

CHAPTER III
THE INCIDENCE, LEVY AND RATE OF TAX

8. Incidence of Tax —

- (1) Every dealer –
 - (a) whose gross turnover of sales or purchases during the year immediately preceding the commencement of this Act, -
 - (i) exceeded the specified quantum, or
 - (ii) who is registered or liable to be registered under the adopted Bihar Finance Act, 1981 or the Central Sales Tax Act, 1956, or
 - (b) to whom clause(a) does not apply, and
 - (i) whose gross turnover first exceeds the specified quantum during any period of twelve consecutive months, or
 - (ii) who has become liable to pay tax under the Central Sales tax Act, 1956, or
 - (iii) who is registered as a dealer under the Central Sales tax Act, 1956 or under this Act at any time after the commencement of this Act;shall be liable to pay tax in accordance with the provisions of this Act.
- (2) Every dealer is liable to pay tax under sub-Section (1) on purchases and sales effected by him,
 - (a) in case of clause (a) of sub-Section (1), with effect from the date of commencement of this Act;
 - (b) in case of sub-clause (i) of clause (b) of sub-Section (1), with effect from the date immediately following the day on which his gross turnover first exceeded the specified quantum during a period of any twelve consecutive months.
 - (c) in case of sub-clauses (ii) and (iii) of clause (b) of sub-Section (1), with effect from the date of registration or the date on which he becomes so liable whichever is earlier.
- (3) Every dealer who has become liable to pay tax under this Act shall continue to be so liable until the expiry of three consecutive years during each of which his gross turnover has failed to exceed the specified quantum and his liability to pay tax under this Act shall cease on the expiry of the period specified above.
- (4) Every dealer who has ceased to be liable under sub-Section (3) shall be again liable to pay tax under this Act with effect from the date immediately following a period not exceeding twelve consecutive months during which his gross turnover again exceeds the specified quantum.
- (5) For the purpose of this Act, specified quantum means in relation to any dealer who:
 - (a) imports for sale any goods into the State of Jharkhand on his own behalf or on behalf of his principal Nil
 - (b) manufactures or produces any goods for sale Rs. 50,000
 - (c) is engaged in any other business other than clause (a) and (b) Rs. 5 lakh
 - (d) involved in the execution of works contract and leasing Rs. 25 thousand
 - (e) is engaged in any other sales or purchases or class of sales or purchases: other than (a), (b) and (c); the specified quantum shall be, as specified in this behalf, from time-to-time.

Provided that the State Government may, by notification published in the Official Gazette and subject to condition of one month's previous notice, increase or reduce the amount of specified quantum.

- (6) For the purpose of calculating the gross turnover to determine the liability to pay tax under the Act-
 - (a) except as otherwise expressly provided, the turnover of all sales or as the case may be, the turnover of all purchases shall be taken, whether such sales or purchases are taxable or not, and
 - (b) the turnover shall include all sales or purchases made by a dealer on his own account and also on behalf of principals whether disclosed or not.
- (7) Where by any order passed under this Act, it is found that any person registered as a dealer ought not to have been so registered, then, notwithstanding any thing contained in this Act, such person shall be liable to pay tax for the period

commencing with the date of his registration and ending with the date of such order, as if he were a dealer.

