (2) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or both Houses agree that the notification should not be made, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

104. (1) If any difficulty arises in giving effect to the provisions of this Regulation, the Government may, by general or special order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Regulation as appear to it to be necessary or expedient for the removal of the difficulty:

Provided that no such order shall be made after the expiration of two years from the commencement of this Regulation.

(2) Every order made under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the order or both Houses agree that the order should not be made, the order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.

105. (1) Where ----

(a) the tax has been collected under the Daman and Diu Sales Tax Act. 1964, as repealed by section 106, but the same has not been deposited before the date of commencement of this Regulation, the tax so collected by any person under the said

amend Schedules

Power to

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Power to remove difficulties.

> Transitory provisions

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4 of 1964.

Act shall be deposited in accordance with the provisions of the aforesaid Act and rules made thereunder, as if this Regulation has not come into force and the said Act had not been repealed;

(b) a return is required to be filed under the Daman and Diu Sales Tax Act, 1964, as repealed by section 106, but the same had not been filed before the commencement of this Regulation, such every return shall be filed in accordance with the provisions of the said Act and by the person liable to file such return to the authorities as may, by notification, be specified;

(c) a return has been filed, under the Daman and Diu Sales Tax Act, 1964 as repealed by section 106, by any dealer for any assessment year and no assessment in respect of that year has been made before the commencement of this Regulation, the proceedings for the assessment of that dealer for that year shall be made or be continued as if this Regulation had not come into force and the said Act had not been repealed and such assessment shall be made by such Assessing Authority as may, by notification, be specified; for the purposes of making the assessment in such cases;

(d) a person has been aggrieved by any decision made or order passed under the Daman and Diu Sales Tax Act, 1964 as repealed by section 106 and he has not filed any appeal or an application for rectification of his mistake or for review or revision, such person may file an appeal or make an application for rectification of mistake, revision or review, as the case may be, in accordance with the provision of the said Act and the rules made thereunder to such authority as may, by notification, be specified for the purpose of hearing and disposing of such appeal or application;

(e) any liability of any dealer to pay tax, under the Daman and Diu Sales Tax Act, 1964 as repealed by section 106, had been affected, and such person was entitled to make a statement of case to the High Court under section 28 of the said Act, before the date of commencement of this Regulation, such person may, draw up, within two months of the date of commencement of this Regulation, a statement of case (if not already drawn such statement) and refer it to the High Court in accordance with the provisions of said section 28, as if the aforesaid Act had not been repealed.

(2) Where on the date of commencement of this Regulation, where an appeal under the Daman and Diu Sales Tax Act, 1964, as repealed by section 106, has been pending before any authority under the said Act, such appeal shall be disposed of within a period of five years from the date of the commencement of this Regulation.

(3) The Commissioner may, having regard to the difficulties, if any, for issuing tax invoices containing particulars specified in clauses (a) to (g) of sub-section (2) of section 50, by a general order, waive all or any of the particulars required to be mentioned in the tax invoices under said clauses (a) to (g), for a period not exceeding two weeks from the date of commencement of this Regulation.

106.(1) The Daman and Diu Sales Tax Act, 1964, as in force in Daman and Diu (referred 4 of 1964, to in this section as the "repealed Act"), is hereby repealed.

(2) Notwithstanding anything contained in sub-section (1), such repeal shall not affect the previous operation of the repealed Act or any right, title, entitlement, obligation or liability already acquired, accrued or incurred thereunder.

(3) For the purposes of sub-section (2), anything done or any action taken including any appointment, notification, notice, order, rule, form or certificate in the exercise of any powers conferred by or under the repealed Act shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Regulation, as if this Regulation were in force on the date on which such thing was done or action was taken, and all arrears of tax and other amounts due at the commencement of this Regulation may be recovered as if they had accrued under this Regulation.

Repeal and savings.

(4) Save as otherwise provided in sub-sections (2) and (3), the mention of particular matters in sub-sections (2) and (3) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal.

10 of 1897.

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[PART II-

THE FIRST SCHEDULE

(See section 6)

List of Exempted Goods

GOODS

Serial Number.

- 1. Agricultural implements manually operated or animal driven.
- 2. Aids and implements used by handicapped persons.
- 3. Aquatic feed, poultry feed and cattle feed including grass, hay and straw.
- 4. Betel leaves.
- 5. Books, periodicals, newspapers and maps.
- 6. Charakha, Ambar Charakha, handlooms and handloom fabrics and Gandhi Topi.
- 7. Charcoal.
- 8. Coarse grains other than paddy, rice and wheat.
- 9. Condoms and Contraceptives.
- 10. Cotton and silk yarn in hank.
- 11. Curd, Lussi, butter milk and separated milk.
- 12. Earthen pot.
- 13. Electricity energy.
- 14. Firewood.
- 15. Fishnet, fishnet ropes and fishnet fabrics.
- 16. Fresh milk and pasteurized milk.
- 17. Fresh plants, saplings and fresh flowers.
- 18. Fresh vegetables and fruits.
- 19. Garlic and ginger.
- 20. Glass bangles.
- 21. Human blood and blood plasma.
- 22. Indigenous handmade musical instruments.
- 23. Kumkum, bindi, alta and sindur.
- 24. Meat, fish, prawn and other aquatic products when not cured or frozen, eggs and livestock and animal hair.
- 25. National Flag
- 26. Organic manure.
- 27. Non-judicial stamp paper sold by Government Treasuries, postal items like envelope, post card etc sold by Government, rupee note, when sold to the Reserve Bank of India and cheques, whether loose or book form.
- 28 · Raw wool.

- 29. Semen including frozen semen.
- 30. Silk worm laying, cocoon and raw silk.
- 31. Slate and slate pencils.

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- 32. Tender green coconut.
- 33. Toddy, Neera and Arak.
- 34. Breads of all types except pizza bread.
- 35. Unprocessed and unbranded salt.
- 36. Water other than aerated, mineral, distilled, medicinal, ionic, battery, de-mineralized water and water sold in sealed container.
- 37. Food grains including paddy, rice, wheat and pulses.
- Items which are subjected to levy of additional excise duty under the provisions of the Additional Duties of Excise (Goods of Special Importance) Act, 1957.

[PART II-

THE SECOND SCHEDULE

[See clause (a) of sub-section (1) of section 4]

List of Goods Taxed at one per cent.

GOODS

Serial Number.

Bullion. 1.

- Articles of gold, silver and precious metals including jewellery made from gold, 2. silver and precious metals.
- Precious stones and semi-precious stones. 3.
- Platinum Jewellery. 4.
- Noble metals. 5.

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THE GAZETTE OF INDIA EXTRAORDINARY

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THE THIRD SCHEDULE

[See clause (b) of sub-section (1) of section 4]

List of Goods Taxed at four per cent.

GOODS

Serial Number.

- 1. Agricultural implements not operated manually or not driven by animal.
- 2. All equipments for communications such as, Private Branch Exchange (PBX) and Electronic Private Automatic Branch Exchange (EPABX).
- 3. All intangible goods like copyright, patent, rep license, goodwill.
- 4. All kinds of bricks including fly ash bricks, refractory bricks and asphaltic roofing, earthen tiles.
- 5. All types of yarn other than cotton and silk yarn in hank and sewing thread.
- 6. Aluminium utensils and enameled utensils.
- 7. Arecanut powder and betel nut.
- 8. Bamboo.
- 9. Bearings.
- 10. Beedi leaves.
- 11. Beltings.
- 12. Bicycles, tricycles, cycle rickshaws and parts.
- 13. Bitumen.
- 14. Bone meal.
- 15. Pizza bread.
- 16. Bulk drugs.
- 17. Castings.
- 18. Centrifugal, monobloc and submersible pumps and parts thereof.
- 19. Coffee beans and seeds, cocoa pod, green tea leaf and chicory.
- 20. Chemical fertilizers, pesticides, weedicides insecticides, Plant growth promoters and Plant nutrients.
- 21. Coir and coir products excluding coir mattresses.
- 22. Cotton and cotton waste.
- 23. Crucibles.
- 24. Declared goods as specified in section 14 of the Central Sales Tax Act, 1956 other than items subjected to levy of additional excise duty under the provisions of Additional Duties of Excise (Goods of Special Importance) Act, 1957.
- 25. Edible oils, oil cake and de-oiled cake.

26. Electrodes.

PART II---

- 27. Exercise book, graph book and laboratory note book.
- 28. Ferrous and non-ferrous metals and alloys.
- 29. Fibres of all types and fibres waste.
- 30. Flour, atta, maida, suji, besan.
- 31. Fried grams.
- 32. Gur, jaggery, and edible variety of rub gur.
- 33. Hand pumps and spare parts.
- 34. Herb, bark, dry plant, dry root, commonly known as jari booti and dry flower.
- 35. Hose pipes.
- 36. Hosiery goods.
- 37. Husk and bran of cereals.
- 38. Ice.
- 39. Incense sticks commonly known as, agarbatti, dhupkathi or dhupbati.
- 40. Industrial cables (High voltage cables, PVC or XLPE Cables, jelly filled cables).
- 41. IT products including computers, telephone and parts thereof, teleprinter and wireless equipment and parts thereof.
- 42. Kerosene oil sold through PDS.
- 43. Leaf plates and cups.
- 44. Murmuralu, pelalu, atukulu, puffed rice, muri.
- 45. Newars.
- 46. Napa Slabs (Rough flooring stones).
- 47. Ores and minerals.
- 48. Tea.
- 49. Paper and newsprint.

50. Pipes of all varieties including GI pipes, CI pipes, ductile pipes and PVC pipes.

- 51. Plastic footwear.
- 52. Printed material including diary, calendar.
- 53. Printing ink whether concentrated or solid excluding toner and cartridges.
- 54. Processed and branded salt.
- 55. Pulp of bamboo, wood and paper.
- 56. Rail coaches engines and wagons.
- 57. Readymade garments.
- 58. Renewable energy devices and spare parts.
- 59. Safety matches.
- 60. Seeds.
- 61. Sewing machines.
- 62. Ship and other water vessels.

63. Silk fabrics.

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- 64. Skimmed milk powder.
- 65. Solvent oils other than organic solvent oil.
- 66. Spices of all varieties and forms including cumin seed, aniseed, turmeric and dry chillies.
- 67. Sports goods excluding apparels and footwear.
- 68. Starch.
- 69. Tamarind.
- 70. Tractors, threshers, harvesters and attachments and parts thereof.
- 71. Transmission towers.
- 72. Umbrella except garden umbrella.
- 73. Vanaspati (Hydrogenated vegetable oil).
- 74. Vegetable oil including gingili oil and bran oil.
- 75. Writing instruments.
- 76. Animal including fish fats, oils, crude, refined or purified.
- 77. Glycerol, crude, glycerol waters and glycerol lyes.
- 78. Vegetable waxes, bees wax.
- 79. Animal or vegetable fats boiled or oxidized or dehydrated.
- 80. Liquid glucose (non-medicinal), Dextrose syrup.
- 81. Denatured ethyl alcohol of any strength.
- 82. Manganese ores and concentrates.
- 83. Copper ores and concentrates.
- 84. Nickel ores and concentrates.
- 85. Cobalt ores and concentrates.
- 86. Aluminium ores and concentrates.
- 87. Lead ores and concentrates.
- 88. Zinc ores and concentrates.
- 89. Tin ores and concentrates.
- 90. Chromium ores and concentrates.
- 91. Tungsten ores and concentrates.
- 92. Uranium or thorium ores and concentrates.
- 93. Molybdenum ores and concentrates.
- 94. Titanium ores and concentrates.
- 95. Niobium, tantalum, vanadium or zirconium ores and concentrates.
- 96. Precious metal ores and concentrates.
- 97. Other ores and concentrates.
- 98. Granulated slag (slag sand) from manufacturing of iron or steel.

99. Benzole.

- 100. Toluole.
- 101. Xylole.
- 102. Napthalene.
- 103. Phenols.
- 104. Creosole oils.
- 105. Normal Paraffin.
- 106. Butadine.

107. Bitumen.

108. Flurine, chlorine, bromine and iodine.

109. Sulphur, sublimed or precipitated, colloidal sulphur.

110. Carbon (carbon blacks and other forms of carbon).

111. Hydrogen, rare gases & other non-metals.

112. Alkali or alkaline earth metals.

113. Hydrogen chloride.

114. Sulphuric acid and anhydrides.

115. Nitric acid, sulphonitric acids.

116. Diphosphorous penataoxide, phosphoric acid.

117. Oxides of boron, boric acids.

118. Halides and halide oxides of non-metals.

119. Sulphides of non-metals.

120. Ammonia, anhydrous.

121. Sodium hydroxide (caustic soda), Potassium hydroxide (caustic potash) and soda ash.

122. Hydroxide and peroxide of magnesium.

123. Aluminum hydroxide.

124. Chromium oxides and hydroxides.

125. Manganese oxides.

126. Iron oxides and hydroxides.

127. Cobalt oxides and hydroxides.

128. Titanium oxides.

129. Hydrazine and hydroxylamine and their inorganic salts.

130. Flurides, fluorosilicates.

131. Chlorides, chloride oxides.

132. Chlorates and perchlorates, Bromates.

133. Sulphides, Polysulphides.

134. Dithionites and sulphoxylates

- 135. Sulphites, thiosulphates.
- 136. Copper sulphate.

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- 137. Nitrites, nitrates.
- 138. Phosphinates, phosphonates.
- 139. Carbonates, peroxocarbonates.
- 140. Cyanides, cyanide oxides.
- 141. Fulminates, cyanates and thiocyanates...
- 142. Borates, peroxoborates.
- 143. Sodium dischromate.
- 144. Potassium dischromate.
- 145. Radioactive chemical elements.
- 146. Isotopes and compounds.
- 147. Compounds, inorganic or organic of rare earth metals.
- 148. Phosphides, whether or not chemically defined.
- 149. Calcium carbides.
- 150. Ethylene, Propylene.
- 151. Cyclic Hydrocarbons.
- 152. Halogenated derivatives of Hydrocarbons.
- 153. Sulphonated, nitrated or nitrosated derivatives of hydrocarbons.
- 154. Methanol.
- 155. DI-Ethylene Glycol, Mono-Ethylene Glycol.
- 156. Cyclic alcohols.
- 157. Halogenated, sulphonated derivatives of products.
- 158. Ethers, ether-alcohols, ether-phenols.
- 159. Expoxides, epoxyalcohols, epoxyethers.
- 160. Ethylene Oxide.
- 161. Acetals and hemiacetals.
- 162. Aldehydes whether or not with other oxygen function.
- 163. Halogenated, sulphonated, nitrated derivatives of phenols alcohols.
- 164. Saturated acyclic monocarboxylic acids.
- 165. Unsaturated acyclic monocarboxylic acids.
- 166. Polycarboxylic acids.
- 167. Carboxylic acids.
- 168. Phosphoric ester and their salts.
- 169. Esters of other inorganic acids.
- 170. Amine-function compounds.
- 171. Oxygen-function amino-compounds.

	- LODDINARY	[PART II-	
	THE GAZETTE OF INDIA EXTRAORDINARY		
70	 Quaternary ammonium salts and hydroxides. 172. Quaternary ammonium salts and hydroxides. 173. Carboxyamide—function compounds. 	s salts.	
	 Nitrile—function compounded Diazo—, Azo— or azoxy—compounds. Drganic derivatives of hydrazine or of hydroxylamine. Organo—sulphur compounds. Organo—sulphur compounds. 		
	 Heterocyclic compounds with only 3 Heterocyclic compounds with nitrogen heteroatom(s) only. Nucleic acids and their salts. 		
	 183. Sulphonamides. 184. Glycosides, natural or reproduced by synthesis and their sale 185. Vegetable alkaloids, natural or reproduced by synthesis and 	ts. their salts.	
	 Vegetable and the result of vegetable origin. Tanning extracts of vegetable origin. Synthetic organic tanning substances. Colouring matter of vegetable or animal origin. 		
	 Colouring matter. Synthetic organic colouring matter. Colour lakes. Glass frit and other glass. 		
	 Printed driers. Casein, Caseinates. Enzymes, Prepared enzymes. 		
	 195. Artificial graphite. 196. Activated carbon. 197. Residual lyes from manufacturing of wood pulp. 198. Rosin and resin acids and derivatives. 		
	Wood tar, wood tar oils.Finishing agents, fixing of dye—stuffs.		
	 202. Reducers and blanket wash of rotter 203. Reaction initiators, reaction accelerators. 204. Mixed alkylbenzenes. 		
	204. Chemical elements doped. 205. Chemical elements doped.	•	

205. Chemical elements dopsil.206. Industrial monocarboxylic fatty acids.

207. Retarders.

208. LLDPE or LDPE.

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THE GAZETTE OF INDIA EXTRAORDINARY

- 209. HDPE.
- 210. Polymers of propylene.
- 211. PVC.
- 212. Acrylic polymers.
- 213. Polyacetals.
- 214. Polythene chips.
- 215. Polyamides.
- 216. Amino-resins, polyphenylene oxide.
- 217. Silicons.
- 218. Petroleum resins.
- 219. Cellulose and its chemical derivatives.
- 220. Natural polymers.
- 221. Ion-exchangers based on polymers.
- 222. Self-adhesive plates, sheets, film, strip of plastics.
- 223. Flexible plain films.
- 224. Articles for conveyance or packing of goods of plastics.
- 225. Natural rubber, balata, gutta percha.
- 226. Synthetic rubber and factice derived from oils, reclaimed rubber.
- 227. Raw rubber, latex, dry ribbed.
- 228. Compounded rubber, unvulcanised.
- 229. Mechanical wood pulp, chemical wood pulp, semi---chemical wood pulp.
- 300. Cartons, boxes.
- 301. Paper printed labels, paperboard printed labels.
- 302. Paper self---adhesive tape.
- 303. Partially oriented yarn, polyester texturised yarn.
- 304. Polyester staple fibre and polyester staple fibre fill.
- 305. Polyester staple fibre waste.
- 306. Sacks and bags, of a kind used for packing of goods.
- 307. Carboys, bottles, jars, phials of glass.
- 308. Stoppers, caps and lids.
- 309. Word processing machines, electronic typewriters.
- 310. Microphones, multimedia speakers, headphones.
- 311. Telephone answering machines.
- 312. Prepared unrecorded media for sound recording.
- 313. IT software.
- 314. Transmission apparatus other than apparatus for radio or T.V. broadcasting.

[PART II---

315. Radio communication receivers, radio pagers.

316. Aerials, antennas and parts.

317. LCD Panels, LED panels and parts.

318. Electrical capacitors, fixed, variable and parts.

319. Electronic calculators.

320. Electrical resistors.

321. Printed circuits.

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322. Switches, connectors, relays for up to 5 amps.

323. Data or graphic display tubes, other than Picture tubes and parts.

324. Diodes, transistors and similar semi-conductor devices.

325. Electronic integrated circuits and micro-assemblies.

326. Signal generators and parts.

327. Optical fibre and optical fibre bundles, cables.

328. Liquid crystal devices, flat panel display devices and parts.

329. Computer systems and peripherals, electronic diaries.

330. Cathode ray oscilloscopes, Spectrum analysers, Signal analysers.

331. Parts and Accessories of HSN 84.69, 84.70 and 84.71.

332. D C Micromotors, stepper motors of 37.5 watts.

333. Parts of HSN 85.01.

334. Uninterrupted power supply.

335. Permanent magnets and articles.

336. Electrical apparatus for line telephony or line telegraphy.

337. Coal.

338. Hides and skin.

339. Oil-seeds.

340. Acids.

341. Aluminium conductor steel reinforced (ACSR).

342. Aluminium, aluminium alloys, their products except extrusions.

343. Polyster and staple fibre yarn.

344. Bagasse.

345. Basic chromium sulphate, sodium bi-chromate.

346. Biomass briquettes.

347. Castor oil.

348. Dyes, acid dyes, basic dyes.

349. Mixed PVC stabilizer.

350. Maize starch, glucose 'D', maize gluten, maize germ and oil.

351. Paraffin wax .

352. Alloys and scraps of ferrous and non-ferrous metals.

353. Gypsum of all forms and descriptions.

354. Handloom woven Gamcha, Khaddar and Khadi.

355. Hurricane lantern and kerosene lamp and accessories and components thereof.

356. Lac and shellac.

357. Paper board-essentially as an input for packing materials.

358. Transformer.

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359. Waste paper.

360. Windmill for water pumping and for generation of electricity.

[PART II—

THE FOURTH SCHEDULE

[See clause (c) of sub-section (1) of section 4]

List of Goods Taxed at twenty per cent.

GOODS

Serial Number.

- 1. Petroleum Products (other than liquid petroleum gas, Compressed Natural Gas and Kerosene) such as Naphtha, Aviation Turbine Fuel, Spirit, Gasoline, Diesel (High Speed Diesel, Super Light Diesel Ol, Light Diesel Oil), Furnace Oil, Organic Solvent, Coal Tar, Mixture and combination of above products.
- 2. Liquor (Foreign and Indian made foreign liquor).
- 3. Country liquor.
- 4. Narcotics (bhaang).
- 5. Molasses.
- 6. Rectified spirit.
- 7. Lottery tickets.
- 8. Brake fluid.

SEC. 1]

[See sub-section (1) of section 41]

List of Orga

Serial Number.

List of Organisations which can claim refund

1. AFGHANISTAN.

H.E. Ambassador of Republic of Afghanistan. The Embassy of Republic of Afghanistan. The Diplomatic Officers (including their spouses) of the Embassy of Afghanistan.

2. AFRO-ASIAN RURAL RECONSTRUCTION ORGANISATION.

- 3. ALGERIA. The Embassy of Democratic and Popular Republic of Algeria.
- 4. ANGOLA. The Embassy of Angola in on the purchase made by the diplomats for Official and personal use.
- 5. APOSTOLIC NUNCIATURE.
- ARGENTINA. Embassy of Argentine Republic on the purchases made by its diplomats for official as well as personal use.
- ARMENIA. Embassy of Armenia on the purchases made by the mission for official use.
- 8. ASIAN AFRICAN LEGAL CONSULTIVE COMMITTEE, for its official use.
- 9. ASIAN DEVELOPMENT BANK.

10. AUSTRALIA.

The High Commission and its Diplomatic Officers in respect of purchases made from bounded stores only for their official and personal use.

11. AUSTRIA.

The Embassy of Austria in India (for sales intended for their official use). The Diplomatic Officers of the Embassy of Austria in India (for sales intended for their personal use).

12. BANGLADESH.

The High Commission for the Peoples Republic of Bangladesh in India. The Diplomatic Officers (including their spouses) of the High Commission for the Peoples Republic of Bangladesh in India.

13. BELARUS.

The Embassy of Belarus in India. Purchases made tor its diplomatic and administrative/technical personnel for official as well as personal use.

14. BELGIUM.

H.E. the Ambassador of Belgium in India.

The Embassy of Belgium in India.

The Diplomatic Officers of the Belgium Embassy in India.

15. BHUTAN.

The Royal Bhutan Mission for sales intended for official use of Mission. The Representative of Bhutan for sales intended for personal use. The Diplomatic Officers of the Royal Bhutan Mission for sales intended for personal use.

16. BRAZIL.

The Embassy of the Federative Republic of Brazil in India. The Diplomatic Officers (including their spouses) of the Embassy of Federative Republic of Brazil in India.

17. BRITAIN.

The High Commission for Britain in India (all sales for official use). The Diplomatic Officers (including their spouses) of the High Commission for Britain in India (sales of imported goods from bonded stocks only).

18. BRUNEI DARUSSALAM.

Embassy of Brunei Darussalam on the purchases made by its Diplomats for Official as well as personal use.

19. BULGARIA.

H.E. the Ambassador of the Peoples Republic of Bulgaria in India. The Embassy of the Peoples Republic of Bulgaria in India. The Diplomatic Officers (including their spouses) of the Embassy of the Peoples Republic of Bulgaria in India.

20. CANADA.

H.E. the High Commissioner for Canadian in India. The Diplomatic Officers of the Canada High Commission. The Canadian High Commission.

21. CENTRAL AFRICA.

The Embassy of the Central African Empire .(for sales intended for official use). The Diplomatic Officers (including their spouses) of the Embassy of the Central African Empire (for sales intended for their personal use).

22. CHINA.

H.E. the Chinese Ambassador in India. The Embassy of the Peoples Republic of China. The Diplomatic officers of the Chinese Embassy in India

23. COLUMBIA.

The Embassy of Columbia in India.

24. COMBODIA.

H.E. the Ambassador of Combodia in India.

The Embassy of Combodia in India.

The Diplomatic Officers (including their spouses) of the Embassy of Combodia in India.

 Officials of the COMMISSION OF THE EUROPEAN COMMUNITIES for setting up their office.

(B) Personnel of the delegation holding diplomatic status (other than Indian nationals and persons permanently resident in India Employed by the said Commission).

 COMMON EDUCATIONAL MEDIA CENTRE FOR ASIA. Common Educational Media Centre on the purchase made for official use and by its President and Vice—President for personal use.

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27.	CONGO. The Congolese Embassy and their Diplomatic Officers.	
28.	CROATIA. Embassy of Croatia on the purchases made by its diplomats for official as well as for personal use of their officials.	
29.	CUBA. The Embassy of the Republic of Cuba in India. The Diplomatic Officers (including their spouses) of the Republic of Cuba in India.	
30.	CYPRUS. The Cyprus High Commission (for sales intended for official use). The Diplomatic Officers (including their spouses) of the Cyprus High Commission (for sales intended for their personal use).	
31.	CZECH REPUBLIC. Embassy of Czech Republic on the purchases made by its diplomats for official as well as for personal use of their officials.	
32.	DENMARK. The Royal Danish Embassy in India. The Diplomatic Officers (including their spouses) of the Royal Danish Embassy in India.	
33.	DOMINICA. The High Commission for the Commonwealth of Dominica (for its official purchases). The Diplomatic Officials of the High Commission for the Commonwealth of Dominica (for their personal use).	•
34.	EGYPT. The Embassy of the Arab Republic of Egypt in India. The Diplomatic officers (including their spouses) of the Embassy of the Arab Republic of Egypt in India.	
35.	ETHOPIA. The Ethopian Embassy in India (for its official purchases). The Diplomatic Officers of the Ethopian Embassy in India (for their personal purchases).	
36.	Embassy of Finland on the purchase of following items made by its diplomats for official purpose.	
	 (1) Construction materials as well commodities to be used for the interior decoration and furnishing of building. (2) Commodities used in representational functions. 	
· · · · · · · · · · · · · · · · · · ·	 (2) Commodities used in representational functions. (3) Motor vehicles as well as spare parts and equipment for Motor vehicles. (4) Work performances concerning the premises of a mission or office and the commodities referred to in items (1) to (3) or the rental of those commodities. (5) Telecommunication services, energy commodities and fuel purchased for 	
2 -	(b) Fuels for motor vehicles.	

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38. GERMANY.

The Embassy of Germany in India (for sales intended for official use only). The Diplomatic Officers of the German Embassy in India (for sales intended for personal use).

39. GHANA.

The High Commissioner for Ghana in India. The Diplomatic officers (including their spouses) of the High Commissioner for Ghana in India.

40. GREECE.

The Royal Greek Embassy in India. The Diplomatic Officers (including their spouses) of the Royal Greek Embassy in India.

41. GUYANA.

The High Commission for Guyana, and its Diplomatic Officers (including their spouses).

42. HUNGARY.

H.E. The Ambassador of the Hungarian Peoples Republic in India. The Embassy of the Hungarian peoples Republic in India. The Diplomatic officers (including their spouses) of the Embassy of the Hungarian Peoples Republic in India.

43. INDONESIA.

The Embassy of Indonesia on all its official purchases and the purchases made by its officials for their personal use.

- 44. INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT IN INDIA and Employees, other than those recruited locally of the International Bank for Reconstruction and Development in India.
- 45. INTERNATIONAL CENTRE FOR GENETIC ENGINEERING AND BIOTECHNOLOGY, (for all its official purchases).
- 46. (A) Office of the INTERNATIONAL COURT OF JUSTICE (for sales intended for official use).
 (D) Do Magnetic Si also an elected indee for the fit of the state of the stat

(B) Dr. Nagendra Singh an elected judge of the International Court of Justice, (for sales intended for his personal use).

- 47. INTERNATIONAL LABOUR OFFICE.
- 48. IRAN.

The Embassy of Iran in India.

The Diplomatic officers (including their spouses) of the Embassy of Iran in India.

49. IRAQ.

H.E. the Ambassador of the Republic of Iraq in India.

The Embassy of Republic of Iraq in India.

The Diplomatic Officers (including their spouses) of the Embassy of Iraq in India.

50. IRELAND.

The Embassy of Ireland in India. The Diplomatic Officers (including their spouses) of the Embassy of Ireland in India.

51. ISRAEL

The Embassy of Israel on purchases made by its diplomats for official as well as for personal use.

	SEC. 1]	THE GAZETTE OF INDIA EXTRAORDINARY 77
	27.	CONGO. The Congolese Embassy and their Diplomatic Officers.
	28.	CROATIA. Embassy of Croatia on the purchases made by its diplomats for official as well as for personal use of their officials.
	29.	CUBA. The Embassy of the Republic of Cuba in India. The Diplomatic Officers (including their spouses) of the Republic of Cuba in India.
	30.	CYPRUS. The Cyprus High Commission (for sales intended for official use). The Diplomatic Officers (including their spouses) of the Cyprus High Commission (for sales intended for their personal use).
	31.	CZECH REPUBLIC. Embassy of Czech Republic on the purchases made by its diplomats for official as well as for personal use of their officials.
	32.	DENMARK. The Royal Danish Embassy in India. The Diplomatic Officers (including their spouses) of the Royal Danish Embassy in India.
	33.	DOMINICA. The High Commission for the Commonwealth of Dominica (for its official purchases). The Diplomatic Officials of the High Commission for the Commonwealth of Dominica (for their personal use).
	34.	EGYPT. The Embassy of the Arab Republic of Egypt in India. The Diplomatic officers (including their spouses) of the Embassy of the Arab Republic of Egypt in India.
	35.	ETHOPIA. The Ethopian Embassy in India (for its official purchases). The Diplomatic Officers of the Ethopian Embassy in India (for their personal purchases).
	36.	FINLAND. Embassy of Finland on the purchase of following items made by its diplomats for official purpose.
	· · ·	(1) Construction materials as well commodities to be used for the interior decoration and furnishing of building.
· · · · · · · · · · · · · · · · · · ·		 (2) Commodities used in representational functions. (3) Motor vehicles as well as spare parts and equipment for Motor vehicles. (4) Work performances concerning the premises of a mission or office and the commodities referred to in items (1) to (3) or the rental of those commodities.
		 (5) Telecommunication services, energy commodities and fuel purchased for the building of a mission or office. (6) Fuels for motor vehicles.
	37.	FRANCE.

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[PART II---

38. GERMANY.

The Embassy of Germany in India (for sales intended for official use only). The Diplomatic Officers of the German Embassy in India (for sales intended for personal use).

39. GHANA.

The High Commissioner for Ghana in India.

The Diplomatic officers (including their spouses) of the High Commissioner for Ghana in India.

40. GREECE.

The Royal Greek Embassy in India.

The Diplomatic Officers (including their spouses) of the Royal Greek Embassy in India.

41. GUYANA. The High Commission for Guyana, and its Diplomatic Officers (including their spouses).

42. HUNGARY.

H.E. The Ambassador of the Hungarian Peoples Republic in India.

The Embassy of the Hungarian peoples Republic in India.

The Diplomatic officers (including their spouses) of the Embassy of the Hungarian Peoples Republic in India.

43. INDONESIA.

The Embassy of Indonesia on all its official purchases and the purchases made by its officials for their personal use.

- 44. INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT IN INDIA and Employees, other than those recruited locally of the International Bank for Reconstruction and Development in India.
- 45. INTERNATIONAL CENTRE FOR GENETIC ENGINEERING AND BIOTECHNOLOGY, (for all its official purchases).
- 46. (A) Office of the INTERNATIONAL COURT OF JUSTICE (for sales intended for official use).
 (B) Dr. Nagendra Singh an elected judge of the International Court of Justice, (for sales intended for his personal use).

47. INTERNATIONAL LABOUR OFFICE.

48. IRAN.

The Embassy of Iran in India.

The Diplomatic officers (including their spouses) of the Embassy of Iran in India.

49. IRAQ.

H.E. the Ambassador of the Republic of Iraq in India.

The Embassy of Republic of Iraq in India.

The Diplomatic Officers (including their spouses) of the Embassy of Iraq in India.

50. IRELAND.

The Embassy of Ireland in India.

The Diplomatic Officers (including their spouses) of the Embassy of Ireland in India.

51. ISRAEL

The Embassy of Israel on purchases made by its diplomats for official as well as for personal use.

52. ITALY.

SEC. 1]

Embassy of Italy on the purchase made by its diplomats for official use as well as for personal use of their officials.

53. JAPAN. The Embassy of Japan and its Diplomatic Officers.

54. JORDAN.

The Embassy of Hashemite Kingdom of Jordon in India.

The Diplomatic Officers (including their spouses) of the Embassy of the Hashemite Kingdom of Jordon in India).

55. KAZAKHSTAN.

The Embassy of Kazakhstan on the purchases made by its diplomats for official as well as for personal use.

56. KENYA.

For official use as well as Diplomatic Officers (including their spouses) of the Kenya High Commission in India.

57. KOREA.

H.E. the Ambassador of Korea.

Embassy of the Republic of Korea.

The Diplomatic Officers (including their spouses) of the Embassy Republic of Korea.

58. KOREA (D.P.R.).

H.E. The Ambassador of the Democratic Peoples Republic of Korea. Embassy of the Democratic People Republic of Korea. The Diplomatic Officers (including their spouses) of the Embassy of the Democratic Peoples Republic of Korea.

