

**THE GUJARAT VALUE ADDED TAX (AMENDMENT) BILL, 2006.**

**GUJARAT BILL NO.        OF 2006.**

***A BILL***

*further to amend the Gujarat Value Added Tax Act, 2003.*

It is hereby enacted in the Fifty-seventh Year of the Republic of India as follows :-

1. This Act may be called the Gujarat Value Added Tax (Amendment) Act, 2006.

**Short title.**

**Guj.1  
of 2005.**

2. In the Gujarat Value Added Tax Act, 2003 (hereinafter referred to as “the principal Act”), in section 1, in sub-section (3), for the words “appoint, and different dates may be appointed for different provisions”, the word “appoint” shall be substituted.

**Amendment of  
section 1 of Guj.1 of  
2005.**

3. In the principal Act, in section 2--

(1) for clause (3), the following clause shall be substituted, namely:-

"(3) "appointed day" means the date on which the remaining provisions of this Act shall come into force under subsection (3) of section 1;"

(2) for clause (5), the following clause shall be substituted, namely:--

"(5) "capital goods" means plant and machinery (other than second hand plant and machinery) meant for use in manufacture of taxable goods and accounted as capital assets in the books of accounts;"

(3) for clause (12), the following clause shall be substituted, namely:—

"(12) "earlier law" means any of the following laws, that is to say:—

(i) the Bombay Sales of Motor Spirit Taxation Act, 1958,

**Bom.  
LXVI of  
1958.**

(ii) the Gujarat Sales Tax Act, 1969, or

**Guj. 1 of  
1970.**

(iii) the Gujarat Purchase Tax on Sugarcane Act, 1989,

**Guj. 11 of  
1989.**

as amended from time to time and includes enactments which have validated anything done or omitted to be done under these laws;"

(4) after clause (13), the following clause shall be inserted, namely :-

“(13A) “HSN code “ means harmonized system of nomenclature code assigned to the goods specified in the Schedules;”;

(5) for clause (36), the following clause shall be substituted, namely :-

“(36) “year” means a financial year;”.

4. In the principal Act, in section 3, in sub-section (4), the portion beginning with words “and such further period” and ending with the words “his liability to pay tax shall cease” shall be deleted.

**Amendment of section 3 of Guj. 1 of 2005.**

5. In the principal Act, in section 5,—

**Amendment of section 5 of Guj. 1 of 2005.**

(1) for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:—

“(1) The sales and purchases of the goods specified in Schedule I shall be exempt from tax subject to the conditions and exceptions set out therein against each of them in column 3 of that Schedule.

(1A) The State Government may, by notification in the *Official Gazette*, add to, or enlarge, any entry in Schedule I, or relax or omit any conditions or exceptions specified therein, and thereupon the said Schedule shall be deemed to be amended accordingly.

(2) (a) Subject to such conditions as it may impose, the State Government may, if it considers necessary so to do in the public interest, by notification in the *Official Gazette*, exempt any specified class of sales or purchases or sales or purchases of goods by any specified dealer or specified class of dealers from payment of the whole or any part of the tax payable under the provisions of this Act.

(b) Where the State Government considers it necessary so to do in the public interest to continue tax exemption granted to the sales or purchases of goods by industrial units under sub-section (2) of section 49 of the Gujarat Sales Tax Act, 1969, it may, by notification in the *Official Gazette*, continue such exemption with such modification, subject to such conditions and for such period, as may be prescribed.";

(2) in sub-section (3), for the words, brackets and figure "under sub-section (2)", the words, brackets, figures and letter "under sub-section (1A) and sub-section (2)" shall be substituted.

Amendment of  
section 7 of Guj. 1 of  
2005.

6. In the principal Act, in section 7,—

(1) in sub-section (1),—

(a) for the word and figure "Schedule II", the words and figures "Schedule II or Schedule III" shall be substituted;

(b) for the words "in the said Schedule", the words and figures "in the said Schedule II or, as the case may be, Schedule III" shall be substituted;

(2) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The State Government may, by notification in the *Official Gazette*, reduce any rate of tax specified in Schedule II or Schedule III in respect of any entry ( or part thereof ) in the said Schedule II or III and may, by like notification, omit or amend any entry (or part thereof) in the said Schedule II or III but not so as to enhance the rate of tax in any case and thereupon the Schedule I, II or III shall be deemed to have been amended accordingly.”.

Insertion of new  
section 7A in  
Guj. 1 of 2005.

7. In the principal Act, after section 7, the following section shall be inserted, namely :-

**"Power to assign HSN code to goods.**

7A. For the purpose of proper identification of the goods, the State Government may by rules, assign the HSN code to each of the goods specified in the Schedules and different codes may be assigned to different goods covered under the same entry in the Schedules.”.

**8.** In the principal Act, in section 8, in sub-section (2), in the proviso to clause (b), for para (b), the following para shall be substituted, namely:—

**Amendment of section 8 of Guj. 1 of 2005.**

“(b) If the relevant event as described in sub-section (1) has occurred subsequent to such period as may be prescribed, from the date of such sales made by the dealer.”.

**9.** In the principal Act, in section 9,—

**Amendment of section 9 of Guj. 1 of 2005.**

(1) in sub-section (1), for the word and figure “Schedule II”, the words and figures “Schedule II or Schedule III” shall be substituted;

(2) in sub-section (3), for the words and figure “in Schedule II of this Act or at the applicable rate of tax under the earlier law whichever is higher”, the words and figures “in Schedule II or Schedule III or at the applicable rate of tax under the earlier law, as the case may be” shall be substituted.

**10.** In the principal Act, in section 11, -

**Amendment of section 11 of Guj.1 of 2005.**

(1) in sub-section (1), in clause (a),—

(a) for sub-clause (i), the following sub-clause shall be substituted, namely:—

“(i) tax collected from the purchasing dealer by a registered dealer from whom he has purchased such goods or the tax payable by the purchasing dealer to a registered dealer who has sold such goods to him during the tax period, or”;

(b) in sub-clause (ii), for the word and figure “section 9”, the words and figure “section 9 or” shall be substituted;

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

“(iii) tax paid by the purchasing dealer under the Gujarat Tax on Entry of Specified Goods into Local Areas Act, 2001.”;

(2) in sub-section (3),—

(a) in clause (a), after sub-clause (vi), the following sub-clause shall be inserted, namely :-

"(vii) use as capital goods meant for use in manufacturer of taxable goods intended for (i) to (vi) above subject to the condition that such capital goods are purchased after the appointed day:";

(b) in clause (b), after sub-clause (ii), the following sub-clause shall be inserted, namely :-

"(iii) of fuels used for the manufacture of goods.";

(3) in sub-section (5),-

(a) after clause (d), the following clause shall be inserted, namely :-

"(dd) made prior to the date of registration;";

(b) in clause (f), for the words "of the goods", the words and brackets "of the goods (not being taxable goods dispatched outside the State in the course of branch transfer or consignment)" shall be substituted;

(c) in clause (h), after the word and figure "Schedule I", the words, brackets and figures "or the goods exempt from the

whole of the tax by a notification under sub-section (2) of section 5" shall be added;

(d) for clause (i), the following clause shall be substituted, namely:—

"(i) of capital goods used in the manufacture of goods specified in Schedule I or the goods exempt from the whole of the tax by a notification under sub-section (2) of section 5 or in generation of electrical energy including captive power;"

(e) in clause (k), for the word "property", the words "of the property" shall be substituted;

(f) after the clause (l), the following clause shall be inserted, namely:—

"(ll) of petrol, high speed diesel, crude oil and lignite unless such purchase is intended for resale;"

(g) after clause (m), the following clauses shall be inserted, namely.—

"(mm) of capital goods, used in transfer of property in goods (whether as goods or in some other form) involved in execution of works contract;

(mmm) of the goods for which right to use is transferred for any purpose (whether or not for a specified period), for cash, deferred payment or other valuable considerations;

(mmmm) made from a dealer after the name of such dealer has been published under sub-section (11) of section 27 or section 97;"

(h) after clause (n), the following clause shall be inserted,  
namely:—

"(nn) of the goods purchased during the period when the permission granted under clause (a) of sub-section (1) of section 14 has remained valid under clause (b) of that sub-section;”;

(l) in clause (p), after the word "invoice", the words "or duplicate thereof duly authenticated in accordance with the rules made in this behalf" shall be inserted;