- (8) A registered dealer: whose liability to pay tax has ceased under this Act, for any reason other than the entire transfer of his business to other persons; shall pay tax on the stock of goods remaining unsold at the termination of his liability, after furnishing such declarations as prescribed
- (9) Every dealer whose liability to pay tax has ceased under sub-section (8) or otherwise: shall again be liable to pay tax under this section, with effect from the day following the date, on which his gross turnover during a period not exceeding twelve months immediately preceding such date, again exceed the quantum as specified in this section
- (10) Notwithstanding anything contained in this section, where a dealer who is or was, less than six months earlier, liable to pay tax, starts a new business, either singly or jointly with other persons, or joins other business or partnership firm or concern or undivided Hindu family tax: as aforesaid, shall be payable on sales and purchases made from such business or partnership firm or such concern, on and from the date the dealer starts or joins it, unless liability in respect of such business, partnership firm or concern has arisen from an earlier date under the provisions of this section.
- (11) Notwithstanding anything contained in this section, a dealer registered under the Central Sales Tax Act, 1956 (LXXIV of 1956), shall irrespective of the quantum of his gross turn-over be liable to pay tax on his sale, made inside Jharkhand of any goods, which he purchased or acquired from outside the State after furnishing a declaration under sub-section (4) of section 8 or under sub-section (1) of section 6A of the said Act, or any goods in the manufacture or processing of which goods so purchased by him have been used
- Provided that tax shall not be payable if the dealer shows to the satisfaction of the prescribed authority that the turnover is deductible from his gross turnover, under sub-section (4) of Section 9 for the purpose of determining his taxable turnover.
- (12) The provisions of the Central Sales Tax Act, 1956 (LXXIV of 1956) shall apply for determining when a sale or purchase shall be deemed to have taken place inside Jharkhand.
- (13) Notwithstanding any contained in this Act, the tax payable under the Act, for each year, may with the previous approval of the Commissioner or any authority empowered in this behalf, be estimated and collected in advance during a year, in such installments as may be fixed by the prescribed authority. For this purpose the prescribed authority may require the dealer to furnish an advance estimate of his taxable turnover for that year and may, provisionally determine the amount of tax payable under this Act, by the dealer in respect of the year. Thereupon the dealer shall pay the amount so determined, by such date as may be fixed by such authority.

9. Levy of Tax on Sale and Determination of Taxable Turnover —

- (1) Subject to the provisions as contained in Section 11 and sub-Section (2) of this Section, the tax payable by a dealer liable to pay tax under Section 8, shall be levied at every stage or stages of sales on sale price(s) of goods.
[Provided; in the circumstances a registered dealer making sales of taxable goods to an unregistered dealer or to any other Person: the output tax payable shall be levied on the Maximum Retail Price for such goods, at the stage of sale by the Registered Dealer.]*

*** (Proviso : deleted** by the Jharkhand Act 21, 2006 w.e.f. 01/04/2006)

- (2) Notwithstanding anything contained in this Section, any registered dealer, who imports into or manufactures Medicines and Drugs; as specified in the Sl. No. 85 of the Part B of Schedule II, excluding Bulk Drugs [and Non Drugs (Prices Control) Order 1995 Medicines, such as Ayurvedic]*, Siddha, Unani or Homeopathic medicines, appended to the Act; in Jharkhand, may, at his option, pay, tax at the full rate on the Maximum Retail Price of such goods, in lieu of tax payable by him under Sub-section (1) of Section 9 of the Act.

(* Deleted by Jharkhand Act of 2007 w.e.f. 01.04.2006)

Provided that where a dealer has purchased such goods, —

- (a) From an importer or a manufacturer upon payment of tax on the maximum retail price of such goods; or
- (b) From another registered dealer, where tax on the maximum retail price of such goods was paid in Jharkhand at an earlier stage, the purchasing dealer, while making resale of such goods in Jharkhand, shall, notwithstanding anything contained elsewhere in the Act, be entitled to recover from the buyer, the amount of tax paid by him at the time of purchase of such goods, under such conditions and restrictions, and in such manner, as may be prescribed or notified in this behalf.

Provided further that the dealer making resale of such goods, shall not levy any tax payable under the Act, on such goods.

Provided further that if dealers opt to pay tax on maximum retail price; no input tax credit shall be admissible to the subsequent purchasing dealers.

- (3) The tax payable by a dealer liable to pay tax under Section 8, on sales of such goods as mentioned in Part-E of Schedule II of this Act, shall be levied on his taxable turnover of sales, at the first stage of sale in the State or at that stage of sale in the series of sales, with such restriction and conditions as may be specified by the State Government by a Notification from time-to-time in this behalf. In the circumstances, if the tax is levied at the first stage of sale in the state by a dealer, subsequent sales of the same goods in the State shall not be levied to tax, if the dealer making subsequent sales of such goods, produces before the Prescribed Authority such evidence(s), as may be prescribed.