59. KUWAIT.

H.E. the Ambassador of the State of Kuwait in India. The Embassy of the state of Kuwait in India. The Diplomatic officers of the Embassy of the State of Kuwait in India.

60. KYRGHÝSTAN.

The Embassy of Kyrghystan on the purchases made by its diplomats for official as well as for personal use.

61. LAOS.

The Royal Embassy of Laos in India. The Diplomatic Officers (including their spouses) of Royal Embassy of Laos in India.

 LEAGUE OF ARAB STATES MISSION. League of Arab States Mission. Chief Representative, Deputy Chief representative, their spouses and minor children of the league of Arab States Mission.

63. LEBANON. H.E. the Ambassador of Lebanon in India. The Embassy of Lebanon in India. The Diplomatic Officers (including their spouses) of the Embassy of Lebanon.

64. LIBERIA. Embassy of Liberia on all its official purchases as well as purchases made by its officials for their personal use.

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The Embassy of the Libyan Arab Republic in India (for sales intended for official

	The Diplomatic Officers (including their spouses) of the Embassy of the Libyan Arab Republic in India (for sales intended for their personal use.)
66.	LUXEMBOURG. Embassy of Grand Duchy of Luxembourg in respect of goods purchased by them for official use only.
67.	MALAYSIA. The High Commissioner for Malaysia in India. The Diplomatic Officer (including their spouses) of the High Commissioner for Malaysia in India.
68.	MAURITIUS The High Commission of Mauritius and its Diplomatic Officers.
69.	MEXICO. The Embassy of Mexico in India. The Diplomatic Officers (including their spouses) of the Embassy of Mexico in India.
70.	MONGOLIA. H.E. the Ambassador of the Mongolian Peoples Republic in India. The Embassy of the Mongolian Peoples Republic in India. The Diplomatic Officers of the Embassy of the Mongolian Peoples Republic in India.
71.	MOROCCO Embassy of Morocco on the purchases made by its diplomats for official as well as personal use.
72.	MOZAMBIQUE. High Commission of the Republic of Mozambique in respect of goods purchased by them for official use only.
73.	MYANMAR. The Embassy of the Republic of the Myanmar in India. (Restricted to sale of goods from bonded stocks) The Diplomatic Officers (including their spouses) of the Embassy of the Union of Myanmar in India.(sale of petrol only)
74.	NAMIBIA. Namibian High Commission on the purchase made by its diplomats for official as well as for personal use.
75.	NEPAL. The Royal Nepalese Embassy in India, and The Diplomatic Officers (including their spouses) of the Royal Nepalese Embassy in India.
76.	NETHERLANDS. The Royal Netherlands Embassy in India. The Diplomatic Officers (including their spouses) of the Royal Netherlands Embassy in India.
77.	NICARAGUA.

The Embassy of Nicaragua on all its official purchases as well as the purchases made by its officials for their personal use

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LIBYA

use.)

EC. 1]	THE GAZETTE OF INDIA EXTRAORDINARY 81
78.	NIGERIA. H.E. the High Commission of the Federal Republic of Nigeria in India. The High Commission for the Federal Republic of Nigeria. The Diplomatic Officers of the High Commission for the Federal Republic of Nigeria in India.
79.	NORWAY. H.E. the Norwegian Ambassador in India. The Royal Norwegian Embassy in India. The Diplomatic Officers (including their spouses) of the Royal Norwegian Embassy in India.
80.	OMAN. The Embassy of Sultanate of Oman and its Diplomatic Officers.
81.	PAKISTAN. The Embassy of Pakistan in India. The Diplomatic Officers (including their spouses) of the Embassy of Pakistan in India.
82.	PANAMA. The Embassy of Panama and its Diplomatic Officers in respect of purchases made from bonded stores only.
83.	PHILIPPINES. H.E. the Ambassador of the Philippines in India. The Embassy of Philippines in India, and The Diplomatic Officers (including their spouses) of the Embassy of the Philippines in India.
84.	PLO. The Embassy of the Palestine Liberation Organisation (for sales intended for official use). The Diplomatic Officers (including their spouses) of the Embassy of the Palestine Liberation Organisation (for sales intended for personal use).
85.	POLAND. The Embassy of the Polish Peoples Republic and their Diplomatic Officers.
86.	PORTUGAL. The Embassy of Portugai in India. The Diplomatic Officers (including their spouses) of the Embassy of Portugal in India (for sales intended for their personal use).
87.	QATAR. The Embassy of the State of Qatar. The Diplomatic Officers of the Embassy of the State of Qatar, and their spouses for sales intended for their personal use.
88.	ROMANIA. H.E. the Ambassador of the Socialist Republic of Romania in India. The Embassy of the Socialist Republic of Romania in India. The Diplomatic Officers (including their spouses) of the Embassy of the Socialist Republic of Romania.
89.	RUSSIA. The Embassy of the Russian Federation on the purchases made by the Diplomats for official and personal use.

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[PART II—

90.	RWANDA. Embassy of Republic of Rwanda on the purchases made by its diplomatic and administrative/ technical personnel for official as well as personal use.	,	
91.	SAHRAWI ARAB DEMOCRATIC REPUBLIC. The Embassy of Sahrawi Arab Democratic Republic. The Diplomatic Officers of the Embassy of Sahrawi Arab Democratic Republic.		
92.	SAUDI ARABIA. H.E. the Ambassador of Saudi Arabia in India. The Embassy of Saudi Arabia in India. The Diplomatic Officers (including their spouses) of the Embassy of Saudi Arabia in India.		
93.	SENEGAL. The Embassy of Republic of the Senegal in India (for sales intended for the official use of the Embassy). The Diplomatic Officers (including their spouses) the Embassy of the Republic of Senegal in India (for sales intended for personal use).		
94.	SINGAPORE. The High Commission for Singapore. Their Diplomatic Officers.		
95.	SLOVAK REPUBLIC. Embassy of Slovak Republic on the purchase made by its diplomats for official as well as for personal use of their officials.		
96.	SOMALIA. The Embassy of Somalia in India (for sales intended for official use). The Diplomatic Officers (including their spouses) of the Embassy of the Somalia in India (for sales intended for their personal use).		
97.	SOUTH AFRICA. Embassy of South Africa on the purchase made by its diplomats for official as well as for personal use.		
98.	SOUTH WEST AFRICAN PEOPLES ORGANISATION (SWAPO). Embassy of South West African Peoples Organisation (SWAPO)—on all its official purchases and the purchases made by its officials for their personal use.		×
99.	SPAIN. H.E. the Ambassador of Spain in India. The Embassy of Spain in India. The Diplomatic Officers of the Embassy of Spain in India.		
1 00 .	SRI LANKA. The High Commission for the Democratic Socialist Republic of Sri Lanka for purchase made for its official use as well by diplomats.		
101.	SUDAN. The Embassy of Democratic Republic of Sudan in India. The Diplomatic Officers (including their spouses) of the Embassy of the Democratic Republic of Sudan in India. (Exemption extended to purchases from places other than bonded stocks).		15 R
102.	SURINAME		
'· ·	The Embassy of Republic of Suriname on the purchases made for official use as well as personal use of the diplomats.		

SWEDEN.
The Royal Swedish Embassy in India (for its official purchases).
The Diplomatic Officers of the Royal Swedish Embassy in India (for their personal use).
SWITZERLAND. Embassy of Switzerland on the purchase made by its diplomats for official as well as for personal use of their officials.
SYRIA. The Embassy of the Syrian Arab Republic & their Diplomatic Officers.
THAILAND.

The Royal Thai Embassy in India. The Diplomatic Officers (including their spouses) of the Royal Thai Embassy in India.

107. TRINIDAD.

SEC. 1]

103.

104.

105.

106.

The High Commission for Trinidad and Tobago in India. The members of the Diplomatic Staff of the said High Commission. (Exemption restricted to (i) sale intended for the official use of the Commission and (ii) sale intended for personal use).

108. TUNISIA.

The Embassy of Tunisia on the purchases made by its Diplomats for official as well as personal use.

109. TURKEY.

Embassy of Turkey on the purchase made by its diplomats for official as well as for personal use.

110. UAE.

The Embassy of the United Arab Emirates, for its official use. The Diplomatic Officers of the Embassy of the United Arab Emirates, and their spouses for sales intended for their personal use.

111. UGANDA.

The High Commission for the Republic of Uganda in India. The Diplomatic officers (including their spouses) of the High Commission for the Republic of Uganda in India.

112. UKRAINE.

Embassy of Ukraine in on the purchase made by its diplomats for official as well as for personal use.

- 113. UNITED NATIONS DEVELOPMENT PROGRAMME
- 114. The Regional Office for India, Nepal Ceylon, Iran, Afghanistan and Pakistan of THE UNITED NATIONS ECONOMIC COMMISSION FOR ASIA and Far East (Division of Social Affairs).
- 115. UNITED NATIONS EDUCATION SCIENTIFIC AND CULTURAL ORGANISATION
- 116. UNITED NATIONS EDUCATIONAL SCIENTIFIC AND CULTURAL ORGANISATION RESEARCH CENTRE ON SOCIAL AND ECONOMIC DEVELOPMENT IN SOUTHERN ASIA.
- UNITED NATIONS FOOD AND AGRICULTURAL ORGANISATION 117.
- 118. UNITED NATIONS HIGH COMMISSION FOR REFUGEES. (Exemption for official use only).

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	119.	UNITED NATIONS INFORMATION CENTRE.
	120.	UNITED NATIONS INTERNATIONAL CHILDREN'S EMERGENCY FUND.
	121.	UNITED NATIONS MILITARY OBSERVERS GROUP IN INDIA AND PAKISTAN.
	122.	UNITED NATIONS OFFICE FOR POPULATION STUDIES.
	123.	The Regional Office of the UNITED NATIONS WORLD HEALTH ORGANISATION for South East Asia, (for sales intended for official use). (B) The Regional Director (including his spouses) of the United Nations World Health Organisation for South East Asia, (for sales intended for personal use).
	124.	UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT MISSION. United States Agency for International Development Mission and Employees other than the locally recruited staff of the United States Agency for International Development Mission.
	125.	URUGUAY. H.E. the Ambassador of the Oriental Republic of Uruguay in India. The Embassy of the Oriental Republic of Uruguay in India. The Diplomatic Officers (including their spouses) of the Oriental Republic of Uruguay in India.
	126.	USA. The Embassy of the U.S.A. in India. H.E. the Ambassador of the U.S.A. in India. The Diplomatic Officers (including their spouses and dependents) of the Embassy of U.S.A. in India.
	127.	RUSSIAN FEDERATION. H.E. The Ambassador of the Russian Federation in India. The Embassy of the Russian Federation in India. The Diplomatic Officers of the Embassy of Russian Federation in India.
	128.	UZBEKISTAN. The Embassy of Republic of Uzbekistan in on the purchase made by its diplomat for official as well as for personal use.
•	129.	VIETNAM (DEMOCRATIC REPUBLIC). H.E. the Ambassador of the Democratic Republic of Vietnam in India. The Embassy of the Democratic Republic of Vietnam in India. The Diplomatic Officers (including their spouses) of the Embassy of the Democratic Republic of Vietnam in India.
	130.	VIETNAM (REPUBLIC). The Counsel General of the Republic of Vietnam in India. The Consulate General of the Republic of Vietnam in India. The Consular Officer of the Consulate General of the Republic of Vietnam i India.
	131.	VENEZUELA. The Embassy of Venezuela in India. The Diplomatic Officers (including their spouses) of the Embassy of Venezuel
		in India.

132. YEMEN.

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The Embassy of the peoples Democratic Republic of Yemen in India. The Diplomatic Officers (including their spouses) of the Embassy of Peoples Democratic Republic of Yemen in India.

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133. YUGOSLAVIA

The Embassy of the Socialist Federal Republic of Yugoslavia in India. The Diplomatic Officers (including their spouses) of the Embassy of Federal Republic of Yugoslavia in India.

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134. ZAIRE.

H.E. the Ambassador of the Republic of Zaire in India. The Embassy of the Republic of Zaire in India. The Diplomatic Officers (including their spouses) of the Embassy of the Republic of Zaire in India.

(exemption restricted to goods from bonded stores only).

135. ZAMBIA.

The High Commission of Zambia in India (for sales intended for official use). The Diplomatic Officers (including their spouses) of the Zambian High Commission in India (for sales intended for personal use).

(exemption is restricted to goods manufactured or produced in India and not imported from out of India).

136. ZIMBABVE.

The Zimbabve High Commission for its official purchases only upon certification of the Head of Mission Charged Affairs.

SEC. 1]

[PART II-SEC. 1]

THE SIXTH SCHEDULE

[See clause (b) of sub-section (2) of section 9]

List of non-creditable goods

Serial Number.

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Description of non-creditable goods

- 1. Subject to clauses 2 and 3 of this Schedule, the following goods shall be "noncreditable goods" for the purposes of this Regulation:
 - (i) Motor vehicles designed for transporting fewer than eight passengers, motor cycles, motor scooters and other motorised two-wheeled vehicles;
 - (ii) Fuels in the form of petrol, diesel and kerosene, LPG, CNG, coal;
 - (iii) Conventional clothing and footwear, clothing fabrics;
 - (iv) Food for human consumption;
 - (v) Beverages for human consumption;
 - (vi) Goods designed, and used predominantly for, the provision of entertainment including television receivers, video cassette players, radios, stereo systems, audio cassette player, CD players, DVD players, computer game consoles and computer games, cameras of any kind;
 - (vii) Air conditioners other than those used for manufacturing purposes; and
 - (viii) Tobacco in any form and tobacco products.

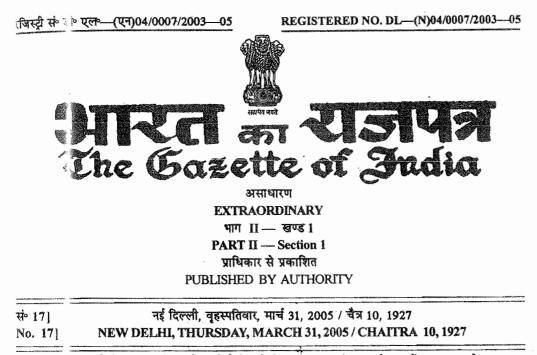
2. Any item in clause 1 [other than Item (ii)] shall not be treated as non-creditable goods if the item is purchased by a registered dealer for the purpose of re-sale in an unmodified form or use as raw material for processing or manufacturing of goods for sale by him in Dadra and Nagar Haveli in the ordinary course of his business.

3. Fuel [Item (ii) of clause 1] shall not be treated as non-creditable goods if the purchaser is licensed as a dealer in fuel products and purchases the fuel in commercial quantities for resale.

A. P. J. ABDUL KALAM, President.

T. K. VISWANATHAN, Secy. to the Govt. of India.

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इन भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, 31st March, 2005/Chaitra 10, 1927 (Saka)

THE DADRA AND NAGAR HAVELI VALUE ADDED TAX REGULATION, 2005

No. 2 of 2005

F omulgated by the President in the Fifty-sixth Year of Republic of India.

A Regulation to consolidate and amend the law relating to levy of tax on sales or Furchases of goods in the Union territory of Dadra and Nagar Haveli and to Found for matters connected therewith or incidental thereto.

Lexercise of the powers conferred by article 240 of the Constitution, the President is plea ed to promulgate the following Regulation made by him:---

CHAPTER I

PRELIMINARY

(1) This Regulation may be called the Dadra and Nagar Haveli Value Added Tax Regulation, 2005.

(2) It extends to the whole of the Union territory of Dadra and Nagar Haveli.

3) It shall come into force on such date as the Administrator may, by notification, appoint; and different dates may be appointed for different provisions of this Regulation and at y reference in any such provision to the commencement of this Regulation shall be construed as a reference to the coming into force of that provision.

Short title, extent and commencement.

[PART II----

1 of 1956.

Definitions.

2. In this Regulation, unless the context otherwise requires,---

(a) "accountant" means---

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(i) a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 and who has obtained 38 of 1949 a certificate of practice under sub-section (1) of section 6 of that Act; or

(*ii*) a person, who, by virtue of the provisions of sub-section (2) of section 226 of the Companies Act, 1956, is entitled to be appointed to act as 1 of 1956. an auditor under that sub-section; or

(*iii*) an auditor appointed in pursuance of sub-section (2) of section 619 of the Companies Act, 1956;

(b) "Administrator" means the Administrator of the Union territory of Dadra and Nagar Haveli appointed by the President under article 239 of the Constitution;

(c) "Appellate Tribunal" means the Appellate Tribunal constituted under section 73;

(d) "business" includes-

(i) any trade, commerce or manufacture,

(*ii*) any adventure or concern in the nature of trade, commerce or manufacture,

(*iii*) any transaction in connection with, or incidental or ancillary to, such trade, commerce, manufacture, adventure or concern,

(iv) any occasional transaction in the nature of such trade, commerce, manufacture, adventure or concern whether or not there is volume, frequency, continuity or regularity of such transaction, and

whether or not such trade, commerce, manufacture, adventure or concern transaction is carried on with a motive to make gain or profit and whether or not any gain or profit accrues from such trade, commerce, manufacture, adventure, concern or transaction.

Explanation .-- For the purposes of this clause---

(A) any transaction of sale or purchase of capital assets pertaining to such trade, commerce, manufacture, adventure, concern or transaction referred to in sub-clauses (i) to (iv) shall be deemed to be business;

(B) purchase of any goods, the price of which is debited in the books of account of the dealer and sale of any goods, the proceeds of which are credited in the books of account of the dealer shall be deemed to be business;

(e) "business premises" means-

(i) the address of a dealer or, the place at which a dealer carries on the business and which is registered as such;

(*ii*) any building or place used by a person for carrying on his business, but does not include the building or place used for residential purposes;

(f) "capital goods" means plant, machinery and equipment used in the trade or manufacturing of goods;

(g) "casual trader" means a person who, whether as principal, agent or in any other capacity undertakes occasional transactions in the nature of business involving buying, selling, supply or distribution of goods or conducting any exhibition-cum-sale in Dadra and Nagar Haveli whether for cash, deferred payment, commission, remuneration or other valuable consideration;

(h) "Commissioner" means the Commissioner of Value Added Tax appointed under sub-section (1) of section 66;

(i) "dealer" means any person who carries on business in Dadra and Nagar Haveli and includes—

(*i*) any person who for the purposes of, or in connection with, or incidental to, or in the course of, his business buys, sells, supplies or distributes goods directly or otherwise, whether for cash or for deferred payment or for commission, remuneration or other valuable consideration;

(*ii*) any department of the Central Government or a State Government, a local authority, Panchayat, Municipality, Development Authority, Cantonment Board and an autonomous or a statutory body or an industrial, commercial, banking, insurance or trading undertaking whether or not of the Central Government or any of the State Governments or of a local authority, if it buys, sells, supplies or distributes goods, in the course of activities which may by notification specified from time to time;

(*iii*) a factor, commission agent, broker, *del credere* agent, or any other mercantile agent by whatever name called, who carries on the business of buying, selling, supplying or distributing goods on behalf of any principal, whether disclosed or not;

(iv) an agent of any of the persons referred to in sub-clauses (iii) or (vi) or (vii) or (vii) or (ix) of clause (i), whether or not the person referred to in the said sub-clauses is a dealer residing in Dadra and Nagar Haveli;

(v) a local branch of a firm or company or association of persons, outside Dadra and Nagar Haveli where such firm, company, association of persons is a dealer within the meaning of sub-clause (i), or sub-clause (iii), or sub-clause (vi), or sub-clause (vii), or sub-clause (viii), or sub-clause (ix) of this clause;

 (νi) a club, association, society, trust, or co-operative society, whether incorporated or not, which buys goods from, or sells goods to, its members for price, fee or subscription, whether or not in the course of business;

(vii) an auctioneer, who sells or auctions goods belonging to any principal, whether disclosed or not and whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of the principal;

(viii) a casual trader; or

(ix) any person who, for the purposes of, or in connection with, or incidental to, or in the course of, his business, disposes of any goods as unclaimed or confiscated, or unserviceable or scrap, surplus, old, obsolete or as discarded material or waste products by way of sale;

(j) "Dadra and Nagar Haveli" means the Union territory of Dadra and Nagar Haveli;

(k) "fair market value" means the value at which goods of like kind and quality are ordinarily sold or would be sold in the same quantities between unrelated parties in the open market at the same time in Dadra and Nagar Haveli;

(1) "goods" means every kind of moveable property (other than newspapers, actionable claims, stocks, shares and securities) and includes—

(1) livestock, all materials, articles or commodities including standing trees and things attached to or forming part of the land which are agreed to be severed before sale or under a contract of sale; and

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(*ii*) property in goods (whether as goods or in some other form) involved in the execution of a works contract, lease or hire-purchase or those to be used in the fitting out, improvement or repair of movable property;

(m) "goods vehicle" means a motor vehicle, vessel, boat, animal and any other form of conveyance used for carrying goods;

(n) "Government" means the Administrator;

(o) "import" means sale or purchase in the course of the import of goods into the territory of India if the sale or purchase either occasions such import or is effected by transfer of document of title to the goods before the goods have crossed the customs frontiers of India and includes procurement of goods from outside the Dadra and Nagar Haveli either as a result of purchase or otherwise.

Explanation.—In the case of goods arriving in Dadra and Nagar Haveli from a foreign country through customs, the "import of the goods in Dadra and Nagar Haveli" shall occur at the place where the goods are cleared by Customs for home consumption;

(p) "in the course of" includes activities done for the purposes of, in connection with, or incidental to and activities done as part of, the preparation for the activity and in the termination of, the activity;

(q) "input tax" in relation to the purchase of goods, means the proportion of the price paid by the buyer for the goods which represents tax under this Regulation;

(r) "net tax" means the amount calculated for a tax period under section 11;

(s) "non-creditable goods" means the goods listed in the Sixth Schedule;

(t) "notification" means a notification published in the Official Gazette and the expression "notify" shall be construed accordingly;

(u) "Official Gazette" means the Dadra and Nagar Haveli Gazette;

(v) "prescribed" means prescribed by rules made under this Regulation;

(w) "registered dealer" means a dealer who has been granted a certificate of registration under section 19;

(x) "related person" means a person who is related to another person (referred to in this definition as a "dealer") if the person---

(i) is a relative of the dealer;

(ii) is a partnership of which the dealer is a partner;

(*iii*) is a company in which the dealer (either alone or alongwith another person who is, or persons who are, related to the dealer under any of subclauses (*i*), (*ii*), (*iv*), (*v*) or (*vi*) of this clause) directly or indirectly holds forty per cent. or more of stock or shares or voting rights;

(iv) is a person who [either alone or alongwith another person who is, or other persons who are, related to the person under any of the sub-clauses (i), (ii), (iv), (v) or (vi) of this clause] directly or indirectly owns forty per cent. or more of outstanding voting stock or shares of the dealer or voting rights;

(v) is a company in which forty per cent. or more of outstanding voting stock is held directly or indirectly by a person [either alone or alongwith another person who is, or other persons who are, related to the person

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under any of sub-clauses (i), (ii), (iv), (v) or (vi) of this clause] who also holds forty per cent. or more of the outstanding voting stock or shares of the dealer; or

(vi) is controlled by the dealer, or a person whom the dealer controls, or is a person who is controlled by the same person who controls the dealer;

(y) "relative" means a relative as defined in clause (41) of section 2 of the Companies Act, 1956;

(z) "sale", with its grammatical variations and cognate expression, means any transfer of property in goods by one person to another for cash or for deferred payment or for other valuable consideration and includes—

(*i*) a transfer of goods on hire-purchase or other system of payment by instalments, but does not include a mortgage or hypothecation of, or a charge, or pledge, on goods;

(*ii*) supply of goods by a society (including a co-operative society), club, firm, or any association to its members for cash or for deferred payment or for commission, remuneration or other valuable consideration, whether or not in the course of business;

(*iii*) transfer of property in goods by an auctioneer referred to in subclause (*vii*) of clause (*i*) of this section, or sale of goods in the course of any other activity in the nature of banking, insurance which in the course of their main activity also sells goods possession of which has been taken from borrower or re-claimed;

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

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

(vi) transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;

(vii) supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating), where such supply or service is for cash, deferred payment or other valuable consideration;

(viii) every disposal of goods referred to in sub-clause (ix) of clause (i) of this section,

and the expressions "sell", "buy" and "purchase", shall, with all their grammatical variations and cognate expressions, be construed accordingly;

(za) "sale price" means the amount paid or payable as valuable consideration for any sale, and includes—

(i) the amount of tax, if any, for which the dealer is liable under section 3;

(*ii*) in relation to the transaction, being delivery of goods on hirepurchase or any system of payment by instalments, the amount of valuable consideration payable to a person for such delivery including hire-charges, interest and other charges incidental to such transaction; THECAN

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(iii) in relation to transfer of the right to use any goods for any purpose (whether or not for a specified period), the valuable consideration or charges received or receivable for such transfer;

(iv) any sum charged for anything done by the dealer in respect of goods at the time of, or before, the delivery thereof;

(v) the amount of duties levied or leviable on the goods under the Central Excise Act, 1944, or the Customs Act, 1962, or the Dadra and Nagar Haveli Excise Duty Regulation, 1969, whether such duties are payable by the seller or any other person;

(vi) the amount received or receivable by the seller by way of nonrefundable deposit which has been received or is receivable whether by way of separate agreement or not, in connection with, or incidental to, or ancillary to, the sale of goods; and

(vii) in relation to works contract, the amount of valuable consideration paid or payable to a dealer for the execution of the works contract,

but does not include-

(a) any sum allowed as discount which reduces the sale price according to the practice normally prevailing in the trade;

(b) the cost of freight or delivery or the cost of installation in cases where such cost is separately charged;

(zb) "Schedule" means a Schedule appended to this Regulation;

(zc) "sufficient proof" means such documents, testimony or other evidence relevant for deposit of tax, filing of return or proceedings under this Regulation and which may be prescribed;

(zd) "tax" means tax leviable and payable under this Regulation;

(ze) "taxable quantum" means the amount specified in subsection (2) of section 18;

(zf) "tax invoice" means a tax invoice of the nature referred to in section 50;

(zg) "tax period" means such period as may be prescribed;

(zh) "tax fraction" means the fraction calculated in accordance with formula given below:---

r/(r+100)

where 'r' is the percentage rate of tax applicable to the sale under this Regulation;

(zi) "transporter" means any person who, for the purposes of, or in connection with, or incidental to, or in the course of, his business, transports or causes to transport goods, and includes any person whose business consists of shipping, air cargo, inland container depot, container freight station, courier service, airline or railways;

(zj) "turnover of purchases" means the aggregate of the amounts of purchase price (including any input tax) paid or payable by a person in any tax period;

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(zk) "turnover" means the aggregate of the amounts of sale price received or receivable by the person in any tax period, as reduced by any tax for which the person is liable under section 3;

(zl) "value of goods" means the fair market value of the goods and includes insurance charges, excise duties, countervailing duties, tax paid or payable under the Central Sales Tax Act, 1956, transport charges, freight charges and all other charges incidental to the sale of the goods;

(zm) "works contract" includes any agreement for carrying out the construction of building, manufacture, processing, fabrication, erection, installation, fitting out, improvement, repair or commissioning of any moveable or immovable property, whether for cash or the deferred payment or for other valuable consideration;

(zn) "year" means the financial year.

CHAPTER II

INCIDENCE AND LEVY OF TAX

3. (1) Every dealer, who is registered under this Regulation or required to be registered under this Regulation, shall be liable to pay tax calculated in accordance with section 11. t_{i}

(2) The tax calculated under sub-section (1) shall be payable on every sale of goods effected by a dealer—

(a) on and from the day on which the dealer was required to be registered under this Regulation; or

(b) during the period he is registered as a dealer under this Regulation.

(3) The liability to pay tax shall be on the sales effected after a dealer exceeds the taxable quantum.

(4) The net tax shall be paid by a dealer within twenty-eight days from the last day of his tax period.

(5) Tax shall be paid in the manner specified in section 36.

(6) Every dealer, who becomes liable to pay tax under this Regulation on the sale of goods, shall continue to be so liable unless his taxable turnover during any preceding consecutive twelve months or such further period as may be prescribed, has remained below the taxable quantum and on the expiry of such twelve months or further period his liability to pay tax shall cease:

Provided that any dealer, whose liability to pay tax under this Regulation ceases for any other reason, may apply for the cancellation of his certificate of registration on or after the date on which his liability to pay tax ceases, and on such cancellation, his liability to pay tax shall cease:

Provided further that a dealer shall remain liable to pay tax until the date on which his certificate of registration is cancelled.

(7) Every dealer; whose liability to pay tax under this Regulation has ceased 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), at any subsequent day exceeds the taxable quantum within such year, be liable to pay such tax on and from the date on which his turnover subsequently exceeds the taxable quantum, on all sales effected by him on and after that day.

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Incidence of tax.

(8) Where it is found that any person registered as a dealer ought not to have been so registered, then notwithstanding anything contained in this Regulation, such person shall be liable to pay tax for the period during which he was so registered.

(9) If any person who transports goods or holds goods in custody for delivery to, or on behalf of any person, on being required by the Commissioner---

(a) to furnish any information in his possession in respect of the goods; or

(b) to permit inspection thereof,

fails to furnish such information or permit such inspection, then, without prejudice to any other action which may be taken against such person, under this Regulation or any other law for the time being in force, a presumption may be raised that the goods in respect of which he has failed to furnish such information or permit such inspection, are owned by him and are held by him for sale in Dadra and Nagar Haveli and the provisions of this Regulation shall apply accordingly.

Explanation.— For the removal of doubts it is hereby declared that the tax levied under this section shall apply to every—

(a) sale, (including a sale by way of instalment or hire- purchase) of goods, made on and after the date of commencement of this Regulation;

(b) sale, by way of the transfer of a right to use goods, to the extent that the right to use goods is exercised after the date of commencement of this Regulation.

Rates of tax.

4. (1) The rates of tax payable on the taxable turnover of a dealer shall be—

(a) in respect of goods specified in the Second Schedule, at the rate of one per cent.;

(b) in respect of goods specified in the Third Schedule, at the rate of four per cent.;

(c) in suspect of goods specified in the Fourth Schedule, at the rate of twenty per cent.;

(d) in the case of any other goods, not specified in the First, Second, Third and Fourth Schedules, at the rate of twelve and a half per cent.:

Provided that the rate of tax on packing materials or containers shall be the same as the rate at which the goods so packed or contained are chargeable to tax.

(2) Subject to such conditions as it may impose, the Government may, if it considers it necessary so to do in the public interest, by notification, specify a lower rate of tax than rate of tax specified under clauses (a) to (d) of sub-section (1).

(3) Every notification made under sub-section (2) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or both Houses agree that the notification should not be made, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that, any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

Determination of taxable turnover.

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5. (1) For the purposes of this Regulation, taxable turnover means the turnover of a dealer during the tax period which remains after deducting therefrom—

(a) the turnover of sales not liable to tax under section 7; and

(b) the turnover of sales of such goods which are exempt under section δ .

(2) (a) In the case of turnover arising from the execution of a works contract, the taxable turnover means so much of turnover which represents the price and other charges in relation to goods in such works contract subject to such conditions as may be prescribed.

(b) Where the amount of price and other charges in relation to the goods in such contract is not ascertainable from the terms and conditions of the contract, the amount of such price and other charges shall be calculated as the sale price stipulated in the contract as reduced by the prescribed percentage.

Explanation— For the removal of doubts, it is hereby declared that where an amount is paid or received prior to the date of commencement of this Regulation in respect of a sale or purchase occurring after the date of commencement of this Regulation, and the person calculates his turnover or turnover of purchases based on amounts paid and received, the amount shall be treated as forming part of the person's turnover or turnover of purchase occurs.

6. (1) The sale of goods specified in the First Schedule shall be exempt from tax:

Provided that the Government may, by notification, specify the conditions and exceptions, if any, for the purposes of such exemptions.

(2) Where a dealer sells capital goods used by him on and from the time of purchase exclusively for purposes other than making non-taxed sale of goods, and has not claimed a tax credit in respect of such capital goods under section 9, the sale of such capital goods shall be exempted from tax.

(3) Where any dealer has purchased any goods on the basis of a declaration or certificate under any order or scheme referred to in sub-section (5) and—

(a) any of the conditions subject to which such exemption was granted, or

(b) any of the recitals or the conditions of the declaration, or certificate,

are not complied with for any reason whatsoever, then, without prejudice to the other provisions of this Regulation, such dealer, shall, notwithstanding that such dealer or person was not liable to pay tax under any other provisions of this Regulation, be liable to pay tax on the sale price of the goods at the rates specified in section 4 and accordingly the dealer, who has become liable to pay tax under this sub-section shall, file a return in the prescribed form to the prescribed authority within a prescribed time, and include the sale price of such turnover in his return, and pay the tax in the prescribed manner.

(4) The tax due from any dealer referred to in sub-section (3) shall be assessed and tax recovered as if the dealer is a dealer liable to be proceeded against under the provisions of this Regulation.

(5) Subject to such conditions as the Government may, by notification, specify, all exports from the export, oriented units, electronic hardware and technology park, software technology park units and the special economic zone located within Dadra and Nagar Haveli, shall be exempted from the levy of tax.

Explanation – For the purposes of this sub-section, "export oriented unit", "electronic hardware and technology park", "software technology park unit" and the "special economic zone" shall mean the delineated area as may be notified by the Central Government to be such 'Unit' or 'Park' or 'Zone', as the case may be.

(6) In a case where a dealer or a class of dealers had been granted exemption before the commencement of this Regulation from levy of tax under the Dadra and Nagar Haveli Sales Tax Regulation, 1978, as repealed by section 106, the Government may, by general or special order, published in the Official Gazette, provide for a deferral

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Sale of certain goods exempt from levy of tax.

