

CHAPTER XIV

Miscellaneous

95 ¹[Dealer to declare the name of manager of business and permanent account number]

(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 Act, 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 Act.

(2) The declaration furnished under sub-section (1) of this section may be revised from time to time as required.

²(3) Every dealer liable to pay tax under this Act who is liable to obtain a Permanent Account Number (PAN) under the Income Tax Act, 1961 (43 of 1961), shall communicate to the Commissioner, in the prescribed time and manner, the said number if he has obtained the same and, in any other case, shall state whether he has applied for the same and provide the details of the application.

(4) Any person who fails to furnish a declaration or, as the case may be, a revised declaration as provided in sub-section (1) and sub-section (2) of this section or fails to communicate the permanent account number obtained under the Income Tax Act, 1961 (43 of 1961) or as the case may be, fails to state, whether he has applied for the same and fails to provide the details of the application, as provided in sub-section (3) of this section, shall be liable to pay by way of penalty, a sum of ten thousand rupees.]

96 Service of notice when family is disrupted or firm is dissolved

(1) Where a Hindu undivided family has been partitioned, notices under this Act 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 Act 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 Service of notice in the case of discontinued business

Where an assessment is to be made in respect of business which has been discontinued, a notice under this Act 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 Returns, etc. to be confidential

(1) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Act, or in any record of evidence given in the course

¹ Substituted vide DVAT (Second Amendment) Act, 2005; No.F.14(29)/LA/2005/333 dated 16.11.2005 w.e.f. 16.11.2005.

² Inserted vide DVAT (Second Amendment) Act, 2005; No.F.14(29)/LA/2005/333 dated 16.11.2005 w.e.f. 16.11.2005.

of any proceedings under this Act, other than proceedings before a criminal court, shall, save as provided in sub-section (3) of this section, be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 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) of this section, any servant of the Government discloses any of the particulars referred to in sub-section (1) of this section, he shall be punishable with imprisonment which may extend to six months, and shall also be liable to a fine.

(3) Nothing in this section shall apply to the disclosure –

(a) of any of the particulars referred to in sub-section (1) of this section for the purposes of investigation or prosecution under this Act or the Indian Penal Code 1860 (45 of 1860) or any other enactment 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 Act 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 Act 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 (2 of 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 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, 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 Publication and disclosure of information in respect of dealers and other persons in public interest

(1) Notwithstanding anything contained in this Act, 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 Act 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 Act, until the time for presenting an appeal to the appropriate appellate body has expired without an appeal having been presented or the appeal, if presented has been disposed of.

Explanation.- 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.

100 Power to collect statistics

(1) If the Commissioner considers that for the purposes of the better administration of this Act it is necessary so to do, he may by notification in the Official Gazette, direct that statistics be collected relating to any matter dealt with, by or in connection with this Act.

(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 the call for information may be made by notification in the official Gazette, by notice in newspapers or in such other manner as, in the opinion of the Commissioner or the said person, is best calculated to bring to the attention 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.

³[100A Automation

(1) The Government may, by notification in the official Gazette, provide that the provisions contained in the Information Technology Act, 2000 (21 of 2000), as amended from time to time, and the rules made and directions given under that Act, including the provisions relating to digital signatures, electronic governance, attribution, acknowledgement and dispatch of electronic records, secure electronic records and secure digital signatures and digital signature certificates as are specified in the said notification, shall, insofar as they may, as far as feasible, apply to the procedures under this Act.

(2) Where a notice or communication is prepared on any automated data processing system and is properly served on any dealer or person, then, the said notice or communication shall not be required to be personally signed by the Commissioner or any other officer subordinate to him, and the said notice or communication shall not be deemed to be invalid only on the ground that it is not personally signed by the Commissioner.]

101 Setting up of check-posts and barriers

The Government may, by notification in the official Gazette, set up check-posts or barriers,

³ Inserted vide DVAT (Second Amendment) Act, 2005; No.F.14(29)/LA/2005/333 dated 16.11.2005 w.e.f. 16.11.2005.

or both, at any place in Delhi with a view to preventing evasion of tax and other dues payable under this Act.

102 Power to make rules

(1) The Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for :