Provided, whereby a notification published under this sub-section, in respect of any goods specified in Part-E of Schedule II, that the tax shall be levied at more than one stage or on all the stages of sale, the amount of tax(s) paid at each of the preceding stage of sale, shall be adjusted, against the amount of tax payable at each subsequent stage of sale, in the manner as specified in the notification. #

- (4) Taxable turnover of sales in relation to a dealer liable to pay tax on sale of goods under sub-Section (1) of Section 8 shall be part of the gross turnover of sales during any period which remains after deducting there from.
 - (a) sales of goods declared as exempt from tax in schedule 'I'.
 - (b) sales of goods which are shown to the satisfaction of the prescribed authority to have taken place –
 - (i) in the course of inter-State trade or commerce, or
 - (ii) outside the State of Jharkhand, or
 - (iii) in the course of the import of the goods into or export of the goods out of the territory of India.

Explanation -Sections 3, 4 and 5 of the Central Sales Tax Act, 1956 shall apply for determining whether or not a particular sale or purchase has taken place in the manner indicated in sub-clause (i) sub-clause (ii) or sub-clause (iii).

- (c) in case of turnover of sales in relation to works contract, the charges towards labour, services other like charges and subject to such conditions as may be prescribed :

Provided that in the cases where the amount of charges towards labour, services and other like charges in such contract are not ascertainable from the terms and conditions of the contract, the amount of such charges shall be calculated at the prescribed percentage.

- (d) such other sales on such conditions and restrictions as may be specified or prescribed.

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

- (5) Notwithstanding anything contained in this Act where a registered dealer allows any trade discount or incentive whether in terms of quantity in goods or otherwise in relation to any sale effected by him, the quantity so allowed as trade discount or incentive, shall be deemed to be a sale by the dealer, who allows such trade discount or incentive and a purchase by the dealer who receives such trade discount or incentive and such sale shall form part of the sale in relation to which such trade discount or incentive is allowed.

(New sub-section added by Jharkhand VAT Ordinance, 2011 – w.e.f. 01.04.2010)

10. Levy of Tax on Purchases –

Every dealer liable to pay tax who in the course of his business purchases any goods.

- (i) from a registered dealer or a dealer in the circumstances where no tax has been paid under this Act by that registered dealer or a dealer on the sale price of such goods, or -

(Substituted by Jharkhand Act Ordinance, 2011 – w.e.f. 01.04.2006)

- (ii) from a person, where no tax has been paid under this Act, shall be liable to-pay tax on the purchase price of such goods, if after such purchase, the goods are not sold within the State of Jharkhand or in the course of Inter-State trade and commerce or in the course of export out of the territory of India, but are -
- (a) sold or disposed of otherwise, or
- (b) used or consumed in the manufacture of goods declared to be exempt from tax under this Act, or
- (c) after their use or consumption in the manufacture of goods, such manufactured goods are disposed of otherwise than by way of sale in the State or in the course of inter-State trade and commerce or export out of the territory of India; or
- (d) used or consumed otherwise, such tax shall be levied at the same rate at which tax under Section 8 would have been levied on the sale of such goods within the state on the date of such purchase.
- (e) The goods other than those specified in part E of Schedule II and tax-free goods, after consumption or use in the manufacture or processing or mining of any goods specified in Schedule II, the manufactured or processed or mined goods are disposed off otherwise than by way of sale within the State of Jharkhand or in the course of inter-state trade or commerce or in the course of export out of the territory of India. And such tax shall be levied at the rate at which tax would have been levied on the sales of such goods within the State of Jharkhand on the date of such purchase.

Explanation -Sections 3, 4 and 5 of the Central Sales Tax Act, 1956 shall apply for determining whether or not a particular sale or purchase has taken place in the manner indicated in sub-clause 1(ii) and sub-clause 1(ii)(c) and (e).

(Substitution in clause (i) & (ii) and Explanation, and added a new clause (e) by Jharkhand Act Ordinance, 2011 – w.e.f. 01.04.2006)

10A. Levy of Surcharge –

- (1) Notwithstanding anything contained in Section 8, 9, 13, 15 and 17 of this Act, every dealer liable to pay tax under this Act shall, in addition to the tax payable by him, also pay a surcharge on the sale of goods specified in Part-E of Schedule II at such rate, not exceeding twenty per centum of the total amount of tax payable by him, as may be fixed by the State Government by a notification published in the official Gazette.
- (2) All provisions of this Act relating to the payment, assessment, recovery and refund of tax thereof; shall apply to the payment, assessment, recovery and refund of surcharge.
- (3) Notwithstanding any thing to the contrary contained in this Act, no dealer shall be entitled to collect the amount of this surcharge.

