

**CHAPTER I
PRELIMINARY**

1. Short title, extent and commencement —

- (1) This Act may be called the Jharkhand Value Added Tax Act, 2005.
- (2) It extends to the whole of the State of Jharkhand
- (3) It shall come into force on such date as the Government may, by Notification in the Official Gazette, appoint and different dates may be appointed for different provisions of the Act.
- (4) Any Notification, Order, Declaration or Rule and any Appointment to an office may be issued or made under the Act at any time after passing thereof; but such Notification, Order, Declaration, Rule or Appointment issued or made, shall not take effect until the date appointed under sub-Section (3) for bringing into force the respective provision under which it is issued or made.

2. Definitions —

In this Act unless the context otherwise requires:

- (i) "**Accountant**" for the purpose of this Act means —
 - (a) A Chartered Accountant within the meaning of the Chartered Accountant's Act, 1949 (38 of 1949);
 - (b) A person, who by virtue of the provisions of sub-section (2) of Section 226 of the Companies Act, 1956 (1 of 1956), is entitled to be appointed to act as an auditor of companies registered; or
 - (c) A Cost Accountant within the meaning of the Cost and Works Accountants Act, 1959 (23 of 1959); or
 - (d) A person referred to in Section 619 of the Companies Act, 1956 (1 of 1956);
 - (e) A person, who has passed the final examination of Institute of Companies Secretaries of India, New Delhi;
 - (f) A person, who has passed any other examination in this behalf, notified by the Government.
- (ii) "**Act**" means the Jharkhand Value Added Tax Act, 2005;
- (iii) "**Appointed day**", in relation to any provision of this Act, means the date on which such provision comes into force;
- (iv) "**Assessee**" means any person by whom tax or any other sum of money is payable under this Act and includes every person in respect of whom any proceeding under this Act have been taken for the assessment of tax payable by him;
- (v) "**Assessing Authority**" means any person not below the rank of a Commercial Taxes Officer authorized by the Government to make any assessment under this Act;
- (vi) "**Assistant Commissioner**" means any person appointed to be an Assistant Commissioner of Commercial Taxes under this Act;
- (vii) "**Branded**" means any goods sold under a name or Trade Mark registered or pending registration of transfer under the Trade and Merchandise Act 1958 (Central Act 43 of 1958) or the Trade Marks Act 1999 (Central Act 47 of 1999).
- (viii) "**Business**" includes -
 - (a) The provisions of any services, but excluding the services provided by an employee;
 - (b) Any trade, commerce, manufacture or any adventure or concern in the nature of trade, commerce, manufacture, whether or not such trade, commerce, manufacture, adventure, concern is carried on with a motive to make gain or profit and whether or not any profit accrues from such trade, commerce, manufacture, adventure, concern; and
 - (c) Any transaction in connection with, or incidental or ancillary to such trade or services, commerce, manufacture, adventure or concern; referred to in clause (a) and includes any transactions involving goods whether or not in their original form or in the form of second hand goods, unserviceable goods, obsolete or discarded goods, scrap or waste materials goods, which are obtained as waste-product, by-product in the course of manufacture or processing of other goods or mining or generation and distribution of electricity.