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scheme (including a scheme providing the manner in which such exemption from tax shall be continued) or grant exemption from levy of tax to such dealer or class of dealers and such deferral scheme or exemption shall be for the remaining period for which the dealer or class of dealers had been exempted under the Regulation so repealed.

7. Nothing contained in this Regulation or the rules made thereunder shall be deemed to impose or authorise the imposition of tax on any sale of goods when such sale takes place-

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

(b) outside Dadra and Nagar Haveli; or

(c) in the course of import of the goods into, or, export of the goods out of, the territory of India.

Explanation.— Sections 3, 4 and 5 of the Central Sales Tax Act, 1956 shall apply for determining whether or not a particular sale takes place in the manner specified in clause (a) or clause (b) or clause (c) of this section.

Adjustments to tax.

Certain sales

not liable to

tax.

8. (1) The provisions of this section shall apply-

(i) where, in relation to the sale of goods by any dealer-

(A) such sale has been cancelled; or

(B) the nature of such sale has been varied or altered; or

(C) the consideration agreed for such sale has been altered by agreement with the recipient, whether due to the offer of a discount or for any other reason; or

(D) the goods or part of the goods sold have been returned to the dealer; or

(E) the whole or part of the price payable by the buyer for the purchase of the goods has been written-off by the dealer as a bad debt; and

(ii) the dealer has, in relation to the sale of goods,---

(A) provided a tax invoice in relation to such sale and the amount shown therein is not the tax properly chargeable on that sale; or

(B) furnished a return in relation to such sale and has accounted for an amount of tax on that sale which is not the amount properly chargeable on that sale.

(2) Where a dealer has accounted for an amount of tax improperly charged as referred to in sub-section (1), the dealer shall make an adjustment in calculating the tax payable in the return for the tax period during which it has become apparent that the tax is improperly charged.

(3) If the tax payable in relation to the sale referred to in sub-section (1), exceeds the tax actually accounted for by the dealer, the amount of the excess tax shall be deemed to accrue during the tax period in which the adjustment is made, and such excess tax shall not be attributable to any earlier tax period.

(4) If the tax actually accounted for exceeds the tax payable in relation to the sale referred to in sub-section (1), the amount of shortfall in tax shall be reduced from the tax payable by the dealer during the tax period in which the adjustment is made, and such shortfall in tax shall not be attributable to any earlier tax period.

(5) Where a dealer sells goods which have been used-

(a) partly for making the sales subject to tax under this Regulation or sales not liable to tax under section 7; and

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(b) partly for other purposes,

the amount of tax on the sale of the goods shall be the higher of the following:-

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(i) A – (A × B / C); or

(ii) A – B;

where

A = the tax for which the dealer shall be liable in respect of the sales other than the tax liability arising under this section;

B = the amount by which the tax credit of the dealer in respect of the goods was reduced under sub-section (4) of section 9;

C = the amount of the tax credit before reducing tax credit under subsection (4) of section 9.

9. (1) Subject to the provisions contained in sub-section (2), a dealer, who is Tax credit. registered or is required to be registered under this Regulation, shall be entitled to a tax credit in respect of the turnover of purchases made during the tax period where the purchase have been made as a dealer and the goods are meant to be used directly or indirectly by him for the purpose of making—

(a) the sales which are liable to tax under section 3; or

(b) the sales which are not liable to tax under section 7.

(2) No tax credit shall be allowed---

(a) in the case of purchase of goods from a person who is not a registered dealer;

(b) for the purchase of non-creditable goods specified in the Sixth Schedule;

(c) for the purchase of goods by a person which are to be used as a part of the structure of a building owned or occupied by such person.

Explanation— For the removal of doubts, it is hereby declared that a tax credit shall be allowed in respect of the goods and building materials which are purchased by a person either for the purposes of re-sale without any alteration, or for the performance of a works contract in respect of a building owned or occupied by another person; and

(d) for the goods purchased from a dealer who has opted to pay tax under section 16;

(3) The amount of the tax credit to which a dealer is entitled in respect of the purchase of goods shall be the amount of input tax arising during the tax period as reduced in the manner specified in sub-sections (4) and (6).

(4) Where a dealer has purchased goods and the goods are to be used partly for the purpose of making the sales referred to in sub-section (1) and partly for other purposes, the amount of the tax credit shall be reduced proportionately.

(5) Every dealer shall determine, in fair and reasonable manner, the extent to which the goods are used in the manner specified in sub-section (4):

Provided that in case the Commissioner is of the opinion that the manner determined by the dealer is not fair and reasonable, he may—

(a) after recording the reasons in writing, reject the method adopted by the dealer and calculate the amount of tax credit after determining such extent in a fair and reasonable manner; or

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(b) in consultation with the Government, specify, by notification, the methods for calculating the amount of tax credit or the amount of any adjustment or reduction of a tax credit in a case or a class of cases.

(6) Where---

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(a) a dealer has purchased goods (other than capital goods) for which a tax credit arises under sub-section (1); and

(b) the goods so purchased or goods manufactured out of such goods so purchased are to be exported from Dadra and Nagar Haveli, by way of transfer to a --

(i) consignment agent who is not residing in Dadra and Nagar Haveli and such transfer is not by way of sale in the Dadra and Nagar Haveli; or

(*ii*) branch of the dealer when such branch is located outside Dadra and Nagar Haveli and such transfer is not by way of sale in the Dadra and Nagar Haveli,

the amount of the tax credit shall be reduced by such percentage as may be prescribed.

(7) No tax credit shall be allowed under this section for—

(a) the purchase of goods from an unregistered dealer;

(b) the purchase of goods which are used exclusively for the manufacture, processing or packing of goods specified in the First Schedule.

(8) The tax credit shall be claimed by a dealer only if he possesses a tax invoice at the time, prescribed under section 26 or section 27, for filing the return for the tax period.

Explanation.— For the removal of doubts, it is hereby declared that—

(i) tax credits arising under this section shall be allowed only for-

(a) a purchase, including a purchase under an instalment sale and hire-purchase of goods, made on and after the date of commencement of this Regulation; or

(b) a purchase by way of the acquisition of a right to use goods, to the extent that the right to use goods is exercised after the date of commencement of this Regulation;

(*ii*) Nothing contained in this section shall prevent any person from claiming tax credit allowed under section 14.

Adjustment to tax credit.

10. (1) Where any purchaser has been provided by the seller with a credit note or debit note under section 51 or if he returns or rejects goods purchased, as a consequence of which the tax credit, claimed by him in any tax period in respect of which the purchase of goods relates, becomes short or excess, he shall compensate such shortfall or excess by adjusting the amount of the tax credit allowed to him in respect of the tax period in which the credit note or debit note had been issued or goods are returned.

(2) If goods which have been purchased were,—

(a) intended to be used for any of the purposes specified under sub-section (1) of section 9 but are subsequently used, fully or partly, for purposes other than those specified under the said sub-section; or

(b) intended for purposes other than those specified under sub-section (1) of section 9, but are subsequently used, fully or partly, for any of the purposes specified in the said sub-section,

the tax credit claimed in respect of such purchase shall be reduced or increased, as the case may be, for the tax period during which the said utilisation has taken place.

(3) Where---

(a) the goods were purchased by a dealer;

(b) the dealer claimed a tax credit in respect of the goods, and the amount of tax credit has not been reduced under sub-section (6) of section 9; and

(c) the goods are exported from Dadra and Nagar Haveli, other than by way of a sale, to a branch of the dealer or to a consignment agent,

the dealer shall reduce, by the proportion prescribed under sub-section (6) of section 9, the amount of tax credit initially claimed by him.

(4) If goods, which have been purchased by a dealer,---

(a) were intended to be used for any of the purposes specified under subsection (1) of section 9; and

(b) are subsequently used as a part of structure of a building owned or occupied by him,

the tax credit claimed in respect of such purchase shall be reduced in the tax period during which such use takes place.

11. (1) The net tax payable by a dealer for a tax period shall be the amount calculated Calculated by the formula given below:—

Net Tax = O - I - C

Where---

O = the amount of tax payable by the person at the rates specified in section 4 in respect of the taxable turnover arising during tax period, after making any adjustments to the tax as required by section 8;

I = the amount of the tax credit arising during the tax period to which the person is entitled under section 9, after making any adjustments to the tax credit as required by section 10;

C = the amount, if any, brought forward from the previous tax period under sub-section (2).

(2) Where the net tax of a dealer calculated for a tax period under sub-section (1) amounts to a negative value, the dealer shall—

(a) adjust the said amount in the same tax period against the tax payable by him under the Central Sales Tax Act, 1956, if any; and

(b) carry forward the surplus amount, if any, after making adjustments under clause (a) to the next tax period within the same financial year.

(3) Where the net tax of the dealer at the end of the financial year is a negative value, the dealer shall be entitled to claim a refund of any excess amount of tax and the Commissioner shall deal with claim of refund in the manner specified in sections 38 and 39:

Provided that the dealer may opt to adjust the refund under this sub-section as a tax credit in any succeeding tax period falling in the next financial year.

12. (1) Subject to sub-sections (2), (3) and (4), the amount of the turnover and the turnover of purchases of a dealer during any tax period shall be the amount recorded in the books of account of the dealer, where those accounts are regularly and properly prepared and maintained, under this sub-section so as to give a true and fair view of his business.

Time at which turnover, turnover of purchases and adjustments arise.

Calculation of net tax.

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(2) The Commissioner may, having regard to trade or accounting practice, by notification,—

(a) allow certain classes of dealer to record turnover on the basis of the amounts paid or received by such dealer; or

(b) require certain classes of dealer to record turnover on the basis of the amounts payable or receivable by such dealer.

(3) Where a dealer intends to change the method of determining the turnover and turnover of purchases, he shall make the change with the approval of the Commissioner and the Commissioner may grant such approval, subject to such terms and conditions as he may, having regard to trade or accounting practice, deem fit.

(4) The Government may prescribe the period for which turnover of a dealer, turnover of purchases made by a dealer and adjustment of tax or adjustment to a tax credit by a dealer shall be treated as arising for a class of transactions during that period.

CHAPTER III

Special Provisions Relating to Used Goods, Composition of Tax and Transaction between Related Persons, Etc.

13. The provisions of this Chapter shall have effect, notwithstanding anything inconsistent therewith contained in any provisions of Chapter II.

Provisions of this Chapter to override provisions of Chapter II.

Treatment of stock brought forward during transition. 14. (1) Within a period of four months of the commencement of this Regulation, all registered dealers desirous to claim the tax credit referred to in sub-section (2), shall furnish to the Commissioner a statement, in the form as may be prescribed, containing details of their trading stock, raw materials and packaging materials for trading stock (in this section referred to as "opening stock") which—

(a) is held in Dadra and Nagar Haveli on the date of the commencement of this Regulation;

(b) was purchased by the dealer after the 1st day of April, 2004.

(2) If—

(a) the dealer has furnished the statement referred to in sub-section (1);

(b) the tax has been paid in respect of opening stock in accordance with the provisions of the Dadra and Nagar Haveli Sales Tax Regulation, 1978, as it stood before its repeal by section 106, at the point specified by the Government under section 8 of the said Regulation at full rate of tax specified in the Schedules to that Regulation; and

(c) the opening stock has been purchased by the dealer from a registered dealer for any of the purposes as are specified in sub-section (1) of section 9,

the amount of tax paid under the Dadra and Nagar Haveli Sales Tax Regulation, 1978, as it stood before its repeal by section 106, on such opening stock, determined in such manner and subject to such conditions and restrictions and to the extent as may be prescribed, shall be credited to the registered dealer as a tax credit under section 9:

Provided that no tax credit under this section shall be allowed unless the dealer has in his possession, invoices issued by a dealer registered under the Dadra and Nagar Haveli Sales Tax Regulation, 1978, as it stood before its repeal by section 106, in respect of the purchases of such stock:

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Provided further that the dealer shall be eligible to claim the entire amount of credit to which he is entitled if such entire credit is indicated and claimed in a single statement, which accompanies a return furnished under this Regulation.

(3) No tax credit under sub-section (2) shall be claimed-

(a) for finished goods manufactured out of raw material or capital goods on which tax had been paid;

(b) for any goods, which were taxable at last point under the Dadra and Nagar Haveli Sales Tax Regulation, 1978 as it stood before its repeal by section 106, held at the time of the commencement of this Regulation;

(c) in any statement furnished after the expiry of four months after the commencement of this Regulation; or

(d) for opening stock which is held outside Dadra and Nagar Haveli.

(4) Every dealer, desirous to claim a tax credit for more than one lakh rupees in respect of the opening stock referred to in sub-section (1), shall furnish alongwith the statement a certificate signed by an accountant in the prescribed form certifying that the net credit claim specified in such statement is true and correct.

(5) Notwithstanding anything contained in section 3, if---

(a) a person was registered as a dealer under the Dadra and Nagar Haveli Sales Tax Regulation, 1978, as it stood before its repeal by section 106;

(b) the person is not registered as a dealer under this Regulation in pursuance of section 24, and such person has not made an application for grant of certificate of registration as a dealer within one month of the date of the commencement of this Regulation; and

(c) on the date of the commencement of this Regulation, the dealer held opening stock of finished goods in respect of which tax has not been paid under the Dadra and Nagar Haveli Sales Tax Regulation, 1978, as it stood before its repeal by section 106,

the person shall be liable to pay tax under this Regulation at the rate or rates specified in section 4 on the fair market value of the opening stock of finished goods held on the date of the commencement of this Regulation.

(6) The tax due under sub-section (5) shall be paid within two months from the date of the commencement of this Regulation.

15.(1) This section applies where—

(a) a registered dealer sells used goods;

(b) the registered dealer has purchased goods from a resident seller who was not registered under this Regulation;

(c) the goods were purchased either as trading stock for re-sale without any alteration, or for use as raw materials;

(d) the registered dealer is liable to tax under section 3 on the sale of the goods or the goods which were manufactured after use of such goods as raw material or part of such goods so manufactured, as the case may be; and

(e) the registered dealer has sufficient proof of the amount paid for the goods.

(2) Subject to the provisions of sub-section (1), the registered dealer shall be entitled to an amount of tax credit which shall be the lowest of the following, namely:--

Levy of tax and availing of tax credit on used goods.

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(a) the input tax borne by the seller who was residing in Dadra and Nagar Haveli when he purchased the goods;

(b) the tax fraction of the initial cost of the goods to the seller residing in the Dadra and Nagar Haveli;

(c) the tax fraction of the fair market value of the goods at the time of their purchase by the registered dealer;

(d) the tax fraction of the consideration paid by the registered dealer for the goods.

(3) Where the amount paid by the registered dealer for the goods exceeds two thousand rupees, the tax credit shall be allowed in the tax period during which such goods are sold by the registered dealer or the goods into which they have been used are sold by the registered dealer.

16. (1) Notwithstanding anything contained in this Regulation, every dealer, whose turnover in the year immediately preceding the commencement of this Regulation or in any subsequent year exceeds the taxable quantum under this Regulation but does not exceed twenty five lakh rupees or such other amount as may be specified by the Government by notification, shall have an option to pay tax under this section:

Provided that this section shall not apply to any dealer, who is registered as a dealer under the Central Sales Tax Act, 1956 or who procures goods from any place 74 of 1956. outside the Dadra and Nagar Haveli or sells or supplies goods to any place outside the Dadra and Nagar Haveli, during the year in which he opts to pay tax under this section.

(2) Every dealer, referred to in sub-section (1), at the time of making an application for grant of certificate of registration under section 19, shall be required to specify whether he intends to pay tax under this section:

Provided that in case a dealer opts to pay tax under this section, he may, by an application made to the Commissioner within such time and in such manner as may be prescribed, withdraw his option at any time after the end of the year in which such option was made:

Provided further that in a case where a dealer withdraws his option to pay tax under this section, he shall be entitled to claim credit of the tax paid under this Regulation on the trading stock, raw material and packaging material held by him in the Dadra and Nagar Haveli on the date when such option was made subject to the condition or conditions specified in section 20 and applicable to such dealer.

(3) In case a person who intends to pay tax under this section and—

(a) who was registered under the Dadra and Nagar Haveli Sales Tax Regulation, 1978, at the time of the commencement of this Regulation;

(b) whose turnover in the year preceding the commencement of this Regulation or any subsequent year exceeds the taxable quantum under this Regulation but does not exceed twenty five lakh rupees or such other amount as may be specified by the Government by notification,

he shall specify his intention, within such time and in such manner as may be prescribed, to pay tax under this section.

(4) Where a dealer opts or intends to pay tax under this section, net tax payable by the dealer shall be the amount determined at the rate of one per cent. of the turnover of the dealer.

(5) A dealer, who opts or intends to pay tax under this section shall,

(a) not compute his net tax under section 11;

Composition scheme for specified dealers. 16

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(b) not be entitled to claim credit under section 9 or section 14 or section 15;

(c) not be entitled to issue tax invoice;

(d) not collect any amount by way of tax under this Regulation; and

(e) retain tax invoices and retail invoices for all of his purchases, as required under section 48.

(6) Every dealer, who opts or intends to pay tax under this section, shall be required to pay tax on the trading stock, raw material, packaging material (in this subsection referred to as "opening stock") and finished goods,—

(a) in the case of a dealer referred to in sub-section (3), held on the date of the commencement of this Regulation; or

(b) in the case of any other dealer, on the date on which he exercises his option or specifies intention under this section,

at the rates specified in section 4 on the fair market value of such opening stock and finished goods where no tax has been paid which was payable on such opening stock and finished goods under the Dadra and Nagar Haveli Sales Tax Regulation, 1978, repealed by section 106 or under this Regulation.

(7) Every dealer shall pay the tax due under sub-section (6) at any time before he opts to pay tax under this section.

(8) Every dealer, who opts or intends to pay tax under this section, shall furnish to the Commissioner the proof of payment of tax referred to in sub-section (6) along with a statement of opening stock and finished goods, in such form as may be prescribed.

17. If---

(a) a registered dealer enters into a transaction with the related person for lated persons. sale of goods or sells or gives otherwise goods without adequate consideration to a related person; or

(b) the terms or conditions of such transaction or sale or giving of goods have been influenced by seller being related with such person,

the dealer shall not be entitled to a tax credit for the purchase of the goods or he shall be entitled to the proportionately reduced tax credit under sub-section (3) of section 9 and the transaction or sale or giving of goods shall be deemed to be a sale made by the registered dealer and the sale price of the goods shall be deemed to be their fair market value.

CHAPTER IV

REGISTRATION AND SECURITY

18. (1) Every dealer shall apply for grant of certificate of registration under this Regulation if—

(a) the turnover of the dealer in the year immediately preceding the commencement of this Regulation exceeded the taxable quantum; or

(b) the turnover of the dealer in the year during which this Regulation comes into force or any year thereafter, exceeds the taxable quantum; or

(c) the dealer is liable to pay tax, or is registered or required to be registered under the Central Sales Tax Act, 1956:

Provided that a dealer dealing exclusively in goods mentioned in the First Schedule shall not be required to obtain certificate of registration under this Regulation.

(2) For the purposes of this Regulation, "taxable quantum" of a dealer shall be

and voluntary registration.

Transactions between re-

1978.

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Compulsory

five lakh rupees, or such other amount as may be specified, by the Government, by notification:

Provided that in the case of a dealer who imports for sale any goods into the Dadra and Nagar Haveli, the taxable quantum shall be "Nil" or such other amount as may be specified, by notification, by the Government.

(3) For the purposes of this section, in case of dealers involved in execution of works contracts, the taxable quantum shall be calculated with reference to the total contract amount received.

(4) The taxable quantum of a dealer shall not include turnover from-

- (a) the sales of capital assets;
- (b) the sales made in the course of winding up business of the dealer.

(5) Any person, who is not required by sub-section (1) to be registered, but who is a dealer; or intends from a particular date to undertake the business which would make him a dealer, may apply for grant of certificate of registration.

Registration.

19. (1) An application for grant of certificate of registration shall, be made in the prescribed form, within such time, and containing such particulars and information and be accompanied by such fee, security and other documents as may be prescribed.

(2) The Administrator may, by order to be published in the Official Gazette, specify certain classes of persons who may not be required to furnish a security.

(3) Where-

(a) an applicant furnishes, in the prescribed manner, the security for the amount as may be prescribed; and

(b) all requirements and provisions of this Regulation for grant of certificate of registration have been complied with,

such applicant shall be granted a certificate of registration under this Regulation.

(4) Where the certificate of registration has not been granted to the applicant within fifteen days from the date on which the application is made, the Commissioner shall, after making such inquiries as he deems fit, either—

(a) grant certificate of registration forthwith to the applicant; or

(b) issue a notice to the applicant, clearly stating the grounds on which his application is proposed to be rejected and allowing him to show cause in writing, within further fifteen days, why his application should not be rejected:

Provided that where the certificate of registration has not been granted to the applicant or such applicant has not been issued a notice by the required date, the applicant shall be deemed to be registered for the purposes of this Regulation, and the Commissioner shall grant a certificate of registration to such applicant.

(5) Where the applicant submits a reply to the notice, under clause (b) of subsection (4), the Commissioner may, either accept the application and grant a certificate of registration to the applicant, or reject the application for reasons to be recorded in writing.

(6) If the applicant fails to submit any reply to the notice issued under clause (b) of sub-section (4) within the stipulated time, the application for grant of certificate of registration shall stand rejected.

(7) Where a registered dealer has furnished a security as a condition for grant of certificate of registration, such security shall be necessary for the continuance in effect of the certificate of registration, unless otherwise provided by the Commissioner.

20. (1) If a certificate of registration is granted at any time after the commencement of this Regulation and—

(a) the dealer holds trading stock for the purpose of sale, or for use as raw materials for the production of trading stock;

(b) the dealer has paid input tax on the purchase of the trading stock or raw materials;

(c) the dealer furnishes a statement of its trading stock and raw materials in the prescribed form to the Commissioner; and

(d) the dealer possesses sufficient proof of the amount of input tax in respect of the purchases,

such dealer shall be entitled to a tax credit for the trading stock or raw materials held by the dealer on the date on which the certificate of registration come into force:

Provided that the dealer shall claim the entire amount of tax credit to which he is entitled, in a single claim which accompanies the first return furnished by the dealer under this Regulation.

(2) For the purposes of sub-section (1), the amount of the tax credit shall be the least of the following, namely:---

(a) the amount of input tax disclosed in the proof referred to in clause (d) of sub-section (1); or

(b) the tax fraction of the cost of the goods; or

(c) the tax fraction of the fair market value of the goods at the time of registration; or

(d) the amount specified under sub-section (3) of section 9.

(3) Where the registered dealer specifies in his books of account the turnover on the basis of amounts received and amounts paid, he shall exclude from his turnover—

(a) any amount received after he has been granted a certificate of registration in respect of sales made and such amount relates to the period during which he had not been granted a certificate of registration under this Regulation; and

(b) any amount paid after he is registered in respect of purchases made and such amount relates to the period during which he had not been granted a certificate of registration under this Regulation.

21. (1) A registered dealer shall inform, the Commissioner in the prescribed manner, within one month, if he—

Amendment of registration.

(a) sells or otherwise disposes of his business or any part of his business or any place of business, or effects, or comes to know of, any other change in the ownership of the business; or

(b) discontinues his business or changes his place of business or warehouse, or opens a new place of business, or closes the business for a period of more than one month; or

(c) changes the name, style, constitution or nature of his business; or

(d) enters into partnership or other association in regard to his business or adds, deletes or changes the particulars of the persons having interest in his business.

(2) If any such registered dealer dies, his legal representative shall, in like manner specified under sub-section (1), inform the Commissioner.

Effect of registration.

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(3) The Commissioner may, after considering any information furnished under this Regulation or otherwise received and after making such inquiry as he may deem fit, amend from time to time any certificate of registration granted under this Regulation.

(4) An amendment to certificate of registration made under sub-section (3) shall take effect from the date of contingency which necessitates the amendment whether or not information in that behalf is furnished within the time prescribed under sub-section (1).

(5) Any amendment to a certificate of registration under this section shall be without prejudice to any liability for tax or interest or penalty imposable or for any prosecution for an offence under this Regulation.

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

(a) effects a change to the nature of the goods ordinarily sold; or

(b) is a firm and there is a 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 Hindu undivided family and the business of such family is converted into a partnership business with all or any of the members of the family as partners thereof; or

(e) is a firm or a company or a trust or other organisation, and a change occurs in the management of the organisation,

then, merely by reason of the circumstances aforesaid, it shall not be necessary for the registered dealer to apply for a fresh certificate of registration and on information being furnished the certificate of registration shall be amended.

22. (1) Where—

(a) a registered dealer, who is required to furnish security under the provisions of this Regulation, has failed to furnish or maintain such security; 'or

(b) a registered dealer has ceased to carry on any activity or business which would entitle him to be registered as a dealer under this Regulation; or

(c) an incorporated body has been wound up or otherwise ceases to exist;

(d) the owner of a proprietorship business dies leaving no successor to carry on the business; or

(e) in the case of a firm or association of persons, it is dissolved; or

(f) registered dealer has ceased to be liable to pay tax under this Regulation;

or

(2) Where—

or

(g) a registered dealer knowingly furnishes a return which is misleading or deceptive in a material particular; or

(h) a registered dealer has committed one or more offences or contravened the provisions of this Regulation; or

(i) the Commissioner, after conducting proper inquiries, is of the view that it is necessary to do so,

the Commissioner may, after service of a notice in the prescribed form and after giving the dealer an opportunity of being heard, cancel the certificate of registration of the dealer with effect from the date, as may be, specified by him in the notice.

Cancellation of certificate of registration. (a) a registered dealer has ceased to carry on any activity which would entitle him to be registered as a dealer under this Regulation; or

(b) an incorporated body has been wound up or otherwise ceases to exist;

(c) the owner of a proprietorship business dies leaving no successor to carry on business; or

(d) in the case of a firm or association of persons, it is dissolved; or

(e) a registered dealer has ceased to be liable to pay tax under this Regulation,

the registered dealer or the dealer's legal representative in case of clause (c) above, shall make an application for cancellation of his certificate of registration to the Commissioner in the manner and within the time as may be prescribed.

Explanation.— For the purpose of this sub-section, "legal representative" has the same meaning as assigned to it in clause (11) of section 2 of the Code of Civil Procedure, 1908.

(3) On receipt of such application, if the Commissioner is satisfied that the dealer has ceased to be entitled to be registered, he may cancel the certificate of registration.

(4) If a registered dealer ceases to be registered, the Commissioner shall cancel the certificate of registration of the dealer.

(5) If certificate of registration of a dealer, which has been cancelled under this section, has been restored as a result of an appeal or other proceeding under this Regulation, the certificate of registration of such dealer shall be restored and he shall be liable to pay tax as if his registration had never been cancelled.

(6) If any registered dealer, whose certificate of registration has been restored under sub-section (5), satisfies the Commissioner that an excess tax has been paid by him during the period of his certificate of registration was not in force which, but for the cancellation of his certificate of registration, he would not have paid, then the amount of such tax shall be adjusted or refunded in such manner, as may be prescribed.

(7) Every registered dealer, who applies for cancellation of his certificate of registration, shall surrender with his application the certificate of registration granted to him and every registered dealer whose certificate of registration is cancelled otherwise than on the basis of his application shall surrender the certificate of registration within seven days of the date of communication to him of the cancellation.

(8) The Commissioner shall, at intervals not exceeding three months, publish in the Official Gazette, such particulars as may be prescribed, of registered dealers whose certificate of registration has been cancelled.

(9) The cancellation of certificate of registration shall not affect the liability of any person to pay tax due for any period and unpaid as on the date of such cancellation or which is assessed thereafter notwithstanding that he is not otherwise liable to pay tax under this Regulation.

23. (1) Every person, whose certificate of registration has been cancelled, shall pay in respect of all goods held on the date of cancellation an amount equal to the amount of -

Effect of cancellation of certificate of registration.

(a) the tax which would be payable in respect of those goods if the goods were sold at their fair market value on that date; or

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(b) the tax credit previously claimed in respect of those goods,

whichever is higher.

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or

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(2) Where the dealer has specified in his books of account the turnover on the basis of amounts received and amounts paid, he shall include in the turnover of his last return---

(a) any amount not yet received in respect of sales made while he was registered as a dealer under this Regulation; and

(b) any amount not yet paid in respect of purchases made while he was registered as a dealer under this Regulation.

24. (1) Every dealer-

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(a) who has been registered under the Dadra and Nagar Haveli Sales Tax Regulation, 1978, on or before the commencement of this Regulation; and

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(b) whose turnover, in the year preceding the year in which this Regulation comes into force, exceeds the taxable quantum,

shall be deemed to be registered under this Regulation from the date on which this Regulation comes into force.

(2) The security furnished by a dealer registered under the Dadra and Nagar Haveli Sales Tax Regulation, 1978, and such security being valid on the date of the commencement of this Regulation, shall be deemed to have been furnished under this Regulation and shall be valid under this Regulation for a period of six months from the commencement of this Regulation or till a fresh security as required under sub-section (3) is furnished, whichever is later.

(3) Every dealer referred to in sub-section (1) shall, within a period of six months of the commencement of this Regulation, be required to furnish a fresh security under this Regulation:

Provided that the Commissioner may, having regard to the financial position of the dealer and any other matter which the Commissioner considers relevant, by notification, exempt a class or classes of dealers from the requirement of furnishing a fresh security under this sub-section.

Requirement of furnishing security.

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Registration during transi-

tion.

25. (1) The Commissioner may, for the purpose of—

(a) granting a certificate of registration to a person as a dealer; or

(b) making a refund under section 38,

require such person to furnish security, for the proper discharge of obligations by him under this Regulation or under the Central Sales Tax Act, 1956, for such amount equivalent to the amount which may be prescribed and in the manner and within such time, as may be prescribed.

(2) Notwithstanding anything contained in sub-section (1), the Commissioner may increase, reduce or waive the prescribed amount of the security, having regard

(a) the nature and size of the business activities of the person;

(b) the amount of any tax, interest or penalty for which the person may be, or is likely to become, liable at any time under this Regulation;

(c) the creditworthiness of the person;

(d) the nature of the security; and

(e) any other matter which the Commissioner considers relevant.

(3) Where the security or additional security furnished by a person is in the form of a surety bond and the surety dies or becomes insolvent, the person shall, within one month of the occurrence of such event, inform the death or insolvency of such surety

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to the Commissioner and execute a fresh surety bond within three months of such occurrence.

(4) Where the surety bond has been executed in favour of a person by another registered dealer and the certificate of registration of such dealer has been either cancelled or he has closed down his business, the person shall furnish a fresh surety as may be prescribed and in the manner as stated in sub-section (3).

(5) The Commissioner may, for good and sufficient cause, order the forfeiture of the whole or any part of the security furnished by a person.

(6) Where the security furnished by any person is forfeited in whole or is rendered insufficient, he shall furnish a fresh security of the requisite amount or, as the case may be, shall make up the deficiency in such manner and within such period as may be specified.

CHAPTER V

RETURNS

26. Every registered dealer, who is liable to pay tax under this Regulation, shall Furnishing of furnish to the Commissioner such returns in the prescribed form for each tax period and by such dates as may be prescribed.

27. In addition to the returns specified in section 26, the Commissioner may require any person (including an agent or trustee of such person), whether a registered dealer or not, to furnish him with such other returns as the Commissioner may specify and such other returns shall be furnished within such time and in such form as may be prescribed.

28. (1) If, within four years of the making of an assessment, any person discovers Furnishing of any mistake or error in any return furnished by him under this Regulation, and he has, as a result of the mistake, or error, paid less tax than was due under this Regulation, he shall, within one month after the discovery, furnish a revised return and pay the tax mistake. owed and interest thereon.

(2) If, within four years of the making of an assessment, any person discovers any mistake or error in any return furnished by him under this Regulation, and he has, as a result of the mistake or error, paid more tax than was due under this Regulation, he may file an appeal against the assessment in the manner and subject to the conditions stipulated in section 74.

29. (1) Every return under this Chapter shall be signed and verified-

(a) in the case of an individual, by the individual himself, and where the individual is absent from India, either by the individual or by some person duly authorised by him in this behalf and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;

(b) in the case of a Hindu undivided family, by a Karta and where the Karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family;

(c) in the case of a company or local authority, by the principal officer thereof;

(d) in the case of a firm, by any partner thereof, not being a minor;

(e) in the case of any other association, by any member of the association or persons;

(f) in the case of a trust, by the trustee or any trustee; and

periodical returns.

Furnishing of other returns.

revised return for rectification of

Signing returns.

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(g) in the case of any other person, by some person competent to act on his behalf.

(2) For the purposes of this section,—

(a) the expression "principal officer" shall have the meaning assigned to it under clause (35) of section 2 of the Income-tax Act, 1961;

(b) any return signed by a person, who is not authorised under this section, to sign and verify the return, shall be treated as if no return has been furnished.

CHAPTER VI

Assessment and payment of tax, interest and penalties and making refunds

Assessment of tax, interest or penalty.

30. The Commissioner shall direct any person to pay any amount of tax, interest or penalty or other amount due under this Regulation after making of an assessment for such amount payable by such person.

enalty.

Self assessment. 31. (1) Where a return is furnished by a person as required under section 26 or section 27 and which contains the prescribed information and accompanies the relevant documents required to be accompanied under this Regulation and such person has complied with the other requirements specified under this Regulation and the rules and orders made thereunder, an assessment of the tax payable of the amount specified in the return shall be deemed to have been made, under this Regulation, on the day on which such return was furnished.

(2) No assessment shall be deemed to have been made under sub-section (1), if the Commissioner has already made an assessment of tax in respect of the same tax period under any other provision of this Regulation.

Default assessment of tax payable. **32.** (1) If any person—

(a) has not furnished returns required under this Regulation by the prescribed date; or

(b) has furnished incomplete or incorrect returns; or

(c) has furnished a return which is not accompanied by the documents required to be filed alongwith the return under this Regulation or rules made thereunder; or

(d) has furnished a return which is not in comformity with the provisions of this Regulation or rules made thereunder,

the Commissioner may, for reasons to be recorded in writing, assess or re-assess to the best of his judgment the amount of net tax due for any tax period or tax periods.