(4) sub-section (8) shall be renumbered as clause (a) of that sub-section and after clause (a) as so numbered, the following clause shall be inserted, namely:—

"(b) Where the capital goods referred to in sub-clause (vii) of clause (a) of sub-section (3) are not used continuously for a full period of five years, in the State, the amount of tax credit shall be reduced proportionately having regard to the period falling short of the period of five years.";

**Amendment of  
section 12 of  
Guj.1 of 2005.**

**11. In the principal Act, in section 12,—**

(1) in sub-section (1),—

(a) for the portion beginning with the words “a statement of” and ending with the words, figures and letters “held in stock on the 31<sup>st</sup> March, 2003”, the words, figures and letters “a statement of such taxable goods under this Act held in stock on the 31<sup>st</sup> March, 2006 which are purchased during the period commencing on the 1<sup>st</sup>



April, 2005 and ending on 31<sup>st</sup> March, 2006” shall be substituted;

- (b) in the Explanation, for the figures, letters and word “31<sup>st</sup> March, 2003”, the figures, letters and word “31<sup>st</sup> March, 2006” shall be substituted;

(2) in sub-section (4),—

- (a) in clause (c), for the figures, letters and word “31<sup>st</sup> March, 2003”, the figures, letters and word “31<sup>st</sup> March, 2006” shall be substituted,

- (b) clause (e) shall be deleted;

**12.** In the principal Act, in section 14,—

**Amendment of  
section 14 of  
Guj.1 of 2005.**

(1) in sub-section (1),—

(a) in clause (a),—

- (i) for the portion beginning with the words “who is not engaged” and ending with the words “twenty-five lakhs”, the words “whose total turnover has not exceeded fifty lakhs” shall be substituted;

- (ii) the following proviso and explanation shall be added at the end, namely:—

"Provided that the Commissioner shall not grant permission to pay *lump sum* tax under sub-section (1) to a dealer who,—

- (i) sells the goods in the course of inter-State trade and commerce or exports goods out of the territory of India,

(ii) purchases the goods in the course of inter-State trade and commerce or imports goods from a place out of the territory of India,

(iii) dispatches the goods to his branch or his consigning agent outside the State or receives the goods from his branch situate outside the State or from consigning agent outside the State,

(iv) engaged in the activity of the manufacture other than such activity as State Government may, by order in writing specify,

(v) effects the sales or purchases through the commission agent,

(vi) effects the sales falling under sub-clause (b) or (d) of clause (23) of section 2, or

(vii) purchases goods from or sells goods to, the dealer who has been granted permission to pay *lump sum* tax under this section.";

*Explanation.*—For the purpose of permission under this clause, for the year commencing on the 1<sup>st</sup> April, 2006 and ending on the 31<sup>st</sup> March, 2007, the total turnover shall be calculated with reference to the Gujarat Sales Tax Act, 1969.”;

Guj. 1 of 1970.

(b) for clause (b), the following clause shall be substituted, namely:—

“(b) The permission granted under clause (a) shall remain valid so long as the total turnover of the registered dealer does not exceed rupees fifty lakhs or the registered dealer does not undertake any of the activities mentioned in clauses (i) to (vii) of the proviso to clause (a). In case, where total turnover of a registered dealer exceeds rupees fifty lakhs or the

registered dealer undertakes any of the aforesaid activities during the course of the year, he shall be liable to pay tax under sections 7 and 9 for such tax period as may be prescribed for this purpose.”;

(2) for sub-section (4) and the Explanation thereunder, the following sub-section shall be substituted, namely:—

"(4) A dealer who is permitted under sub-section (1) to pay *lump sum* tax shall be liable to pay purchase tax leviable under sub-sections (1) and (3) of section 9, in addition to the *lump sum* tax under this section."

13. In the principal Act, after section 14, the following section shall be inserted, namely :-

Insertion of new section 14A in Guj. 1 of 2005.

"Composition of tax on works contract.

14A. (1) Notwithstanding anything contained in this Act, the Commissioner may, in such circumstances and subject to such conditions as may be prescribed, permit every dealer referred to in sub-clause (f) of clause (10) of section 2 to pay at his option in lieu of the amount of tax leviable from him under this Act in respect of any period, a lump sum tax by way of composition at such rate as may be fixed by the State Government by notification in the *Official Gazette* having regard to the incidence of tax on the nature of the goods involved in the execution of the total value of the works contract.

(2) The provisions of sub-sections (3) and (4) of section 14 shall apply *mutatis mutandis* to a dealer who is permitted under sub-section (1) to pay *lump sum* tax by way of composition.

(3) Where any dealer has opted for composition of tax

under the earlier law and commenced the work in pursuance of any specified works contract prior to the appointed day and such work is not completed before the appointed day, such dealer shall pay the tax for the remaining work in accordance with the provisions of this Act.”.

**Amendment of section 21 of Guj.1 of 2005.**

- 14.** In the principal Act, in section 21, after sub-section (7), the following sub-section shall be inserted, namely:--

“(7A) Where the dealer changes the place of his business situated in the jurisdiction of one authority to a different place falling under the jurisdiction of another authority, such dealer shall apply for cancellation of registration to that authority which has granted the registration and shall simultaneously apply for registration to another authority within whose jurisdiction the changed place of business is situated.”.

**Amendment of section 27 of Guj.1 of 2005.**

- 15.** In the principal Act, in section 27,--

(1) in sub-section (1), after clause (e), the following clause shall be inserted, namely :-

“(ee) a dealer changes his place of business situated within the jurisdiction of one authority to a different place falling under the jurisdiction of another authority.

*Explanation.--* For the purpose of this clause, the ‘authority’ means the authority prescribed under sub-section (3) of section 21;”;

(2) in sub-section (5),—

(a) in clause (a), the words "within the time prescribed" shall be deleted;

(b) in clause (b), the words "with a view to evade tax" shall be added at the end;

(c) in clause (c), for the words "to pay tax due", the words "to pay the tax due for three consecutive tax periods" shall be substituted;

(d) clause (f) shall be deleted;

(e) in clause (h), the word "or" shall be deleted;

(f) in clause (i), the word "or" shall be added at the end;

(g) after clause (i), the following clause shall be inserted, namely:—

(j) who has been found evading tax on account of variation in physical stock compared with his regular books of accounts;"

(3) after sub-section (5), the following sub-section shall be inserted, namely:—

"(5A) (1) If a dealer,—

(a) has failed to inform changes as required under sub-section (1) of section 26;

(b) has failed to furnish return under section 29;

(c) has failed to pay tax under section 30;

(d) has failed to file declaration or intimate the changes as required under section 65 or 66; or

(e) has failed to produce the books of accounts required under section 67,

the Commissioner may, at any time, for reasons to be recorded in writing and after giving the dealer an opportunity of being heard, suspend his certificate of registration from such date not earlier than the date of order of suspension, as may be specified by him in the order.

(2) where a dealer, whose certificate of registration is suspended for the failure of any of the requirements specified in sub-section (1), fulfils the requirements, the Commissioner shall, by an order in writing, withdraw the suspension order from such date as may be specified therein.

(3) the dealer whose certificate of registration is suspended under sub-section (1) shall not be entitled to claim input tax credit during the period of suspension of registration.";

(4) in sub-section (7),—

(a) for the word “cancellation” , the words “suspension or cancellation” shall be substituted;

(b) for the word “cancelled”, the words “suspended or cancelled” shall be substituted;;

(5) in sub-section (10), for the word “cancellation”, occurring at two places the words “suspension or cancellation” shall be substituted;

(6) in sub-section (11), for the word “cancelled”, the words “suspended or cancelled” shall be substituted;

(7) for the marginal note, the following marginal note shall be substituted, namely,—

“Suspension or cancellation of registration.”.

**16.** In the principal Act, in section 29, --

(1) in sub-section (1), after the words "complete returns", the words "of the goods in respect of his business and the transactions thereof" shall be inserted;

**Amendment of  
section 29 of  
Guj.1 of 2005.**

- (2) in sub-section (4), for the words “three months next following”, the words “one month from” shall be substituted;
- (3) in sub-section (5),--
- (a) for the words, “any other dealer”, the words, brackets and figure “any other dealer, not being a dealer referred to in sub-section (4),” shall be substituted;
  - (b) for the words, brackets and figures "sub-section (1)", the words, brackets and figures "sub-section (1) or, as the case may be, sub-section (2)" shall be substituted;
  - (c) for the words "any offence", the words "any offence or any other proceedings" shall be substituted.