- (ix) "**Commissioner**" means the Commissioner of Commercial Taxes or Additional Commissioner of Commercial Taxes appointed by the Government under this Act and includes any other officer upon whom the State Government may by notification, confer all or any of the powers and duties of the Commissioner under this Act.
- (x) "**Capital goods**" means plant, machinery, equipment, apparatus, tools, appliances or electrical installation, Pollution/Quality Control Equipments, used in the process of manufacturing, processing of goods for sale or in the mining, provided such purchases are capitalized for their purposes excluding goods mentioned in negative list as in Appendix - I;
- (xi) "**Commercial Taxes Officer**" means any person appointed to be a Commercial Taxes Officer under this Act;
- (xii) "**Casual Trader**" means a person who whether as principal, agent or in any other capacity, has occasional transactions involving buying, selling, supplying or distributing goods or conducting any exhibition cum Sale in the state, whether for cash or for deferred payment, or for commission, remuneration, or other valuable consideration; and for the purpose of this Act, Casual Trader shall mean and include a dealer as defined in clause (xiii) of this Section.
(Added by Jharkhand VAT Ordinance, 2011 w.e.f. 01.04.2006)
- (xiii) "**Dealer**" means any person who carries on the business of buying, selling, supplying or distributing goods, executing works contract, delivering any goods on hire-purchase or any system of payment by installments; transferring the right to use any goods or supplying by way of or as part of any service, any goods directly or otherwise, whether for cash or for deferred payment, or for commission, remuneration or other valuable consideration and includes;
- (a) a casual trader;
 - (b) a commission agent, a broker or a del credere agent or an auctioneer or any other mercantile agent, by whatever name called,
 - (c) a non-resident dealer or an agent of a non-resident dealer, or a local : branch of a firm or company or association or body of persons whether incorporated or not, situated outside the State;
 - (d) a person who, in the course of business, -
 - (i) sells goods produced by him by manufacture, agriculture, horticulture or otherwise; or
 - (ii) transfers any goods, including controlled goods whether in pursuance of a contract or not, for cash or for deferred payment or for other valuable consideration;
 - (iii) supplies, by way of or as part of any service or in any other manner whatsoever, goods, being food or any other articles for human consumption or any drink (whether or not intoxicating), where such supply or service is for cash, deferred payment or other valuable consideration;
- (xiv) "**Declared goods**" means goods declared to be of special importance in inter-State trade or commerce under Section 14 of the Central Sales tax Act, 1956 (Central Act 74 of 1956);
- (xv) "**Deputy Commissioner**" means any person appointed to be a Deputy Commissioner of Commercial Taxes under this Act'.
- (xvi) "**Documents**" includes written or printed records of any sort, title deeds and data stored electronically in whatever forms or any other record or form as defined in the Information Technology Act 2000.
- (xvii) "**Documents of Title**" means, any document which confers a title to goods and includes a bill of lading, dock warrant, warehouse-keeper's certificate, and warrant or order for the delivery of goods and any other document used in the ordinary course of business as proof of the possession or control of goods, or authorizing of purporting to authorize, either by endorsement or by delivery, the possessor of the document to transfer or to receive goods thereby represented;
- (xviii) "**Electronic Record**" means, a data, record or data generated, image or sound stored, received or sent in an electronic form or micro film or computer generated

- micro fiche or in a computer disk or in a computer floppy or computer software/media;
- (xix) **"Entry of goods"** – "Entry of goods" with all its grammatical variations and cognate expressions means entry of goods mentioned in schedule III into a local Area from any place out side the state
- (xx) **"EOU"** – (Export Oriented Unit) means any industrial unit, which undertakes to export their entire production of goods and is approved as such by the Development Commissioner of the concerned Export Processing Zone or any other competent authority duly authorized for the purpose by the Ministry of Industry, Government of India.
- (xxi) **"EHTP"**- (Electronic Hardware Technology Park), is a unit set up under the EHTP, which undertakes to export their entries production of goods outside the territory of India and is approved by the Development Commissioner of the Export Processing Zone or any other competent authority duly authorized by the Ministry of Industry, Government of India for the purpose.
- (xxiA) **"Fund"** means, the "Jharkhand Trade Development Fund"; as created by the State Government through a Notification published in the Official Gazette: for the purpose of development of trade, commerce and industry of the State, for such period(s) as may be specified in this behalf.
- (xxii) **"Goods"** means all kinds of movable property (other than newspapers, actionable claims, electricity, stocks and shares and securities) and includes livestock, all materials, computer software sold in any form, Sim cards used in Mobile Telephony or for any other similar activation purposes, commodities and articles and every kind of property (whether as goods or in some other form) involved in the execution of a works contract, and all growing crops, grass, trees and things attached to, or forming part of the land which are agreed to be severed before sale or under the contract of sale;
- (xxiii) **"Goods carrier"** shall include motor vehicle, Vessel, boat, animal or any other means of conveyance but will exclude railway wagon, coach or vehicle or any road transport when plying in collaboration with rail transport and under the control of the Railway;
- (xxiv) **"Government"** means Government of Jharkhand.
- (xxv) **"Gross Turnover"** means-
- (i) for the purposes of levy of sales tax, in respect of sale of goods, aggregate of sale prices received and receivable by a dealer, including the gross amount received or receivable for execution of works contract or for the transfer of right to use any goods for any purposes (whether or not for a specified period) during any given period (and also including the sale of goods made outside the State, in the course of inter-State trade or commerce or export), but does not include sale prices of goods which have borne the incidence of purchase tax under Section 10.
 - (ii) for the purposes of levy of purchase tax, aggregate of purchase prices paid or payable by a dealer during any given period in respect of purchase of goods or class or description of goods which have borne the incidence of purchase tax under Section 10.
 - (iii) for the purposes of Section 9, the aggregate of the amounts under sub-clauses (i) and (ii);
- (xxvi) **"Importer"** means a dealer who brings any goods into the State, or to whom any goods are dispatched from any place outside the State;
- (xxvii) **"Import Price"** means the amount payable by a dealer or any person, as valuable consideration in respect of the sale or supply of goods making entry into the State or into the local area, but shall not include the tax paid or payable under Central Sales Tax Act or under any other State Taxes Act(s), in respect of such sales or purchases.
- (xxviii) **"Input"** means, goods purchased in course of business - (a) for resale in the same form; or (b) for use in manufacturing or processing of taxable goods for sale; or (c) for directly use in mining or use as containers or packing materials for taxable goods; or (d) for the execution of works contract, but excluding purchases of Petrol, Diesel, Furnace Oil and steam and Natural Gas and for use as Capital Goods as specified in Appendix-I of this Act.