- (a) documents, testimony or other evidence constituting adequate proof under the Act,
- (b) services which may constitute business under clause (i) of sub-clause (d) of sub-section (1) of section 2 of this Act,
- (c) activities referred to under clause (ii) of sub-clause (j) of sub-section (1) of section 2 of this Act,
- (d) tax period referred to under sub-clause (zi) of sub-section (1) of section 2 of this Act,
- (e) time within which the return may be furnished,
- (f) the further period referred to under sub-section (6) of section 3 of this Act,
- (g) the conditions and method subject to which the amount to be included in the turnover of a dealer engaged in works contract may be determined under section 5 of this Act,
- (h) conditions subject to which the dealers specified under the Fifth Schedule may be exempt from payment of tax under section 6 of this Act,
- ⁴[(ha) the conditions subject to which a dealer can make adjustments to tax in relation to the sale of goods under section 8 of this Act;]
- (i) the method to be used by a dealer to calculate the amount of tax credit under section 9 or section 10 of this Act,
- (j) the time at which the turnover, turnover of purchase or adjustment of tax or tax credit may arise under sub-section (4) of section 12 of this Act,
- (k) form of statements, manner, conditions and restriction subject to which credit may be claimed for stock brought forward during transition under section 14 of this Act,
- (l) the circumstances and the conditions subject to which, a dealer may be permitted to pay tax by way of composition under section 16 of this Act,
- ⁵[(la) the procedure and forms relating to casual dealers under section 16A of this Act ;]
- (m) the procedure for and other matters incidental to registration of dealers under section 19 of this Act,
- (n) form in which the statement of trading stock is to be furnished under sub-section (2) of section 20 of this Act,
- (o) the amount of tax credit allowed to a dealer under sub-section (3) of section 20 of this Act,
- (p) matters relating to amendment of registration certificate under section 21 of this Act,
- (q) matters relating to cancellation of registration certificate under section 22 of this Act,
- (r) the conditions, amount, manner, time within which and other matters incidental to the security required under section 25 of this Act,

⁴ Inserted vide DVAT (Amendment) Act, 2005; No. F.14(6)/LA-2005/112, dt. 28.03.2005 w.e.f. 01.04.2005.

⁵ Inserted vide DVAT (Amendment) Act, 2005; No. F.14(6)/LA-2005/112, dt. 28.03.2005 w.e.f. 01.04.2005.

(s) the manner in which, the time by when, the information to be included and the form in which the returns under section 26 or section 27 of this Act are to be furnished,

(t) the manner in which any tax, interest, penalty or any other amount due under this Act is to be paid,

(u) the restrictions and conditions subject to which and the manner and the time within which the application for refund may be made under section 41 of this Act,

⁶[(ua) the manner and the form in which the recovery certificate under section 43 of this Act is to be served and the amount mentioned in the said certificate is to be recovered;]

(v) the manner and form in which the accounts and records are to be prepared under sub-section (3) of section 48 of this Act,

(w) the turnover, the form of the audit report, the particulars to be set forth in such report and the time of furnishing such report under section 49 of this Act,

(x) the amount referred to in sub-section (4) of section 50 or the conditions and restrictions referred to in sub-section (8) of section 50 of this Act,

(y) the particulars to be contained in the debit or credit notes under section 51 of this Act,

(z) the conditions subject to which the Commissioner may require any person to produce records, books of account, registers and other documents, answer questions or prepare and furnish additional information under sub-section (2) of section 59 of this Act,

(za) records that 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 of this Act and form, manner and amount of security under sub-section (5) of section 61 of this Act,

(zb) the manner in which an auction of goods or a goods vehicle shall be carried out under section 63 of this Act,

(zc) the restrictions and conditions subject to which the Commissioner may delegate his powers, and the form of evidence of such delegation under section 68 of this Act,

(zd) amount of fine prescribed under sub-section (5) of section 70 of this Act,

⁷[(ze) the form and manner in which an objection under section 74 of this Act or an application for review under section 74B of this Act may be filed and the fee payable in respect thereof,]

(zf) the form and manner in which appeals may be filed under section 76 of this Act, the manner in which such appeals shall be verified and the fees payable in respect thereof,

(zg) amount of fee under section 81 of this Act,

(zh) qualifications to be possessed by a Value Added Tax practitioner under section 82 of this Act,

(zi) manner in which an application may be made and the period within which the determination shall be made under section 84 of this Act,

(zj) conditions subject to which, the Commissioner may authorise any officer or person subordinate to him to conduct investigations under section 92 of this Act,

⁶ Inserted vide DVAT (Second Amendment) Act, 2005; No.F.14(29)/LA/2005/333 dated 16.11.2005 w.e.f. 16.11.2005.

⁷ Substituted vide DVAT (Second Amendment) Act, 2005; No.F.14(29)/LA/2005/333 dated 16.11.2005 w.e.f. 16.11.2005.

(zk) period within which and the manner in which ⁸[the declaration or the communication] under section 95 of this Act is to be furnished,

(zl) the manner in which, and the time within which, applications shall be made (including fees payable in respect thereof), information furnished, securities given and notices served under this Act,

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

⁹[(2A) Without prejudice to any provision made in this behalf, any rule made under this Act may be made so as to be retrospective to any date not earlier than the date of commencement of this Act:

PROVIDED that no rule shall be given effect retrospectively if it would have the effect of prejudicially affecting the interests of a dealer.]

(3) In making any rules under this section, the Government may direct that a breach thereof shall be punishable with fine not exceeding five thousand rupees and, when the offence is a continuing one, with a fine not exceeding two hundred rupees per day during the continuance of such offence.

(4) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly of Delhi, 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, the House agrees in making any modification in the rule or the House agrees that the rule should not be made, the rule shall 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.