(2) Where the Commissioner has made an assessment under sub-section (1), the Commissioner shall forthwith serve on concerned person a notice of assessment of the amount of any additional tax due for that tax period.

(3) Where the Commissioner has made an assessment under sub-section (1) and subsequently any further tax is assessed as due, the amount of further tax so assessed as due shall also be payable on the same date being the date on which the net tax for the tax period was due.

Assessment of penalty.

33. (1) Where the Commissioner has reason to believe that a liability to pay a penalty under section 86 has arisen, the Commissioner, after recording the reason in writing, shall serve on the person concerned a notice of assessment of the penalty which has become due under this Regulation.

(2) The amount of any penalty assessed under this section shall become due on the date on which the notice of assessment has been served by the Commissioner.

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34. (1) No assessment or re-assessment shall be made by the Commissioner after the expiry of four years from—

(a) the date on which the person furnished a return under section 26 or subsection (I) of section 28; or

(b) the date on which the Commissioner made an assessment of tax under section 32,

whichever is the earlier:

Provided that where the Commissioner has reason to believe that tax was not paid by reason of concealment, omission or failure to disclose material particulars on the part of the person, the assessment or re-assessment may be made by the Commissioner within six years from the dates specified in clause (a) or clause (b), as the case may be.

(2) Notwithstanding anything contained in sub-section (1), the Commissioner may make an assessment of tax within one year from the date of any decision of the Appellate Tribunal or court where the assessment is required to be made in consequence of, or to give effect to, the decision of the Appellate Tribunal or court which requires the re-assessment of the person.

35. (1) Subject to the provisions of sub-sections (2) and (4), where an amount of tax or penalty has been assessed under section 32 or section 33, the Commissioner may not proceed to enforce payment of the amount assessed until two months after the date of service of the notice of assessment.

(2) Where a person has made an appeal to an assessment or part of an assessment in the manner provided in section 74, the Commissioner shall not enforce the payment of any amount in dispute under that assessment until the appeal is decided by the Commissioner.

(3) Nothing in this section shall stay any proceedings by the Commissioner or before a court for the recovery of any amount due under this Regulation —

(a) which are not the subject of a dispute before the Commissioner; or

(b) which has not been stayed by the Appellate Tribunal or Court.

(4) Notwithstanding anything contained in sub-section (1), where an amount of tax or penalty has been assessed by the Commissioner and he is satisfied that it may not be possible to recover the amount assessed if collection of such amount is delayed, or it will be detrimental to revenue if the full period of two months referred to in sub-section (1) is allowed, the Commissioner may specify a date in the notice of assessment as the date being earlier than said two months after the date of service of the notice of assessment.

36. Every person, liable to pay tax, interest, penalty or any other amount under this Regulation, shall pay the amount to the Government Treasury of Dadra and Nagar Haveli, or a branch in Dadra and Nagar Haveli of a bank which may be prescribed, or at such other place or in such other manner, as may be prescribed.

37. Where an amount of tax, interest, or penalty is payable by any person under this Regulation and such person pays in part, or the Commissioner recovers in part, an amount of such tax, interest, or penalty due under this Regulation, the amount of tax, interest, or penalty so paid or recovered shall be adjusted from interest, penalty and tax payable under this Regulation and thereafter from the interest, penalty and tax payable under the Central Sales Tax Act, 1956 if such interest, penalty and tax payable relate to the sale of goods from Dadra and Nagar Haveli under that Act.

38. (1) Subject to the other provisions of this section and the rules made Refunds thereunder, the Commissioner shall refund to a person the amount of tax, penalty and

Manner of payment of tax, penalties and interest.

Order of application of payments.

Collection of assessed tax and penalties.

Limitation on assessment and reassessment.

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interest, if any, paid by such person in excess of the amount assessed or deemed to have been assessed and due from him.

(2) Before making any refund, the Commissioner shall first apply such excess referred to in sub-section (1) towards the recovery of any other amount due under this Regulation, or thereafter from the dues under the Central Sales Tax Act, 1956 if such 74 of 1956. dues relate to sale of goods from Dadra and Nagar Haveli under that Act.

(3) Subject to the provisions of sub-section (4), any amount remaining at the end of the financial year after the application of the excess amount referred to in sub-section (2) shall, at the option of the dealer, either—

(a) be refunded to the person within one year after the date on which the claim was made for the refund; or

(b) be carried forward to the next tax period as a tax credit in that period.

(4) Where the Commissioner has issued a notice to the person under section 58 informing him that an audit, investigation or inquiry into his business affairs shall be undertaken, the excess amount referred to in sub-section (2) shall be carried forward to the next tax period as a tax credit in that period.

(5) The Commissioner may, as a condition of the payment of a refund under this section, demand security from the person pursuant to the powers conferred in section 25.

(6) Notwithstanding anything contained in this section, where—

(a) a registered dealer has sold goods to a person who is not registered as a dealer under this Regulation;

(b) the price charged for the goods includes an amount of tax payable under this Regulation; and

(c) the dealer claims refund of this amount or to apply this amount under clause (b) of sub-section (3),

no amount shall be refunded to the dealer or may be applied by the dealer under clause (b) of sub-section (3) unless the Commissioner is satisfied that the dealer has refunded the amount to the purchaser.

(7) Where—

(a) a registered dealer (hereafter referred to as seller) has sold goods to another registered dealer (hereafter referred to as buyer); and

(b) the price charged for the goods expressly includes an amount of tax payable under this Regulation,

the amount of tax may be refunded to the seller or may be applied by the seller under clause (b) of sub-section (3) and in that case the Commissioner may reassess the buyer to disallow him the amount of the corresponding tax credit claimed by such buyer, whether or not the seller refunds the amount to the buyer.

(8) Where a registered dealer sells goods and the price charged for the goods expressly indicate inclusion of an amount of tax payable under this Regulation, the amount of the tax may be refunded to the seller or may be applied by the seller under clause (b) of sub-section (3) without the seller being required to refund an amount of the tax to the purchaser.

(9) Notwithstanding anything contained in this section, if a registered dealer has filed any return as required under this Regulation and the return shows any amount of the tax as refundable to the dealer on account of sales in course of export out of the territory of India; then, the dealer may apply in the manner and form prescribed, to the

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Commissioner for grant of provisional refund pending audit and investigation to establish the correctness of the claim and consequent assessment, if any, subject to the provisions of sub-section (10).

(10) Subject to the provisions of sub-section (3), the Commissioner may require the dealer to furnish a bank guarantee or other security, as may be prescribed, for an amount equal to the amount of refund of tax and on receipt of such guarantee or other security, the Commissioner shall grant the dealer a provisional refund which may be determined as refundable within ninety days of application of claim of such refund.

(11) The Commissioner may direct the assessment or reassessment of such dealer in respect of the year containing the period covered by the said return as expeditiously as possible and adjust the grant of provisional refund against tax due, if any, as a result of such assessment.

(12) If, on assessment or reassessment, the provisional refund granted under sub-section (2) is found to be in excess, then the excess shall be recovered as if it is tax due from the dealer under this Regulation.

(13) In a case the excess amount of tax has been refunded under sub-section (3), the interest shall be payable on such excess amount at the rate of two per cent. per month from the date of grant of provisional refund till the date of assessment or reassessment, as the case may be.

39. (1) Where a person is entitled to a refund and any proceeding under this Regulation is pending against him, or a notice under section 58 had been issued and assessment or re-assessment in pursuance of the notice is pending and the Commissioner is of the opinion that payment of such refund is likely to adversely affect the revenue and that it may not be possible to recover the amount later, the Commissioner may for reasons to be recorded in writing, either obtain a security equal to the amount to be refunded to the person or withhold the refund till such time the proceeding or the assessment or re-assessment has been concluded or made.

(2) Where a refund is withheld under sub-section (1), the person shall be entitled to interest as provided under sub-section (1) of section 42 if, as a result of the appeal, or any other proceeding he becomes entitled to the refund.

40. (1) No person who is not a registered dealer shall collect in respect of any sale of goods by him in Dadra and Nagar Haveli any amount by way of tax under this Regulation and no registered dealer shall make any such collection except in accordance with this Regulation and the rules made thereunder and at the rates specified under this Regulation.

(2) Tax collected by a person who is not a registered dealer shall, without prejudice to any penalty or prosecution under this Regulation, stand forfeited to the Government.

41. (1) The Embassies, diplomatic officials and international or public organisations specified in the Fifth Schedule shall be entitled to claim a refund of tax paid on goods purchased in Dadra and Nagar Haveli, subject to such restrictions and conditions as may be prescribed.

(2) Any person entitled to a refund under sub-section (1) may apply to the Commissioner in the manner and within the time, as may be prescribed.

42. (1) (a) A person entitled to a refund under this Regulation, shall be entitled to Interest. receive, in addition to the refund, simple interest at such rate, as may be notified by the Government from time to time.

(b) The simple interest at the rate specified under sub-section (1) shall be calculated from --

> (i) the date from which the refund was due to be paid to the person; or (ii) the date on which the person paid the excess amount,

Power to withhold refund in certain cases.

Collection of tax only by registered dealers.

international and public organizations.

Refund of tax for Embassies,

officials,

whichever is later, and such interest shall be calculated upto the date on which the refund is given.

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(c) The interest shall be calculated on the amount of refund due after deducting therefrom any tax, interest, penalty or any other dues under this Regulation, or under the Central Sales Tax Act, 1956, if such dues relate to the sale 74 of 1956. of goods from Dadra and Nagar Haveli.

(d) If the amount of such refund is enhanced or reduced, as the case may be, such interest shall be enhanced or reduced accordingly.

(e) If the delay in granting the refund is attributable to the said person, whether wholly or in part, the period of the delay attributable to him shall be excluded from the period for which the interest is payable.

(2) When a person is in default in making the payment of any tax, penalty or other amount due under this Regulation, he shall, in addition to the amount assessed, be liable to pay simple interest on such amount at such rate, as may be notified by the Government from time to time from the date of such default until he makes such payment of tax, penalty or other amount.

(3) Where the amount of tax (including any penalty due) is wholly reduced, the amount of interest, if any, paid shall be refunded, or if such amount is varied, the interest due shall be calculated accordingly.

(4) Where the collection of any amount is stayed by the order of the Appellate Tribunal or any court or any other authority and the order is subsequently vacated, interest shall be payable for any period during which such order remained in operation.

(5) The interest payable by a person under this Regulation may be collected as tax due under this Regulation and shall be due and payable on and from the date on which the obligation to pay the interest has arisen.

CHAPTER VII

RECOVERY OF TAX, INTEREST AND PENALTIES

43. (1) The amount of any tax, interest, penalty or other amount due under this Regulation shall be paid in the manner specified in section 36 and a notice of assessment served on the person for such an amount shall constitute a demand for payment of the amount stated in the assessment by the time stipulated in the notice of assessment.

(2) On an application made before the expiry of the period under section 35, the Commissioner may, in respect of any dealer or person and for reasons to be recorded in writing, extend the time for payment or allow payment by instalments, subject to such conditions as he may think fit to impose in the circumstances of the case.

(3) Any amount of tax, interest or penalty or other amount due under this Regulation which remains unpaid, shall be recoverable as arrears of land revenue.

(4) Where security, other than in the form of surety bond, has been furnished under the Regulation, the Commissioner may, for reasons to be recorded in writing, recover any amount of tax, interest, penalty or other amount due or part thereof by ordering the forfeiture of the whole or any part of the security.

(5) Where any security tendered for the purposes of this Regulation is to be sold. it shall be sold in the manner stipulated in section 63.

44. For the purposes of recovery of any amount recoverable as arrears of land revenue under this Regulation, the provisions of the Dadra and Nagar Haveli Revenue Administration Regulation, 1971, or any other law made applicable to Dadra and Nagar Reg. 2 of 197 Haveli, as to the recovery of arrears of land revenue in the Dadra and Hagar Haveli Administration shall, notwithstanding anything contained in any law, be deemed to be in force throughout Dadra and Nagar Haveli.

Recovery of tax.

Application of Dadra and

Nagar Haveli

Regulation. 1971, for

purposes of recovery.

Revenue

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45. Where an assessment or notice of demand in respect of any tax, penalty or other amount payable under this Regulation (hereinafter in this section referred to as "Government dues") is served upon any person and any appeal has been filed by the person against the assessment or demand for such government dues, then—

(a) if the appeal is disallowed in whole or in part, any recovery proceedings taken for the recovery of such Government dues before the making of the appeal, may, without the service of any fresh assessment or notice of demand, be continued from the stage at which such recovery proceedings stood immediately before the person filed the appeal; and

(b) where such government dues are reduced in any appeal—

(i) it shall not be necessary for the Commissioner to serve upon the person a fresh assessment or notice of demand; and

(*ii*) the Commissioner shall give intimation of such reduction to him and to the person with whom recovery proceedings are pending.

46. (1) Notwithstanding anything contained in any law or contract to the contrary, the Commissioner may, at any time, by notice in writing, a copy of which shall be forwarded to the person at his last known address, require,—

(a) any person from whom any amount of money is due, or may become due, to the person (in this section called "the taxpayer") liable to pay tax, interest or penalties under section 45, or

(b) any person who holds or may subsequently hold money, for or, on account of, the taxpayer,

to pay, either forthwith upon the money becoming due or being held or within the time specified in the first mentioned notice (but not before the money becomes due or is held as aforesaid) so much of the money as is sufficient to pay the amount due by the taxpayer in respect of the arrears of tax, interest and penalty under this Regulation, or the whole of the money when it is equal to or less than that amount.

Explanation.—For the purposes of this sub-section, the amount due to a taxpayer from, or money held for or on account of a taxpayer by any person, shall be calculated by the Commissioner after deducting therefrom such claims, if any, lawfully subsisting, as may have fallen due for payment by such taxpayer to such person.

(2) The Commissioner may amend or revoke any such notice referred to in this section or extend the time for making any payment in pursuance of the notice.

(3) Any person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the taxpayer, and the receipt thereof by the Commissioner shall constitute a good and sufficient discharge of the liability of such person to the extent of the amount specified in the receipt.

(4) Any person discharging any liability to the taxpayer after receipt of the notice referred to in this section, shall be personally liable to the Commissioner to the extent of the liability discharged or to the extent of the liability of the dealer for tax and penalty, whichever is less.

(5) Where a person to whom a notice under this section is sent, proves to the satisfaction of the Commissioner that the sum demanded or any part thereof is not due to the taxpayer or that he does not hold any money for or on account of the taxpayer, then, nothing contained in this section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, to the Commissioner.

(6) Any amount of money which the aforesaid person is required to pay to the Commissioner, or for which he is personally liable to the Commissioner under this section shall, if it remains unpaid, be recoverable as if arrears of land revenue.

Continuation of certain recovery proceedings.

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Special mode of recovery.

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PART II----

(7) The Commissioner may apply to the court in whose custody there is money belonging to the taxpayer for payment to him of the entire amount of such money or if it is more than the tax, interest and penalty, if any, due, an amount sufficient to discharge such tax and the penalty.

47. Where, during the pendency of any proceedings for the recovery of an amount due by a person under this Regulation, that person creates a charge on, or parts with the possession by way of sale, mortgage, gift or exchange or any other mode of transfer whatsoever, any of his assets in favour of any other person, such charge or transfer shall be void against any claim by the Commissioner in respect of the amount which is the subject of proceedings, unless the other person.

(a) acted bona fide and without notice of the recovery proceedings; and

(b) has paid the fair market value for the assets.

CHAPTER VIII

ACCOUNTS AND RECORDS

Accounts and records.

Transfer of

assets during

pendency of

proceedings

void.

(a) dealer; and

48. (1) Every-

(b) person on whom a notice has been served to furnish returns under section 27,

shall prepare and retain sufficient records to allow the Commissioner to ascertain the amount of tax due under this Regulation, and to explain all transactions, events and other acts engaged in by the person that are relevant for any purposes of this Regulation.

(2) Notwithstanding the generality of sub-section (1)—

(a) every registered dealer shall preserve a copy of all tax invoices issued by him;

(b) every dealer shall preserve the original of all tax invoices received by him; and

(c) every person who has paid an amount of tax, interest, penalty or other amount due under this Regulation, shall preserve a copy of the challan evidencing the making of the payment.

(3) Every dealer shall prepare and maintain the accounts and records in the manner and form as may be prescribed.

(4) If the Commissioner considers that such records are not properly maintained to enable him to ascertain discharge of the obligations by the person under this Regulation, he may require such person by notice in writing to maintain such accounts (including records of purchases and sales) as may be specified in the notice.

(5) The Commissioner may, by notification, direct any class of dealers, transporters or operators of warehouses to maintain such accounts (including records of purchases and sales) as may be specified in the notification.

(6) Every person required to prepare or preserve accounts and records shall retain the required accounts and records for seven years after the conclusion of the events or transactions which they record unless any proceedings in respect of any event or transaction is pending in that case they shall be preserved till the final decision in those proceedings.

(7) Any loss, if any, of accounts and records referred to in sub-section (6) shall be reported to the Police and the Commissioner within a period of fifteen days from the date of such loss.

49. If in respect of any particular year, the gross turnover of a dealer exceeds forty lakh rupees or such other amount as may be prescribed, then, such dealer shall get his accounts in respect of such year audited by an accountant within six months from the end of that year and obtain within that period a report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as . may be prescribed and a true copy of such report shall be furnished by such dealer to the Commissioner by the prescribed date.

50. (1) A registered dealer, making a sale liable to tax under this Regulation, shall, Tax invoices. at the request of the purchaser, provide the purchaser at the time of sale a tax invoice containing the particulars specified in sub-section (2) and retain a copy thereof: Provided that a tax invoice shall not be issued-

(a) by a dealer who opts to pay tax under section 16; or

(b) for the sale in the course of inter-State trade or commerce or export by a dealer,

and in such cases a retail invoice shall be issued:

Provided further that not more than one tax invoice shall be issued for each such sale:

Provided also that if an invoice has been issued under the provisions of the Central Excise Act, 1944, it shall be deemed to be a tax invoice if it contains the particulars specified in sub-section (2).

Explanation.— For removal of doubts, a registered dealer shall be authorised to issue tax invoices only after a certificate of registration has been granted under this Regulation.

(2) The tax invoice issued under sub-section (1) shall contain the following particulars on the original as well as copies thereof, namely :---

(a) the words 'tax invoice' in a prominent place;

(b) the name, address and registration number of the selling registered dealer;

(c) the name and address of the purchaser and his registration number, where the purchaser is a registered dealer;

(d) an individual pre-printed serialised number and the date on which the tax invoice is issued;

(e) description, quantity, volume and value of goods sold and services provided and the amount of tax charged thereon indicated separately;

(f) the signature of the selling dealer or his manager, agent or servant duly authorised by him; and

(g) the name and address of the printer and first and last serial number of tax invoices printed and supplied by him to the dealer.

(3) A tax invoice in respect of a sale shall be issued in duplicate and the original of which shall be issued to the purchaser (or the person taking the delivery, as the case may be) and the duplicate shall be retained by the selling dealer.

(4) Except when a tax invoice is issued under sub-section (1), if a dealer sells any goods exceeding such amount in value as may be prescribed, in any one transaction to any person, he shall issue to the purchaser a retail invoice containing the particulars specified in sub-section (5) and retain a copy thereof.

(5) The retail invoice issued under sub-section (4) shall contain the following particulars on the original as well as copies thereof, namely :--

Accounts to be audited in certain cases.

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(a) the words 'retail invoice' or 'cash memorandum' or 'bill' in a prominent place;

(b) the name, address and registration number of the selling dealer, if registered;

(c) in case the sale is in the course of inter-State trade or commerce, the name, registration number and address of the purchasing dealer and type of any form, under the Central Sales Tax Act, 1956, if any, against which the sale has been 4 of 1956. made;

(d) an individual pre-printed serialised number and the date on which the retail invoice is issued;

(e) description, quantity, volume and value of goods sold and services provided, inclusive of amount of tax charged thereon; and

(f) the signature of the selling dealer or his servant, manager or agent, duly authorised by him.

(6) The retail invoice shall be issued in duplicate, and the original of which shall be issued to the purchaser and the duplicate copy of which shall be retained by the selling dealer.

(7) The Commissioner may, by notification, specify the manner and form in which the particulars on a tax invoice or retail invoice are to be recorded.

(8) If a purchaser claims to have lost the original tax invoice, the selling dealer may, subject to such conditions and restrictions as may be prescribed, provide a copy of such tax invoice clearly marked as a copy of original tax invoice.

51. Where a tax invoice has been issued in respect of a sale and---

(a) the amount shown as tax in that tax invoice exceeds the tax payable in respect of the sale, the dealer shall provide the purchaser with a credit note, containing such particulars as may be prescribed; or

(b) the tax payable in respect of the sale exceeds the amount shown as tax on the tax invoice, the dealer shall provide the purchaser with a debit note, containing such particulars as may be prescribed.

CHAPTER IX

LIABILITY IN SPECIAL CASES

52. (1) Where a dealer, liable to pay tax under this Regulation, transfers his business in whole or in part, by sale, gift, lease, leave or licence, hire or in any other manner whatsoever, the dealer and the person to whom the business is so transferred shall jointly and severally be liable to pay the tax, interest or penalty due from the dealer up to the time of such transfer, whether such tax, interest or penalty has been assessed before such transfer, but has remained unpaid or is assessed thereafter.

(2) Where the transferee or the lessee of a business referred to in sub-section (1) carries on such business either in his own name or in some other name, he shall be liable to pay tax on the sale of goods effected by him with effect from the date of such transfer and shall, if he is registered as a dealer, apply within the time specified in section 21 for the amendment of his certificate of registration.

53. (1) Every person—

(a) who is a liquidator of any company which is being wound up, whether under the orders of a court or otherwise; or

(b) who has been appointed the receiver of any assets of a company (hereinafter referred to as the "liquidator"),

shall, within one month after he has become such liquidator, give notice of his appointment as such to the Commissioner.

Credit and debit note.

Liability in case of transfer of

business.

Liability in case of company in liquidation.

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(2) The Commissioner shall, after making such inquiries or calling for such information as he may deem fit, notify the liquidator within three months from the date on which he received notice of the appointment of the liquidator, the amount which, in the opinion of the Commissioner, would be sufficient to provide for any tax, interest or penalty which is then, or is likely thereafter, to become payable by the company.

(3) The liquidator shall not part with any of the assets of the company or the properties in his hand until he has been notified by the Commissioner under subsection (2) and on being so notified, the liquidator shall set aside an amount equal to the amount notified and, until he so sets aside such amount, he shall not part with any of the assets of the company or the properties in his hand:

Provided that nothing contained in this sub-section shall debar the liquidator from parting with such assets or properties in compliance with any order of a court or for the purpose of the payment of the tax, interest and penalty, if any, payable by the company under this Regulation or for making any payment to secured creditors whose debts are entitled under law to priority of payments over debts due to Government on the date of liquidation or for meeting such costs and expenses of the winding up of the company as are in the opinion of the Commissioner reasonable.

(4) If the liquidator fails to give notice in accordance with sub-section (1) or fails to set aside the amount as required by sub-section (3) or parts with any assets of the company or the properties in his hand in contravention of the provisions of that subsection, he shall be personally liable for the payment of tax, interest and penalty, if any, which the company would be liable to pay under this Regulation:

Provided that if the amount of tax, interest and penalty, if any, payable by the company is notified under sub-section (2), the personal liability of the liquidator under this sub-section shall be to the extent of such amount.

(5) Where there is more than one liquidator, the obligations and liabilities attached to a liquidator under this section shall attach to all the liquidators jointly and severally.

(6) When any private company is wound up and any tax, interest and penalty, if any, assessed under this Regulation on the company for any period, whether before or in the course of or after its liquidation, cannot be recovered, then every person who was a director of the private company at any time during the period for which the tax is due, shall be jointly and severally liable for the payment of such tax, interest and penalty, if any, unless he proves to the satisfaction of the Commissioner that nonrecovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

(7) The provisions of this section shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

(8) For the purposes of this section, the expressions "company" and "private company" shall have the meanings respectively assigned to them under clauses (i) and (iii) of sub-section (1) of section 3 of the Companies Act, 1956.

54. Notwithstanding any contract to the contrary, where any firm is liable to pay any tax, interest or penalty under this Regulation, the firm and each of the partners of the firm shall be jointly and severally liable for such payment:

Provided that where any such partner retires from the firm, he shall intimate the date of his retirement to the Commissioner by a notice to that effect in writing and he shall be liable to pay tax, interest or penalty remaining unpaid at the time of his retirement and any tax, interest or penalty due up to the date of his retirement though unassessed on that date:

Provided further that if no such intimation is given within fifteen days from the date of retirement, the liability of the partner under the first proviso shall continue until the date on which such intimation is received by the Commissioner.

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55. Where the business in respect of which tax is payable under this Regulation is carried on by, or is in the charge of any guardian, trustee or agent of a minor or other incapacitated person on his behalf and for the benefit of such minor or other incapacitated person, the tax, interest or penalty 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 assessed upon and recoverable from any such minor or other incapacitated person, if he were of full age and of sound mind and if he were conducting the business himself, and all the provisions of this Regulation shall, so far as may be, apply accordingly.

56. Where the estate or any portion of the estate of a dealer owning a business in respect of which tax is payable under this Regulation is under the control of the Court of Wards, the Administrator-General, the Official Trustee or any receiver or manager (including any person, whatever be his designation, who in fact manages the business) appointed by or under any order of a court, the tax, interest or penalty shall be levied upon and be recoverable from such Court of Wards, Administrator-General, Official Trustee, receiver or manager in like manner and to the same extent as it would be assessable upon and be recoverable from the dealer if he were conducting the business himself, and all the provisions of this Regulation shall, so far as may be, apply accordingly.

57. (1) Where a dealer is a firm or an association of persons or a Hindu undivided family, and such firm, association or family has discontinued business-

(a) the tax payable under this Regulation, by such firm, association or family up to the date of such discontinuance may be assessed as if no such discontinuance had taken place; and

(b) every person who was at the time of such discontinuance a partner of such firm, or a member of such association or family, shall, notwithstanding such discontinuance, be liable jointly and severally for the payment of tax assessed and penalty imposed and payable by such firm, association or family, whether such tax, interest or penalty has been assessed prior to or after such discontinuance, and subject as aforesaid, the provisions of this Regulation shall, so far as may be, apply as if every such person or partner or member were himself a dealer:

Provided that where the partner of a firm liable to pay such tax, interest or penalty, dies, the provisions of sub-section (4) shall, so far as may be, apply.

(2) Where a change has occurred in the constitution of a firm or an association of persons, the partners of the firm or members of the association as it existed before and as it exists after its reconstitution shall, without prejudice to the provisions of section 54, jointly and severally be liable to pay tax, interest or penalty due from such firm or association for any period before its re-constitution.

(3) The provisions of sub-section (1) shall, so far as may be, apply where the dealer, being a firm or association of persons is dissolved or, being a Hindu undivided family, has effected partition with respect to the business carried on by it and accordingly references in that sub-section to discontinuance shall be construed as references to dissolution or, as the case may be, to partition.

(4) Where a dealer liable to pay tax under this Regulation dies, then-

(a) if a business carried on by the dealer is continued after his death by his legal representative or any other person, such legal representative or other person, shall be liable to pay the tax, interest or penalty due from the dealer under this Regulation, whether such tax, interest or penalty had been assessed before his death but has remained unpaid, or is assessed after his death;

(b) if the business carried on by the dealer is discontinued after his death, his legal representative shall be liable to pay out of the estate of the deceased, to

Liability of guardians. rustees, etc.

Liability of

Wards, etc.

Court of

Liability in other cases.

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the extent the estate is capable of meeting the charge, the tax, interest or penalty due from the dealer under this Regulation, whether such tax, interest or penalty had been assessed before his death but has remained unpaid, or is assessed after his death.

and the provisions of this Regulation shall, so far as may be, apply to such legal representative or other person as if he were the dealer himself.

Explanation .-- For the purposes of this section "legal representative" has the meaning assigned to it in clause (11) of section 2 of the Code of Civil Procedure, 1908.

CHAPTER X

AUDIT, INVESTIGATION AND ENFORCEMENT

58. (1) The Commissioner may, serve on any person in the prescribed manner, a Audit. notice informing him that an audit of the affairs of his business shall be conducted and in a case where an assessment had already been concluded under this Regulation, reassessment may be made or assessment already made may be confirmed.

Explanation .-- A notice may be served notwithstanding the fact that the person may already have been assessed under section 31 or section 32 or section 33.

(2) A notice served under sub-section (1) may require the person on whom it is served, to appear on a date and place specified therein, which may be at his business premises or at a place specified in the notice, to either attend and produce or cause to be produced the books of account and all evidence on which the dealer relies in support of his returns (including tax invoices, if any), or to produce such evidence as is specified in the notice.

(3) The person on whom a notice is served under sub-section (1) shall provide all co-operation and reasonable assistance to the Commissioner as may be required to conduct the proceedings under this section at his business premises.

(4) The Commissioner shall, after considering the return, the evidence furnished along with the returns, if any, the evidence acquired in the course of the audit, if any, or any information otherwise available to him, either-

(a) confirm the assessment; or

(b) serve a notice of the assessment or re-assessment of the amount of tax, interest and penalty, if any, pursuant to sections 32 and 33.

(5) Any assessment pursuant to an audit of the affairs of the business of the person referred to in sub-section (1) shall be without prejudice to prosecution for any offence under this Regulation.

59. (1) All records, books of account, registers and other documents, maintained Inspection of by a dealer, transporter or operator of a warehouse shall, at all reasonable times, be open to inspection by the Commissioner.

(2) The Commissioner may, for the proper administration of this Regulation and subject to such conditions as may be prescribed, require---

(a) any dealer; or

(b) any other person, including a banking company, post office, a person who transports goods or holds goods in custody for delivery to, or, on behalf of, any dealer, who maintains or has in his possession any books of account, registers or documents relating to the business of a dealer, and, in the case of a person which is an organisation, any officer thereof ----

(i) to produce before him such records, books of account, registers and other documents;

records.

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(ii) to submit such clarifications; and

(iii) to prepare and furnish such additional information,

relating to his affairs of business or to the activities of any other person connected with the affairs of his business as the Commissioner may deem necessary.

(3) The Commissioner may require a person referred to in sub-section (2), to-

(a) prepare and provide any documents; and

(b) verify the clarifications submitted to the Commissioner,

in the manner specified by him.

(4) The Commissioner may retain, remove, take copies or extracts, or cause copies or extracts to be made of the said records, books of account, registers and documents without fee by the person in whose custody the records, books of account, registers and documents are held.

60.(1) All goods kept at any business premises by a dealer, transporter or operator of a warehouse shall, at all reasonable times, be open to inspection by the Commissioner.

(2) Where the Commissioner, upon information in his possession or otherwise has reasonable grounds to believe that any person or dealer is attempting to evade tax or is concealing his tax liability in any manner and it is necessary so to do, for the purposes of administration of this Regulation, the Commissioner may --- Power to enter premises and seize records and goods.

(a) enter and search any business premises or any other place or building;

(b) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause (a) where the keys thereof are not readily available;

(c) seize and remove any records, books of account, registers, other documents or goods;

(d) place marks of identification on any records, books of account, registers and other documents or make or cause to be made extracts or copies thereof without charge;

(e) make a note or any inventory of any such money or goods found as a result of such search or place marks of identification on such goods; and

(f) seal the premises including the office, shop, godown, box, locker, safe, almirah or other receptacle.

(3) Where it is not feasible to remove any records, books of account, registers, other documents or goods, the Commissioner may serve on the owner and any person who is in immediate possession or control thereof, an order directing that he shall not remove or part with or otherwise deal with them except with the previous permission of the Commissioner.

(4) Where any premises have been sealed under clause (f) of sub-section (2), or an order made under sub-section (3), the Commissioner may, on an application made by the owner or the person in occupation or in charge of such shop, godown, box, locker, safe, almirah or other receptacle; permit the descaling or release thereof, as the case may be, on such terms and conditions including furnishing of security for such sum in such form and manner as may be directed.

(5) The Commissioner may requisition the services of any police officer or any public servant, or of both, to assist him for all or any of the purposes specified in subsection (2).

Power to enter premises and seize records

and goods.

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(6) Save as otherwise provided in this section, every search or seizure made under this section shall, as far as possible, be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 relating to searches or seizures made under that Code.

(7) The powers under this section may also be exercised in respect of a dealer or a third party for the purposes of undertaking an audit or to assist in recovery of dues under this Regulation.

61. (1) The Commissioner may, at any check-post or barrier or at any other place, to enable proper administration of this Regulation, require the driver or person in charge of a goods vehicle to stop the vehicle to examine the contents therein and inspect all records relating to the goods carried, which are in the possession of such driver or person in charge.

Power to stop, search and detain goods vehicles.

(2) The owner or person in charge of a goods vehicle shall carry with him such records, as may be prescribed, in respect of the goods carried in the goods vehicle and produce the same to the Commissioner on demand.

(3) The driver or person in charge of the goods vehicle shall, if required, inform the Commissioner of—

(a) his name and address;

(b) the name and address of the owner of the vehicle;

(c) the name and address of the consignor of the goods;

(d) the name and address of the consignee of the goods; and

(e) the name and address of the transporter.

(4) If, on an examination of the contents of a goods vehicle or the inspection of documents relating to the goods carried, the Commissioner has reason to believe that the owner or person incharge of such goods vehicle is not carrying the documents as required by sub-section (2) or is not carrying proper and genuine documents or is attempting to evade payment of tax due under this Regulation, he may, for reasons to be recorded in writing, do any one or more of the following, namely:—

(a) refuse to allow the goods or the goods vehicle to enter Dadra and Nagar Haveli;

(b) seize the goods and any documents relating to the goods; and

(c) seize the goods vehicle and any documents relating to the goods vehicle.