(Added by Jharkhand VAT Ordinance, 2011 w.e.f. 07.05.2011)

- (xxix) **"Input Tax"** means the tax paid or payable under this Act, by a registered dealer to another registered dealer on the purchase of goods, in the course of business for resale or for use in manufacturing or processing of taxable goods for sale, or for directly use in mining or use as containers or packing materials for taxable goods or for the execution of works contract;
 Provided that input tax shall also include tax paid on the entry of goods into the local area as specified in Schedule-III.
 Provided further that input tax shall also include tax paid on the capital goods for Registered Start-up-business and shall qualify for Input Tax Credit as prescribed.
 Provided further, that tax charged at Maximum Retail Price; shall not be treated as Input Tax, for the purpose of resellers, when reselling medicines or drugs, specified in the Drugs (Prices Control) Order 1995.
- (xxx) **"Joint Commissioner"** means any person appointed to be a Joint Commissioner of Commercial Taxes under this Act;
- (xxxi) **"Local Area"** means the areas within the limits of a –
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| (a) Municipal Corporation | (e) Town Board |
| (b) Municipality | (f) Mines Board |
| (c) Notified Area Committee | (g) Municipal Board |
| (d) Cantonment Board | (h) Gram Panchayat |
- (i) Any Other Local Authority or any Authority by whatever nomenclature called, constituted or continued under or in any law for the time being in force.
- (xxxii) **"Manufacture"** includes any activity that brings out a change in an article or articles or goods as a result of some process, treatment, labour and results in transformation into a new and different article so understood in commercial parlance having a distinct name character use but does not include such activity of manufacturer as may be notified.
- (xxxiii) **"Maximum Retail Price"**, in respect of goods taxable under this Act, means maximum price printed on the package of any goods at which such goods may be sold to the ultimate consumer, whether such price is inclusive of tax or not;
- (xxxiv) **"Month"** means a calendar month;
- (xxxv) **"Notification"** means a notification published in the official Gazette of the Government.
- (xxxvi) **"Non Resident Dealer"** means a dealer, who effects sales or purchases of any goods in the State, but who has no fixed place of business or residence in the State;
- (xxxvii) **"Output Tax"** means the tax charged or chargeable under this Act by a registered dealer for the sale of goods in the course of business;
- (xxxviii) **"Person"** includes:-
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| (a) an Individual; | (b) a Joint Family; |
| (c) a Company; | (d) a Firm; |
- (e) an association of persons or a body of individuals; whether incorporated or not;
- (f) the Central Government or the Government of Jharkhand or the Government of any other State or Union Territory in India;
- (g) a local Authority or any Authority established under any law;
- (xxxix) **"Place of Business"** means any place where a dealer carries on the business and includes :-
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| (a) any warehouse, godown or other place where a dealer stores or processes his goods; |
| (b) any place where a dealer produces or manufactures goods; |
| (c) any place where a dealer keeps his books of accounts; |
| (d) in cases where a dealer carries on business through an agent (by whatever name called), the place of business of such agent; |
| (e) any vehicle or vessel or any other carrier wherein the goods are stored or used for transporting the goods; |
- (xl) **"Prescribed Authority"** and **"Prescribed"** means prescribed by Rules made under this Act;