(New Section as Section 10A is added by Jharkhand Act Ordinance, 2011 – w.e.f. 07.05.2011)

11. Charge of Tax on Entry of Goods –

- (1) Notwithstanding any thing contained in Sections 8, 12, 13 and 14 of this Act or any notification issued there under, there shall be levied and collected a tax on Import price(s), on entry of such goods mentioned in schedule III of this Act, into the State or into a local Area for consumption, use or sale therein, subject to such condition as may be prescribed.

Provided that the tax levied on import price(s) of such goods mentioned in schedule III, shall be levied at the rate of 4 per centum.

Provided further that where a dealer has paid tax on entry of such goods, and on which he is not liable to pay Tax u/s 17 of the Act, but is liable to pay tax by virtue of sale of such goods, under sub-Section (3) of Section 8, his liability to pay tax on such goods, as specified in Part-E of Schedule-II under Section 13, shall stand reduced to the extent of tax paid on the entry of such goods subject to such condition as may be prescribed.

(Substituted by Jharkhand VAT Ordinance, 2011 - w.e.f. 01.04.2006)

- (2) The tax leviable under this Section shall be paid by every dealer or registered dealer or any other person who in course of his business or otherwise brings or causes to be brought into the local area, such goods mentioned in schedule III whether on his own account or on account of his principal or takes delivery or is entitled to take delivery of such goods on such entry.

Provided no tax shall be leviable in respect of entry of such goods effected by a person other than the dealer if the value of such goods does not exceed Rs. 10,000 (ten thousand) in a year.

- (3) The liability to pay tax under this Section, on goods mentioned in schedule III shall be only at the point of first entry into the State or into a local area and any subsequent sale or sales into the State or into any local area or areas of the said goods, shall not be subject to tax under this Section, provided the subsequent selling dealer or registered dealer produces before the prescribed authority, original copy of bill, invoice, cash memo or challan issued to him by the dealer from whom he purchased or received the said goods and files a true declaration in the Form and manner prescribed.
- (4) The Entry Tax levied and collected under this Section, shall be appropriated into the "Fund", as created under clause (xxiA) of Section 2 of this Act.
- (5) The tax payable under sub-section (1) shall continue to be levied till such time as is required to improve the infrastructure within the State; such as power, road, market condition etc. with a view to facilitate better market condition for trade, commerce and industry and to bring it to the level of National averages.
- (6) The proceeds of the "Fund" shall be utilized, exclusively for the development of trade, commerce and industry in the State of Jharkhand, which shall include the following:-
- (a) construction, development and maintenance of roads and bridges for linking the market and industrial areas to their hinterlands,
 - (b) providing finance, aids, grants and subsidies to financial, industrial and commercial units,
 - (c) creating infrastructure for supply of electrical energy and water supply to industries, marketing and other commercial complexes
 - (d) creation, development and maintenance of other infra-structure for the furtherance of trade, commerce and industry in general."
- (7) The State Government shall, by a notification issued in this behalf, specify the manner of deposit of tax under appropriate Heads of Accounts and the manner in which the proceeds of the "Fund" shall be utilized, exclusively for the development of trade, commerce and industry of the State of Jharkhand.**

12. Levy of Tax on Containers and Packing Material —

Where any goods packed in any container or packing materials are purchased, sold or brought into the local Area along with the container or packing materials in which such goods are packed, the tax under Section 8 or Section 10 or Section 11 on the purchases or sale or on the entry of such container or packing materials shall be levied at such rate of tax, if any, on the sale, purchase or entry as the case may be, of the goods themselves treating the containers, packing materials as goods integrated with the goods sold, purchased or brought, as the case may be, into the local Area.

Provided that no tax under Section 9 or Section 10 or Section 11 shall be levied where the container or packing material is sold or purchased along with the goods declared as exempt from tax under this Act,

(Substituted by Jharkhand VAT Ordinance, 2011 - w.e.f. 01.04.2006)

13. Rate of Tax —

(1) The State Government may, in relation to goods mentioned in Part-E of Schedule-II, fix the tax payable on his taxable turnover, by a dealer under sub-Section (3) of Section 9, at a rate, not exceeding 75%, and subject to such conditions as the State Government may, from time-to-time specify.