(5) Where the owner or the person in charge of the goods vehicle-

(a) requests for time to adduce evidence of payment of tax or the goods being exempted under this Regulation, in respect of the goods to be detained or impounded; and

(b) furnishes security for the prescribed amount to the satisfaction of the Commissioner in such form and in such manner as may be prescribed,

the goods vehicle, the goods and the documents so seized may be released.

(6) The Commissioner may permit the owner or person in charge of goods vehicle to remove any goods or goods vehicle seized under sub-section (4) subject to an undertaking—

(a) that the goods and goods vehicle shall be kept in the office, godown or other place within Dadra and Nagar Haveli, belonging to the owner of the goods vehicle and in the custody of such owner; and

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(b) that the goods shall not be delivered to the consignor, consignee or any other person without the approval in writing of the Commissioner,

and for this purpose the person in charge of the goods vehicle shall furnish an authorisation from the owner of the goods vehicle authorizing him to give such undertaking on his behalf.

(7) Save as otherwise provided in this section, every search or seizure made under this section shall, as far as possible, be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 relating to searches or seizures 2 of 1974. made under that Code.

(8) Nothing contained in this section shall apply to the rolling stock as defined in the Railway Act, 1989.

Custody and release of records.

62. (1) Where the Commissioner seizes any books of account or other documents, he shall give the dealer or the person present on his behalf, as the case may be, a receipt for the same and obtain acknowledgement of the receipt so given to him:

Provided that if the dealer or person from whose custody the books of account or other documents are seized refuses to give an acknowledgement, the Commissioner may leave the receipt at the premises and record this fact.

(2) The Commissioner shall keep in his custody the books of account, registers, other documents seized under section 60 for a period not exceeding one year, and thereafter shall return the same to the dealer or person from whose custody or power they were seized:

Provided that the Commissioner may, before returning the books of account, registers and other documents, require the dealer or the person, as the case may be, to give a written undertaking that the books of account, registers and other documents shall be presented whenever required by the Commissioner for any proceedings under this Regulation:

Provided further that the Commissioner shall, when requested, allow the person whose books of account, registers and documents have been seized, reasonable access to the books of account, registers and documents for the purpose of inspection and shall give the person the opportunity to make copies thereof at the person's own expense:

Provided also that the period of custody of the books of account, registers and other documents seized under section 60 may be extended beyond one year if any proceedings under this Regulation are pending or for reasons to be recorded by the Commissioner in writing.

Custody, return and disposal of goods, goods vehicle and security. **63.** (1) Where the Commissioner seizes any goods or goods vehicle, he shall give the dealer, person in charge of the goods vehicle or a person present on his behalf, as the case may be, a receipt for the same and obtain acknowledgement of the receipt so given to him:

Provided that if the person, from whose custody the goods or goods vehicle have been seized, refuses to give an acknowledgement, the Commissioner may leave the receipt in his presence and record this fact.

(2) The Commissioner---

(a) shall keep any goods or goods vehicle seized under section 61 in his custody;

(b) may retain them for such time as he considers reasonable; and

(c) subject to sub-section (3), shall return the goods or goods vehicle to the dealer or other person from whose custody or power they were seized.

(3) Where the Commissioner-

(a) has seized any goods; or

(b) has seized a goods vehicle; or

(c) holds any goods as security for the performance of an obligation under this Regulation,

the Commissioner may, not sooner than one month after the service of notice on ----

(i) the person from whom the goods were seized;

(ii) the person from whom the goods vehicle was seized;

(iii) the person for whom the security was given; and

(iv) any person against whom the security is to be enforced,

as the case may be, of his intention to sell the goods, direct the auction of such goods or goods vehicle to recover any arrears of tax, interest or penalty due under this Regulation.

(4) An auction of goods or a goods vehicle shall be carried out in the manner prescribed for the sale of property held by the Commissioner.

64. (1) If any person on being required by the Commissioner, fails to give any information in respect of any goods in his possession or fails to permit the inspection thereof, the Commissioner may seize any goods in his custody or possession in respect of which the default is committed.

(2) The seizure shall remain in force until it is revoked or the person concerned furnishes the information required or makes proper arrangements for the inspection of the goods, whichever occurs first.

65. Every person shall provide all co-operation and reasonable assistance to the Obligation to Commissioner as may be required to discharge his functions under the Regulation.

CHAPTER XI

VALUE ADDED TAX AUTHORITIES AND APPELLATE TRIBUNAL

66. (1) For carrying out the purposes of this Regulation, the Government shall Value Added Tax Authoriappoint a person to be the Commissioner of Value Added Tax. ties.

(2) The Government may, to assist Commissioner in the administration of this Regulation, appoint as many Joint Commissioners of Value Added Tax, Deputy Commissioners of Value Added Tax, Assistant Commissioners of Value Added Tax, Value Added Tax Officers and such other persons with such designations as the Government thinks necessary (hereinafter in this Chapter referred to as the "Value Added Tax Authority").

(3) The Commissioner may, with the previous sanction of the Government, engage other persons to assist him in discharge of his duties.

(4) The Commissioner and the Value Added Tax Authorities shall exercise such powers as may be conferred upon them, and perform such duties as may be required, by or under this Regulation.

67. (1) The Commissioner shall have responsibility for the due and proper administration of this Regulation and have jurisdiction over the whole of Dadra and Nagar Haveli.

Powers and responsibilities of Commissioner.

(2) Subject to sub-section (3), the Commissioner may, from time to time, issue such orders, instructions and directions to any Value Added Tax Authorities or persons

Detention of goods pending disclosure.

provide

reasonable assistance.

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referred to in sub-section (3) of section 66 as he thinks fit for the due and proper administration of this Regulation and all such persons engaged in the administration of this Regulation shall observe and follow such orders, instructions and directions of the Commissioner.

(3) No order, instruction or direction shall be issued by the Commissioner to any person or authority under this Regulation exercising the power under this Regulation to—

(a) dispose of an appeal filed or to be filed under section 74 in a particular manner; or

(b) determine a particular question under section 84 in a particular manner.

(4) Nothing in sub-section (3) shall prevent the Commissioner from issuing general orders, instructions and directions being clarificatory in nature on any issue or matter under this Regulation.

Delegation of Commissioner's powers.

68. (1) Subject to such restrictions and conditions as may be prescribed, the Commissioner may delegate any of his powers under this Regulation to any Value Added Tax Authorities.

(2) Where the Commissioner delegates his powers under Chapter X, the person, to whom such power has been delegated, shall carry and produce on demand evidence in the prescribed form of the delegation of these powers when exercising the powers.

(3) Where the Commissioner has delegated a power to any Value Added Tax Authority, the Commissioner may supervise, review and rectify any decision made or action taken by that Authority.

(4) The exercise of power of supervision, review or rectification referred to in sub-section (3) shall not be construed as power to make an assessment or re-assessment after the expiry of the time referred to in section 34.

Change of an incumbent of an office.

69. Whenever in respect of any proceeding under this Regulation a personbeing the Commissioner or any Value Added Tax Authority is succeeded by another person-

(a) the person so succeeding shall exercise all such powers under this Regulation which were exercised by the preceding person; and

(b) the person so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor.

Power of Commissioner to notify certain forms. 70. (1) The Commissioner may notify and publish any forms which may be necessary for the reporting of information to the Value Added Tax authorities.

(2) Where the Commissioner has notified a form for a particular purpose, all persons shall be required to report the information using the form.

(3) In particular and without prejudice to the generality of the foregoing power, a notification issued by the Commissioner may stipulate all or any of the matters which in the opinion of the Commissioner are necessary or convenient for the proper administration of this Regulation.

Persons to be public servants.

Immunity from civil suit. 71. The Commissioner, all Value Added Tax authorities and all members of the Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.

72. No suit, prosecution or other legal proceedings shall lie against the . Government, the Administrator, the Commissioner, any Value Added Tax Authorities, or member of the Appellate Tribunal for anything which is done or intended to be done under this Regulation or rules made thereunder.

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Appellate Tribunal.

73. (1) The Government shall, as soon as may be after the commencement of this Regulation, constitute an Appellate Tribunal consisting of one or more members, as it thinks fit, to exercise the powers and discharge the functions conferred on the Appellate Tribunal by or under this Regulation:

Provided that where the Appellate Tribunal consists of one member, that member shall be a person who has held a civil judicial post for at least ten years or who has been a member of the Indian Legal Service not below Grade III for at least three years or who has been in practice as an advocate for at least ten years, and where the Appellate Tribunal consists of more than one member, one such member shall be a person qualified as aforesaid:

Provided further that the Government may, until the Appellate Tribunal is constituted under this Regulation, notify any other Appellate Tribunal constituted or established, under any State law for the time being in force, with the consent of the concerned State Government and such other Appellate Tribunal shall hear and dispose of the appeal in accordance with the provisions of this Regulation till such time the Appellate Tribunal is constituted under this Regulation.

(2) Where the number of members of the Appellate Tribunal is more than one, the Government shall appoint one of those members to be the Chairperson of the Appellate Tribunal.

(3) Subject to the provisions of sub-section (1), the qualifications and other conditions of service of the member or members constituting the Appellate Tribunal and the period for which such member or members shall hold office, shall be such as may be prescribed.

(4) The members of the Appellate Tribunal shall be appointed by the Government on the recommendation of a selection committee consisting of such person as may be prescribed.

(5) Any vacancy in the membership of the Appellate Tribunal shall be filled up by the Government as soon as practicable.

(6) Where the number of members of the Appellate Tribunal is more than one and if the members differ in opinion on any point, such point shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, the decision of the Chairperson of the Appellate Tribunal thereon shall be final.

(7) Subject to the previous sanction of the Government, the Appellate Tribunal shall, for the purpose of regulating its procedure and disposal of its business, make regulations in consistent with the provisions of this Regulation and the rules made thereunder.

(8) The regulations made under sub-section (6) shall be published in the Official Gazette.

(9) The Appellate Tribunal shall, for the purpose of discharging its functions, have all the powers which are vested in the Commissioner under section 75 and any proceeding before the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code, 1860 and the Appellate Tribunal shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

CHAPTER XII

APPEALS, DISPUTES AND QUESTIONS

74. (1) Any person who is aggrieved by an assessment under this Regulation or Appeal any other order or decision made under this Regulation (including an assessment of penalty under section 33 or penalty imposed under this regulations) may,—

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(a) file an appeal to the Joint Commissioner or Deputy Commissioner or Assistant Commissioner, having jurisdiction, when such decision has been made or order has been passed or assessment has been made by any Value Added Tax Officer or any Assistant Value Added Tax Officer;

(b) file an appeal to the Commissioner, when such decision has been made or order has been passed or assessment has been made by the Assistant Commissioner or Deputy Commissioner or Joint Commissioner:

Provided that no appeal against an assessment shall be entertained unless the amount of tax, interest or penalty assessed that is not in dispute has been paid:

Provided further that only one appeal shall be made by the person against any assessment, decision or order:

Provided also that in the case where an assessment or order or decision has been revised, the appeal may be made in respect of such revision or amendment from which a person is aggrieved.

(2) A person, who is aggrieved by the failure of the Commissioner to make a decision or pass an order or make any assessment under this Regulation, within six months after a request in writing was served by the person, may file an appeal against such failure.

(3) An appeal shall be filed in writing in the prescribed form and shall state fully and in detail the grounds upon which the appeal is filed.

(4) (a) Every appeal under sub-section (1) shall be filed within two months of the date of service of the assessment, or order or decision, as the case may be; or

(b) Every appeal under sub-section (2) shall be filed after the expiry of six months but before eight months after the written request was served by the person:

Provided that where the Commissioner is satisfied that the person was prevented for sufficient cause from filing the appeal within the time specified, he may allow an appeal to be filed within a further period of two months.

(5) The Commissioner may conduct its proceedings under this section by an examination of the assessment, or order or decision, as the case may be, consider the objections or grounds mentioned in the appeal filed, and any other document or information as may be relevant:

Provided that where the person aggrieved requests a hearing in person, such person shall be given an opportunity of being heard in person.

(6) Where a person has requested a hearing under sub-section (5) and the person fails to attend the hearing at the time and place stipulated, the Commissioner may proceed and dispose of the appeal in the absence of the person.

(7) Within three months after the receipt of the appeal filed under sub-section (1), the Commissioner shall, either—

(a) allow the relief prayed in the appeal in whole or in part and take appropriate action to give effect to the relief allowed (including the remission of any penalty assessed either in whole or in part); or

(b) refuse the relief prayed in the appeal in whole or part,

and in either case, serve on the appellant, a notice in writing of the decision and the reasons for it, including a statement of the evidence on which it is based:

Provided that the Commissioner may, after communicating the reasons to the appellant, extend the said period of three months to six months for the purposes of allowing or refusing the relief prayed in appeal:

Provided further that the person may, in writing, request the Commissioner to extend the said period by a further period of not exceeding three months to produce

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proper and relevant documents for properly contesting the appeal, in which case the period of the adjournment at the request of appellant shall be excluded for the purposes of computing period of three months or six months as the case may be.

(8) Where the Commissioner does not dispose of the appeal within the time specified under sub-section (7), the person may submit a written request requiring him to dispose of the appeal within fifteen days.

(9) If the appeal has not been disposed of within the said period of fifteen days after submission of written request referred to in sub-section (8), then, at the end of that period, the Commissioner shall be deemed to have allowed the relief prayed in the appeal.

75. (1) The Commissioner or any person considering the appeal under section 74, for the purposes of this Regulation, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 when trying a suit, in respect of the following matters, namely:---

(a) enforcing the attendance of any person and examining him on oath or affirmation;

(b) compelling the production of accounts and documents; and

(c) issuing commissions for the examination of witnesses,

and any proceeding under this Regulation before the Commissioner or person considering the appeal under section 74 shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code, 1860.

(2) Subject to any rules made in this behalf, the Commissioner or any person considering the appeal under section 74 may impound and retain in his custody, any books of account or other documents produced before him in any proceedings under this Regulation until such proceedings are concluded:

Provided that the Commissioner or the person considering the appeal under section 74 shall not impound any books of account or other documents without recording in writing his reasons for so doing.

76. (1) Any authority objecting any decision or order made under section 74 or any person aggrieved by a decision or order made by the Commissioner under section 74, may appeal to the Appellate Tribunal against such decision or order.

(2) Subject to the provisions contained in section 77, no appeal shall be entertained unless it is made within two months from the date of service of the decision or order appealed against.

(3) Every appeal made under this section shall be in the prescribed form, verified in the prescribed manner and shall be accompanied by such fee as may be prescribed.

(4) No appeal against an assessment shall be entertained by the Appellate Tribunal unless the appeal is accompanied by satisfactory proof of the payment of the amount in dispute and any other amount assessed as due from the person:

Provided that the Appellate Tribunal may, if it thinks fit, for reasons to be recorded in writing, entertain an appeal against such order without payment of whole or part of the amount in dispute, on the appellant furnishing in the prescribed manner security for such amount as it may direct:

Provided further that no appeal shall be entertained by the Appellate Tribunal unless it is satisfied that such amount as the appellant admits to be due from him has been paid.

Power of Commissioner and other authorities to take evidence on oath, etc.

Appeals to Appeilate Tribunal.

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(5) In proceedings before the Appellate Tribunal the person aggrieved may be permitted to adduce evidence not presented to the Commissioner for good and sufficient reasons.

(6) The Appellate Tribunal shall-

(a) in the case of an appeal filed against an assessment, confirm, reduce, or annul the assessment (including any penalty and interest imposed);

(b) in the case of any other decision or order of the Commissioner, affirm or reject the decision; or

(c) pass such other order for the determination of the issue or disposing of the appeal as it thinks fit:

Provided that the Appellate Tribunal shall give reasons in writing for its decision which shall include its findings on material questions of fact and the evidence or other material on which those findings were based.

(7) The Appellate Tribunal shall not set aside an assessment and remit the matter to the Commissioner or any other authority under this Regulation for a further assessment, unless it has first—

(a) communicated the aggrieved person of the proposed order;

(b) offered the person an opportunity to adduce such further evidence before it may assist the Appellate Tribunal to reach a final determination of the issue and disposing the appeal.

(8) Where the Appellate Tribunal sets aside an assessment and remits the matter to the Commissioner or any other authority under this Regulation for a further assessment, the Appellate Tribunal may at the same time order the Commissioner to refund to the person whole or part of the amount in dispute.

(9) Where a person has failed to attend the hearing at the time and place stipulated, the Appellate Tribunal may adjourn the proceedings, reject the appeal or proceed to make an order determining the issue or disposing of the appeal in the absence of the person.

(10) Save as provided in section 81 and sub-section (11), an order passed by the Appellate Tribunal on an appeal shall be final.

(11) The Appellate Tribunal may rectify any mistake or error apparent from the record of its proceedings.

77. (1) The Appellate Tribunal may admit an appeal under section 76 after the period of limitation laid down in that section, if the appellant satisfies the Appellate Tribunal that he had sufficient cause for not preferring the appeal within such period.

(2) In computing the period laid down under sections 76 and 81, the provisions of sections 4 and 12 of the Limitation Act, 1963, shall, so far as may be, apply.

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(3) In computing the period of limitation prescribed by or under any provision of this Regulation, or the rules made thereunder, other than sections 76 or 81, any period during which any proceeding is stayed by an order or injunction of any court shall be excluded.

78. The burden of proving any matter in issue in proceedings under section 74, or before the Appellate Tribunal which relates to the liability to pay tax or any other amount under this Regulation shall lie on the person alleged to be liable to pay the amount:

Provided that nothing contained in this section shall apply to any proceedings for criminal offence or criminal prosecution.

Extension of period of limitation in certain cases.

Burden of

proof.

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79. (1) No appeal shall lie to any authority or the Appellate Tribunal under this Regulation against—

(a) a decision of the Commissioner to make an assessment of tax or penalty;

(b) a notice requiring a person to furnish a return;

(c) a notice issued under section 58 or section 59;

(d) a decision of the Commissioner to notify any matter under this Regulation;

(e) a notice asking a dealer to show cause why he should not be prosecuted for an offence under this Regulation;

(f) a decision relating to the seizure or retention of books of account, registers and other documents;

(g) a decision sanctioning a prosecution under this Regulation;

(h) a decision of the Commissioner on the administration of the Value Added Tax authorities;

(*i*) an assessment made by the Commissioner to give effect to an order of the Appellate Tribunal or a court.

(2) Save as provided in clause (i) of sub-section (1), nothing in sub-section (1) shall prevent the person from filing an appeal under section 74 objecting to the amount or the obligation to pay any amount assessed by the Commissioner.

80. (1) No assessment, notice, summons or other proceedings made or issued or taken or purported to have been made or issued or taken in pursuance of any of the provisions of this Regulation or under the earlier law shall be invalid or shall be deemed to be invalid merely by reason of any mistake, defect or omission in such assessment, notice, summons or other proceedings, if such assessment, notice, summons or other proceedings are in substance and effect in conformity with or according to the intent and purposes of this Regulation or any earlier law.

(2) The service of any notice, order or communication shall not be called in question if the said notice, order or communication, as the case may be, has already been acted upon by the dealer or person to whom it is issued or which service has not been called in question at or in the earliest proceedings commenced, continued or finalised pursuant to such notice, order or communication.

(3) No assessment made under this Regulation shall be invalid merely on the ground that the action could also have been taken by any other authority under any other provisions of this Regulation.

81. (1) Within two months from the date of an order passed by the Appellate Tribunal under sub-section (6) of section 76, a person aggrieved or the Commissioner may, by application in writing, and accompanied by such fee as may be prescribed, require the Appellate Tribunal to refer to the High Court any question of law arising out of such order, and, subject to the other provisions contained in this section, the Appellate Tribunal shall, within four months of the receipt of such application draw up a statement of the case and refer it to the High Court:

Provided that the Appellate Tribunal may, if it is satisfied that the person or the Commissioner was prevented by sufficient cause from presenting the application within the period hereinbefore specified, allow it to be presented within a further period not exceeding one month.

(2) If the Appellate Tribunal refuses to state the case which it has been required to do, on the ground that no question of law arises, the person or the Commissioner, as the case may be, may, within one month of the communication of such refusal either

Assessment or proceedings, etc., not to be invalid on certain grounds.

certain orders.

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Statement of case to High

Court.

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withdraw his application (and if he does so, any fee paid shall be refunded), or apply to the High Court against such refusal.

(3) If upon receipt of an application under sub-section (2), the High Court is not satisfied as to the correctness of the refusal of the Appellate Tribunal, it may require the Appellate Tribunal to state the case and refer it, and on receipt of such requisition, the Appellate Tribunal shall state the case and refer it accordingly.

(4) If the High Court is not satisfied that the statement in a case referred to it is sufficient to enable it to determine the question so raised thereby, the court may refer the case back to the Appellate Tribunal for the purpose of making such additions thereto or alterations therein as it may direct in that behalf.

(5) The High Court, upon the hearing of any such case, shall decide the question of law raised thereby, and shall deliver its judgment thereon containing the grounds in which such decision is founded, and shall send to the Appellate Tribunal a copy of such judgment under the seal of the court and the signature of the Registrar, and the Appellate Tribunal shall dispose of the case accordingly.

(6) Where a reference is made to the High Court under this section, the cost, which shall not include the fee referred to in sub-section (1), shall be in the discretion of the court.

(7) The payment of the amount of tax, interest or penalty, if any, due in accordance with the order of the Appellate Tribunal in respect of which an application has been made under sub-section (1) shall not be stayed pending the disposal of such application or any reference made in consequence thereof but if such amount is reduced as a result of such reference, the excess tax paid shall be refunded in accordance with the provisions of section 38.

Appearance before anv authority in proceedings.

82. (1) Any person, who is entitled or required to attend before any authority in connection with any proceedings under this Regulation, may attend-

(a) by a person authorised by him in writing in this behalf, being a relative or a person regulariy employed by him; or

(b) by a legal practitioner or chartered accountant or a cost accountant or companies secretary who is not disqualified by or under sub-section (2) of this section; or

(c) by a Value Added Tax practitioner who possesses the prescribed qualifications and is entered in the list, which the Commissioner shall maintain in that behalf, and who is not disqualified by or under sub-section (2).

Explanation.— For the purposes of this section,—

(a) "chartered accountant" means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 and who has obtained a certificate of practice under sub-section (1) of 38 of 1949. section 6 of that Act;

(b) "company secretary" means a company secretary as defined in clause (c) of sub-section (1) of section 2 of the Company Secretaries Act, 1980 and who has obtained a certificate of practice under sub-section (1) of section 6 of that Act:

(c) "cost accountant" means a cost accountant as defined in clause (b) of sub-section (1) of section 2 of the Cost and Works Accountants Act, 1959 and 23 of 1959 who has obtained a certificate of practice under sub-section (1) of section 6 of that Act;

(d) "legal practitioner" means an advocate, vakil or an attorney of any High Court, and includes a pleader in practice.

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(2) The Commissioner may, for reasons to be recorded in writing, disqualify for a period from appearing before any such authority under this Regulation, any legal practitioner, chartered accountant, cost accountant or company secretary or Value Added Tax practitioner-

(a) who has been dismissed from Government service; or

(b) who, being a legal practitioner or chartered accountant, cost accountant or company secretary is found guilty of misconduct in connection with any proceedings under this Regulation by an authority empowered to take disciplinary action against the members of the profession to which he belongs; or

(c) who, being a Value Added Tax practitioner, is found guilty of such misconduct by the Commissioner.

(3) No order of disqualification shall be made in respect of any particular person unless he has been given a reasonable opportunity of being heard.

(4) Any person who is disqualified under this section may, within one month of the date of disqualification, appeal to the Government to have the disqualification cancelled.

(5) The decision of the Commissioner shall not take effect until one month of the making thereof or when an appeal is preferred, until the appeal is decided.

(6) The Commissioner may, at any time, suo motu or on an application made to him in this behalf, revoke any decision made against any person under sub-section (2) and thereupon such person shall cease to be disqualified.

83. No suit shall be brought in any civil court to set aside or modify any assessment Bar of suits in made or any order passed under this Regulation or the rules made thereunder.

civil courts.

Determination

questions.

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84. (1) If any determinable question arises, otherwise than in proceedings before a court, a person may apply in the prescribed manner to the Commissioner for the of specific determination of that question.

(2) Subject to sub-section (3), an application for the determination of a determinable question may be made in respect of a proposed transaction, a transaction that is being undertaken, or a transaction has been concluded.

(3) An application for the determination of a determinable question may not be made after----

(a) the Commissioner has commenced the audit of the person pursuant to section 58; or

(b) the Commissioner has made an assessment for the tax period in which the transaction that is the subject of the determinable question occurred.

Explanation .-- For the purposes of this sub-section, the Commissioner shall be deemed to have commenced the audit under section 58 when the Commissioner serves a notice to this effect.

(4) For the purposes of this section, the following shall be determinable questions, namely :---

(a) whether any person, society, club or association or any firm or any branch or department of any firm is or would be a dealer;

(b) whether any dealer is or would be required to be registered under this Regulation;

(c) the amount of the taxable quantum of a dealer for a period;

(d) whether a transaction is or would be a sale, or requires an adjustment to be made under section 8 arising out of a sale;

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(e) whether a transaction is or would be in the nature of works contract, or transfer of right to use any goods;

(f) whether a sale is not liable to tax under section 7;

(g) whether a sale is exempt from tax under section 6;

(h) the sale price of a transaction;

(i) the proportion of the turnover or turnover of purchases of a dealer which arises in a tax period, and the time at which an adjustment to tax or tax credit arises;

(*j*) whether any transaction is or would be the import of goods;

(k) the value of any goods imported into Dadra and Nagar Haveli;

(*l*) the rate of tax that is payable on a sale or import of goods and the classification of the goods under the Schedules;

(m) whether a transaction is the purchase of goods, or requires an adjustment to be made under section 10 arising out of a purchase;

(n) the amount of any tax credit to which the dealer is entitled in respect of a purchase or import of goods;

(o) the amount of any tax credit in respect of any used goods purchased by a dealer;

(p) the location of any sale or purchase;

(q) the application of a composition scheme in the circumstances of the dealer; or

(r) the tax period of a dealer.

(5) The Commissioner shall make the determination within such period as may be prescribed.

(6) Where----

(a) the Commissioner fails to make a determination under this section within the time prescribed under sub-section (5);

(b) the person thereafter implements the transaction which is the subject of the application and in the manner described in the application; and

(c) the person has, in the application for the determination of the determinable question, indicated the answer to the determinable question which the person believes to be correct (in this section called the "proposed determination"),

the Commissioner shall be deemed for the purposes of this Regulation to have made and issued to the person on the day after the expiry of the prescribed period, a determination of the determinable question in the terms of the proposed determination.

(7) The Commissioner may -----

(a) direct that the determination shall not affect the liability of any person under this Regulation with respect to any transaction effected prior to the determination;

(b) limit the period for which the determination will apply;

(c) limit the transactions to which the determination will apply; and

(d) impose such other limitations or restrictions on the determination as seem appropriate.

(8) If any such question arises from any order already passed under this Regulation
 or under the Dadra and Nagar Haveli Sales Tax Regulation, 1978 as then in force in Dadra and Nagar Haveli, no such question shall be entertained for determination under this section but such question may be raised in an appeal against such order.

(9) Where---

(a) the Commissioner has issued to a person a determination in respect of a particular transaction; and

(b) the person implements the transaction based on the determination issued to him under this section and in the manner described in the application,

no assessment may be made by the Commissioner against that person which is inconsistent with the determination and no penalty may be imposed on the person if the determination is later held incorrect.

(10) The Commissioner may, by notice served on the person, withdraw or confirm or amend a determination issued under this section but such withdrawal or confirmation or amendment shall not affect the entitlement of any person to rely on the determination with respect to any transaction or action which he has commenced or which he has completed prior to the withdrawal or qualification.

(11) The determination by the Commissioner under this section shall be binding only—

(a) on the applicant who had sought it;

(b) in respect of the transaction in relation to which determination had been sought; and

(c) on the Commissioner and other Value Added Tax Authorities in respect of the applicant and the said transaction.

(12) The determination referred to in this section shall be binding as aforesaid unless there is a change in law or facts on the basis of which the determination has been made.

(13) Where the Commissioner finds, that a determination made by him has been obtained by the applicant by fraud or misrepresentation of fact, it may, by order declare such declaration to be void ab initio and thereupon all the provisions of this Regulation shall apply (after excluding the period beginning with the date of such determination and ending with the date of order under this sub-section) to the applicant as if such determination had never been made.

85. (1) The Commissioner may, by notification, publish his ruling on the answer to any question involving the interpretation of any issue under this Regulation or application of this Regulation to a class of persons or class of transactions.

(2) A ruling issued by the Commissioner under this section may be issued subject to such restrictions and conditions as the Commissioner may deem fit.

(3) The ruling shall come into force on the date mentioned in the ruling or, if no date is stated in the ruling, on the date of publication in the Official Gazette.

(4) Where—

(a) the Commissioner has published a ruling in respect of a class of persons or transactions;

(b) a person implements a transaction or undertakes any action based on the ruling;

(c) the ruling has, at the time of implementing the transaction or undertaking the action, not been withdrawn by the Commissioner; and

Ruling on general questions.

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(d) according to the terms of the ruling, the ruling purports to apply to the transaction or action undertaken by the person,

no assessment which is inconsistent with the ruling, shall be made by the Commissioner or any other authority against that person and no penalty may be imposed on the person if the ruling is later held incorrect.

Explanation.— A person may rely on the ruling of the Commissioner or on the determination made under section 84.

(5) The Commissioner may, by notification, withdraw or confirm or amend a ruling already issued under this section but such withdrawal or confirmation or amendment shall not affect the entitlement of any person to rely on the ruling with respect to any transaction or action commenced or completed by him prior to such withdrawal or confirmation or amendment.

CHAPTER XIII

PENALTIES AND OFFENCES

Penalties.

86. (1) For the purposes of this section "tax deficiency" means the difference between the tax payable by the person in accordance with the provisions of this Regulation and the amount of tax paid by the person in respect of a tax period.

(2) The penalty imposed under this section may be remitted by an order made by an appellate authority in any proceeding under this Regulation where a person is able to prove existence of a reasonable cause for the act or omission giving rise to penalty.

(3) Where a person, who is required to be registered under this Regulation, has failed to apply for grant of certificate of registration within one month from the day on which his liability to register arose, the person shall be liable to pay, by way of penalty, an amount equal to one thousand rupees for each day during which such failure continues or one lakh rupees, whichever is less.

(4) If, a registered dealer fails to comply with the provisions of sub-section (1) of section 21, such dealer shall be liable to pay, by way of penalty, a sum of one hundred rupees for each day during which such failure continues or five thousand rupees, whichever is less.

(5) If a registered dealer-

(a) fails to comply with the provisions of sub-section (2) of section 22; or

(b) fails to surrender his certificate of registration as provided in sub-section (7) of section 22,

such dealer shall be liable to pay, by way of penalty, a sum equal to one hundred rupees for each day during which such failure continues or five thousand rupees, whichever is less.

(6) If any person falsely represents that he is registered as a dealer under this Regulation, he shall be liable to a penalty equal to the amount of tax wrongly collected as such or one lakh rupees, whichever is higher.

(7) Where a person has applied for grant of certificate of registration under subsection (5) of section 18 as a dealer under this Regulation and he----

(a) fails to undertake business which would entitle him to be a dealer, within the period specified in his application; or

(b) fails to comply with any of the restrictions or conditions subject to which certificate of registration was granted,

such dealer shall be liable to pay a penalty of ten thousand rupees.

(8) If a person required to furnish a return under the provisions of Chapter V-

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(a) fails to furnish any return by the prescribed date; or

(b) fails to furnish alongwith the return any document that is required to be furnished alongwith the return; or

(c) being required to revise a return already furnished, fails to furnish the revised return by the prescribed date,

such person shall be liable to pay, by way of penalty, a sum of one hundred rupees for each day during which such failure continues or ten thousand rupees, whichever is less.

(9) Any person, who knowingly—

(a) furnishes a return under this Regulation which is false, misleading or deceptive in a material particular; or

(b) omits from a return furnished under this Regulation any material particular without which the return is false, misleading or deceptive; or

(c) claims tax credit in excess of the tax credit to which he is entitled under section 9 or under other provisions of this Regulation,

shall be liable to pay, by way of penalty, a sum of ten thousand rupees or the amount of the tax deficiency, whichever is the higher.

(10) Any dealer, who knowingly-

(a) has claimed tax credit under section 14 to which he is not entitled; or

(b) has claimed an excess tax credit than to which he is entitled under section 14,

shall be liable to pay, by way of penalty, an amount equal to the amount of tax credit so claimed or ten thousand rupees, whichever is higher.

(11) Where a tax deficiency arises in relation to a dealer or any other person, such person shall be liable to pay, by way of penalty, a sum of one per cent. of excess tax deficiency per week for every week or fifty rupees per week for every week during which the tax deficiency continues, whichever is higher.

(12) Where a person is required under this Regulation to—

(a) prepare records or accounts in accordance with the provisions of Chapter X; or

(b) prepare such records or accounts in the prescribed manner; or

(c) retain records or accounts in accordance with provisions of sub-section (6) of section 48,

and such person-

(i) fails to prepare the required records and accounts; or

(ii) fails to prepare records and accounts in the prescribed manner; or

(iii) fails to retain the records and accounts as required by sub-section(6) of section 48,

the person shall be liable to pay, by way of penalty, a sum of fifty thousand rupees or twenty per cent. of the tax deficiency, if any, whichever is higher.

(13) Any person, who fails to comply with the provisions of sub-section (2) or sub-section (3) of section 59, shall be liable to pay, by way of penalty, a sum of fifty thousand rupees.