- (xli) "**Principal Officer**", in relation to a company, means the director or Managing Director of such company, or the secretary, or any such person of the Company specially authorized to act as Principal Officer by the Board of Directors or by such Director or the Managing Director of such company, authorized in this behalf.
- (xlii) "**Purchase price**" means the amount of valuable consideration paid or payable by a person for any purchase made including any sum charged for anything done by the seller in respect of the goods at the time of or before delivery thereof, other than the cost of insurance for transit or of installation, when such cost is separately charged, and shall not include tax paid or payable under this Act, by a person in respect of such purchase.
- Explanation I – The amount of duties levied or leviable on the goods under the Central Excise Act, 1944 (1 of 1944), or the Customs Act, 1962 (52 of 1962) or the Bombay Prohibition Act, 1949 (Bom. XXV of 1949) shall be deemed to be part of the purchase price of such goods, whether such duties are paid or payable by or on behalf of the seller or the purchaser or any other person.
- Explanation II - 'Purchase price' shall include any amount payable by a dealer who purchases goods for anything done by the seller in respect of the goods at the time of or before delivery thereof to the buyer.
- Explanation III - 'purchase price' shall not include –
- (a) the cash discount allowed by the seller according to ordinary trade practice, if shown separately;
 - (b) the cost of transport of the goods from the seller to the buyer, provided such cost is separately charged to the buyer;
- (xliii) "**Quarter**" means the quarter ending on the 30th June, 30th September, 31st December and 31st March;
- (xliv) "**Resale**" means a sale of goods in the State of Jharkhand or in the course of inter-State trade and commerce and export out of the territory of India;
- (a) in the same form in which they are purchased, or
 - (b) Without doing anything to them, which amounts to, or results in, a Manufacture.
- and the term "re-sell" shall be construed accordingly;
- (xlv) "**Registered dealer**" means a dealer registered under this Act;
- (xlvi) "**Reverse tax**" means that portion of input tax of the goods on which credit has been availed but such goods are used subsequently for any purpose other than resale or manufacture of taxable goods or execution of works contract or use as containers or packing materials within, the State;
- (xlvii) "**Sale**" with all its grammatical variations and cognate expressions means any transfer of property in goods for cash or deferred payment or other valuable consideration but does not include a mortgage or hypothecation of or a charge or pledge on goods, and the words "sell", "buy" and "purchase", with all their grammatical variations and cognate expressions, shall be construed accordingly and includes-
- (a) transfer of property in any goods, otherwise than in pursuance of a contract;
 - (b) transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;
 - (c) delivery of goods on hire purchase or any other system of payment by installments;
 - (d) a transfer of the right to use any goods for any purpose, whether or not for specified period, for cash, deferred payment or any other valuable consideration;
 - (e) supply of goods made by a society, trust, club or association, whether incorporated or not, to its members or otherwise;
 - (f) the supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating), where such supply or service is made or given for cash, deferred payment or other valuable consideration;

- (g) a sale within the State includes a sale determined to be inside the State in accordance with the principles formulated in Section 4 of the Central Sales Tax Act, 1956;

and such transfer, delivery or supply of any goods shall be deemed to be a sale of those goods by the person making the transfer, delivery or supply, and all grammatical variations and cognate expression shall be construed accordingly; and 'purchase' means such acquisition of property in goods or purchase of those goods by the person to whom such transfer, delivery or supply is made.

Explanation I – A transfer or acquisition of goods on hire purchase or under any other system in which payment of valuable consideration is made by installments, shall, notwithstanding the fact the seller retains the title in the goods as a security for the payment of the valuable consideration or for any other reasons, be deemed to be a sale or purchase.

Explanation II – Notwithstanding anything contained in any law for the time being in force, two independent purchases or sales shall, for the purpose of this part, be deemed to have taken place-

- (a) when the goods are transferred from principal to his selling agent and from the selling agent to the purchaser, or
- (b) when the goods are transferred from the seller to a buying agent and from the buying agent to his principal, if the agent is found-
- (i) to have sold the goods at one rate and to have passed on the sale price to his principal at another rate, or
- (ii) to have purchased the goods at one rate and to have passed them on to his principal at another rate, or
- (iii) not to have accounted to his principal for the entire collections or deductions made by him in the sales or purchases effected by him or on behalf of his principal, or
- (iv) to have acted for a fictitious or non-existent principal.

- (xlviii) "**Sale Price**" means the amount payable to a dealer as valuable consideration in respect of the sale or supply of goods, and shall not include tax paid or payable under this Act, by a person in respect of such sales.

Explanation I – The amount of duties or fees or any sum levied or leviable or charged on the goods under the Central Excise Act, 1944 (I of 1944), or the Customs Act 1962 (52 of 1962) or the State Excise Act or any law shall be deemed to be part of the sale price of such goods, whether such sum are paid or payable by or on behalf of the seller or the purchaser or any other person.

Explanation II – Sale price shall include any amount charged by the dealer for anything done in respect of the goods at the time of, or before delivery thereof to the buyer;

Explanation III – Sale price shall not include the cash discount, if shown separately; and allowed by the dealer in the ordinary course of trade practice. [provided the same is allowed to a registered VAT dealer]* It shall also not include the cost for transport of the goods from the seller to the buyer, provided such cost is separately charged to the buyer.

