

CHAPTER IV

Registration and Security

18 Mandatory and voluntary registration

(1) Every dealer is required to apply for registration under this Act if -

- (a) the dealer's turnover in the year preceding the commencement of this Act exceeded the taxable quantum; or
- (b) the dealer's turnover in the current year exceeds the taxable quantum; or
- (c) the dealer is liable to pay tax, or is registered or required to be registered under Central Sales Tax Act, 1956 (74 of 1956):

PROVIDED that a dealer dealing exclusively in goods mentioned in the First Schedule shall not be required to register.

Explanation.- 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.

(2) For the purposes of this Act, "taxable quantum" of a dealer shall be ¹[ten lakh rupees], or such other amount as may be specified by the Government by notification in the official Gazette:

PROVIDED that a dealer who imports for sale any goods into Delhi, the taxable quantum shall be "Nil" or such other amount as may be specified by the Government by notification in the official Gazette.

(3) The taxable quantum of a dealer shall not include turnover from-

- (a) sales of capital assets;
- (b) sales made in the course of winding up the dealer's activities; and
- (c) sales made as part of the permanent diminution of the dealer's activities.

(4) Any person who is not required by sub-section (1) to be registered but who -

- (a) is a dealer; or
- (b) intends from a particular date to undertake activities which would make him a dealer, may apply for registration.

19 Registration

(1) An application for registration shall be made in the prescribed form, within such time, containing such particulars and information and accompanied by such fee, security and other documents as may be prescribed.

Explanation.- The Commissioner may, by order to be published in the official Gazette, specify certain classes of persons who may not be required to furnish a security.

(2) Where -

- (a) an applicant furnishes a security in the prescribed form and for the prescribed amount, and
- (b) all other forms and evidence required by and prescribed under this Act are complete and in order,

the Commissioner shall register the applicant.

(3) Where the Commissioner has not registered the person within fifteen days from the date

¹ Increased from "five lakh rupees" vide No. F.101(316)/2005-Fin(A/Cs)(i)/17, dt. 01.04.2005 w.e.f. 01.04.2005.

on which the application is made, the Commissioner shall, after conducting such inquiries as he deems fit, either—

- (a) register the person forthwith as a registered dealer; or
- (b) issue a notice to the applicant, clearly stating the grounds on which his application is proposed to be rejected and permitting him to show cause in writing, within fifteen further days, why his application should not be rejected:

PROVIDED that where the Commissioner has not registered the person or issued a notice by the required date, the applicant shall be deemed to be registered for the purposes of this Act, and the Commissioner shall issue a certificate of registration to such person.

(4) Where, pursuant to clause (b) of sub-section (3) of this section, the applicant furnishes a reply to the notice, the Commissioner may, either accept the application and register the person, or reject the application for reasons to be recorded in writing.

(5) If the applicant fails to respond to the notice issued under clause (b) of sub-section (3) of this section within the stipulated time, the application for registration shall stand rejected.

(6) Where a registered dealer has furnished a security as a condition of registration, such security shall be required for the continuance in effect of registration, unless otherwise provided by the Commissioner.

Explanation.- The decision of the Commissioner not to register a person may be the subject of an objection under section 74 of this Act.

20 Effect of registration

(1) If at the time at which an unregistered dealer's registration takes effect after the commencement of this Act and —

- (a) the dealer holds trading stock for the purpose of sale, or for use as raw materials for the production of ²[finished goods];
- (b) the dealer has borne 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 holds adequate proof of the amount of input tax in respect of the purchases; the dealer shall be entitled to a tax credit for the trading stock or raw materials held by the dealer on the date that the dealer's registration takes effect;

PROVIDED that the dealer must 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 Act.

Explanation I.- This section applies where goods have borne tax imposed after the commencement of this Act;

Explanation II.- Section 14 deals with goods which have borne sales tax prior to the commencement of this Act.

(2) For the purposes of sub-section (3) of section 9 of this Act, the amount of the tax credit shall be the least of -

- (a) the amount of input tax disclosed in the proof referred to in clause (d) of sub-section (1) of this section;
- (b) the tax fraction of the cost of the goods;
- (c) the tax fraction of the fair market value of the goods at the time of registration; or
- (d) such amount as may be prescribed.

² Substituted for the words "trading stock" vide DVAT (Amendment) Act, 2005; No. F.14(6)/LA-2005/112, dt. 28.03.2005 w.e.f. 01.04.2005.

(3) Where the registered dealer accounts for turnover on the basis of amounts received and amounts paid, he shall exclude from his turnover -

(a) any amount received after he is registered in respect of sales made while he was unregistered; and

(b) any amount paid after he is registered in respect of purchases made while he was unregistered.

21 Amendment of registration

(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 business;

and if any such registered dealer dies, his legal representative shall, in like manner, inform the said authority.

(2) The Commissioner may, after considering any information furnished under this Act or otherwise received and after making such inquiry as he may deem fit, amend from time to time any registration.

(3) An amendment of the registration made under sub-section (2) 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) of this section.