103 Power to amend Schedules

If the Government is of opinion that it is expedient in the interest of general public so to do, it may, by notification in the official Gazette, add to, or omit from, or otherwise amend, the First, the Second, the Third, the Fourth, the Fifth, the Sixth, or the Seventh Schedules, ¹⁰[either retrospectively or prospectively], and thereupon the said Schedules shall be deemed to have been amended accordingly.

¹¹[PROVIDED that no such amendment shall be made retrospectively if it would have the effect of prejudicially affecting the interests of a dealer.]

104 Power to remove difficulties

(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by general or special order published in the official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for the removal of the difficulty:

⁸ Substituted for the words "the declaration" vide DVAT (Second Amendment) Act, 2005; No.F.14(29)/LA/2005/333 dated 16.11.2005 w.e.f. 16.11.2005.

⁹ Inserted vide DVAT (Second Amendment) Act, 2005; No.F.14(29)/LA/2005/333 dated 16.11.2005 w.e.f. 16.11.2005.

¹⁰ Substituted for the word "prospectively" vide DVAT (Second Amendment) Act, 2005; No.F.14(29)/LA/2005/333 dated 16.11.2005 w.e.f. 01.04.2005, retrospectively.

¹¹ Inserted vide DVAT (Second Amendment) Act, 2005; No.F.14(29)/LA/2005/333 dated 16.11.2005 w.e.f. 01.04.2005, retrospectively.

PROVIDED that no such order shall be made after the expiration of two years from the commencement of this Act.

(2) Every order made under sub-section (1) of this section shall be laid, as soon as may be after it is made, before the Legislative Assembly of Delhi.

105 Application to sales and purchases

(1) The tax imposed by section 3 of this Act applies to every –

(a) sale, including an instalment sale and hire purchase of goods, made on and after 1st April, 2005;

(b) sale in the form of the transfer of a right to use goods, to the extent that the right to use goods is exercised after 1st April, 2005.

(2) Tax credits arising under section 9 of this Act shall be allowed only for –

(a) a purchase, including a purchase under an instalment sale and hire purchase of goods, made on and after 1st April, 2005; and

(b) a purchase occurring in the form of the acquisition of a right to use goods, to the extent that the right to use goods is exercised after 1st April 2005.

Explanation.- This provision does not prevent the person claiming the special tax credit allowed under section 14 of this Act.

(3) Where an amount is paid or received prior to 1st April, 2005 in respect of a sale or purchase occurring after 1st April, 2005, 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 occurs.

¹²[(4) Where a dealer registered under the repealed Delhi Sales Tax on Works Contract Act, 1999 (Delhi Act 9 of 1999) (hereinafter referred to in this sub-section as “the repealed Act”), is liable to pay tax under this Act, and has at any time prior to the 1st day of April, 2005 entered into any works contract, where the total contract value was inclusive of the tax payable under the repealed Act, and the execution of the said work contract has continued after the 1st day of April, 2005, then the liability of the dealer to pay tax under this Act shall be discharged at the rates applicable under this Act, and the liability so discharged in respect of the said contract shall not exceed the liability which would have accrued under the repealed Act if it had continued to be in force and in the case of a dealer who had opted for composition of tax under the repealed Act, the liability under this Act in respect of a contract where the execution has started before the 1st day of April, 2005 and has continued thereafter shall not exceed the sum which would have been payable by way of composition in respect of the said contract under the repealed Act if it had continued to be in force:

PROVIDED that the provisions of this sub-section shall be valid up to the 31st day of March, 2007:

PROVIDED FURTHER that the provisions of this sub-section shall not apply where the contract value has been changed on account of increased liability under this Act:

PROVIDED ALSO that the provisions of this sub-section shall apply only if there was no provision in the contract for revising the value of the contract on account of the change of tax liability.]

¹² Inserted vide DVAT (Second Amendment) Act, 2005; No.F.14(29)/LA/2005/333 dated 16.11.2005 w.e.f. 01.04.2005, retrospectively.

106 Repeal and savings

(1) The Delhi Sales Tax Act, 1975 (Act 43 of 1975), the Delhi Tax on Entry of Motor Vehicles into Local Areas Act, 1994 (Delhi Act 4 of 1995), the Delhi Sales Tax on Works Contract Act, 1999 (Delhi Act 9 of 1999), and the ¹³[Delhi Sales Tax on Right to Use Goods Act, 2002 (Delhi Act 13 of 2002)] as in force in Delhi (referred to in this section as the “said Acts”), are hereby repealed.

(2) Notwithstanding sub-section (1) of this section, such repeal shall not affect the previous operation of the said Acts or any right, title, entitlement, obligation or liability already acquired, accrued or incurred thereunder.

(3) For the purposes of sub-section (2) of this section, 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 said Acts shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act 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 Act may be recovered as if they had accrued under this Act.

¹³ Substituted vide DVAT (Amendment) Act, 2005; No. F.14(6)/LA-2005/112, dt. 28.03.2005 w.e.f. 01.04.2005.