**17.** In the principal Act, in section 30, after sub-section (5), the following sub-section shall be added, namely :--

**Amendment of section 30 of Guj.1 of 2005.**

“(6) Where a dealer is liable to pay interest under sub-section (5) or under sub-section (7) of section 42 and he makes payment of an amount which is less than the aggregate of the amount of tax, penalty and interest, the amount so paid shall be first applied towards the amount of interest, thereafter the balance, if any, towards the amount of penalty and thereafter the balance, if any, towards the amount of tax.”.

**18.** In the principal Act, in section 33, for sub-section (3), the following sub-section shall be substituted, namely :-

**Amendment of section 33 of Guj.1 of 2005.**

- “(3) Where,--
- (a) a dealer has furnished all the returns, revised returns, if any, and annual returns by the date prescribed therefor and paid the amount of tax due according to such returns, and
  - (b) the Commissioner is satisfied that the returns or, as the case may be, revised returns and annual returns furnished by such dealer are correct and complete, and

- (c) a notice for audit assessment under sub-section (2) of section 34 has not been served on such dealer within such period as may be prescribed,

such dealer shall be deemed to have been assessed for that year:

Provided that the Commissioner of his own motion within a period of three years from the end of the year in respect of which or part of which the tax is assessable, may call for and examine the record of such dealer who has been deemed to have been assessed and after serving notice and giving the dealer an opportunity of being heard, pass such order thereon in accordance with the provisions of section 34, as the Commissioner may think just and proper.”

**Amendment of  
section 34 of  
Guj.1 of 2005.**

**19.** In the principal Act, in section 34,—

(1) sub-section (2) shall be renumbered as clause (a) of that sub-section;

(a) in clause (a) as so renumbered, clauses (a) and (b) shall be renumbered as sub-clauses (i) and (ii) respectively;

(b) after clause (a) as so renumbered, the following clause shall be inserted, namely:—

“(b) in respect of such class of dealers as the State Government may, by rules, specify;”;

(2) in sub-section (7), for the words "twice the amount", the words "one and a half times of the amount" shall be substituted.

**20.** In the principal Act, after section 34, the following section shall be inserted, namely :--

**Insertion of new  
section 34A in  
Guj.1 of 2005.**



"Assessment on basis of fair market price.

34A. Notwithstanding anything contained in this Act, if the Commissioner is of the opinion that any transaction by any dealer during any tax period or a set of transactions by the dealer has been accounted in a manner so as to pay tax less than the tax otherwise payable on such sale or purchase, then the Commissioner shall calculate the tax liability as per fair market price of such transaction or transactions.

*Explanation.--*For the purpose of this section, "fair market price" means the value at which goods of like kind are sold or would be sold in the open market in the State."

21. In the principal Act, in section 37, in sub-section (2), for the words "a Bank", the word "such" shall be substituted.

Amendment of section 37 of Guj.1 of 2005.

22. In the principal Act, in section 38,--

Amendment of section 38 of Guj. 1 of 2005.

(1) in sub-section (1), for the words "to the date of order of assessment", the words "till the date of payment of amount of such refund" shall be substituted;

(2) in sub-section (2),--

(a) for the words "for the period commencing after thirty days from the date of such order", the words "per annum on the amount of such refund from the date immediately following the date of closer of the accounting year to which the said amount of refund relates" shall be substituted;

(b) the proviso and the Explanations thereunder shall be deleted.

Insertion of new Chapter VIA in Guj. 1 of 2005.

23. In the principal Act, after Chapter VI, the following Chapter shall be inserted, namely :-

## "CHAPTER VIA

### DEDUCTION AT SOURCE.

**Definitions.**

59A. For the purposes of this Chapter, unless the context otherwise requires,--

(a) “contractor” or “sub-contractor” means the dealer referred to in sub-clause (f) of clause (10) of section 2;

(b) “specified sale” means the sale referred to in sub-clause (b) of clause (23) of section 2;

(c) “specified sale price” in relation to the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract, means such amount as is arrived at by deducting from the amount of valuable consideration paid or payable to a person for execution of such works contract, the amount representing labour charges for such execution and the price paid or payable for the goods purchased in the course of inter-state trade or commerce or in the course of import of goods into the territory of India for the use in execution of such works contract; and

(d) “specified works contract” means a works contract, the specified sale price of which exceed one crore rupees.

**Deduction at source in certain cases.**

59B. (1) Notwithstanding that the assessment in respect of the specified sales is to be made for a year or part of a year, the tax on such sales shall be payable at source in accordance with the provisions of this section.

(2) Nothing in sub-section (1) shall prejudice the levy of tax on the specified sales under section 7.

(3) (a) Any person responsible for paying specified sale price to a contractor for carrying out any work in pursuance of a specified works contract, shall at the time of payment of the whole or part of the specified sale price, deduct from such price an amount equal to two paise in a rupee of such payment as a tax on specified sales.

(b) Any person being a contractor responsible for paying specified sale price to a sub-contractor in pursuance of a contract with the sub-contractor for carrying out the whole or part of the work undertaken by the contractor in respect of a specified works contract, shall at the time of payment of the whole or part of the specified sale price deduct from such price an amount equal to two paise in a rupee of such payment as a tax on specified sales.

(c) The contractor, or as the case may be, sub-contractor shall furnish the prescribed statement to the person or, as the case may be, the contractor responsible for paying specified sale price and thereupon such person or contractor shall deduct the amount referred to in clause (a) or (b) on the basis of such statement.

(4) If a person has entered into works contract with a contractor and the contractor has entered into a contract with a sub-contractor entrusting to the sub-contractor the carrying out of the whole or part of the work (hereinafter referred to as “the sub-contract”) relating to the said works contract and the contractor has at the time of payment of the specified sale price in respect of the said sub-contract to the sub-contractor deducted an amount as a tax under clause (b) of sub-section (3) and has paid the same under sub-

section (7), then notwithstanding anything contained in clause (a) of the said sub-section (3), the person shall not at the time of payment of the specified sale price to the contractor deduct an amount under clause (a) of sub-section (3) equal to the amount of tax paid by the contractor under sub-section (7).

(5) (a) Where the contractor or sub-contractor is not liable to pay tax under this Act on specified sales involved in any specified works contract, he shall make an application to the Commissioner in this behalf.

(b) On receipt of the application under clause (a), if the Commissioner is satisfied that the contractor or sub-contractor is not liable to pay tax under this Act on specified sales involved in any specified works contract, he shall give a certificate to that effect in such form as may be prescribed.

(c) Where any such certificate is given under clause (b), the person responsible for paying any specified sale price under clause (a) or clause (b) of sub-section (3) shall not deduct any amount as tax in respect of the specified works contract mentioned in the certificate.

(6) Any amount deducted as tax in accordance with the provisions of sub-section (3), shall be deemed to be an amount received by the contractor or the sub-contractor as part of the specified sale price in pursuance of the specified works contract.

(7) Any person deducting the amount as tax in accordance with the provisions of sub-section (3) shall --

(a) pay such amount into Government treasury in such manner and within such period as may be prescribed,

(b) obtain a treasury receipt therefor, and

(c) furnish a copy of such receipt to the contractor or, as the case may be, the sub-contractor within thirty days from the date on which he obtains the receipt.

(8) Every person deducting the amount as tax in accordance with the provisions of sub-section (3) shall, at the time of payment of the whole or part of the specified sale price, furnish to the contractor or, as the case may be, the sub-contractor a certificate specifying the amount so deducted and such other particulars as may be prescribed.

(9) Any deduction made in accordance with the provisions of sub-section (3) and paid into the Government treasury under sub-section (7) shall be treated as a payment of tax or, as the case may be, of lump sum by way of composition under section 14A on behalf of the contractor or, as the case may be, the sub-contractor, and, on the production of a certificate furnished to him under sub-section (8) alongwith a copy of a treasury receipt given to him under sub-section (7), credit shall be given to him for the amount so deducted in the assessment of tax, if any, made under this Act for the relevant year or, as the case may be, in the payment of lump sum.

(10) Where an amount as tax on specified sales has not been deducted in accordance with the provisions of this section, the tax on specified sales shall be payable by the contractor or, as the case may be, the sub-contractor directly.