(4) Any amendment of a registration under this section shall be without prejudice to any liability for tax or penalty imposable or for any prosecution for an offence under this Act.

(5) 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;

(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 registration shall be amended.

22 Cancellation of registration

(1) Where -

(a) a registered dealer who is required to furnish security under the provisions of this Act has failed to furnish or maintain such security;

(b) a registered dealer has ceased to carry on any activity which would entitle him to be registered as a dealer under this Act;

(c) an incorporated body is closed down or otherwise ceases to exist;

- (d) the owner of a proprietorship business dies leaving no successor to carry on the business;
- (e) in the case of a firm or association of persons, it is dissolved;
- (f) registered dealer has ceased to be liable to pay tax under this Act;
- (g) a registered dealer knowingly furnishes a return which is misleading or deceptive in a material particular;
- (h) a registered dealer has committed one or more offences or contravened the provisions of this Act and the offence or contravention is, in the opinion of the Commissioner, of such magnitude that it is necessary to do so; 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 providing the dealer an opportunity of being heard, cancel the registration of the dealer with effect from the date 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 Act;
- (b) an incorporated body is closed down or otherwise ceases to exist;
- (c) the owner of a proprietorship business dies leaving no successor to carry on business;
- (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 Act;

the registered dealer or the dealer's legal representative in case of clause (c) above, shall apply for cancellation of his registration to the Commissioner in the manner and within the time prescribed.

Explanation.- For the purpose of this sub-section "legal representative" has the meaning assigned to it in clause (11) of section 2 of the code of Civil Procedure, 1908 (5 of 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 registration.

(4) If a registered dealer ceases to be registered, the Commissioner shall cancel the dealer's registration with effect from a specified date.

(5) If a dealer's registration which has been cancelled under this section is reinstated as a result of an appeal or other proceeding under this Act, the registration of the 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 registration has been restored under sub-section (5) of this Act satisfies the Commissioner that excess tax has been paid by him during the period his registration was inoperative which but for the cancellation of his 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 registration shall surrender with his application the certificate of registration granted to him and every registered dealer whose 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 registration has been cancelled.

(9) The cancellation 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 Act.

23 Effect of de-registration

(1) Every person whose registration is cancelled shall pay in respect of all goods held on the date of cancellation an amount equal to the higher of –

(a) the tax that 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.

(2) Where the dealer has accounted for turnover on the basis of amounts received and amounts paid, he shall include in the turnover of his final return -

(a) any amount not yet received in respect of sales made while he was registered; and

(b) any amount not yet paid in respect of purchases made while he was registered.

24 Registration during transition

³[(1) Every dealer who is registered under the Delhi Sales Tax Act, 1975 (43 of 1975) or the Delhi Sales Tax on Works Contract Act, 1999 (Delhi Act 9 of 1999) or the Delhi Sales Tax on Right to Use Goods Act, 2002 (Delhi Act 13 of 2002), at the time of commencement of this Act shall be deemed to be registered under this Act with effect from the first day of April, 2005.]

(2) The security furnished by a dealer registered under the Delhi Sales Tax Act, 1975 (43 of 1975) or the Delhi Sales Tax on Works Contract Act, 1999 (Delhi Act 9 of 1999) ⁴[or the Delhi Sales Tax on Right to Use Goods Act, 2002 (Delhi Act 13 of 2002)] under the said Acts and valid on the date of the commencement of this Act, shall be deemed to have been furnished under this Act and shall be deemed to be valid under this Act for a period of six months from the commencement of this Act or till the time a fresh security as required under sub-section (3) of this section is furnished, whichever is later.

(3) Within a period of six months of the commencement of this Act, every dealer covered under sub-section (1) of this section shall be required to furnish a fresh security under this Act:

PROVIDED that the Commissioner may, by notification, exempt a class or classes of dealers from the requirement of furnishing a fresh security under this sub-section.

25 Security from certain classes of dealers and other persons

(1) The Commissioner may, if it appears to him to be necessary so to do, for the continuance of the certificate of registration, or for the proper realisation of tax, composition money or other dues payable under this Act or as a condition of registering a person as a dealer or as a condition of making a refund under section 38 of this Act, require a person or prescribed class of persons to furnish security for the proper performance of their responsibilities under this Act or under the Central Sales Tax Act, 1956 (74 of 1956) in the prescribed amount, in the prescribed manner and within such time as may be prescribed.

(2) Notwithstanding sub-section (1) of this section, the Commissioner may increase, vary, 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 Act;

(c) the creditworthiness of the person;

³ Substituted vide DVAT (Amendment) Act, 2005; No. F.14(6)/LA-2005/112, dt. 28.03.2005 w.e.f. 01.04.2005.

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

- (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 Commissioner and shall within three months of such occurrence, execute a fresh surety bond.

(4) Where the surety bond has been executed by another registered dealer and the dealer's registration is either cancelled or he has closed down his business, the person shall furnish a fresh security as may be prescribed and in the manner as stated in sub-section (3) of this section.

(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.