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(14) Where a person, who is required to prepare records and accounts under this Regulation, knowingly prepares records and accounts in a false, misleading or deceptive manner, such person shall be liable to pay, by way of penalty, a sum of one lakh rupees or the amount of the tax deficiency, if any, whichever is higher.

(15) Where a person—

(a) issues a tax invoice or retail invoice with incomplete or incorrect particulars; or

(b) having issued a tax invoice or retail invoice, has failed to account it correctly in his books of account,

such person shall be liable to pay, by way of penalty, an amount of five thousand rupees or twenty per cent. of the tax deficiency, if any, whichever is higher.

(16) Where a person, who is not authorised under this Regulation to issue a tax invoice, issues a tax invoice, the person shall be liable to pay, by way of penalty, an amount of one lakh rupees or the tax deficiency, if any, whichever is higher.

(17) If any dealer fails to furnish a true copy of report of audit referred to in section 49 within the prescribed time, the person shall be liable to pay, by way of penalty, a sum of ten thousand rupees.

(18) Where goods are being carried by a transporter without the documents or without proper documents or with such documents being false or without all documents referred to in sub-section (2) of section 61, the transporter shall be liable to a penalty equal to the amount of tax payable on such goods.

(19) Any person, who----

(a) makes a statement to the Commissioner or any authority under this Regulation which is false, misleading or deceptive in a material particular; or

(b) omits from a statement made to the Commissioner or any authority under this Regulation any material particular without which the statement is false, misleading or deceptive,

such person shall be liable to pay, by way of penalty, a sum of fifty thousand rupees, or the amount of the tax deficiency, whichever is higher.

Reduction or increase of penalty in certain cases. 87. (1) Where as a result of any proceedings the amount of tax has been wholly reduced, and a penalty has been levied with reference to such tax, the penalty so levied shall be reduced to nil and if the penalty has already been paid, it shall be refunded within two months of the reduction of such tax.

(2) If a person is liable to pay a penalty under sub-section (11) of section 86, and the person voluntarily discloses in writing to the Commissioner the tax deficiency,-

(a) the amount of the penalty leviable under this Regulation shall be reduced by eighty per cent. of such penalty if such disclosure is made before the Commissioner issues the notice under section 58 for conducting of the audit of the business affairs of such person.

(b) the amount of the penalty leviable under this Regulation shall be reduced by fifty per cent. of such penalty if such disclosure is made after the Commissioner has issued the notice under section 58 for conducting of the audit of the business affairs of such person;

(3) If the tax deficiency has arisen in pursuance of determination by the Commissioner under section 84 or ruling given under section 85 and in pursuance of such determination or ruling, a person has become liable to pay a penalty under subsection (11) of section 86, the amount of the penalty payable under this Regulation shall be reduced to nil and if the penalty has already been paid, it shall be refunded within two months of the reduction of such tax.

(4) Where penalty under this Regulation has been imposed upon a person and such penalty has not been reduced by any authority or Appellate Tribunal or court and has become final, and such person is subsequently assessed to a further penalty in respect of the same or a substantially similar failure or default occurring on another occasion (in this section called the "subsequent offence"), the penalty leviable under this Regulation shall be increased by—

(a) in the case of the first subsequent offence, fifty per cent. of the penalty leviable under this Regulation; and

(b) in the case of the second and any further subsequent offence, one hundred per cent. of the penalty leviable under this Regulation.

88. (1) The penalties shall be leviable under this Regulation notwithstanding that no assessment of tax under this Regulation has been made.

(2) Any penalty imposed under this Regulation shall be without prejudice to any prosecution for any offence under this Chapter or any other law for the time being in force.

89. (1) Whoever----

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(a) not being a registered dealer, falsely represents that he is or was a registered dealer at the time when he sells or buys goods; or

(b) knowingly keeps false account or does not keep the account of the value of the goods bought or sold by him in contravention of section 48; or

(c) issues to any person a false invoice, bill, cash-memorandum, voucher or other document which he knows or has reason to believe to be false,

shall, on conviction, be punished with rigorous imprisonment for a term which may extend to six months and with fine.

(2) Whoever knowingly-

(a) furnishes a false return; or

(b) produces before the Commissioner, false bill, cash-memorandum, voucher, declaration, certificate, tax invoice or other document for claiming deduction on tax credit; or

(c) produces false accounts, registers or documents or knowingly furnishes false information;

he shall—

(i) in case where the amount of tax, which could have been evaded if the false return, bill, cash-memorandum, voucher, declaration, certificate, tax invoice or other document for claiming deduction on tax credit, accounts, registers or documents or false information, as the case may be, had been accepted as true exceeds, fifty thousand rupees, on conviction, be punished with rigorous imprisonment for a term which may extend to six months; and

(*ii*) in any other case, with rigorous imprisonment for a term which may extend to four months and with fine.

(3) Whoever, wilfully attempts, in any manner whatsoever, to evade payment of tax, penalty or interest or all of them under this Regulation, shall, on conviction, be punished—

(a) in any case where the amount of such tax, penalty or interest involved exceeds fifty thousand rupees during the period of a year, with rigorous imprisonment for a term which may extend to six months and with fine; and

Imposition of penalties notwithstanding of assessment.

Offences and criminal penalties.

(b) in any other case, with rigorous imprisonment for a term which may extend to three months and with fine.

(4) Whoever----

(a) carries on business as a dealer without being registered in wilfull contravention of sub-section (1) of section 18; or

(b) fails without sufficient cause to furnish any information required under section 21; or

(c) fails to surrender his certificate of registration as provided in sub-section (7) of section 22; or

(d) fails without sufficient cause to furnish any returns as required under section 26 or section 27 by the date or in the manner prescribed; or

(e) without reasonable cause, contravenes any of the provisions of section 40; or

(f) fails without sufficient cause, when directed so to do under section 48 to keep any accounts or record, in accordance with the directions; or

(g) without sufficient cause fails to issue invoice as required under section 50; or

(h) fails without sufficient cause, to comply with any requirements under section 59, or obstructs any officer making inspection or search or seizure under sections 60 and 61; or

(*i*) being owner in charge of a goods vehicle fails, neglects or refuses to comply with any of the requirements contained in section 61; or

(j) obstructs or prevents any officer performing any function under Chapter X; or

(k) interferes with or obstructs the Commissioner or any officer exercising any other power conferred under this Regulation,

he shall, on conviction, be punished with imprisonment for a term which may extend to six months and with fine.

(5) Whoever aids or abets any person in the commission of any act specified in sub-sections (1) to (3) shall, on conviction, be punished with rigorous imprisonment which may extend to six months, and with fine.

(6) Whoever commits any of the acts specified in sub-sections (1) to (5) and the offence is a continuing one under any of the provisions of these sub-sections, shall, on conviction, be punished with fine of not less than one hundred rupees per day during the period of the continuance of the offence, in addition to the punishments provided under this section,

(7) Notwithstanding anything contained in sub-sections (1) to (5), no person shall be proceeded under these sub-sections if the total amount involved is less than two hundred rupees during the period of a year.

(8) Where a dealer is accused of an offence specified in sub-section (1), or subsection (2) or sub-section (3) of this section or in clause (a), or clause (b), or clause (c), or clause (d), or clause (e), or clause (f), or clause (g), or clause (h) and clause (j) of subsection (4), or sub-section (6) of this section the person deemed to be the manager of the business of such dealer under section 95 shall also be deemed to be guilty of such offence, unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission thereof.

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90. (1) Where an offence under this Regulation or the rules has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to etc. be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Regulation if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Regulation has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purposes of this section—

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

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

(3) Where an offence under this Regulation has been committed by a Hindu undivided family, the Karta thereof shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render the Karta liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence:

Provided further that where an offence under this Regulation has been committed by a Hindu undivided family and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any adult member of the Hindu undivided family, such member shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

91. (1) No court shall take cognizance of any offence under this Regulation or rules made thereunder except with the previous sanction of the Commissioner, and no court inferior to that of a Metropolitan Magistrate shall try any such offence.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, all offences punishable under this Regulation or the rules made thereunder shall be cognizable and bailable.

92. (1) Subject to such conditions as may be prescribed, the Commissioner may authorise either generally or in respect of a particular case or class of cases any officer or person subordinate to him to investigate all or any of the offences punishable under this Regulation.

(2) Every officer or person so authorised shall, in the conduct of such investigation, exercise the powers conferred by the Code of Criminal Procedure, 1973 upon an officer in charge of a police station for the investigation of a cognizable offence.

93. (1) The Commissioner may, before the institution of proceedings for any offence punishable under sub-section (4) of section 89 or under any rules made under this Regulation, accept from any person charged with such offence by way of composition of offence, a sum not exceeding fifty thousand rupees or a sum not exceeding three times the amount of tax which would thereby have been avoided, whichever is higher.

Cognizance of offences.

Investigation of offences.

Compounding of offences.

Offences companies and Hindu undivided family,

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(2) On payment of such sum as may be determined by the Commissioner under sub-section (1), no further proceedings shall be commenced against such person in respect of the same offence.

94. Nothing in Chapter XXXVI of the Code of Criminal Procedure, 1973 shall 2 of 1974. apply to—-

(a) any offence punishable under this Regulation; or

(b) any other offence which under the provisions of that Code may be tried along with such offence, and

every offence referred to in clause (a) or clause (b) may be taken cognizance of by the court having jurisdiction under this Regulation as if the provisions of that Chapter were not enacted.

Chapter XXXVI of Code of Criminal Procedure, 1973, not to apply to certain offences.

CHAPTER XIV

MISCELLANEOUS

95. (1) Every dealer, being a Hindu undivided family or an association of persons or club or society or firm or company or any person or body, who is engaged in business as the guardian or trustee or otherwise on behalf of another person, and who is liable to pay tax under this Regulation, shall, within the period prescribed, furnish a declaration in the manner prescribed, stating the name of the person or persons who shall be deemed to be the manager or managers of such person's business for the purposes of this Regulation.

(2) The declaration furnished under sub-section (1) may be revised from time to time as required.

96. (1) Where a Hindu undivided family has been partitioned, notices under this Regulation shall be served on the person who was the last manager of the Hindu undivided family, or if such person cannot be found, then, on all adults who were members of the Hindu undivided family, immediately before the partition.

(2) Where a firm or an association of persons is dissolved, notices under this Regulation may be served on any person who was a partner (not being a minor) of the firm, or member of the association, as the case may be, immediately before its dissolution.

Service of notice in case of d discontinued business.

Returns, etc., to be confidential. 97. Where an assessment is to be made in respect of business which has been discontinued, a notice under this Regulation shall be served in the case of a firm or an association of persons or any person who was a member of such firm or association at the time of its discontinuance or in the case of a company, on the principal officer thereof.

98. (1) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Regulation, or in any record of evidence given in the course of any proceedings under this Regulation, other than proceedings before a criminal court, shall, save as provided in sub-section (3), be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall, save as aforesaid, be entitled to require any servant of the Government to produce before it any such statement, return, account, document or record or any part thereof, or to give evidence before it in respect thereof.

(2) If, save as provided in sub-section (3), any servant of the Government discloses any of the particulars referred to in sub-section (1), he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine.

(3) Nothing in this section shall apply to the disclosure-

Chapter XXXVI of Code of Criminal Procedure, 1973, not to apply to certain offences. 56

Dealer to declare the name of manager of business.

Service of notice when family is disrupted or firm is dissolved.

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(a) of any of the particulars referred to in sub-section (1) for the purposes of investigation or prosecution under this Regulation or the Indian Penal Code, 1860 or any other law for the time being in force;

(b) of such facts to an officer of the Central Government or any State Government as may be necessary for verification of such facts or for the purposes of enabling that Government to levy or realise any tax imposed by it;

(c) of any such particulars where such disclosure is occasioned by the lawful employment under this Regulation of any process for the service of any notice or the recovery of any demand;

(d) of any such particulars to a civil court in any suit or proceeding to which the Government or any Value Added Tax Authority is a party and which relates to any matter arising out of any proceeding under this Regulation or under any other law for the time being in force authorising any Value Added Tax Authority to exercise any powers thereunder;

(e) of any such particulars by any public servant where the disclosure is occasioned by the lawful exercise by him of his powers under the Indian Stamp Act, 1899, to impound an insufficiently stamped document;

(f) of any such particulars to the Reserve Bank of India as are required by that Bank to enable it to compile financial statistics of international investment and balance of payment;

(g) of any such particulars to any officer appointed by the Comptroller and Auditor-General of India for the purpose of audit of tax receipts or refunds;

(h) of any such particulars relevant to any inquiry into a charge of misconduct in connection with income-tax proceedings against a legal practitioner or chartered accountant or company secretary or cost accountant, to the authority empowered to take disciplinary action against members of the profession to which he belongs;

(i) of such particulars to the officers of the Central Government or any State Government for such other purposes, as the Government may, by general or special order, direct; or

(*j*) of any information relating to a class of dealers or class of transactions, if, in the opinion of the Commissioner it is desirable in the public interest to publish such information.

99. (1) Notwithstanding anything contained in this Regulation, if the Government is of the opinion that it is necessary or expedient in the public interest to publish or disclose the names of any dealers or other persons and any other particulars relating to any proceedings under this Regulation in respect of such dealers and persons, it may publish or disclose or cause to be published or disclosed such names and particulars in such manner as it thinks fit.

(2) No publication or disclosure under this section shall be made in relation to any tax levied or penalty imposed or interest levied or any conviction for any offence connected with any proceeding under this Regulation, until the time for presenting an appeal to the appropriate Appellate Authority or Tribunal or court has expired without an appeal having been presented or the appeal, if presented, has been disposed of.

(3) In the case of a firm, company or other association of persons, the names of the partners of the firm, the directors, managing agents, secretaries, treasurers or managers of the company or the members of the association, as the case may be, may also be published or disclosed, if, in the opinion of the Government, the circumstances of the case justify it.

Publication and disclosure of information in respect of dealers and other persons in public interest.

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Power to collect statistics 100. (1) If the Commissioner considers that for the purposes of the better administration of this Regulation, it is necessary so to do, he may, by notification, direct that statistics be collected relating to any matter dealt with, by or in connection with this Regulation.

(2) Upon such direction being made, the Commissioner or any person or persons authorised by him in this behalf may call upon all dealers or any class of dealers or persons to furnish such information or statements as may be stated therein relating to any matter in respect of which statistics are to be collected and the form in which the persons to whom or, the authorities to which, such information or returns should be furnished, the particulars which they should contain, and the intervals in which such information or returns should be furnished, shall be such as may be prescribed:

Provided that information may be called by notification, or by notice in newspapers or in such other manner as, in the opinion of the Commissioner or the said person, is necessary to bring to the knowledge of dealers and other persons.

(3) Without prejudice to the generality of the foregoing provisions, the Government may by rules provide that every dealer or, as the case may be, any class of dealer shall furnish such statements as may be prescribed, with the self assessment, and different provisions may be made for different classes of dealers.

101. The Government may, by notification, set up check-posts or barriers, or both, at any place in the Dadra and Nagar Haveli with a view to preventing evasion of tax and other dues payable under this Regulation.

102. (1) The Government may, by notification, make rules to carry out the purposes of this Regulation.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the documents, testimony or other evidence constituting "sufficient proof" for the purpose of clause (zc) of section 2;

(b) the "tax period" for the purpose of clause (zg) of section 2;

(c) the further period, for the purposes of determining taxable turnover under sub-section (6) of section 3;

(d) the conditions subject to which the amount of price and other charges towards goods to be included in the turnover of a dealer engaged in works contract under clause (a) of sub-section (2) of section 5;

(e) the percentage of amount to be reduced for the purpose of calculation of the amount of price and other charges towards goods in case of a dealer engaged in works contract under clause (b) of sub-section (2) of section 5;

(f) the form in which, the authority to whom, and time within which a dealer shall file a return and the manner of payment of tax under sub-section (3) of section 6;

(g) the percentage of reduction of the amount of tax credit by the dealer under sub-section (6) of section 9;

(h) the period for which the turnover of a dealer, turnover of purchases made by a dealer and adjustment of adjustment to tax or tax credit by a dealer shall be treated as arising for a class of transactions under sub-section (4) of section 12;

(i) the form of a statement, to be furnished by all registered dealers to the Commissioner under sub-section (1) of section 14;

(*j*) the manner and the conditions and restrictions and the extent to determine the tax paid on the opening stock under sub-section (2) of section 14;

Setting up of check-posts and barriers.

Power to make rules.

(k) the form of certificate to be signed by an accountant under sub-section(4) of section 14;

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(1) the time and manner of making an application to the Commissioner for withdrawing option under first proviso to sub-section (2) of section 16;

(m) the time and manner to specify the intention of a person to pay tax under sub-section (3) of section 16;

(n) the form in which the proof of payment of tax, statement of opening stock and finished goods shall be furnished to the Commissioner, under subsection (8) of section 16;

(o) the form of application for grant of certificate of registration, time within which such application is to be made, such other particulars and information relating to registration and accompanied by fee, security and other documents under sub-section (1) of section 19;

(p) the amount of security and manner in which an applicant may furnish such security as referred to in clause (a) of sub-section (3) of section 19;

(q) the form in which the statement of trading stock and raw materials may be furnished by the dealer under clause (c) of sub-section (1) of section 20;

(r) the manner in which the information shall be given to the Commissioner by a registered dealer under sub-section (1) of section 21;

(s) the form of notice by the Commissioner for cancellation of certificate of registration under sub-section (1) of section 22;

(t) the manner and time within which the registered dealer or the dealer's legal representative shall apply to the Commissioner for cancellation of certificate of registration under sub-section (2) of section 22;

(u) the manner in which the excess tax shall be adjusted or refunded under sub-section (6) of section 22;

(v) the particulars to be published, by the Commissioner relating to registered dealers, whose certificate of registration has been cancelled, under sub-section (8) of section 22;

(w) the surety, amount, manner and the time within which the Commissioner may require any person to furnish security under sub-section (1) of section 25;

(x) the amount of fresh surety to be furnished, where certificate of registration of the person who has executed surety bond is either cancelled or such person has closed down his business, under sub-section (4) of section 25;

(y) the date within which, and the form in which returns by every registered dealer shall be furnished under section 26;

(z) the time within which and the form in which the other returns specified by the Commissioner shall be furnished by a person under section 27;

(za) the branch of a bank in the Dadra and Nagar Haveli in which or other place where and the manner in which the tax, interest, penalty or any other amount shall be paid by every person under section 36;

(zb) the manner and form of application in which the dealer may apply to the Commissioner for grant of provisional refund under sub-section (9) of section 38;

(zc) the amount of bank guarantee or other security which the Commissioner may require the dealer to furnish under sub-section (10) of section 38;

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(zd) the restrictions and conditions subject to which the Embassies, diplomatic officials and international or public organizations specified in the Fifth Schedule shall claim a refund of tax under sub-section (1) of section 41;

(ze) the manner and time within which a person, entitled to a refund of tax, may apply to the Commissioner under sub-section (2) of section 41;

(zf) the manner and form in which the accounts and records shall be prepared and maintained under sub-section (3) of section 48;

(zg) the other amount of gross turnover, the form of the audit report, the particulars to be set forth in such report and the time of furnishing true copy of such report under section 49;

(zh) the amount in value of goods sold in one transaction by a dealer, for issuing a retail invoice to the purchaser under sub-section (4) of section 50;

(zi) the conditions and restrictions subject to which a copy of tax invoice may be provided under sub-section (8) of section 50;

(zj) the particulars to be contained in the debit or credit notes under section 51;

(zk) the manner in which a notice shall be served, by the Commissioner informing the person to conduct an audit of his business affairs, under subsection (1) of section 58;

(*zl*) the conditions subject to which the Commissioner may require any dealer or person and in the case of an organisation any officer thereof to produce records, books of account, registers and other documents, to submit clarifications or to prepare and furnish additional information under sub-section (2) of section 59;

(zm) the records which an owner or person in charge of a goods vehicle shall carry with him in respect of the goods carried in the goods vehicle under sub-section (2) of section 61;

(zn) the form, manner and the amount of security for which the owner or person in charge of the goods vehicle shall furnish to the Commissioner under clause (b) of sub-section (5) of section 61;

(zo) the manner for the sale of property by which an auction of goods or a goods vehicle shall be carried out under sub-section (4) of section 63;

(zp) the restrictions and conditions subject to which the Commissionermay delegate any of his powers, and the form of cvidence of such delegation under section 68;

(zq) the qualifications and other conditions of service of the member or members constituting the Appellate Tribunal and the period for which such member or members shall hold office under sub-section (3) of section 73;

(zr) the composition of the selection committee for the recommending for appointment of members of the Appellate Tribunal under sub-section (4) of section 73;

(zs) the form in which an appeal may be filed under sub-section (3) of section 74;

(zt) the form in which appeals may be filed, the mauner in which such appeals shall be verified and the fees payable in respect thereof under sub-section (3) of section 76;

(zu) the manner in which the appellant may furnish the security under first proviso to sub-section (4) of section 76.

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(zv) the amount of fee for making an application to the Appellate Tribunal under section 81;

(zw) the qualifications of a Value Added Tax practitioner under clause (c) of sub-section (1) of section 82;

(zx) the manner in which an application may be made under sub-section (1) of section 84:

(zy) the period within which the Commissioner shall make the determination under sub-section (5) of section 84;

(zz) the conditions subject to which, the Commissioner may authorize any officer or person subordinate to him to conduct investigations under section 92;

(zza) the period within which and manner in which a declaration shall be published under sub-section (1) of section 95;

(zzb) the form in which, the persons or authorities to whom, the particulars, and the intervals in which the information is to be furnished under sub-section (2)of section 100;

(zzc) the statements to be furnished by every dealer or any class of dealers as referred to in sub-section (3) of section 100;

(zzd) any other matter which is required to be, or may be, prescribed;

103. (1) If the Government is of opinion that it is expedient in the interest of general public so to do, it may, by notification, add to, or omit from, or otherwise amend, the First, the Second, the Third, the Fourth, the Fifth or the Sixth, Schedules, prospectively, and thereupon the said Schedules shall be deemed to have been amended accordingly.

(2) Every notification made under sub-section (2) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the notification or both Houses agree that the notification should not be made, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that notification.

104. (1) If any difficulty arises in giving effect to the provisions of this Regulation, Power to the Government may, by general or special order published in the Official Gazette, make remove such provisions not inconsistent with the provisions of this Regulation as appear to it to be necessary or expedient for the removal of the difficulty:

Provided that no such order shall be made after the expiration of two years from the commencement of this Regulation.

(2) Every order made under sub-section (1) shall be laid, as soon as may be after t is made, before each House of Parliament, while it is in session, for a total period of hirty days which may be comprised in one session or in two or more successive essions, and if, before the expiry of the session immediately following the session or he successive sessions aforesaid, both Houses agree in making any modification in ie order or both Houses agree that the order should not be made, the order shall rereafter have effect only in such modified form or be of no effect, as the case may be;), however, that any such modification or annulment shall be without prejudice to the alidity of anything previously done under that order.

105. (1) Where---

(a) the tax has been collected under the Dadra and Nagar Haveli Sales Tax

Power to amend Schedules.

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difficulties.

Transitory provisions

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. PART II----

Regulation, 1978, as repealed by section 106, but the same has not been deposited Reg. 2 of 1 before the date of commencement of this Regulation, the tax so collected by any person under the said Regulation, shall be deposited in accordance with the provisions of the aforesaid Regulation and rules made thereunder, as if this Regulation has not come into force and the said Regulation had not been repealed;

(b) a return is required to be filed under the Dadra and Nagar Haveli Sales Tax Regulation, 1978, as repealed by section 106, but the same had not been filed Reg. 2 of 1 before the commencement of this Regulation, such every return shall be filed in accordance with the provisions of the said Regulation and by the person liable to file such return to the authorities as may, by notification, be specified;

(c) a return has been filed, under the Dadra and Nagar Haveli Sales Tax Regulation, 1978, as repealed by section 106, by any dealer for any assessment Reg. 2 of 1 year and no assessment in respect of that year has been made before the commencement of this Regulation, the proceedings for the assessment of that dealer for that year shall be made or be continued as if this Regulation had not come into force and the said Regulation had not been repealed and such assessment shall be made by such Assessing Authority as may, by notification, be specified; for the purposes of making the assessment in such cases;

(d) a person has been aggrieved by any decision made or order passed under the Dadra and Nagar Haveli Sales Tax Regulation, 1978, as repealed by section 106, and he has not filed any appeal or an application for rectification of his mistake or for review or revision, such person may file an appeal or make an application for rectification of mistake, revision or review, as the case may be, in accordance with the provision of the said Regulation and the rules made thereunder to such authority as may, by notification, be specified; for the purpose of hearing and disposing of such appeal or application;

(e) any liability of any dealer to pay tax, under the Dadra and Nagar Haveli Sales Tax Regulation, 1978, as repealed by section 106, had been affected, and Reg. 2 of 1 such person was entitled to make a statement of case to the High Court under section 33 of the said Regulation, before the date of commencement of this Regulation, such person may, draw up, within two months of the date of commencement of this Regulation, a statement of case (if not already drawn such statement) and refer it to the High Court in accordance with the provisions of section 33, as if the aforesaid Regulation had not come into force.

(2) Where on the date of commencement of this Regulation, where an appeal under the Dadra and Nagar Haveli Sales Tax Regulation, 1978, repealed by section 106, Reg. 2 of has been pending before any authority under the said Regulation, such appeal shall be disposed of within a period of five years from the date of the commencement of this Regulation.

(3) The Commissioner may, having regard to the difficulties, if any, for issuing tax invoices containing particulars specified in clauses (a) to (g) of sub-section (2) of section 50, by a general order, waive all or any of the particulars required to be mentioned in the tax invoices under said clauses (a) to (g), for a period not exceeding two weeks from the date of commencement of this Regulation.

Repeal and savings.

106. (1) The Dadra and Nagar Haveli Sales Tax Regulation, 1978, as in force in Reg. 2 of Dadra and Nagar Haveli (referred to in this section as the "said Regulation"), is hereby repealed.

(2) Notwithstanding anything contained in sub-section (1), such repeal shall not affect the previous operation of the said Regulation or any right, title, entitlement, obligation or liability already acquired, accrued or incurred thereunder.

(3) For the purposes of sub-section (2), anything done or any action taken including any appointment, notification, notice, order, rule, form or certificate in the

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exercise of any powers conferred by or under the said Regulation shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Regulation, as if this Regulation were in force on the date on which such thing was done or action was taken, and all arrears of tax and other amounts due at the commencement of this Regulation may be recovered as if they had accrued under this Regulation.

(4) Save as otherwise provided in sub-sections (2) and (3), the mention of particular matters in sub-sections (2) and (3) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 with regard to the effect of repeal.

· 1897.

PART II-

THE FIRST SCHEDULE

(See section 6)

List of Exempted Goods

Serial Number.

GOODS

1. Agricultural implements manually operated or animal driven.

2. Aids and implements used by handicapped persons.

3. Aquatic feed, poultry feed and cattle feed including grass, hay and straw.

4. Betel leaves.

5. Books, periodicals, newspapers and maps.

6. Charakha, Ambar Charakha, handlooms and handloom fabrics and Gandhi Topi.

7. Charcoal.

8. Coarse grains other than paddy, rice and wheat.

9. Condoms and Contraceptives.

10. Cotton and silk yarn in hank.

11. Curd, Lussi, butter milk and separated milk.

12. Earthen pot.

13. Electricity energy.

14. Firewood.

15. Fishnet, fisanet ropes and fishnet fabrics.

16. Fresh milk and pasteurized milk.

17. Fresh plants, saplings and fresh flowers.

18. Fresh vegetables and fruits.

19. Garlic and ginger.

20. Glass bangles.

21. Human blood and blood plasma.

22. Indigenous handmade musical instruments.

23. Kumkum, bindi alta and sindur.

24. Meat, fish, prawn and other aquatic products when not cured or frozen, eggs and livestock and animal hair.

25. National Flag.

26. Organic manure.

27. Non-judicial stamp paper sold by Government Treasuries, postal items like envelope, post card etc. sold by Government, rupee note, when sold to the Reserve Bank of India and cheques, whether loose or book form.

28. Raw wool.

29. Semen including frozen semen.

- Silk worm laying, cocoon and raw silk. 31.
- Slate and slate pencils. 32.

30.

- Tender green coconut. 33.
- Toddy, Neera and Arak. 34.
- Breads of all types except pizza bread. 35.
- Unprocessed and unbranded salt.
- 36. Water other than aerated, mineral, distilled, medicinal, ionic, battery, demineralized water and water sold in sealed container. 37. Food grains including paddy, rice, wheat and pulses.

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38. Items which are subjected to levy of additional excise duty under the provisions of the Additional Duties of Excise (Goods of Special Importance) Act, 1957.

[PART II-

THE SECOND SCHEDULE

(See clause (a) of sub-section (1) of section 4)

List of Goods Taxed at one per cent.

Serial Number.

GOODS

1. Bullion.

- 2. Articles of gold, silver and precious metals including jewellery made from gold, silver and precious metals.
- 3. Precious stones and semi-precious stones.
- 4. Platinum Jewellery.
- 5. Noble metals.

THE THIRD SCHEDULE

(See clause (b) of sub-section (1) of section 4)

List of Goods Taxed at four per cent.

Serial

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GOODS

Number.

1. Agricultural implements not operated manually or not driven by animal.

- 2. All equipments for communications such as, Private Branch Exchange (PBX) and Electronic Private Automatic Branch Exchange (EPABX).
- 3. All intangible goods like copyright, patent, rep license, goodwill.
- 4. All kinds of bricks including fly ash bricks, refractory bricks and asphaltic roofing, earthen tiles.
- 5. All types of yarn other than cotton and silk yarn in hank and sewing thread.
- 6. Aluminium utensils and enameled utensils.
- 7. Arecanut powder and betel nut.
- 8. Bamboo.
- 9. Bearings.
- 10. Beedi leaves.
- 11. Beltings.
- 12. Bicycles, tricycles, cycle rickshaws and parts.
- 13. Bitumen.
- 14. Bone meal.
- 15. Pizza bread.
- 16. Bulk drugs.
- 17. Castings.
- 18. Centrifugal, monobloc and submersible pumps and parts thereof.

19. Coffee beans and seeds, cocoa pod, green tea leaf and chicory.

- 20. Chemical fertilizers, pesticides, weedicides, insecticides, Plant growth promoters and Plant nutrients.
- 21. Coir and coir products excluding coir mattresses.
- 22. Cotton and cotton waste.
- 23. Crucibles.
- 24. Declared goods as specified in section 14 of the Central Sales Tax Act, 1956 other than items subjected to levy of additional excise duty under the provisions of Additional Duties of Excise (Goods of Special Importance) Act, 1957.
- 25. Edible oils, oil cake and de-oiled cake.
- 26. Electrodes.
- 27. Exercise book, graph book and laboratory note book.
- 28. Ferrous and non-ferrous metals and alloys.

PART II-

29. Fibres of all types and fibres waste.

30. Flour, atta, maida, suji, besan.

31. Fried grams.

32. Gur, jaggery, and edible variety of rub gur.

33. Hand pumps and spare parts.

34. Herb, bark, dry plant, dry root, commonly known as jari booti and dry flower.

35. Hose pipes.

36. Hosiery goods.

37. Husk and bran of cereals.

38. Ice.

39. Incense sticks commonly known as, agarbatti, dhupkathi or dhupbati.

- 40. Industrial cables (High voltage cables, PVC or XLPE Cables, jelly filled cables).
- 41. IT products including computers, telephone and parts thereof, teleprinter and wireless equipment and parts thereof.
- 42. Kerosene oil sold through PDS.

43. Leaf plates and cups.

44. Murmuralu, pelalu, atukulu, puffed rice, muri.

45. Newars.

46. Napa Slabs (Rough flooring stones).

47. Ores and minerals.

48. Tea.

49. Paper and newsprint.

50. Pipes of all varieties including GI pipes, CI pipes, ductile pipes and PVC pipes.

51. Plastic footwear.

52. Printed material including diary, calendar.

53. Printing ink whether concentrated or solid excluding toner and cartridges.

54. Processed and branded salt.

55. Pulp of bamboo, wood and paper.

56. Rail coaches, engines and wagons.

57. Readymade garments.

58. Renewable energy devices and spare parts.

59. Safety matches.

60. Seeds.

61. Sewing machines.

62. Ship and other water vessels.

63. Silk fabrics.

64. Skimmed milk powder.

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- 65. Solvent oils other than organic solvent oil.
- 66. Spices of all varieties and forms including cumin seed, aniseed, turmeric and dry chillies.
- 67. Sports goods excluding apparels and footwear.
- 68. Starch.
- 69. Tamarind.
- 70. Tractors, threshers, harvesters and attachments and parts thereof.
- 71. Transmission towers.
- 72. Umbrella except garden umbrella.
- 73. Vanaspati (Hydrogenated vegetable oil).
- 74. Vegetable oil including gingili oil and bran oil.
- 75. Writing instruments.
- 76. Animal including fish fats, oils, crude, refined or purified.
- 77. Glycerol, crude, glycerol waters and glycerol lyes.
- 78. Vegetable waxes, bees wax.
- 79. Animal or vegetable fats boiled or oxidized or dehydrated.
- 80. Liquid glucose (non-medicinal), Dextrose syrup.
- 81. Denatured ethyl alcohol of any strength.
- 82. Manganese ores and concentrates.
- 83. Copper ores and concentrates.
- 84. Nickel ores and concentrates.
- **§5.** Cobalt ores and concentrates.
- 36. Aluminium ores and concentrates.
- 37. Lead ores and concentrates.
- 18. Zinc ores and concentrates.
- 19. Tin ores and concentrates.
- 0. Chromium ores and concentrates.
- 1. Tungsten ores and concentrates.
- 2. Uranium or thorium ores and concentrates.
- 3. Molybdenum ores and concentrates.
- 4. Titanium ores and concentrates.
- 5. Niobium, tantalum, vanadium or zirconium ores and concentrates.
- 5. Precious metal ores and concentrates.
- 7. Other ores and concentrates.
- 8. Granulated slag (slag sand) from manufacturing of iron or steel.
- **Benzole**.
-). Toluole.