(11) Where any amount deducted under sub-section (3) remains unpaid after expiry of the time specified in sub-section (7), such amount shall be recoverable as an arrear of land revenue and the Commercial Tax Authorities shall, for the purpose of effecting recovery of the amount, exercise the powers conferred on them under section 46.

(12) If any person does not deduct an amount under sub-section (3) or after deducting the amount under that sub-section, fails to pay the same into the Government treasury under sub-section (7), within the time specified therein, the Commissioner may, after giving an opportunity of being heard to such person, impose, by way of penalty, a sum not exceeding twenty-five per cent. of the amount required to be deducted by him under sub-section (3).

(13) Where a person deducting the amount of tax in accordance with the provisions of sub-section (3) does not pay the amount so deducted into the Government treasury under sub-section (7) within the time specified therein, there shall be paid by such person, in addition to the penalty imposed on him under sub-section (12), for the period commencing on the date of expiry of the time specified in sub-section (7) and ending on the date of payment of the amount into the Government treasury, simple interest at the rate of eighteen per cent. per annum on the amount of tax not so paid into Government treasury or any less amount thereof remaining unpaid during such period.

(14) Every person deducting tax under this section shall furnish or cause to be furnished returns in such form and within such period as may be prescribed, to the Commercial Tax Officer within whose jurisdiction the person resides or carries on his business.

(15) Notwithstanding anything contained in this section, tax shall not be deducted at source where payment is to be made by the State Government in case of the specified works contract of the State Government, at the time of payment of all or part of the specified sale price.”.

**24.** In the principal Act, in section 60,—

- (1) in sub-section (1), for the words “ shall, at the request of purchaser, provide to him”, the words “shall provide him” shall be substituted;

**Amendment of  
section 60 of  
Guj.1 of 2005.**

(2) after sub-section (2), the following sub-section shall be added, namely:—

“(3) if any registered dealer contravenes the provisions of sub-section (1) or (2), the Commissioner may, after giving him an opportunity of being heard, direct him to pay by way of penalty a sum not exceeding ten per cent. of the amount of the transaction of sale in respect of which such contravention has been made.”.

25. In the principal Act, in section 61,--

Amendment of section 61 of Guj. 1 of 2005.

(1) in clause (a), for the words "the purchaser with a credit note within three months", the words "within such period as may be prescribed, the purchaser with a credit note" shall be substituted;

(2) for the existing proviso, the following proviso shall be substituted, namely:-

“Provided that not more than one credit note or, as a case may be, debit note shall be issued for the amount in excess.”.

Insertion of new section 62A in Guj. 1 of 2005.

26. In the principal Act, after section 62, the following section shall be inserted, namely:-

“Automation.

62A. (1) The State Government may, by notification in the *Official Gazette*, provide that the provisions contained in the Information Technology Act, 2000 and the rules made thereunder and directions given under that Act, including the provisions relating to digital signatures, electronic governance, attribution acknowledgement

21 of 2002.

and dispatch of electronic records, secure electronic records and secure digital signatures and digital signature certificates as are specified in the said notification, shall, in so far as they may as far as feasible, apply to the procedures under this Act.

(2) Where any 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 any officer or person and the said notice or communication shall not be deemed to be invalid merely on the ground that it is not personally signed by any such officer.”.

**Amendment of section 63 of Guj.1 of 2005.**

**27.** In the principal Act, in section 63, in sub-section (1),—

(1) for the words “dealer exceeds rupees one crore”, the words “dealer exceeds such amount, not being less than one crore, as may be prescribed ” shall be substituted,

(2) for the words “within one year”, the words “within six months” shall be substituted.

**Amendment of section 66 of Guj.1 of 2005.**

**28.** In the principal Act, section 66 shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely :—

“(2) If the dealer fails to intimate to the authority the changes in the particulars in the declaration referred to sub-section (1), the Commissioner may, after giving an opportunity of being heard to such dealer, by order in writing, impose a penalty of a sum not exceeding rupees ten thousand.”.

**29.** In the principal Act, after section 66, the following section shall be inserted, namely:--

**Insertion of new sections 66A and 66B in Guj.1 of 2005.**



"Furnishing of specimen signature.

66A. (1) Every registered dealer who is liable to pay tax under this Act shall furnish the specimen signature of himself or the person authorised to sign the cash memo, tax invoice, retail invoice, credit/debit note, delivery *chalan* and any form prescribed or appended to the notification, within such period as may be prescribed.

(2) Any change in the particulars submitted under subsection (1) shall be intimated to the registering authority within fifteen days of such change.

(3) If a registered dealer fails to submit particulars or intimate the change as required under this section, the Commissioner may, by order in writing and after giving opportunity of being heard to such dealer, impose by way of penalty a sum not exceeding the amount of tax payable on the transaction declared in the concerned cash memo, tax invoice, retail invoice, credit/debit note, delivery *chalan* or any form prescribed or appended to the notification.

(3) Where the signature appearing on any of the documents referred to in this section is not matching with the specimen signature furnished by the dealer under this section, such document shall not be considered as a valid document for the purposes of this Act or rules made there under."

Provided that where the specimen signature in any document is not matching with the specimen signature furnished by the dealer, the signature may be authenticated by such dealer in accordance with the rules made in this behalf.

30. In the principal Act, for section 67, the following section shall be substituted, namely: -

"Production and  
inspection of accounts  
and documents and  
search of premises.

"67. (1) The Commissioner may, subject to such conditions as may be prescribed, require any dealer to produce before him any accounts or documents, or to furnish any information relating to stocks of goods of, or to sales, purchases and deliveries of goods by the dealer or any other information relating to his business, as may be necessary for the purposes of this Act.

(2) All accounts, registers and documents relating to stocks of goods of or to sales, purchases and deliveries of goods by, any dealer and all goods kept in any place of business of any dealer, shall at all reasonable times be open to inspection by the Commissioner, and the Commissioner may take or cause to be taken such copies or extracts therefrom or may place or cause to be placed such marks of identifications thereon, as appear to him necessary for the purposes of this Act.

(3) The Commissioner may, for the purposes of this Act, impound and retain in his custody for such period as he considers necessary any books of accounts or other documents produced before him in any proceeding under this Act.

(4) If the Commissioner has reason to believe that any dealer has evaded or is attempting to evade the payment of any tax due from him he may, for reasons to be recorded in writing, seize such accounts, registers or documents of the dealer as may be necessary, and shall grant a receipt for the same, and shall retain the same for so long as may be necessary, in connection with any proceeding under this Act or for a prosecution.

(5) For the purposes of sub-section (2) or sub-section (4), the Commissioner may enter and search any place of business of any dealer, or any other place where the Commissioner has reasons to believe that the dealer keeps or is for the time being keeping any accounts, registers or documents of his business or stocks of goods relating to his business and may make a note or an inventory of any articles or things found in the course of any search which in his opinion will be useful for, or relevant to, any proceeding under this Act, or for a prosecution.

(6) Where—

(a) a carrier or bailee or any person to whom goods were delivered for transport has kept the said goods in any vehicles, vessel or place; and

(b) the Commissioner has reason to believe that tax on such goods is or is likely to be evaded,

the Commissioner may stop the vehicle or the vessel carrying such goods and enter and search the vehicle, vessel or place and inspect the goods and records relating to such goods and elicit such information from the carrier, bailee or any person as is relevant.

(7) The provisions of the Code of Criminal Procedure, 1973 relating to searches shall apply, so far as may be, to a search made under sub-sections (5) and (6)".

2 of  
1974.

(1) sub-section (4) shall be renumbered as clause (a) of that sub-section, and—

(a) in clause (a) as so renumbered,—

(i) in sub-clause (iii), the word “or” shall be added at the end;

(ii) after sub-clause (iii), the following sub-clause shall be added, namely:—

“(iv) the signature appearing in any of the documents referred to in clause (a) of sub-section (3) does not match with the signature furnished by the registered dealer under section 66A,”;

(b) after clause (a), the following clause shall be inserted, namely:—

“(b) if the driver or other person in charge of a vehicle, boat or animal carrying goods does not make a declaration or if he makes a declaration, he does not keep a copy thereof with him as required by clause (c) of sub-section (3),”;

(c) for the words “and vehicle”, the words “and detain the vehicle” shall be substituted;

(d) the words “or vehicles” shall be deleted;

(2) in sub-section (5),--

(a) in clause (a), the words “or vehicles” shall be deleted;

(b) in clause (b),for the words “goods, vehicle”, the words "goods" shall be substituted;

(3) after sub-section (6), the following sub-section shall be added, namely:—

“(7) where the person from whose possession or control the goods are seized under sub-section (4) fails to establish the ownership of the goods so seized or the payment of tax, interest or penalty is not made or security is not furnished, the Commissioner may direct that the goods so seized may be sold by public auction and sale proceeds thereof shall be deposited in the Government treasury.”.