(2) The Rate of Tax in relation to goods mentioned in Part-A, Part-B including the Annexure(s), Part-C and Part-D and Part-F of Schedule-II, shall be at the rate set out against each Schedule or part thereof.

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

(3) The State Government may, by notification, enhance or reduce the respective rate(s) of taxes as specified in any of the Schedule(s) or part thereof, mentioned in sub-section (2) of this section.

Provided the State Government may specify any rate for any goods or class of goods with such conditions and restrictions as may be specified in Part - F of Schedule -II.

(New sub-section (3) added, by Jharkhand VAT Ordinance, 2011 - w.e.f. 07.05.2011)

14. Exemptions —

The sale of goods as specified in schedule-I shall be exempted from tax under this Act subject to conditions and exceptions set out therein.

15. Output Tax —

(1) Output tax in relation to a registered dealer means the tax payable under this Act in respect of any sale of goods by that dealer in the course of his business,

(2) Subject to the provisions of Section 18, a dealer shall be liable to pay the output tax under this Act which shall be levied on the taxable turnover at the rates and subject to such conditions and restrictions as may be prescribed from time to time.

16. Input Tax —

Input tax in relation to a registered dealer means the tax charged under this Act by the selling dealer to such dealer on the sale to him of any goods for resale or for use in manufacturing or processing of goods for sale or for directly use in mining or use as containers or packing materials or for the execution of works contract. It shall also include the tax paid on entry of goods as mentioned in schedule III by a registered dealer.

17. Tax Payable —

(1) The tax payable by a registered dealer for any tax period shall be the difference between the output tax payable plus purchase tax, if any, and the input tax paid, which can be determined, from the following formula:

$$\text{Tax payable} = (\text{O} + \text{P}) - \text{I}$$

Where 'O' denotes the output tax payable for any tax period as determined under Section 15, 'P' denotes the purchase tax paid by a registered dealer for any tax period as determined under Section 10 and 'I' denotes the input tax paid or payable and includes tax paid on Entry of Goods, for the said tax period as determined under Section 15.

(2) The tax payable by a dealer liable to pay tax but not registered under this Act for a tax period shall be equal to the output tax payable for the said tax period as determined under Section 15.

(3) If the amount calculated under sub-Section (1) is a negative quantum-

(a) the same shall be adjusted against the tax liability, if any, under the Act as well as under the Central Sales Tax Act, 1956.

(b) any amount of credit, remaining even after such adjustment shall be carried forward to the next tax period(s).

18. Input Tax Credit —

(1) Subject to the provisions of this Act, for the purpose of calculating the tax payable by a registered dealer for any tax period after being registered, an input tax credit as determined under this Section shall be allowed to such registered dealer for the tax paid or payable in respect of all taxable sales other than any other sales as may be prescribed, or purchases under Section 10 during that period,

(2) The input tax credit to which the registered dealer is entitled shall be the amount of tax paid by the registered dealer to another registered dealer, on his turnover of purchases made during any tax period, intended to be used for the purposes and