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THE GAZETTE OF INDIA EXTRAORDINARY

[PART 11-

101. Xylole.

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- 102. Napthalene.
- 103. Phenols.
- 104. Creosole oils.

105. Normal Paraffin.

106. Butadine.

107. Bitumen.

108. Flurine, chlorine, bromine and iodine.

109. Sulphur, sublimed or precipitated, colloidal sulphur.

110. Carbon (carbon blacks and other forms of carbon).

111. Hydrogen, rare gases & other non-metals.

112. Alkali or alkaline earth metals.

113. Hydrogen chloride.

114. Sulphuric acid and anhydrides.

115. Nitric acid, sulphonitric acids.

116. Diphosphorous penataoxide, phosphoric acid.

117. Oxides of boron, boric acids.

118. Halides and halide oxides of non-metals.

119. Sulphides of non-metals.

120. Ammonia, anhydrous.

121. Sodium hydroxide (caustic soda), Potassium hydroxide (caustic potash) and soda ash.

122. Hydroxide and peroxide of magnesium.

123. Aluminum hydroxide.

124. Chromium oxides and hydroxides.

125. Manganese oxides.

126. Iron oxides and hydroxides.

127. Cobalt oxides and hydroxides.

128. Titanium oxides.

129. Hydrazine and hydroxylamine and their inorganic salts.

130. Flurides, fluorosilicates.

131. Chlorides, chloride oxides.

132. Chlorates and perchlorates, Bromates.

133. Sulphides, Polysulphides.

134. Dithionites and sulphoxylates.

135. Sulphites, thiosulphates.

136. Copper sulphate.

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137. Nitrites, nitrates.

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- 138. Phosphinates, phosphonates.
- 139. Carbonates, peroxocarbonates.
- 140. Cyanides, cyanide oxides.
- 141. Fulminates, cyanates and thiocyanates.
- 142. Borates, peroxoborates.
- 143. Sodium dischromate.
- 144. Potassium dischromate.
- 145. Radioactive chemical elements.
- 146. Isotopes and compounds.
- 147. Compounds, inorganic or organic of rare earth metals.
- 148. Phosphides, whether or not chemically defined.
- 149. Calcium carbides.
- 150. Ethylene, Propylene.
- 151. Cyclic Hydrocarbons.
- 152. Halogenated derivatives of Hydrocarbons.
- 153. Sulphonated, nitrated or nitrosated derivatives of hydrocarbons.
- 154. Methanol.
- 155. DI-Ethylene Glycol, Mono-Ethylene Glycol.
- 156. Cyclic alcohols.
- 157. Halogenated, sulphonated derivatives of products.
- 158. Ethers, ether-alcohols, ether-phenols.
- 159. Expoxides, epoxyalcohols, epoxyethers.
- 160. Ethylene Oxide.
- 161. Acetals and hemiacetals.
- 162. Aldehydes whether or not with other oxygen function.
- 163. Halogenated, sulphonated, nitrated derivatives of phenols alcohols.
- 164. Saturated acyclic monocarboxylic acids.
- 165. Unsaturated acyclic monocarboxylic acids.
- 166. Polycarboxylic acids.
- 167. Carboxylic acids.
- 168. Phosphoric ester and their salts.
- 169. Esters of other inorganic acids.
- 170. Amine-function compounds.
- 171. Oxygen function amino-compounds.
- 172. Quaternary ammonium salts and hydroxides.
- 173. Carboxyamide-function compounds.

174. Carboxyamide-function compounds including saccharin and its salts.

175. Nitrile-function compounds.

176. Diazo-, Azo- or azoxy-compounds.

177. Organic derivatives of hydrazine or of hydroxylamine.

178. Organo-sulphur compounds.

179. Ethylene Diamine Tetra Acetic Acid.

180. Heterocyclic compounds with oxygen heteroatom(s) only.

181. Heterocyclic compounds with nitrogen heteroatom(s) only.

182. Nucleic acids and their salts.

183. Sulphonamides.

184. Glycosides, natural or reproduced by synthesis and their salts.

185. Vegetable alkaloids, natural or reproduced by synthesis and their salts.

186. Tanning extracts of vegetable origin.

187. Synthetic organic tanning substances.

188. Colouring matter of vegetable or animal origin.

189. Synthetic organic colouring matter.

190. Colour lakes.

191. Glass frit and other glass.

192. Printed driers.

193. Casein, Caseinates.

194. Enzymes, Prepared enzymes.

195. Artificial graphite.

196. Activated carbon.

197. Residual lyes from manufacturing of wood pulp,

198. Rosin and resin acids and derivatives.

199. Wood tar, wood tar oils.

200. Finishing agents, fixing of dye-stuffs.

201. Prepared rubber accelerators.

202. Reducers and blanket wash or roller wash.

203. Reaction initiators, reaction accelerators.

204. Mixed alkylbenzenes.

205. Chemical elements doped.

206. Industrial monocarboxylic fatty acids.

207. Retarders.

208, LLDPE or LDPE.

209. HDPE.

210. Polymers of propylene.

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SEC. 1] THE GAZETTE OF INDIA EXTRAORDINARY 73 211. PVC. Acrylic polymers. 212. 213. Polyacetals. 214. Polythene chips. 215. Polyamides. 216. Amino-resins, polyphenylene oxide. 217. Silicons. 218. Petroleum resins. 219. Cellulose and its chemical derivatives. 220. Natural polymers. 221. lon-exchangers based on polymers. 222. Self-adhesive plates, sheets, film, strip of plastics. 223. Flexible plain films. 224. Articles for conveyance or packing of goods of plastics. 225. Natural rubber, balata, gutta percha. 226. Synthetic rubber and factice derived from oils, reclaimed rubber. 227. Raw rubber, latex, dry ribbed. 228. Compounded rubber, unvulcanised. 229. Mechanical wood pulp, chemical wood pulp, semi-chemical wood pulp. 300. Cartons, boxes. 301. Paper printed labels, paperboard printed labels. 302. Paper self-adhesive tape. 303. Partially oriented yarn, polyester texturised yarn. 304. Polyester staple fibre and polyester staple fibre fill. 305. Polyester staple fibre waste. 306. Sacks and bags, of a kind used for packing of goods. 307. Carboys, bottles, jars, phials of glass. 308. Stoppers, caps and lids. 309. Word processing machines, electronic typewriters. 310. Microphones, multimedia speakers, headphones. 311. Telephone answering machines. Prepared unrecorded media for sound recording. 312. IT software. 313. 314. Transmission apparatus other than apparatus for radio or T.V. broadcasting. Radio communication receivers, radio pagers. 315. 316. Aerials, antennas and parts.

317. LCD Panels, LED panels and parts.

318. Electrical capacitors, fixed, variable and parts.

319. Electronic calculators.

320. Electrical resistors.

321. Printed circuits.

322. Switches, connectors, relays for up to 5 amps.

324. Data or graphic display tubes, other than Picture tubes and parts.

325. Diodes, transistors and similar semi-conductor devices.

326. Electronic integrated circuits and micro-assemblies.

327. Signal generators and parts.

328. Optical fibre and optical fibre bundles, cables.

329. Liquid crystal devices, flat panel display devices and parts.

330. Computer systems and peripherals, electronic diaries.

331. Cathode ray oscilloscopes, Spectrum analysers, Signal analysers.

332. Parts and Accessories of HSN 84.69, 84.70 and 84.71.

333. D C Micromotors, stepper motors of 37.5 watts.

334. Parts of HSN 85.01.

335. Uninterrupted power supply.

336. Permanent magnets and articles.

337. Electrical apparatus for line telephony or line telegraphy.

337A. Coal.

338. Hides and skin.

339. Oil-seeds.

340. Acids.

341. Aluminium conductor steel reinforced (ACSR).

342. Aluminium, aluminium alloys, their products except extrusions.

343. Polyster and staple fibre yarn.

344. Bagasse.

345. Basic chromium sulphate, sodium bi-chromate.

346. Biomass briquettes.

347. Castor oil.

348. Dyes, acid dyes, basic dyes.

349. Mixed PVC stabilizer.

350. Maize starch, glucose 'D', maize gluten, maize germ and oil.

351. Paraffin wax.

352. Alloys and scraps of ferrous and non-ferrous metals.

353. Gypsum of all forms and descriptions.

354. Handloom woven Gamcha, Khaddar and Khadi.

74

355. Hurricane lantern and kerosene lamp and accessories and components thereof.

75

356. Lac and shellac.

357. Paper board - essentially as an input for packing materials.

358. Transformer.

359. Waste paper.

360. Windmill for water pumping and for generation of electricity.

THE FOURTH SCHEDULE

(See clause (c) of sub-section (1) of section 4)

List of Goods Taxed at twenty per cent.

GOODS

- Serial Number.
 - 1. Petroleum Products (other than liquid petroleum gas, Compressed Natural Gas and Kerosene) such as Naphtha, Aviation Turbine Fuel, Spirit; Gasoline, Diesel (High Speed Diesel, Super Light Diesel Oil, Light Diesel Oil), Furnace Oil, Organic Solvent, Coal Tar, Mixture and combination of above products.
 - 2. Liquor (Foreign and Indian made foreign liquor).
 - 3. Country liquor.
 - 4. Narcotics (bhaang).
 - 5. Molasses.
 - 6. Rectified spirit.
 - 7. Lottery tickets.
 - 8. Brake fluid.

THE FIFTH SCHEDULE

[See sub-section (1) of section 41]

List of organisations which can claim refund

Serial

SEC. 1]

Number.

1. AFGHANISTAN.

H.E. Ambassador of Republic of Afghanistan.

The Embassy of Republic of Afghanistan.

The Diplomatic Officers (including their spouses) of the Embassy of Afghanistan.

- 2. AFRO-ASIAN RURAL RECONSTRUCTION ORGANISATION.
- 3. ALGERIA.

The Embassy of Democratic and Popular Republic of Algeria.

4. ANGOLA.

The Embassy of Angola in on the purchase made by the diplomats for Official and personal use.

- 5. APOSTOLIC NUNCIATURE.
- 6. ARGENTINA.

Embassy of Argentine Republic on the purchases made by its diplomats for official as well as personal use.

7. ARMENIA.

Embassy of Armenia on the purchases made by the mission for official use.

8. ASIAN AFRICAN LEGAL CONSULTATIVE COMMITTEE,

for its official use.

- 9. ASIAN DEVELOPMENT BANK.
- 10. AUSTRALIA.

The High Commission and its Diplomatic Officers in respect of purchases made from bounded stores only for their official and personal use.

11. AUSTRIA.

The Embassy of Austria in India (for sales intended for their official use).

The Diplomatic Officers of the Embassy of Austria in India (for sales intended for their personal use).

12. BANGLADESH.

The High Commission for the Peoples Republic of Bangladesh in India.

The Diplomatic Officers (including their spouses) of the High Commission for the Peoples Republic of Bangladesh in India.

13. BELARUS,

The Embassy of Belarus in India. Purchases made for its diplomatic and administrative/technical personnel for official as well as personal use.

14. BELGIUM.

H.E. the Ambassador of Belgium in India.

The Embassy of Belgium in India.

The Diplomatic Officers of the Belgium Embassy in India.

15. BHUTAN.

The Royal Bhutan Mission for sales intended for official use of Mission.

The Representative of Bhutan for sales intended for personal use.

The Diplomatic Officers of the Royal Bhutan Mission for sales intended for personal use.

16. BRAZIL.

The Embassy of the Federative Republic of Brazil in India.

The Diplomatic Officers (including their spouses) of the Embass / of Federative Republic of Brazil in India.

17. BRITAIN.

The High Commission for Britain in India (all sales for official use).

The Diplomatic Officers (including their spouses) of the High Commission for Britain in India (sales of imported goods from bonded stocks on y).

18. BRUNEI DARUSSALAM.

Embassy of Brunei Darussalam on the purchases made by its Diplomats for Official as well as personal use.

19. BULGARIA.

H.E. the Ambassador of the Peoples Republic of Bulgaria in Ind a.

The Embassy of the Peoples Republic of Bulgaria in India.

The Diplomatic Officers (including their spouses) of the Embass; of the Peoples Republic of Bulgaria in India.

20. CANADA.

H.E. the High Commissioner for Canada in India.

The Diplomatic Officers of the Canada High Commission.

The Canadian High Commission.

21. CENTRALAFRICA.

The Embassy of the Central African Empire .(for sales intended br official use).

The Diplomatic Officers (including their spouses) of the Embass / of the Central African Empire (for sales intended for their personal use).

22. CHINA.

H.E. the Chinese Ambassador in India.

The Embassy of the Peoples Republic of China.

The Diplomatic officers of the Chinese Embassy in India

23. COLUMBIA.

The Embassy of Columbia in India.

24. COMBODIA.

SEC. 1]

H.E. the ambassador of Combodia in India.

The Embassy of Combodia in India.

The Diplomatic Officers (including their spouses) of the Embassy of Combodia in India.

25. Officials of the COMMISSION OF THE EUROPEAN COMMUNITIES for setting up their office.

(B) Personnel of the delegation holding diplomatic status (other than Indian nationals and persons permanently resident in India Employed by the said Commission).

26. COMMON EDUCATIONAL MEDIA CENTRE FOR ASIA.

Common Educational Media Centre on the purchase made for official use and by its President and Vice-President for personal use.

27. CONGŬ.

The Congolese Embassy and their Diplomatic Officers.

28. CROATIA.

Embassy of Croatia on the purchases made by its diplomats for official as well as for personal use of their officials.

29. CUBA.

The Embassy of the Republic of Cuba in India.

The Diplomatic Officers (including their spouses) of the Republic of Cuba in India.

30. CYPRUS.

The Cyprus High Commission (for sales intended for official use).

The Diplomatic Officers (including their spouses) of the Cyprus High Commission (for sales intended for their personal use).

31. CZECH REPUBLIC.

Embassy of Czech Republic on the purchases made by its diplomats for official as well as for personal use of their officials.

32. DENMARK.

The Royal Danish Embassy in India.

The Diplomatic Officers (including their spouses) of the Royal Danish Embassy in India.

33. DOMINICA.

The High Commission for the Commonwealth of Dominica (for its official purchases).

The Diplomatic Officials of the High Commission for the Commonwealth of Dominica (for their personal use).

34. EGYPT.

The Embassy of the Arab Republic of Egypt in India.

The Diplomatic officers (including their spouses) of the Embassy of the Arab Republic of Egypt in India.

35. ETHOPIA.

The Ethopian Embassy in India (for its official purchases).

The Diplomatic Officers of the Ethopian Embassy in India (for their personal purchases).

36. FINLAND.

Embassy of Finland on the purchase of following items made by its diplomats for official purpose.

(1) Construction materials as well commodities to be used for the interior decoration and furnishing of building.

(2) Commodities used in representational functions.

(3) Motor vehicles as well as spare parts and equipment for Motor vehicles.

(4) Work performances concerning the premises of a mission or office and the commodities referred to in items (1) to (3) or the rental of those commodities.

(5) Telecommunication services, energy commodities and fuel purchased for the building of a mission or office.

(6) Fuels for motor vehicles.

37. FRANCE.

The Embassy of France on the purchases made by its diplomats for Official purposes and for the residence of the Ambassador.

38. GERMANY.

The Embassy of Germany in India (for sales intended for official use only).

The Diplomatic Officers of the German Embassy in India (for sales intended for personal use).

39. GHANA.

The High Commissioner for Ghana in India.

The Diplomatic officers (including their spouses) of the High Commissioner for Ghana in India.

40. GREECE.

The Royal Greek Embassy in India.

The Diplomatic Officers (including their spouses) of the Royal Greek Embassy in India.

41. GUYANA.

The High Commission for Guyana, and its Diplomatic Officers (including their spouses).

42. HUNGARY

H.E. the Ambassador of the Hungarian Peoples Republic in India.

The Embassy of the Hungarian Peoples Republic in India.

The Diplomatic officers (including their spouses) of the Embassy of the Hungarian Peoples Republic in India.

43. INDONESIA.

The Embassy of Indonesia on all its official purchases and the purchases made by its officials for their personal use.

٥٢.

SEC. 1] THE GAZETTE OF INDIA EXTRAORDINARY

- 44. INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT IN INDIA and Employees, other than those recruited locally of the International Bank for Reconstruction and Development in India.
- 45. INTERNATIONAL CENTRE FOR GENETIC ENGINEERING AND BIOTECHNOLOGY, (for all its official purchases).
- 46. (A) Office of the INTERNATIONAL COURT OF JUSTICE (for sales intended for official use).

(B) Dr. Nagendra Singh an elected judge of the International Court of Justice, (for sales intended for his personal use).

- 47. INTERNATIONAL LABOUR OFFICE.
- 48. IRAN.

The Embassy of Iran in India.

The Diplomatic officers (including their spouses) of the Embassy of Iran in India.

49. IRAQ.

H.E. the Ambassador of the Republic of Iraq in India.

The Embassy of Republic of Iraq in India.

The Diplomatic Officers (including their spouses) of the Embassy of Iraq in India.

50. IRELAND.

The Embassy of Ireland in India.

The Diplomatic Officers (including their spouses) of the Embassy of Ireland in India.

51. ISRAEL

The Embassy of Israel on purchases made by its diplomats for official as well as for personal use.

52. ITALY.

Embassy of Italy on the purchase made by its diplomats for official use as well as for personal use of their officials.

53. JAPAN.

The Embassy of Japan and its Diplomatic Officers.

54. JORDAN.

The Embassy of Hashemite Kingdom of Jordon in India.

The Diplomatic Officers (including their spouses) of the Embassy of the Hashemite Kingdom of Jordon in India).

55. KAZAKHSTAN.

The Embassy of Kazakhstan on the purchases made by its diplomats for official as well as for personal use.

56. KENYA.

For official use as well as Diplomatic Officers (including their spouses) of the Kenya High Commission in India.

57. KOREA.

H.E. the Ambassador of Korea.

Embassy of the Republic of Korea.

The Diplomatic Officers (including their spouses) of the Embassy Republic of Korea.

58. KOREA(D.P.R.).

H.E. The Ambassador of the Democratic Peoples Republic of Korea.

Embassy of the Democratic People Republic of Korea.

The Diplomatic Officers (including their spouses) of the Embassy of the Democratic Peoples Republic of Korea.

59. KUWAIT.

H.E. the Ambassador of the State of Kuwait in India.

The Embassy of the state of Kuwait in India.

The Diplomatic officers of the Embassy of the State of Kuwait in India.

60. KYRGHYSTAN.

The Embassy of Kyrghystan on the purchases made by its diplomats for official as well as for personal use.

61. LAOS.

The Royal Embassy of Laos in India.

The Diplomatic Officers (including their spouses) of Royal Embassy of Laos in India.

62. LEAGUE OF ARAB STATES MISSION.

League of Arab States Mission.

Chief Representative, Deputy Chief representative, their spouses and minor children of the league of Arab States Mission.

63. LEBANON.

H.E. the Ambassador of Lebanon in India.

The Embassy of Lebanon in India.

The Diplomatic Officers (including their spouses) of the Embassy of Lebanon.

64. LIBERIA.

Embassy of Liberia on all its official purchases as well as purchases made by its officials for their personal use.

65. LIBYA

The Embassy of the Libyan Arab Republic in India (for sales intended for official use.)

The Diplomatic Officers (including their spouses) of the Embassy of the Libyan Arab Republic in India (for sales intended for their personal use).

66. LUXEMBOURG.

Embassy of Grand Duchy of Luxembourg in respect of goods purchased by them for official use only.

67. MALAYSIA.

SEC. 1]

The High Commissioner for Malaysia in India.

The Diplomatic Officer (including their spouses) of the High Commissioner for Malaysia in India.

68. MAURITIUS

The High Commission of Mauritius and its Diplomatic Officers.

69. MEXICO.

The Embassy of Mexico in India.

The Diplomatic Officers (including their spouses) of the Embassy of Mexico in India.

70. MONGOLIA.

H.E. the Ambassador of the Mongolian Peoples Republic in India.

The Embassy of the Mongolian Peoples Republic in India.

The Diplomatic Officers of the Embassy of the Mongolian Peoples Republic in India.

71. MOROCCO

Embassy of Morocco on the purchases made by its diplomats for official as well as personal use.

72. MOZAMBIQUE.

High Commission of the Republic of Mozambique in respect of goods purchased by them for official use only.

73. MYANMAR.

The Embassy of the Republic of the Myanmar in India. (Restricted to sale of goods from bonded stocks)

The Diplomatic Officers (including their spouses) of the Embassy of the Union of Myanmar in India. (sale of petrol only)

74. NAMIBIA.

Namibian High Commission on the purchase made by its diplomats for official as well as for personal use.

75. NEPAL.

The Royal Nepalese Embassy in India, and

The Diplomatic Officers (including their spouses) of the Royal Nepalese Embassy in India.

76. NETHERLANDS.

The Royal Netherlands Embassy in India.

The Diplomatic Officers (including their spouses) of the Royal Netherlands Embassy in India.

77. NICARAGUA.

The Embassy of Nicaragua on all its official purchases as well as the purchases made by its officials for their personal use.

78. NIGERIA.

H.E. the High Commission of the Federal Republic of Nigeria in India.

The High Commission for the Federal Republic of Nigeria.

The Diplomatic Officers of the High Commission for the Federal Republic of Nigeria in India.

79. NORWAY.

H.E. the Norwegian Ambassador in India.

The Royal Norwegian Embassy in India.

The Diplomatic Officers (including their spouses) of the Royal Norwegian Embassy in India.

80. OMAN.

The Embassy of Sultanate of Oman and its Diplomatic Officers.

81. PAKISTAN.

The Embassy of Pakistan in India.

The Diplomatic Officers (including their spouses) of the Embassy of Pakistan in India.

82. PANAMA.

The Embassy of Panama and its Diplomatic Officers in respect of purchases made from bonded stores only.

83. PHILIPPINES.

H.E. the Ambassador of the Philippines in India.

The Embassy of Philippines in India, and

The Diplomatic Officers (including their spouses) of the Embassy of the Philippines in India.

84. PLO.

The Embassy of the Palestine Liberation Organisation (for sales intended for official use).

The Diplomatic Officers (including their spouses) of the Embassy of the Palestine Liberation Organisation (for sales intended for personal use).

85. POLAND.

The Embassy of the Polish Peoples Republic and their Diplomatic Officers.

86. PORTUGAL.

The Embassy of Portugal in India.

The Diplomatic Officers (including their spouses) of the Embassy of Portugal in India (for sales intended for their personal use).

87. QATAR.

The Embassy of the State of Qatar.

The Diplomatic Officers of the Embassy of the State of Qatar, and their spouses for sales intended for their personal use.

88. ROMANIA.

H.E. the Ambassador of the Socialist Republic of Romania in India.

The Embassy of the Socialist Republic of Romania in India.

The Diplomatic Officers (including their spouses) of the Embassy of the Socialist Republic of Romania.

85

89. RUSSIA.

The Embassy of the Russian Federation on the purchases made by the Diplomats for official and personal use.

90. RWANDA.

Embassy of Republic of Rwanda on the purchases made by its diplomatic and administrative/ technical personnel for official as well as personal use.

91. SAHRAWI ARAB DEMOCRATIC REPUBLIC.

The Embassy of Sahrawi Arab Democratic Republic.

The Diplomatic Officers of the Embassy of Sahrawi Arab Democratic Republic.

92. SAUDIARABIA.

H.E. the Ambassador of Saudi Arabia in India.

The Embassy of Saudi Arabia in India.

The Diplomatic Officers (including their spouses) of the Embassy of Saudi Arabia in India.

93. SENEGAL.

The Embassy of Republic of the Senegal in India (for sales intended for the official use of the Embassy).

The Diplomatic Officers (including their spouses) the Embassy of the Republic of Senegal in India (for sales intended for personal use).

94. SINGAPORE.

The High Commission for Singapore.

Their Diplomatic Officers.

95. SLOVAK REPUBLIC.

Embassy of Slovak Republic on the purchase made by its diplomats for official as well as for personal use of their officials.

96. SOMALIA.

The Embassy of Somalia in India (for sales intended for official use).

The Diplomatic Officers (including their spouses) of the Embassy of the Somali in India (for sales intended for their personal use).

97. SOUTH AFRICA.

Embassy of South Africa on the purchase made by its diplomats for official as well as for personal use.

98. SOUTH WEST AFRICAN PEOPLES ORGANISATION (SWAPO).

Embassy of South West African Peoples Organisation (SWAPO) - on all its official purchases and the purchases made by its officials for their personal use.

99. SPAIN.

H.E. the Ambassador of Spain in India.

The Embassy of Spain in India.

The Diplomatic Officers of the Embassy of Spain in India.

100. SRI LANKA.

The High Commission for the Democratic Socialist Republic of Sri Lanka for purchase made for its official use as well by diplomats.

THE GAZETTE OF INDIA EXTRAORDINARY [PART II—
SUDAN.
The Embassy of Democratic Republic of Sudan in India.
The Diplomatic Officers (including their spouses) of the Embassy of the Democratic Republic of Sudan in India.
(Exemption extended to purchases from places other than bonded stocks).
SURINAME.
The Embassy of Republic of Suriname on the purchases made for official use as well as personal use of the diplomats.
SWEDEN.
The Royal Swedish Embassy in India (for its official purchases).
The Diplomatic Officers of the Royal Swedish Embassy in India (for their personal use).
SWITZERLAND.
Embassy of Switzerland on the purchase made by its diplomats for official as well as for personal use of their officials.
SYRIA.
The Embassy of the Syrian Arab Republic & their Diplomatic Officers.
THAILAND.
The Royal Thai Embassy in India.
The Diplomatic Officers (including their spouses) of the Royal Thai Embassy in India.
TRINIDAD.
The High Commission for Trinidad and Tobago in India.
The members of the Diplomatic Staff of the said High Commission.
(Exemption restricted to (i) sale intended for the official use of the Commission and (ii) sale intended for personal use).
TUNISIA.
The Embassy of Tunisia on the purchases made by its Diplomats for official a well as personal use.

109. TURKEY.

> Embassy of Turkey on the purchase made by its diplomats for official as well as for personal use.

110. UAE.

The Embassy of the United Arab Emirates, for its official use.

The Diplomatic Officers of the Embassy of the United Arab Emirates, and their spouses for sales intended for their personal use.

111. UGANDA.

The High Commission for the Republic of Uganda in India.

The Diplomatic officers (including their spouses) of the High Commission for the Republic of Uganda in India.

86

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112. UKRAINE.

SEC. 1]

Embassy of Ukraine in on the purchase made by its diplomats for official as well as for personal use.

- 113. UNITED NATIONS DEVELOPMENT PROGRAMME
- 114. The Regional Office for India, Nepal, Ceylon, Iran, Afghanistan and Pakistan of THE UNITED NATIONS ECONOMIC COMMISSION FOR ASIA and Far East (Division of Social Affairs).
- 115. UNITED NATIONS EDUCATION SCIENTIFIC AND CULTURAL ORGANISATION
- 116. UNITED NATIONS EDUCATIONAL SCIENTIFIC AND CULTURAL ORGANISATION RESEARCH CENTRE ON SOCIAL AND ECONOMIC DEVELOPMENT IN SOUTHERN ASIA.
- 117. UNITED NATIONS FOOD AND AGRICULTURAL ORGANISATION.
- 118. UNITED NATIONS HIGH COMMISSION FOR REFUGEES.

(Exemption for official use only).

- 119. UNITED NATIONS INFORMATION CENTRE.
- 120. UNITED NATIONS INTERNATIONAL CHILDREN'S EMERGENCY FUND.
- 121. UNITED NATIONS MILITARY OBSERVERS GROUP IN INDIA AND PAKISTAN.
- 122. UNITED NATIONS OFFICE FOR POPULATION STUDIES.
- 123. The Regional Office of the UNITED NATIONS WORLD HEALTH ORGANISATION for South East Asia, (for sales intended for official use).

(B) The Regional Director (including his spouses) of the United Nations World Health Organisation for South East Asia, (for sales intended for personal use).

124. UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT MISSION.

United States Agency for International Development Mission and Employees other than the locally recruited staff of the United States Agency for International Development Mission.

125. URUGUAY.

H.E. the Ambassador of the Oriental Republic of Uruguay in India.

The Embassy of the Oriental Republic of Uruguay in India.

The Diplomatic Officers (including their spouses) of the Oriental Republic of Uruguay in India.

126. USA.

The Embassy of the U.S.A. in India.

H.E. the Ambassador of the U.S.A. in India.

The Diplomatic Officers (including their spouses and dependents) of the Embassy of U.S.A. in India.

127. RUSSIAN FEDERATION.

H.E. The Ambassador of the Russian Federation in India.

The Embassy of the Russian Federation in India.

The Diplomatic Officers of the Embassy of Russian Federation in India.

PART II-

128. UZBEKISTAN.

The Embassy of Republic of Uzbekistan in on the purchase made by its diplomats for official as well as for personal use.

129. VIETNAM (DEMOCRATIC REPUBLIC).

H.E. the Ambassador of the Democratic Republic of Vietnam in India.

The Embassy of the Democratic Republic of Vietnam in India.

The Diplomatic Officers (including their spouses) of the Embassy of the Democratic Republic of Vietnam in India.

130. VIETNAM (REPUBLIC).

The Counsel General of the Republic of Vietnam in India.

The Consulate General of the Republic of Vietnam in India.

The Consular Officer of the Consulate General of the Republic of Vietnam in India.

131. VENEZUELA.

The Embassy of Venezuela in India.

The Diplomatic Officers (including their spouses) of the Embassy of Venezuela in India.

132. YEMEN.

The Embassy of the peoples Democratic Republic of Yemen in India.

The Diplomatic Officers (including their spouses) of the Embassy of Peoples Democratic Republic of Yemen in India.

133. YUGOSLAVIA

The Embassy of the Socialist Federal Republic of Yugoslavia in India.

The Diplomatic Officers (including their spouses) of the Embassy of Federal Republic of Yugoslavia in India.

134. ZAIRE.

H.E. the Ambassador of the Republic of Zaire in India.

The Embassy of the Republic of Zaire in India.

The Diplomatic Officers (including their spouses) of the Embassy of the Republic of Zaire in India. (exemption restricted to goods from bonded stores only).

135. ZAMBIA.

The High Commission of Zambia in India (for sales intended for official use).

The Diplomatic Officers (including their spouses) of the Zambian High Commission in India (for sales intended for personal use).

(exemption is restricted to goods manufactured or produced in India and not imported from out of India).

136. ZIMBABVE.

The Zimbabve High Commission for its official purchases only upon certification of the Head of Mission Charged Affairs.

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THE GAZETTE OF INDIA EXTRAORDINARY

THE SIXTH SCHEDULE

[See clause (b) of sub-section (2) of section 9]

List of non-creditable goods

Description of non-creditable goods

Serial Number.

- Subject to clauses 2 and 3 of this Schedule, the following goods shall be "non-1.
 - creditable goods" for the purposes of this Regulation: (i) Motor vehicles designed for transporting fewer than eight passengers, motor cycles, motor scooters and other motorised two-wheeled vehicles;
 - (ii) Fuels in the form of petrol, diesel and kerosene, LPG, CNG, coal;
 - (*iii*) Conventional clothing and footwear, clothing fabrics;

 - (iv) Food for human consumption;

 - (vi) Goods designed, and used predominantly for, the provision of (v) Beverages for human consumption;
 - entertainment including television receivers, video cassette players, radios, stereo systems, audio cassette player, CD players, DVD players, computer game consoles and computer games, cameras of any kind; (vii) Air conditioners other than those used for manufacturing purposes;

- Tobacco in any form and tobacco products.
- Any item in clause 1 [other than Item (ii)] shall not be treated as non-creditable goods if the item is purchased by a registered dealer for the purpose of re-sale in an unmodified form or use as raw material for processing or manufacturing of goods for sale by him in Dadra and Nagar Haveli in the ordinary course of his 2.
 - Fuel [Item (ii) of clause 1] shall not be treated as non-creditable goods if the purchaser is licensed as a dealer in fuel products and purchases the fuel in
 - 3. commercial quantities for resale.

MGIPMRND---5519GI---07-04-2005

A.P.J. ABDUL KALAM President.

T.K. VISWANATHAN, Secy. to the Govt. of India

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EXTRAORDINARY भाग II — खण्ड 1 PART II — Section 1 प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 26th August, 2005/Bhadra 4, 1927 (Saka)

THE ANDAMAN AND NICOBAR ISLANDS (PROTECTION OF _____ABORIGINAL TRIBES) AMENDMENT REGULATION, 2005

No. 3 of 2005

Promulgated by the President in the Fifty-sixth Year of the Republic of India as follows:----

A Regulation to amend the Andaman and Nicobar Islands (Protection of Aboriginal Tribes) Regulation, 1956.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him.

1. (1) This Regulation may be called the Andaman and Nicobar Islands (Protection of Aboriginal Tribes) Amendment Regulation, 2005.

Short title and commencement.

THE GAZETTE OF INDIA EXTRAORDINARY PART II---SEC. 1]

8 ٦

Reg. 3 of 1956

(2) It shall come into force on such date as the Lieutenant Governor may, by notification in the Official Gazette, appoint.

Amendment of section 2.

Substitution

"administrator" for the words "Chief Commissioner"

of word

2

2. In the Andaman and Nicobar Islands (Protection of Aboriginal Tribes) Regulation, 1956 (hereinafter referred to as the principal Regulation), in section 2, for clause (b), the following clause shall be substituted, namely:----

(b) "Administrator" means the Administrator of the Union territory of the Andaman and Nicobar Islands appointed by the President under article 239 of the Constitution:'.