**32.** In the principal Act, in section 69, after sub-section (1), the following sub-section shall be inserted, namely:—

**Amendment of section 69 of Guj.1 of 2005.**

“(1A) The driver or the person in-charge of such vehicle, boat or animal fails to carry with him such transit pass throughout the State, he shall be liable to pay such penalty not exceeding one and one-half times the amount of tax of goods carried by him, as may be determined, after giving a reasonable opportunity of being heard.”.

**33.** In the principal Act, after section 70, the following section shall be inserted, namely:--

**Insertion of new section 70A in Guj. 1 of 2005.**

**“Furnishing of information by others.**

"70A. (1) The Commissioner may, for the purpose of this Act, by an order in writing.-

(a) require any person including an officer of a Bank, Post Office or such other institution, to furnish information in relation to such matters which in his opinion is likely to be useful or relevant in proceedings under this Act;

(b) require any person,--

(i) who has custody of goods of a dealer for the purpose of delivery or transports, to furnish information in respect of such goods, or to permit inspection thereof,

(ii) who maintains or has in his possession any books of accounts, registers or documents relating to the business of a dealer, to produce such books of accounts, registers, or documents for inspection.

(2) Where a person who is required to furnish information or permit inspection of goods or to produce books of accounts, registers or documents for inspection under clause (a) or (b) of sub-section (1), fails to furnish information or to permit inspection or to produce books of accounts, registers or documents, the Commissioner may after giving the person an opportunity of being heard, make an order of detention or seizure of the goods or, as the case may be, the books of accounts, registers or documents.

(3) The order of detention or seizure made under sub-section (2) shall remain in force so long as the person concerned does not furnish information or permit inspection or, as the case may be, produce books of accounts, registers, or documents for inspection.

(4) Where for any reason it is not feasible to make an order of detention or seizure under sub-section (2), the Commissioner or an officer authorised by him, may by an order direct the owner or the person who is in possession or control of the goods or the books of accounts, registers or documents, not to remove or part with or otherwise deal with the goods or the documents except with the previous permission of the Commissioner or the authorized officer.

(5) Where a person fails to act as required under sub-section (1), the Commissioner may, without prejudice to any other action which is liable to be taken against such person under any other provision of this Act, after giving an opportunity of being heard to such person, impose on him a penalty of a sum not exceeding rupees twenty- five thousand.

(6) The Commissioner or an officer authorised by him in this behalf may release the goods or documents detained or seized under sub-section (2), if the person concerned pays by way of penalty such sum, not exceeding one and a half times the amount of tax leviable on such goods under this Act, as he may direct.

(7) Where,-

(a) no claim is made by any person in respect of the goods detained or seized under sub-section (2), within a period of one month from the date of such detention or seizure,

(b) the person fails to pay penalty imposed on him under sub-section (5) or to pay a sum as directed under sub-section (6), within the prescribed period,

the Commissioner may, by an order in writing, direct that the goods may be sold by auction:

Provided that if the goods detained or seized are of the perishable nature or subject to speedy or natural decay or if the expenses of keeping them in custody are likely to exceed their value, the same may be ordered to be sold by auction as soon as it is practicable after such detention or seizure and an amount realized by sale by auction of the goods shall be remitted in the Government treasury.

(8) The auction of goods under the sub-section (7) shall be made in such manner as may be prescribed.

(9) Any person who is entitled to the proceeds of the sale of goods by auction under the sub-section (7) shall, on application made to the Commissioner, be paid such proceeds of the goods so auctioned after deducting from them the expenses of the sale by auction or other

incidental charges and the amount of tax, interest and penalty leviable under this Act.”.

**Amendment of section 73 of Guj.1 of 2005.**

**34.** In the principal Act, in section 73, in sub-section (4), for the existing proviso, the following proviso shall be substituted, namely:-

“Provided that an appellate authority may, if it thinks fit, for reasons to be recorded in writing, entertain an appeal against such order—

- (a) without payment of tax with penalty (if any) or, as the case may be, of the penalty, or
- (b) on proof of payment of such smaller sum as it may consider reasonable, or
- (c) on the appellant furnishing in the prescribed manner, security for such amount as the appellate authority may direct.”.

**Amendment of section 74 of Guj. 1 of 2005.**

**35.** In the principal Act, in section 74, for clauses (d) and (e), the following clause shall be substituted, namely:—

"(d) an order sanctioning prosecution under this Act.”.

**Amendment of section 75 of Guj.1 of 2005.**

**36.** In the principal Act, in section 75, in sub-section (1) in clause (a), for the words “within two years from the date of service of notice for revision”, the words and figures “within five years from the date of the said order of the officer appointed under section 16 to assist him” shall be substituted.

**Amendment of section 76 of Guj.1 of 2005.**

**37.** In the principal Act, in section 76, for the words and figures “Bombay Court-fees Act, 1959”, the words and figures “Gujarat Court-fees Act, 2004” shall be substituted.

**Bom.XXXVI of 1959.**

**Guj.4 of 2004.**

**38.** In the principal Act, for section 78, the following section shall be substituted, namely:—

**Substitution of section 78 of Guj.1 of 2005.**



"78. (1) An appeal shall lie to the High Court from every order passed in appeal by the Tribunal, if the High Court is satisfied that the case involves a substantial question of law.

(2) In an appeal under this section, the memorandum of appeal shall precisely state the substantial question of law involved in the appeal.

(3) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.

(4) The appeal shall be heard on the question so formulated and the respondent shall, in the hearing of the appeal, be allowed to argue that the case does not involve such question:

Provided that nothing in this sub-section shall be deemed to take away or abridge the power of the Court to hear, for reasons to be recorded, the appeal on any other substantial question of law, not formulated by it, if it is satisfied that the case involves such question.

(5) The High Court, upon hearing of such case, shall decide the question so formulated or involved and deliver the judgment thereon containing the grounds on which such decision is founded.

(6) An appeal under this section may be filed within ninety days from the date of communication of the order of the Tribunal and shall be accompanied with a fee of rupees two hundred.

(7) In respect of such matters not provided in this section, the provisions of Code of Civil Procedure, 1908, which applies to the second appeal to High Court under section 100 of the said Code shall, so far as may be, apply to the second appeal under this section."

Amendment of  
section 80 of  
Guj.1 of 2005.

**39.** In the principal Act, in section 80,—

(1) in sub-sections (1) and (2), for the words “the Commissioner”, the words “the Commissioner, Special Commissioner, Additional Commissioner or Joint Commissioner” shall be substituted,

(2) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) The Commissioner on his own motion may call for and examine the record of any order passed by the Special Commissioner, Additional Commissioner or Joint Commissioner under sub-section (1) and pass such order thereon as he thinks just and proper within two years from the date of service of notice for revision of such order:

Provided that the order passed by the Commissioner under this sub-section shall not affect the liability of any person under this Act, with respect to any sale or purchase effected prior to such order."

Amendment of  
section 85 of  
Guj.1 of 2005.

**40.** In the principal Act, in section 85, -

(1) in sub-section (1), for the words “shall not be less than six months but which may extend to three years and with fine of rupees twenty thousand”, the following shall be substituted, namely :-

“may extend to six months or with fine not exceeding

rupees twenty thousand or with both :

Provided that in absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than one month and such fine shall not be less than rupees ten thousand.”,

(2) in sub-section (2),--

(a) after clause (e), the following clause shall be inserted, namely :-

“(ee) contravenes the provisions of section 60; or”;

(b) for the words “one year and with fine of rupees twenty thousand”, the following shall be substituted, namely :--

“six months or with fine not exceeding rupees twenty thousand or with both:

Provided that in absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than one month and such fine shall not be less than ten thousand.”,

(3) for sub-section (4), the following sub-section shall be substituted, namely:—

“ (4) Whoever aids or abets any person in commission of an offence specified in sub-section (1) or (2) shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine not exceeding rupees twenty thousand or with both.”,

(4) in sub-section (5), for the words “which shall not be less than rupees five hundred”, the words “not exceeding rupees one hundred” shall be substituted.