*(Deleted by Jharkhand VAT Ordinance, 2011 w.e.f 01.04.2010)

Explanation IV – For the purpose of this clause, the expression "sale price" shall mean, the maximum retail price, as referred to in clause (xxxiii) of Section 2 of this Act, for a dealer, selling goods, specified in Drugs (Prices Control) Order 1995, to any other dealer.

- (xlix) "**Schedule**" means the schedule appended to this Act;
- (l) "**SEZ**" – means Special Economic Zone, as defined in the Central Excise Act 1944.
- (li) "**State**" means the State of Jharkhand
- (lii) "**Start up business**" means a dealers' intention to set up a factory to manufacture any taxable goods shall be deemed/ treated as a "start up business" until the date of commencement of commercial production.
- (liii) "**STP**"- (Software Technology Park), unit means a unit set up under the STP, which undertakes to export their entire production of goods outside the territory of India

and is approved by the Development Commissioner of the concerned Export Processing Zone or any other competent authority duly authorized by Ministry of Industry, Government of India for the purpose.

- (liv) **"Tax"** means the tax payable under this Act;
- (lv) **"Tax Invoice"** means a document listing goods sold with price, quantity and other details as specified in this Act and includes a statement of account, bill, cash register, slip, receipt or similar record, regardless of its form;
- (lvi) **"Taxable Turnover"** means the "Turnover", on which a dealer shall be liable to pay tax as determined after making such deductions from his total Turnover and in such manner as may be prescribed;
- (lvii) **"Transporter", "Carrier" or "Transporting Agent"** means any person, including the driver of the vehicle, who for the purposes of or in connection with or incidental to or in the course of his business transports or causes to transport goods, or holds goods in custody for delivery to any person after transportation, and includes railway, shipping company, air cargo terminal and courier service;
- (lviii) **"Turnover"** means the aggregate amount of purchase price(s) or sale price(s), for which goods are either bought or sold, supplied or distributed by a dealer, either directly or through another, on his own account or on account of others, whether for cash or for deferred payment or for other valuable consideration;

Explanation-

- (1) The turnover in respect of delivery of goods on hire purchase or on any system of payment by installments shall be the market price of the goods so delivered,
- (2) The turnover in respect of the transfer of the right to use any goods shall be the aggregate amount received or receivable by the dealer as consideration for such transfer,
- (3) Subject to such conditions and restrictions, if any, as may be prescribed in this behalf;
 - (a) the amount for which goods are sold shall include any sums charged for anything done by the dealer in respect of the goods sold at the time of, or before, the delivery thereof;
 - (b) any cash discount on the price allowed in respect of any sale or any amount refunded in respect of articles returned by customers shall not be included in the turnover; and
 - (c) where for accommodating a particular customer, a dealer obtains goods from another dealer and immediately disposes of the same to the said customer, the sale in respect of such goods shall be included in the turnover of the latter dealer but not in that of the former.
- (lix) **"Tribunal"** means the Tribunal constituted under Section 3 of this Act;
- (lx) **"Value Added Tax"** means a tax on sales or purchases levied under this Act;
- (lxA) **"Value of goods" means, the true sale price or the true purchase price of the goods, or prevalent fair market value of goods whichever is higher.**
Explanation – Fair Market Value means the price that the goods would ordinarily fetch on sale in the open market on the date of sale or dispatch or transfer of such goods.
 (New definition added by Jharkhand VAT Ordinance, 2011 - w.e.f. 07.05.2011)
- (lxi) **"Vehicle"** includes every wheeled conveyance used for the carriage of goods solely or in addition to passengers.
- (lxii) **"Vessel"** includes any ship, barge, boat, raft, timber, bamboos or floating materials propelled in any manner-
- (lxiii) **"Works Contract"** means and includes any agreement for carrying out for cash or deferred payment or other valuable consideration, for assembling, construction, fabrication, erection, installation, modification, fitting out, improvement or repair of any building, road, bridge or commissioning of any other immovable or movable property;
- (lxiv) **"Year"** means the financial year beginning from 1st April and ending with 31st March;

- (lxv) **“Zero Rated Sales”** for the purpose of this Act means a sale of goods, in the course of Inter-State Trade or Commerce, export to outside the territory of India including sale in course of Export and Sale of Goods to any unit located in Special Economic Zone as may be notified.

Provided further, unless otherwise specified in this Act—

- (a) words importing the masculine gender shall include the feminine gender;
- (b) words in singular shall include their plural and vice versa;
- (c) expressions referring to “writing” shall include printing, typing, lithography, photography and other methods of representing or reproducing words in a visible form; and
- (d) with reference to a person who is unable to sign his name, the word “signature” shall include his thumb impression or other mark duly attested to signify his signature.