3. In the principal Regulation, for the words "Chief Commissioner," wherever they occur, the word "Administrator" shall be substituted.

Substitution of new section for section 8.

Penalties.

4. For section 8 of the principal Regulation, the following section shall be substituted, namely:----

"8. (1) Whoever, in contravention of the provisions of section 6, acquires any interest in, or in any product of or crop raised on any land, or carries on any trade or business, in a reserved area, shall be punishable with imprisonment which may extend to two years and with fine which may extend to ten thousand rupees, and the interest so acquired shall be disposed of in such manner as the Administrator may, after taking into consideration the circumstances of the case, direct.

(2) Whoever, in contravention of a notification issued under section 7, enters a reserved area shall be punishable with imprisonment which may extend to two years and with fine which may extend to ten thousand rupees.

restrictions, subject to which a pass has been granted to him under section 7, shall be punishable with imprisonment which may extend to two years and with fine which may extend to ten thousand rupees.".

A.P.J.	ABDUL KALAM,
	President.

T.K. VISWANATHAN, Secy. to the Govt. of India.

(3) Whoever does anything in contravention of any of the conditions or

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EXTRAORDINARY भाग II — खण्ड 1 PART II — Section 1 प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, 21st September, 2005/Bhadra 30, 1927 (Saka)

THE DAMAN AND DIU VALUE ADDED TAX (AMENDMENT) REGULATION, 2005

No. 4 of 2005

Promulgated by the President in the Fifty-sixth Year of the Republic of India.

A Regulation to amend the Daman and Diu Value Added Tax Regulation, 2005.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:---

1. (1) This Regulation may be called the Daman and Diu Value Added Tax (Amendment) Regulation, 2005.

(2) It shall come into force at once.

Short title and commencement.

2. After section 14 of the Daman and Diu Value Added Tax Regulation, 2005 (hereinafter referred to as the principal Regulation), the following section shall be inserted, namely:—

"14A. Notwithstanding anything contained in this Regulation, the Government may, by notification and subject to such conditions, if any, as may be specified therein, specify the point of sale in the series of sale by the first or the successive dealers as the point at which any goods or class of goods may be taxed, and on the issue of such notification, the sales at points of sales in relation to any such goods or class of goods other than the point of sale so notified, shall be exempted from payment of tax under this Regulation."

Insertion of new section 14A.

Power of Government to specify points at which goods may be taxed.

Reg. 1 of 2005 Amendment. of section 102. 3. In section 102 of the principal Regulation, after sub-section (2), the following subsections shall be inserted, namely:----

"(3) In making any rule under this section, the Government may direct that a breach thereof shall be punishable with fine which may extend to five thousand rupees and when the offence is a continuing offence with a daily fine which may extend to two hundred rupees for every day during which the offence continues.

(4) Every rule made under this Regulation shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Hosues agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.".

Amendment of section 103. 4. In section 103 of the principal Regulation, in sub-section (2), for the words, brackets and figure "made under sub-section (2) shall be laid, as soon as may be after it is made,", the words, brackets and figure "issued under sub-section (1) shall be laid, as soon as may be after it is issued," shall be substituted.

A.P.J. ABDUL KALAM, President.

T. K. VISWANATHAN, Secy. to the Govt. of India.

CORRIGENDUM

In the Daman and Diu Value Added Tax Regulation, 2005 (Reg. 1 of 2005) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 31st March, 2005 (Issue No. 16), at page 11, in line 34, *for* "an", *read* "and".

PRINTED BY THE MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI, 2005.

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असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II - Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

स्ट 56] नई दिल्ली, बुधवार, सितम्बर 21, 2005 / भाद्र 30, 1927 No. 56] NEW DELHI, WEDNESDAY, SEPTEMBER 21, 2005 / BHADRA 30, 1927

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 21st September, 2005/Bhadra 30, 1927 (Saka)

THE DADRA AND NAGAR HAVELI VALUE ADDED TAX (AMENDMENT) REGULATION, 2005

No. 5 of 2005

Promulgated by the President in the Fifty-sixth Year of the Republic of India.

A Regulation to amend the Dadra and Nagar Haveli Value Added Tax Regulation, 2005.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:---

1. (1) This Regulation may be called the Dadra and Nagar Haveli Value Added Tax (Amendment) Regulation, 2005.

Short title and commencement.

(2) It shall come into force at once.

Reg. 2 of 2005.

2. After section 14 of the Dadra and Nagar Haveli Value Added Tax Regulation, 2005 (hereinafter referred to as the principal Regulation), the following section shall be inserted, namely:—

"14A. Notwithstanding anything contained in this Regulation, the Government may, by notification and subject to such conditions, if any, as may be specified therein, specify the point of sale in the series of sale by the first or the successive dealers as the point at which any goods or class of goods may be taxed, and on the issue of such notification, the sales at points of sales in relation to any such goods or class of goods

Insertion of new section

14A.

Power of Government to specify points at which goods may be taxed.

[PART II—SEC. 1]

other than the point of sale so notified, shall be exempted from payment of tax under this Regulation.".

Amendment of section 102. 3. In section 102 of the principal Regulation, after sub-section (2), the following subsections shall be inserted, namely:---

"(3) In making any rule under this section, the Government may direct that a breach thereof shall be punishable with fine which may extend to five thousand rupees and when the offence is a continuing offence with a daily fine which may extend to two hundred rupees for every day during which the offence continues.

(4) Every rule made under this Regulation shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agreed that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.".

Amendment of section 103. 4. In section 103 of the principal Regulation, in sub-section (2), for the words, brackets and figure "made under sub-section (2) shall be laid, as soon as may be after it is made,", the words, brackets and figure "issued under sub-section (1) shall be laid, as soon as may be after it is issued," shall be substituted.

A.P.J. ABDUL KALAM, President.

T.K. VISWANATHAN, Secy. to the Govt. of India.

CORRIGENDA

In the Dadra and Nagar Haveli Value Added Tax Regulation, 2005 (Reg. 2 of 2005) as published in the Gazette of India, Extraordinary, Part II, Section 1, dated the 31st March, 2005 (Issue No. 17),—

1. At page 36, in lines 18 and 19, omit "Power to enter premises and seize records and goods.".

- 2. At page 56, omit lines 12 and 13.
- 3. At page 77 in line 22, for "CONSULTATIVE", read "CONSULTIVE".

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REGISTERED NO. DL---(N)04/0007/2006---08



असाधारण

EXTRAORDINARY भाग II — खण्ड 1

PART II --- Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

 सं॰ 15]
 नई दिल्ली, सोमवार, मार्च 19, 2007 / फाल्गुन 28, 1928

 No. 15]
 NEW DELHI, MONDAY, MARCH 19, 2007 / PHALGUNA 28, 1928

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 19th March, 2007/Phalguna 28, 1928 (Saka)

THE ANDAMAN AND NICOBAR ISLANDS MOTOR VEHICLES TAX (AMENDMENT) REGULATION, 2007

No. 1 of 2007

Promulgated by the President in the Fifty-eighth Year of the Republic of India.

A Regulation further to amend the Andaman and Nicobar Islands Motor Vehicles Tax Regulation, 1940.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:---

1. (1) This Regulation may be called the Andaman and Nicobar Islands Motor Vehicles Tax (Amendment) Regulation, 2007.

(2) It shall come into force on such date as the Lieutenant Governor may, by notification in the Official Gazette, appoint.

Regulation VIII of 1940. 2. In the Andaman and Nicobar Islands Motor Vehicles Tax Regulation, 1940 (hereinafter referred to as the principal Regulation), for the words "Chief Commissioner", wherever they occur, the words "Lieutenant Governor" shall respectively be substituted.

Substitution of words "Lieutenant Governor" for "Chief Commissioner"

Short title and commence-

ment.

. .

PART II---

Amendment of section 2.

Imposition

of tax.

3. In section 2 of the principal Regulation, for sub-section (1), the following subsection shall be substituted, namely:---

(1) "certificate of registration" and "motor vehicles" shall have the meanings respectively assigned to them in the Motor Vehicles Act, 1988.'.

59 of 1988.

Substitution of new section 4. For section 4 of the principal Regulation, the following section shall be substituted, namely:—

"4. (1) On and from the date from which the Andaman and Nicobar Islands Motor Vehicles Tax (Amendment) Regulation, 2007 comes into force,—

(a) a tax shall be imposed on all non-transport motor vehicles kept for use, at such rate as may be notified by the Lieutenant Governor, not exceeding the rate fixed by—

(i) Schedule 'A' for such vehicles as shall be registered after the date of commencement of this Regulation; and

(ii) Schedule 'B' for such vehicles as are registered before such date;

(b) a tax shall be imposed on all transport motor vehicles kept for use, at such rate as may be notified by the Lieutenant Governor, not exceeding the rate fixed by Schedule 'C' to this Regulation; and

(c) a cess called green tax shall be levied and collected in addition to the tax levied under clauses (a) and (b), on the motor vehicles suitable for use on road as specified in column (2) of the table below at the rate specified in column (3) thereof for a further period of five years for the purpose of implementation of various measures to control air pollution, namely:—

Sl. No,	Class and age of vehicle	Rates of cess in Rupccs
(1)	(2)	(3)
1.	Non-transport vehicle completed fifteen years from the date of its registration, at the time of renewal of certificate of registration as per sub-section (1) of section 41 of the Motor Vehicles Act, 1988,—	
	(a) Two wheelers	250.00 once.
•	(b) Other than two wheelers	500.00 once.
2.	Transport vehicle completed seven years from the date of its registration, at the time of renewal of fitness certificate as per section 56 of the Motor Vehicles Act, 1988.	200.00 per annum.

(2) (a) A person who keeps a motor vehicle of which the certificate of registration is current shall for the purposes of this Regulation be deemed to keep such vehicle for use.

(b) The tax imposed under clause (a) of sub-section (1) shall be payable for a vehicle once for fifteen years, in advance, by a person who keeps the motor vehicle for use.

TABLE

(c) The tax imposed under clause (b) of sub-section (1) shall be payable for a year in advance by a person who keeps a motor vehicle for use.

(3) If a taxing officer is satisfied that a non-transport vehicle has not been used for any complete calendar month in a year, he shall refund or remit in respect of the said vehicle one-twelfth of the tax payable for the year for every complete calendar month for which the said vehicle has not been used.

(4) If any person fails to deliver a declaration or additional declaration in accordance with the provision of section 5, the Taxing Officer may, after making such inquiry as he thinks fit, and after giving an opportunity to such person to be heard if he so desires, require him to pay any tax or additional tax which the Taxing Officer may find such person liable to pay under the provisions of this Regulation and may also impose on him a penalty which may extend to half the amount of the tax to which he is found liable.".

5. In section 9 of the principal Regulation, in sub-section (2), clause (b) shall be omitted.

Amendment of section 9.

6. In the principal Regulation, for the Schedule, the following Schedules shall be substituted, namely:—

Substitution of Schedules for existing Schedule.

"SCHEDULE 'A'

[See section 4(1)(a)(i)]

S. No.	Class of vehicles	Rates of tax
(1)	(2)	(3)
		· · ·

1. Motor vehicles costing up to
Rupees 4.00 lakhs each.One per cent. of the cost price.

Motor vehicles costing more than Two per cent. of the cost price. Rupees 4.00 lakhs each.

SCHEDULE 'B'

[See section 4(1)(a)(ii)]

S. No.	Class of vehicles	Rates of tax
(1)	(2)	(3)
1.	Motor vehicles costing up to Rupees 4.00 lakhs each.	One per cent. of the cost price minus tax already paid, subject to a minimum of Rupees 100.00.
2.	Motor vehicles costing more than Rupees 4.00 lakhs each.	Two per cent. of the cost price minus tax already paid.

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SCHEDULE 'C'

[See section 4(1)(b)]

SCHEDULE OF ANNUAL ROAD TAX FOR TRANSPORT VEHICLES

(A) For Passenger Vehicles:

S. No.	Type of passenger vehicles (by passenger capacity)	Rates of tax in Ruppes
(1)	(2)	(3)
1.	Not more than 2 excluding Driver.	200.00
2.	More than 2 and less than 4 excluding Driver and Conductor.	375.00
3.	More than 4 and less than 6 excluding Driver and Conductor.	800.00
4.	More than 6 and less than 18 excluding Driver and Conductor.	1,250.00
5.	More than 18 and above excluding Driver and Conductor.	1,250.00 <i>plus</i> 180.00 per passenger.

(B) For Goods Vehicles:

Sl. No.	Loading capacity of vehicle	Rates of tax in rupees
(1)	(2)	(3)
1.	Less than 1 Ton	500.00
2.	More than 1 Ton and less than 2 Ton	750.00
3.	More than 2 Ton and less than 4 Ton	1,100.00
4.	More than 4 Ton and less than 6 Ton	1,500.00
5.	More than 6 Ton and less than 8 Ton	1,800.00
6.	More than 8 Ton and less than 9 Ton	2,100.00
. 7.	More than 9 Ton and less than 10 Ton	2,500.00
8.	More than 10 Ton and above	2,800.00 <i>plus</i> 500.00 per ton
9.	Additional of 10 Ton <i>plus</i> less than 2 Ton of trailer	3,200.00 <i>plus</i> 350.00 per ton
10.	Additional of 10 Ton <i>plus</i> more than 2 Ton of trailer	3,200.00 <i>plus</i> 700.00 per ton.".

A.P.J. ABDULKALAM, President

BRAHM AVTAR AGRAWAL, Additional Secretary to the Govt. of India.



असाधारण

EXTRAORDINARY

भाग II — खण्ड 1

PART II - Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

नई दिल्ली, वृहस्पतिवार, दिसम्बर 20, 2007 / अग्रहायण 29, 1929 सं॰ 65] No. 65] NEW DELHI, THURSDAY, DECEMBER 20, 2007 / AGRAHAYANA 29, 1929

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 20th December, 2007/Agrahayana 29, 1929 (Saka)

THE DAMAN AND DIU VALUE ADDED TAX (AMENDMENT) **REGULATION**, 2007

No. 2 of 2007

Promulgated by the President in the Fifty-eighth Year of the Republic of India.

A Regulation further to amend the Daman and Diu Value Added Tax Regulation, 2005.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:----

1. (1) This Regulation may be called the Daman and Diu Value Added Tax (Amendment) Regulation, 2007.

(2) It shall come into force at once.

Reg. 1 of

2005.

2. In the Daman and Diu Value Added Tax Regulation, 2005 (hereinafter referred to as Amendment of the principal Regulation), in section 2,-

(i) after clause (u), the following clause shall be inserted, namely:---

Short title and commencement

section 2.

3. In section 11 of the principal Regulation,-

'(ua) "output tax" means the amount of tax payable by the dealer at the rates specified in section 4 in respect of the taxable turnover arising during the tax period, after making any adjustment to the tax as required by section 8;';

(ii) after clause (v), the following clause shall be inserted, namely:---

'(va) "quarter" means a period of three months commencing on the 1st day of April, the 1st day of July, the 1st day of October or the 1st day of January in each year;'.

Amendment of section 11.

(i) in sub-section (2), for clause (b), the following clause shall be substituted, namely:---

"(b) in case the tax period for the dealer is monthly, carry forward the surplus amount, if any, after making adjustments under clause (a) to the next tax period of the same quarter.";

(ii) for sub-section (3), the following sub-section shall be substituted, namely:---

"(3) Where the net tax of the dealer at the end of the quarter in a financial year is a negative value, the dealer shall be entitled to claim a refund of any excess amount of tax and the Commissioner shall deal with the claim of refund in the manner specified in sections 38 and 39:

Provided that the dealer may opt to adjust the refund under this sub-section as a tax-credit in any succeeding tax period within the same financial year.".

4. After section 36 of the principal Regulation, the following section shall be inserted, namely:---

Insertion of new section 36A.

Tax deducted at source.

'36A. (1) Notwithstanding anything contained in this Regulation, any person not being an individual or a Hindu undivided family, who is responsible for making payment to any dealer (hereinafter in this section referred to as "the contractor") for discharge of any liability on account of valuable consideration payable for the transfer of property in goods (whether as goods or in some other form) in pursuance of a works contract, for value exceeding twenty thousand rupees or such amount as may be notified by the Commissioner from time to time shall, at the time of credit of such sum to the account of the contractor or at the time of payment thereof in cash or by any other mode, whichever is earlier, deduct tax thereon at the rate notified by the Government from time to time.

(2) Any contractor responsible for making any payment or discharge of any liability to any sub-contractor, in pursuance of a works contract with the sub-contractor, for value exceeding twenty thousand rupees or such amount as may be notified by the Commissioner from time to time, for the transfer of property in goods (whether as goods or in some other form) involved in the execution, whether wholly or in part, of the works contract undertaken by the contractor shall, at the time of such payment or discharge, in cash or by cheque or draft or by any other mode, deduct an amount equal to two per cent. of such payment or discharge, purporting to be part of full amount of the tax payable under this Regulation.

(3) Where, on an application being made by the contractor in this behalf, the Commissioner is satisfied that any works contract involves both transfer of property in goods and labour and service, or involves only labour and service and accordingly justifies deduction of tax on a part of the sum in respect of the works contract or, as the case may be, justifies no deduction of tax, he shall, after giving the contractor a reasonable opportunity of being heard, grant him such certificate and for such period, as may be appropriate:

2

Provided that nothing in the said certificate shall affect liability of the contractor to pay tax under this Regulation.

(4) Where any such certificate is granted under sub-section (3), the person responsible for making payment under sub-section (1) shall, until such certificate is cancelled by the Commissioner, deduct tax at the rate specified in such certificate or deduct no tax, as the case may be.

(5) The amount deducted under this section shall be deposited into the Government treasury of Daman and Diu or a branch in Daman and Diu of a bank which may be prescribed, or at such other place or in such other manner as may be prescribed, by the person making such deduction before the expiry of twenty-eight days following the month in which such deduction is made.

(6) The person making such deduction under this section shall, at the time of payment or discharge, furnish to the contractor from whose bills or invoices such deduction is made, a certificate as may be prescribed by the Government in respect of the amount deducted, the rate at which it has been deducted and the details of deposits referred to under sub-section (5).

(7) If any person referred to in sub-section (6) fails to furnish to the contractor the certificate of tax deduction at source within seven days of making payment or discharge, he shall be liable to pay, by way of penalty, a sum of one hundred rupees per day from the day of making payment to the contractor or discharge until the failure is rectified:

Provided that the amount of penalty payable under this sub-section shall not exceed twenty thousand rupees.

(8) Any deduction made and deposited in accordance with the provisions of this section shall be treated as payment of tax on behalf of the person from whose bills or invoices the deduction has been made, and he shall claim the adjustment towards the payment of output tax of the amount so deducted in his return for the tax period in which the certificate of ε deduction was issued to him.

(9) A dealer claiming adjustment in his tax return of the amount deducted under this section shall preserve the certificate issued to him for a period of seven years and shall produce the same to the Commissioner on demand.

(10) If any person responsible for deduction under this section fails to make the deduction or, after deducting fails to deposit the amount so deducted as required in this section, the Commissioner may, by order in writing, direct that such person shall pay, by way of penalty, a sum not exceeding twice the amount deductible under this section besides the tax deductible but not so deducted and, if deducted, not so deposited.

(11) Without prejudice to the provisions of sub-section (10), if any person fails to make deduction or, after deducting, fails to deposit the amount so deducted, he shall be liable to pay simple interest at the annual rate to be notified by the Government on the amount deductible under this section but not so deducted, and if deducted, not so deposited from the date on which such amount was deductible to the date on which such amount is actually deposited.

(12) Where the amount has not been deposited after deduction, such amount together with penalty and interest referred to in sub-sections (10) and (11) shall be a charge upon all the assets of the person concerned and recoverable as arrears of land revenue.

(13) Every person responsible for making deduction of tax under this section shall apply to the Commissioner for a Tax Deduction Account Number within the prescribed time and in the prescribed form and shall also furnish a return in the prescribed form within the prescribed period.

SEC. 1]

(14) Any person who fails to comply with the requirement under sub-section (13) shall be liable to pay, by way of penalty, a sum of two hundred rupees per day from the day on which requirement arose, until the failure is rectified:

Provided that the amount of penalty payable under this sub-section shall not exceed twenty thousand rupees.

Explanation.— Nothing contained in this section shall apply to works contract executed in the course of inter-State trade or commerce or outside the State or in the course of import into or export out of India.'.

Amendment of section 38.

5. In section 38 of the principal Regulation, for sub-section (3), the following subsection shall be substituted, namely:---

"(3) Subject to the provisions of sub-section (4), any amount remaining at the end of the quarter after the application of the excess amount referred to in sub-section (2) shall, at the option of the dealer, either-

(a) be refunded to the person within ninety days after the date on which the claim was made for the refund; or

(b) be carried forward to the next tax period in the same financial year as a tax credit in that period.".

Insertion of new section 46A.

6. After section 46 of the principal Regulation, the following section shall be inserted, namely: ----

Provisional attachment to protect revenue in certain cases.

"46A. (1) Where, during the course of inquiry of any proceeding (including any proceeding for recovery of any amount due in respect of any person or dealer) or during any inspection or search in relation to the business of any person or dealer under this Regulation, the Commissioner is of the opinion that for the purpose of protecting the interest of the revenue it is necessary so to do, he may, notwithstanding anything contained in any law for the time being in force or a contract to the contrary, by order in writing, attach provisionally any property movable or immovable, belonging to such person or dealer, as the case may be.

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of six months from the date of the order made under sub-section (1):

Provided that the Commissioner may, for reasons to be recorded in writing, extend the aforesaid period by such further period or periods as he thinks fit, so, however, that the total period of extension shall not in any case exceed two years:

Provided further that the Commissioner may, by order in writing, revoke such order, if the person or the dealer furnishes to the Commissioner, a Bank Guarantee within such time, for such period as may be specified by the Commissioner in this behalf:

Provided also that the power under this section shall be exercised by the Commissioner himself or by the Additional Commissioner to whom the Commissioner has delegated such power.".

7. After section 58 of the principal Regulation, the following section shall be inserted, Insertion of section namely:---

Special Audit.

new

58A

"58A. (1) If, at any stage of the proceeding under this Regulation, the Commissioner, having regard to the nature and complexity of the business of a dealer and the interest of the revenue, is of the opinion that it is necessary so to do, he may direct the dealer by notice in writing to get the records including books of account, examined and audited by an accountant or a panel of accountants nominated by the Commissioner in this behalf and to furnish a

IPART II

report of such examination and audit in the format that he may specify, duly signed and verified by such accountant or panel of accountants and setting forth such particulars as may be specified.

(2) The provision of sub-section (1) shall have effect notwithstanding that the accounts of the dealer have been audited under any other provision of this Regulation or any other law for the time being in force or otherwise.

(3) Every report under sub-section (1) shall be furnished by the dealer to the Commissioner within such period as may be specified by the Commissioner:

Provided that the Commissioner may, on an application made in this behalf by the dealer, for any good and sufficient reason, extend the said period by such further period or periods, as he thinks fit:

Provided further that the aggregate of the period originally fixed and the period or periods so extended shall not, in any case, exceed one hundred and eighty days from the date on which the direction under sub-section (1) is received by the dealer.

(4) The expenses of, and incidental to, for the examination and audit of records under sub-section (1) (including the remuneration of the accountant or a panel of accountants) shall be paid by the dealer as determined by the Commissioner and that determination shall be final, and default in such payment shall be recoverable from the dealer as tax in the manner provided for the recovery of arrears of tax under this Regulation.".

PRATIBHA DEVISINGH PATIL, President.

K. N. CHATURVEDI, Secy. to the Govt. of India.

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असाधारण

EXTRAORDINARY

थाग ।। --- खण्ड ।

PART II - Section 1

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं॰ 641 नई दिल्ली, वृहस्पतिवार, दिसम्बर 20, 2007 / अग्रहायण 29, 1929 No. 64] NEW DELHI, THURSDAY, DECEMBER 20, 2007 / AGRAHAYANA 29, 1929

इस भाग में भिन्न पुष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE

(Legislative Department)

New Delhi, the 20th December, 2007/Agrahayana 29, 1929 (Saka)

THE DADRA AND NAGAR HAVELI VALUE ADDED TAX (AMENDMENT) REGULATION, 2007

No. 3 of 2007

Promulgated by the President in the Fifty-eighth Year of the Republic of India.

A Regulation further to amend the Dadra and Nagar Haveli Value Added Tax Regulation, 2005.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:-

1. (1) This Regulation may be called the Dadra and Nagar Haveli Value Added Tax Short title and (Amendment) Regulation, 2007.

commencement.

(2) It shall come into force at once.

Amendment of section 2. 2

2. In the Dadra and Nagar Haveli Value Added Tax Regulation, 2005 (hereinafter referred to as the principal Regulation), in section 2,—

(i) after clause (u), the following clause shall be inserted, namely:---

(ua) "output tax" means the amount of tax payable by the dealer at the rates specified in section 4 in respect of the taxable turnover arising during the tax period, after making any adjustment to the tax as required by section 8;';

(ii) after clause (v), the following clause shall be inserted, namely:-

'(va) "quarter" means a period of three months commencing on the 1st day of April, the 1st day of July, the 1st day of October or the 1st day of January in each year;'

3. In section 11 of the principal Regulation,-

(i) in sub-section (2), for clause (b), the following clause shall be substituted, namely:----

"(b) in case the tax period for the dealer is monthly, carry forward the surplus amount, if any, after making adjustments under clause (a) to the next tax period of the same quarter.";

(ii) for sub-section (3), the following sub-section shall be substituted, namely:-

"(3) Where the net tax of the dealer at the end of the quarter in a financial year is a negative value,[‡]the dealer shall be entitled to claim a refund of any excess amount of tax and the Commissioner shall deal with the claim of refund in the manner specified in sections 38 and 39:

Provided that the dealer may opt to adjust the refund under this subsection as a tax-credit in any succeeding tax period within the same financial year.".

4. After section 36 of the principal Regulation, the following section shall be inserted, namely:---

'36A. (1) Notwithstanding anything contained in this Regulation, any person not being an individual or a Hindu undivided family, who is responsible for making payment to any dealer (hereinafter in this section referred to as "the contractor") for discharge of any liability on account of valuable consideration payable for the transfer of property in goods (whether as goods or in some other form) in pursuance of a works contract, for value exceeding twenty thousand rupees or such amount as may be notified by the Commissioner from time to time shall, at the time of credit of such sum to the account of the contractor or at the time of payment thereof in cash or by any other mode, whichever is earlier, deduct tax thereon at the rate notified by the Government from time to time.

(2) Any contractor responsible for making any payment or discharge of any liability to any sub-contractor, in pursuance of a works contract with the sub-contractor, for value exceeding twenty thousand rupees or such amount as may be notified by the Commissioner from time to time, for the transfer of property in goods (whether as goods or in some other form) involved in the execution, whether wholly or in part, of the works contract undertaken by the contractor shall, at the time of such payment or discharge, in cash or by cheque or draft or by any other mode, deduct an amount equal to two per cent: of such payment or discharge, purporting to be part of full amount of the tax payable under this Regulation.

(3) Where, on an application being made by the contractor in this behalf, the Commissioner is satisfied that any works contract involves both transfer of property in goods and labour and service, or involves only labour and service and accordingly

Insertion of new section 36A. Tax deducted at source. . . .

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Amendment of section 11

justifies deduction of tax on a part of the sum in respect of the works contract or, as the case may be, justifies no deduction of tax, he shall, after giving the contractor a reasonable opportunity of being heard, grant him such certificate and for such period, as may be appropriate:

Provided that nothing in the said certificate shall affect liability of the contractor to pay tax under this Regulation.

(4) Where any such certificate is granted under sub-section (3), the person responsible for making payment under sub-section (1) shall, until such certificate is cancelled by the Commissioner, deduct tax at the rate specified in such certificate or deduct no tax, as the case may be.

(5) The amount deducted under this section shall be deposited into the Government treasury of Dadra and Nagar Haveli or a branch in Dadra and Nagar Haveli of a bank which may be prescribed, or at such other place or in such other manner as may be prescribed, by the person making such deduction before the expiry of twenty-eight days following the month in which such deduction is made.

(6) The person making such deduction under this section shall, at the time of payment or discharge, furnish to the contractor from whose bills or invoices such deduction is made, a certificate as may be prescribed by the Government in respect of the amount deducted, the rate at which it has been deducted and the details of deposits referred to under sub-section (5).

(7) If any person referred to in sub-section (6) fails to furnish to the contractor the certificate of tax deduction at source within seven days of making payment or discharge, he shall be liable to pay, by way of penalty, a sum of one hundred rupees per day from the day of making payment to the contractor or discharge until the failure is rectified:

Provided that the amount of penalty payable under this sub-section shall not exceed twenty thousand rupees.

(8) Any deduction made and deposited in accordance with the provisions of this section shall be treated as payment of tax on behalf of the person from whose bills or invoices the deduction has been made, and he shall claim the adjustment towards the payment of output tax of the amount so deducted in his return for the tax period in which the certificate of such deduction was issued to him.

(9) A dealer claiming adjustment in his tax return of the amount deducted under this section shall preserve the certificate issued to him for a period of seven years and shall produce the same to the Commissioner on demand.

(10) If any person responsible for deduction under this section fails to make the deduction or, after deducting fails to deposit the amount so deducted as required in this section, the Commissioner may, by order in writing, direct that such person shall pay, by way of penalty, a sum not exceeding twice the amount deductible under this section besides the tax deductible but not so deducted and, if deducted, not so deposited.

(11) Without prejudice to the provisions of sub-section (10), if any person fails to make deduction or, after deducting, fails to deposit the amount so deducted, he shall be liable to pay simple interest at the annual rate to be notified by the Government on the amount deductible under this section but not so deducted, and if deducted, not so deposited from the date on which such amount was deductible to the date on which such amount is actually deposited.

(12)Where the amount has not been deposited after deduction, such amount together with penalty and interest referred to in sub-sections (10) and (11) shall be a charge upon all the essent of the person concerned and recoverable as arrears of land

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(13) Every person responsible for making deduction of tax under this section shall apply to the Commissioner for a Tax Deduction Account Number within the prescribed time and in the prescribed form and shall also furnish a return in the prescribed form within the prescribed period.

(14) Any person who fails to comply with the requirement under sub-section (13) shall be liable to pay, by way of penalty, a sum of two hundred rupees per day from the day on which requirement arose, until the failure is rectified:

Provided that the amount of penalty payable under this sub-section shall not exceed twenty thousand rupees.

Explanation.-Nothing contained in this section shall apply to works contract executed in the course of inter-State trade or commerce or outside the State or in the course of import into or export out of India.'.

5. In section 38 of the principal Regulation, for sub-section (3), the following subsection shall be substituted, namely:—

"(3) Subject to the provisions of sub-section (4), any amount remaining at the end of the quarter after the application of the excess amount referred to in sub-section (2) shall, at the option of the dealer, either—

(a) be refunded to the person within ninety days after the date on which the claim was made for the refund; or

(b) be carried forward to the next tax period in the same financial year as a tax credit in that period.".

6. After section 46 of the principal Regulation, the following section shall be inserted, namely:-

"46A. (1) Where, during the course of inquiry of any proceeding (including any proceeding for recovery of any amount due in respect of any person or dealer) or during any inspection or search in relation to the business of any person or dealer under this Regulation, the Commissioner is of the opinion that for the purpose of protecting the interest of the revenue it is necessary so to do, he may, notwithstanding anything contained in any law for the time being in force or a contract to the contrary, by order in writing, attach provisionally any property movable or immovable, belonging it such person or dealer, as the case may be.

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of six months from the date of the order made under sub-section (1):

Provided that the Commissioner may, for reasons to be recorded in writing, extend the aforeasid period by such further period or periods as he thinks fit, so, however, that the total period of extension shall not in any case exceed two years:

Provided further that the Commissioner may, by order in writing, revoke such order, if the person or the dealer furnishes to the Commissioner, a Bank Guarantee within such time, for such period as may be specified by the Commissioner in this behalf:

Provided also that the power under this section shall be exercised by the Commissioner himself or by the Additional Commissioner to whom the Commissioner has delegated such power,".

Insertion of 7. After section namely:-\$84.

7. After section 58 of the principal Regulation, the following section shall be inserted,

of section 38.

Insertion of

new section

Provisional attachment to

protect

revenue in

certain cases.

46A.

Special Audit.

"58A. (1) If, at any stage of the proceeding under this Regulation, the Commissioner, having regard to the nature and complexity of the business of a dealer and the

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interest of the revenue, is of the opinion that it is necessary so to do, he may direct the dealer by notice in writing to get the records including books of account, examined and audited by an accountant or a panel of accountants nominated by the Commissioner in this behalf and to furnish a report of such examination and audit in the format that he may specify, duly signed and verfied by such accountant or panel of accountants and setting forth such particulars as may be specified.

(2) The provision of sub-section (1) shall have effect notwithstanding that the accounts of the dealer have been audited under any other provision of this Regulation or any other law for the time being in force or otherwise.

(3) Every report under sub-section (1) shall be furnished by the dealer to the Commissioner within such period as may be specified by the Commissioner:

Provided that the Commissioner may, on an application made in this behalf by the dealer, for any good and sufficient reason, extend the said period by such further period or periods, as he thinks fit:

Provided further that the aggregate of the period originally fixed and the period or periods so extended shall not, in any case, exceed one hundred and eighty days from the date on which the direction under sub-section (1) is received by the dealer.

(4) The expenses of, and incidental to, for the examination and audit of records under sub-section (1) (including the remuneration of the accountant or a panel of accountants) shall be paid by the dealer as determined by the Commissioner and that determination shall be final, and default in such payment shall be recoverable from the dealer as tax in the manner provided for the recovery of arrears of tax under this Regulation.".

PRATIBHA DEVISINGH PATIL, President.

K. N. CHATURVEDI, Secy. to the Govt. of India.

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