Amendment of section 97 of Guj.1 of 2005.

41. In the principal Act, in section 97, --

(1) in sub-section (1), for the words “he thinks fit”, the words “may be prescribed” shall be substituted;

(2) sub-section (2) and the *Explanation* thereunder shall be deleted.

Amendment of section 100 of Guj. 1 of 2005.

42. In the principal Act, in section 100, in sub-sections (1) and (2), for the words and figures “Gujarat Sales Tax Act, 1969”, the words and figures “Gujarat Sales Tax Act, 1969, the Bombay Sales of Motor Spirit Taxation Act, 1958” shall be substituted.

Guj.1 of 1970.

Guj.1 of 1970.

Bom.66 of 1958.

Amendment of Schedule I of Guj.1 of 2005.

43. In the principal Act, in Schedule I, --

(1) the entry at serial No.4 shall be deleted;

(2) in the entry at serial No.7, for the words “*kumkum* or *sindur*”, the words “*kumkum*, *sindur* and comb commonly known as *kanska*, *kanski*” shall be substituted;

(3) in the entry at serial No.9, in sub-entry (1), for the word “Bread”, the words “Bread in any form” shall be substituted;

(4) after the entry at serial No.9, the following entry shall be inserted, namely :

1	2	3.
---	---	----

“9A	Brooms and broom sticks (unbranded)	--”;
-----	-------------------------------------	------

(5) in the entry at serial No.12, the condition in column 3 shall be deleted;

- (6) the entry at serial No.14 shall be deleted;
- (7) entry at serial No.19 shall be deleted;
- (8) after the entry at serial No. 21, the following entry shall be inserted, namely :-

1	2	3
“21 A	Fabrics of all types on which additional excise duty is levied and collected in lieu of sales tax under the Additional Duties of Excise (Goods of Special Importance) Act, 1957.”;	--

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1957.

- (9) after entry at serial No.31, the following entry shall be inserted, namely:-

1	2	3
“31A	Handicrafts articles as specified by the State Government by notification in the <i>Official Gazette</i> .	--” ;

- (10) for entry at serial No.32, the following entry shall be substituted, namely:-

1	2	3
“32	Handlooms, parts and accessories thereof.	-- ”;

- (11) in the entry at serial No. 35, for the words “and human blood plasma”, the words “including blood components” shall be substituted;

- (12) after the entry at serial No. 36, the following entries shall be inserted, namely:-

1	2	3
“36A	Kerosene stove and spare parts and accessories thereof	--
36B	Khadi garments and goods or made-ups thereof as may be specified by the State Government by notification in the <i>Official Gazette</i> .	--” ;

(13) the entry at serial No.42 shall be deleted;

(14) after the entry at serial No. 50, the following entry shall be inserted, namely:-

1	2	3
“50A	Slates and slate pencils and chalk sticks and chalk lumps	--” ;

(15) after the entry at serial No. 51, the following entries shall be inserted, namely :--

1	2	3
“51A	Sugar of all types on which additional excise duty is levied and collected in lieu of sales tax under the Additional Duties of Excise (Goods of Special Importance) Act, 1957,	--
51B	(i) Threads, twine, string or rope prepared from coir or jute known as <i>Bhindi</i> , <i>Bhindiwan</i> ,  (ii) <i>Varat and Varatdi</i> .	---
51C	Tobacco of all types on which additional excise duty is levied and collected in lieu of sales tax under the Additional Duties of Excise (Goods of Special importance) Act, 1957.	--”;

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1957.

LVIII of  
1957.

(16) in the entry at serial No.52, for the words  
 “Vaccines, Toxids”, the word “Toxids” shall be substituted.

**44.** In the principal Act, in Schedule II, -

**Amendment of  
 Schedule II of  
 Guj.1 of 2005.**

(1) after the entry at serial No. 6, the following entry shall be  
 inserted , namely :-

1	2	3
“6A	Biscuites (unbranded)	Four paise in the rupee”;

(2) in the entry at serial No.7, for the words “and nuts”, the words  
 “nuts, screws and fastners” shall be substituted;

(3) the entry at serial No.12 shall be deleted;

(4) the entry at serial No. 15 shall be deleted;

(5) for the entry at serial No. 18, the following entry shall be  
 substituted, namely :-

1	2	3
“18	(i) Chemicals of all types excluding those specified in any other entries in this Schedule	Four paise in the rupee”;

(ii) Solvent

(6) after the entry at serial No.28, the following entry shall be  
 inserted, namely :-

1	2	3
“28A	(i) Drugs, medicines and vaccines including Bulk drugs	Four paise in the rupee”;
	(ii) Medical equipments, devices and implants as may be specified by the	

State Government by notification

In the *Official Gazette*.

- (iii) Bandages, dressings, syringes, medicated ointments manufactured or imported into India, stocked, distributed or sold under the licence granted under the Drugs and Cosmetics Act, 1940.

(7) in the entry at serial No. 32, for the words “which are not liable to Additional Excise duties”, the words “to which entry 21A in Schedule I does not apply” shall be substituted;

(8) after the entry at serial No.32, the following entries shall be inserted, namely :-

1	2	3
“32A	Ghee	Four paise in the rupee
32B	(i) Granules and resins of plastic including HDPE, LDPE, LLDPE, PVC, PP (ii) PVC Stabilizer	Four paise in the rupee”;

(9) after the entry at serial No.34, the following entry shall be inserted, namely :-

1	2	3
“34A	Honey	Four paise in the rupee”;

(10) in the entry at serial No. 41, for the words “Import Licence”, the words “Import Licence, Goodwill, Technical know how, export permit or quota, DEPB,” shall be substituted;

(11) after the entry at serial No.42, the following entry shall be inserted, namely :-



1	2	3
“42A	Industrial inputs or agricultural inputs as may be specified by the State Government by notification in the <i>Official Gazette</i> .	Four paise in the rupee”;

(12) after entry at serial No.45, the following entry shall be inserted, namely :-

1	2	3
“45A	(1) <i>Jari</i> thread and embroidery materials of gold, silver and gilded metal including <i>badla, kasab, champa, gota</i> and <i>fulthappa</i>  (2) <i>Jari</i> materials that is to say <i>badla, kasab, champa, gota</i> and <i>fulthappa</i> not containing gold or silver metal	Four paise in the rupee”;

(13) after the entry at serial No.46, the following entries shall be inserted, namely :-

1	2	3
“46A	Kerosene sold through the Public Distribution System	Four paise in the rupee
46B	Kerosene	Twenty-five paise in the rupee”;

(14) the entry at serial No.47 shall be deleted;

(15) in the entry at serial No.48,-

(a) sub-entry (ii) shall be renumbered as sub-entry (iii) and in the sub-entry (iii) as so renumbered, item (e) shall be deleted;

(b) before sub-entry (iii), the following sub-entry shall be inserted, namely :-

1	2	3
---	---	---

“(ii) Processed fruits, processed vegetables including fruit jams, jelly, pickle, fruit squash, paste, fruit drink and fruit juice”;

(16) after the entry at serial No.48, the following entry shall be inserted, namely :-

1	2	3
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“48A	Lignite	Twenty paise in the rupee”;
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(17) after the entry at serial No.49, the following entries shall be inserted, namely :-

1	2	3
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“49A	Low Sulphur heavy stock (LSHS)	Fifteen paise in the rupee
49B	Lubricants	Fifteen paise in the rupee” ;

(18) after the entry at serial No.51, the following entry shall be inserted, namely :-

1	2	3
---	---	---

“ 51A	Naphtha	Sixteen paise in the rupee”;
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(19) in the entry at serial No. 56,--

(i) in sub-entry (i), the words “including newsprint” shall be added at the end;

(ii) in sub-entry (ii), -

(a) for the word and figure “entry 6”, the word and figure “entry 8”, shall be substituted ;

(b) the words “Slates and slates pencils and chalk sticks” shall be deleted;

(c) after the words “geometrical instruments”, the words “scientific instruments” shall be inserted ;

(20) after the entry at serial No.58, the following entry shall be inserted, namely :-

1	2	3
“58A	Plant and Machinery	Four paise in the rupee” ;

(21) in the entry at serial No.61, for the word "spare", the words "components and" shall be substituted;

(22) for the entry at serial No. 65, the following entry shall be substituted, namely :-

1	2	3
“65	(i) Sewing machines	Four paise in the rupee”;
	(ii) Needles of all types	

(23) after entry at serial No.67, the following entry shall be inserted, namely :-

1	2	3
“67A	Soap (hand made)	Four paise in the rupee”;

(24) in the entry at serial No. 73, after the word “Sugar”, the words “of all types to which entry 51A in Schedule I does not apply” shall be added;

(25) after the entry at serial No. 74, the following entries shall be inserted, namely :-

1	2	3
“74A	Sweets and sweetmeats	Four paise in the rupee
74B	Tea in leaf or powder form	Four paise in the rupee”;

(26) for entry at serial No.75, the following entry shall be substituted, namely :-

1	2	3
“75	(i) Threads, twines, stings or roaps prepared from any materials or goods or waste thereof other than those specified in entry 51B in Schedule I	Four paise in the rupee” ;

(ii) Sewing threads

(27) after the entry at serial No.76, the following entries shall be inserted, namely :-

1	2	3
“76A.	Tobacco of all types to which entry 51C in Schedule I does not apply	Four paise in the rupee
76B	Tools meant for use by carpenters and blacksmith	Four paise in the rupee
76C	Toys other than electronic toys	Four paise in the rupee”;

(28) in the entry at serial No.78, in sub-entry (ii), for the word "Transformer", the word "Transmission" shall be substituted;

(29) in the entry at serial No.79, the words “and parts and accessories thereof” shall be added at the end;

(30) after entry at serial No. 82, the following entry shall be inserted, namely :-

1	2	3
“82A	Weighing scales of all types other than electronic weighing scales	Four paise in the rupee”;

45. In the principal Act, after Schedule II, the following Schedule shall be added, namely :-

Insertion of new Schedule in Guj. 1 of 2005.

**“SCHEDULE III**

*(See sections 7 and 9)*

**GOODS, THE SALES OR PURCHASE OF WHICH IS SUBJECT TO TAX AND THE RATE OF TAX.**

Sr. No. (1)	Description of goods (2)	Rates of Tax (3)
1.	High speed diesel oil	Twenty-four paise in the rupee
2.	Aviation Gasoline (Duty paid)	Thirteen paise in the rupee
3.	Aviation Gasoline (Bonded)	Twenty-six paise in the rupee
4.	Aviation turbine fuel (Duty paid)	Thirty paise in the rupee
5.	Aviation turbine fuel (Bonded)	Thirty-eight paise in the rupee
6.	Any other kind of motor spirit.	Twenty-six paise in the rupee

*Explanation.--* For the purpose of this Schedule,--

- (a) “motor spirit” means,-
- (i) any inflammable hydro-carbon (including any mixture of hydro-carbons or any liquid containing hydro-carbons) which is capable of being used for providing reasonable efficient motive power for any form of motor vehicle or vessel of any kind of aircraft; and
  - (ii) power alcohol, that is, ethyl alcohol of any grade (including such alcohol when denatured or otherwise treated), which is either by itself or in admixture with

any such hydro-carbon, is capable of being used as aforesaid but does not include such form of inflammable hydrocarbon materials as the State Government may, by notification in the *Official Gazette*, specify in this behalf;

(b) the rate of tax in column 3 indicates that the tax on goods to which entry relates shall be charged on the basis of sale price of the respective goods.”.

## **STATEMENT OF OBJECTS AND REASONS**

Subsequent to the passage of the Gujarat Value Added Tax Bill, 2003 in the Legislative Assembly on 26.3.2003, States have evolved a consensus about the basic design of Value Added Tax through series of discussions in the Empowered Committee of States Finance Ministers constituted by the Government of India. In order to bring in Tax uniformity among all the States, it is agreed by all the State Governments to have certain common points of convergence. The Empowered Committee of State Finance Ministers has accordingly published a white paper on State Level Value Added Tax. It is, therefore, considered necessary to amend the Gujarat Value Added Tax Act, 2003 based on discussion in the Empowered Committee and brought out in the white paper as well.

Based upon the experience of implementing the repealed law, certain further amendments have also been proposed with an objective to enhance, the effectiveness in the implementation of the Act.

The following notes on clauses explain the important provisions of the Bill:-

**Clause 2.--** This clause seeks to amend section 2 with a view to amend and insert the definitions of the ‘appointed day’, ‘capital goods’, ‘earlier law’, ‘HSN code’ and the year.

**Clause 3.--** This clause seeks to amend section 5 to provide for exemptions to the classes of sales or purchases of goods or dealers as may be notified by the State Government.

**Clause 6.--** This clause seeks to amend section 7 so as to empower the State Government to reduce the rate of tax or amend the entry of Schedules II and III.

**Clause 7.--** This clause seeks to insert new section 7A so as to empower the State Government to assign HSN code to each of the goods specified in the Schedules.

**Clause 8.--** This clause seeks to amend section 8 so as to provide that the reduction in the amount of tax under clause (b) shall not be made subsequent to the prescribed period of the sales made by the dealer.

**Clause 10.--** This clause seeks to amend section 11 entitling the registered dealer to claim tax credit of the amount paid as tax under the Gujarat Tax on

Entry of Specified Goods into Local Areas Act, 2001 and also on the purchases of taxable goods used as capital goods meant for use in manufacture of taxable goods intended for item (i) to (vi) of clause (a) of sub-section (3). It further provides that tax credit shall not be allowed for purchases of capital goods used in manufacturer of goods specified in Schedule I or used in generation of energy; purchases of capital goods used in transfer of property of goods involved in the execution of a work contracts; purchases of petrol, high speed diesel oil, crude oil, and lignite except for resale; where the right to use is transferred; purchases of goods made during the period the permission granted under section 14 was valid; the purchases made from a dealer whose name has been published under section 27 or section 97 of the Act; the purchases made prior to the date of registration; and where dealer has claimed tax credit on purchase of capital goods and he has not used such capital goods in the state for a period of five years for manufacture of the goods, such dealer shall reduce his tax credit claimed on the capital goods.

**Clause 11.--** This clause seeks to amend section 12. The provisions of law is to be implemented from 1<sup>st</sup> April, 2006 and therefore the date mentioned in the section requires to be changed from the 1<sup>st</sup> April, 2003 to 1<sup>st</sup> April, 2006. It also provides that the purchases made in the last year and held in stock on the 31<sup>st</sup> March, 2006 would be taken into account for the purposes of claiming tax credit by the dealer. Clause (e) of sub-section (4) proposed to be deleted by this clause with a view to enable the dealer to claim tax credit on the prohibited goods declared as such under the repealed Act, if such goods are shown in the stock on the appointed day.

**Clause 12.--** This clause seeks to amend section 14 so as to provide that a dealer whose gross turnover does not exceeds rupees fifty lakhs shall eligible for the benefit of lump sum tax. It also provides that the categories of the dealers referred to in the proviso are not eligible to have option for payment of lump sum tax. Since the dealer selling or purchasing goods in the course of inter State trade is not entitled to opt for composition, the provisions of clause (b) and the explanation to sub-section (4) of section 14 become redundant and therefore proposed to be deleted.

**Clause 13.--** This clause seeks to insert new section 14A so as to provide for payment of lump sum tax in lieu of tax payable by the dealer engaged in the



business of execution of works contract at the rate that may be fixed by the State Government.

**Clause 14.--** This clause seeks to amend section 21 so as to provide that where dealer changes his place of business, he should apply for obtaining fresh registration and simultaneously apply for cancellation of old registration.

**Clause 15.--** This clause seeks to amend section 27 so as to empower the Commissioner to suspend and cancel the certificate of registration of a dealer in the circumstances mentioned therein.

**Clause 16.--** This clause seek to amend section 29 so as to provide that the dealer shall furnish the revised return within one month from the last date prescribed for furnishing the original return. It also provides that the penalty imposed under sub-section (5) of section 29 shall be without prejudice to any other proceeding under the Act.

**Clause 17.--** This clause seeks to amend section 30 in order to provide that if the dealer has paid less amount than the amount of tax, penalty and interest, then the amount so paid by the dealer shall be adjusted first towards interest, then penalty and thereafter towards the amount of tax.

**Clause 18.--** This clause seeks to amend section 33 to provide that where the dealer has furnished all the returns within prescribed period and paid the tax accordingly and such returns are correct and complete and the notice under section 34 has not been served on such dealer within prescribed period, then such dealer shall be deemed to have been assessed for that year. This clause also empowers the Commissioner to revise such deemed assessment within a period of three years.

**Clause 19.--** This clause seeks to amend section 34 so as to provide that the Commissioner shall issue notice for audit assessment in such cases as may be prescribed by rules.

**Clause 20.--** This clause seeks to insert new section 34A so as to provide that where the dealer has accounted the transaction of sales or purchase with a view to pay less tax, the tax liability shall be calculated as per fair market price of such transaction.

**Clause 22.--** This clause seeks to amend section 38 so as to provide that dealer shall be entitled to claim interest on the amount of refund right from the

date of closer of the accounting year in which he has paid the tax till the date of actual amount of refund is paid.

**Clause 23.--** This clause seeks to insert new sections 59A and 59 B. New section 59 A defines certain terms and section 59 B provide that any person paying the specified sale price to a contractor for carrying out the work in pursuance of a specified works contract shall deduct the tax at source at the rate of two paise in a rupee of any such payment and shall deposit such tax in the Government treasury and also provide for other consequential provisions.

**Clause 24.-** This clause seeks to amend section 60 so as to provides that dealer shall give tax invoice to the purchaser and if he contravenes the provisions, the Commissioner may impose penalty on such dealer not exceeding ten per cent. of the amount involved in the transaction.

**Clause 26.--** New section 62A proposed to be inserted by this clause provides that on issue of notification by the State Government, the provisions of the Information Technology Act, 2000 and the rules made thereunder shall apply in respect of the procedure under this Act.

**Clause 27.--** This clause seeks to amend section 63 so as to empower the State Government to prescribe by rules the amount of total turnover of the dealer whose accounts requires to verified and audited by a specified authority. It also reduces the time limit from one year to six months for auditing the accounts.

**Clause 28.—**This clause seeks to amend section 66 with a view to empower the Commissioner to impose the penalty in a case where the dealer fails to intimate the authority about the changes made in the declaration.

**Clause 29.--** This clause seeks to insert new section 66A with a view to obtain the specimen signature of a person authorized by the dealer to sign cash memo, tax invoice, etc.

**Clause 30.-** This clause seeks to substitute section 67 so as to empower the Commissioner to require any dealer to produce books of accounts and other documents. It also gives powers of search and seizure.

**Clause 31.--** This clause seeks to amend section 68 so as to provide that where the driver or person in-charge of vehicle, boat or animal fails to carry with him the prescribed declaration or where the signature in the documents does not match with the specimen signature furnished by the dealer under

section 66A, the officer in-charge of check-post can seize the goods . It also provides that if a person from whom possession of goods is taken, fails to establish the ownership of the goods so seized, the Commissioner may direct that the goods may be sold by public auction and sale proceeds thereof shall be deposited in government treasury.

**Clause 32.--** This clause seeks to amend section 69 to provide that the driver or person in-charge of vehicle, boat or animal shall carry with him the transit pass through out the State and if he fails to carry with him such transit pass, he shall be liable to penalty.

**Clause 33.—**This clause seeks to insert new section 70A so as to empower the Commissioner to require any person to furnish the information and to seize the books of accounts and goods and impose the penalty.

**Clause 34.--** This clause seeks to amend section 73 so as to provide that appeal can be entertained by the appellate authority in the circumstances mentioned therein.

**Clause 36.—**This clause seeks to amend section 75 so as to provide that the revisional powers can be exercised subject to the provisions of section 80.

**Clause 38.--** This clause seeks to substitute section 78 so as to provide that an aggrieved party can directly file an appeal in the High Court against the decision of the Tribunal on the substantial question of law involved in the matter.

**Clause 39.--** This clause seeks to amend section 80 so as to empower the Commissioner to revise the order passed under sub-section (1) of that section. It further provides that such order shall not affect the liability of any person with respect to any sale or purchase effected prior to such order.

**Clause 40.--** This clause seeks to amend section 85 so as to reduce the penalties provided in the Act to the extent specified therein.

**Clause 41.--** This clause seeks to amend section 97 so as to empower the State Government to prescribe by rules, the manner in which the Commissioner shall publish the names and particulars of the dealers without waiting for the time for filing an appeal or till the disposal of appeal.

**Clause 42.--** This clause seeks to amend section 100 so as to repeal the Bombay Sales of Motor Spirit Taxation Act, 1958.

**Clause 43.--** This clause seeks to amend various entries of Schedule I to the extent specified therein.

**Clause 44.--** This clause seeks to amend various entries of Schedule II to the extent specified therein.

**Clause 45.--** This clause seeks to add new Schedule III in the Act.

**SAURABH PATEL**

#### **MEMORANDUM REGARDING DELEGATED LEGISLATION.**

This Bill involves delegation of legislative powers in the following respects :-

**Clause 3.--** Sub-section (2) of section 5 proposed to be substituted by this clause empowers the State Government to exempt, by notification in the

*Official Gazette*, any class of sales or purchases or dealers from payment of tax.

**Clause 7.--** New section 7A proposed to be inserted by this clause empowers the State Government to prescribe by rules, the HSN code to be assigned to each of the goods specified in the Schedules.

**Clause 13.--** Sub-section (1) of new section 14A proposed to be inserted by this clause empowers the State Government to prescribe by rules the circumstances in which and the conditions subject to which the Commissioner may grant permission to pay *lump sum* tax to a dealer who engaged in the business of execution of works contract. It also empowers the State Government to fix, by notification in the *Official Gazette*, the rate of tax payable by such dealer.

**Clause 18.--** Sub-section (3) of section 33 proposed to be substituted by this clause empowers the State Government to prescribe by rules, the period within which the notice under section 34 shall be served upon the dealer.

**Clause 19.—** Sub-section (2) of section 34 proposed to be amended by this clause empowers the State Government to prescribe by rules, the cases in which detailed scrutiny by the Commissioner is necessary.

**Clause 23.--(i)** Sub-section (5) of new section 59B proposed to be inserted by this clause empowers the State Government to prescribed by rules, the form of certificate in respect of non-liability of the contractor on the specified sales involved in any specified works contract;

(ii) Sub-section (7) of new section 59B empowers the State Government to prescribe by rules, the manner in which and the period within which the amount of tax deducted at source shall be deposited into Government treasury;

(iii) Sub-section (8) of new section 59B empowers the State Government to prescribed by rules, the other particulars to be furnished by the person to the contractor while giving certificate specifying the amount of tax deducted at source;

(iv) Sub-section (14) of new section 59B empowers the State Government to prescribed by rules the form of return and the time within which such return shall be furnished to the Commercial tax Officer.

**Clause 26.--** Sub-section (1) of new section 62A proposed to be inserted by this clause empowers the State Government to apply, by notification in the *Official Gazette*, the provisions of Information Technology Act, 2000 and the rules made thereunder in respect of the procedures under this Act.

**Clause 27.--** Sub-section (1) of section 63 proposed to be amended by this clause empowers the State Government to prescribe by rules the amount of total turnover the dealer whose accounts requires to be verified and audited by a specified authority.

**Clause 29.--** Sub-section (1) of new section 66A proposed to be inserted by this clause empowers the State Government to prescribed by rules the period within which the registered dealer shall furnish the specimen signature of the person authorised to sign cash memo, tax invoice etc.

**Clause 30.--** Sub-section (1) of section 67 proposed to be substituted by this clause empowers the State Government to prescribe by rules, the conditions subject to which the Commissioner require any person to produce books of accounts or to furnish the information.

**Clause 33.--** Sub-section (8) of new section 70A proposed to be inserted by this clause empowers the State Government to prescribe by rules the manner in which the auction of goods shall be made.

**Clause 41.--** Sub-section (1) of section 97 proposed be amended by this clause empowers the State Government to prescribe by rules, the manner in which the Commissioner shall publish or disclose the names of the dealers and other particulars relating to the proceedings under the Act.

The delegation of legislative powers as aforesaid is necessary and is of a normal character.

**Dated the      February, 2006.**

**SAURABH PATEL**

**GUJARAT LEGISLATURE SECRETARIAT**