- subject to the conditions as specified in sub Section (3), sub-Section (4), sub-Section (5) and sub-Section(6) and calculated in such manner as may be prescribed.
- (3) Subject to such conditions and restrictions as may be prescribed, partial or proportionate input tax credit may be allowed in such cases as may be used or consumed for their respective uses.
- (4) Input Tax credit shall be allowed on purchase of goods made within the State of Jharkhand from a registered dealer holding a valid certificate of registration and which are intended for the purpose of-
- (i) sale or resale by him in the State of Jharkhand or
 - (ii) sale in course of inter-State trade and commerce falling under sub-section (1) of Section 8 of the Central Sales Tax Act 1956 (74 of 1956)
(Substituted by Jharkhand VAT Ordinance, 2011 - w.e.f. 07.05.2011)
 - (iii) use as raw material and for direct use in manufacturing or processing of goods for sale, or for directly use in mining, or for use as capital goods, other than those goods exempt from tax under this Act and the goods specified in Part E of schedule II, intended for sale in the State of Jharkhand or in the course of interstate trade and commerce; or
 - (iv) sale in the course of export out of the territory of India; or
 - (v) for use as containers for packing of goods for sale or resale or for export out of the territory of India other than those exempted from tax under this Act and goods mentioned in Part E of Schedule II of this Act, for sale or resale in the State of Jharkhand or in the course of interstate trade and commerce.
Provided that if purchases are used partially for the purposes specified in this sub-Section, input tax credit shall be allowed proportionate to the extent they are used for the purposes specified in this sub-Section.
 - (vi) sale by a dealer having business under a SEZ; or a STP; or a EHTP; or by an EOU.
 - (vii) sale by dealers having business, located within SEZ to another unit located in SEZ.
 - (viii) sale by dealers: inter-alia between whose units are referred to as, Export Oriented Units.
 - (ix) sale by dealers, whose business is located within SEZ, to another unit as: "Export Oriented Unit".
- (5) Input Tax credit on capital goods other than those mentioned in Appendix I of this Act, shall be limited to plant, machinery and equipment directly connected with the manufacturing or processing of the finished products and directly for use in mining and input tax credit as admissible under this Section shall commence from the date of commencement of commercial production and shall be adjusted against tax payable on output, up to the period of three years;
Provided that in case of closure of business before the period specified above no further input tax credit shall be allowed and input tax credit carried forward, if any, shall be forfeited.
Provided further that input tax credit for "start up business" period shall be limited to the immediately last three preceding years, from the date of commencement of its commercial production.
- (6) Input Tax credit shall not be claimed by the dealer until the tax period in which the dealer receives the tax invoice in original containing the prescribed particulars of the sale evidencing the amount of input tax paid.
Provided that input tax credit shall be claimed by a registered dealer on the tax paid, on the entry of goods mentioned in schedule III evidencing the amount of tax paid, as prescribed.
Provided further that for good and sufficient reasons, to be recorded in writing, where a registered dealer is prevented from producing the Tax Invoice in original or evidence of payment of tax paid on entry of goods, in original, the prescribed authority may allow, such input tax credit as prescribed.
- (7) A registered dealer who intends to claim input tax credit under sub-Section (1) shall, for the purpose of determining the amount of input tax credit, maintain accounts,

- and such other records as may be prescribed in respect of the purchases, entry of scheduled goods into a local area and sales made by him in the State of Jharkhand.
- (8) No input tax credit under sub-Section (1) shall be claimed or be allowed to a registered dealer-
- (i) in respect of any taxable goods under this Act purchased by him from another registered dealer for resale but given away by way of free sample or gift;
 - (ii) who has been permitted by the Commissioner to make payment of presumptive tax or under scheme of composition at a percentage of turnover of sales or otherwise in lieu of tax as provided under Section 22 and 58;
 - (iii) in respect of capital goods, other than those directly used for manufacturing or processing of goods for sale or in mining;
 - (iv) in respect of goods brought from outside the State against the tax paid in other States or otherwise;
 - (v) in respect of stock of goods remaining unsold at the time of closure of business;
 - (vi) in respect of goods purchased on payment of tax, if such goods are not sold because of any theft or otherwise;
 - (vii) where the tax invoice is -
 - (a) not available with the dealer, or
 - (b) there is an evidence that the same has not been issued by the selling dealer from whom the goods are purported to have been purchased;
 - (viii) in respect of goods purchased from a dealer whose certificate of registration has been suspended;
 - (ix) in respect of goods consumed for manufacture of goods for Inter-State transfer of stock or for sale outside the State;
 Provided that in respect of transactions falling under this clause, input tax credit may be allowed on the tax paid in excess of 4% on the such materials used in the manufacture of the finished products.
 (Substituted by Jharkhand VAT Ordinance, 2011 - w.e.f. 01.04.2006)
 - (x) in respect of sales exempted from tax as specified in Schedule I;
 - (xi) in respect of capital goods used for manufacturing or processing of goods for sale or directly for use in mining, where the finished products are dispatched other than by way of sales;
 - (xii) capital goods mentioned in negative list as in appendix I;
 - (xiii) goods mentioned in Part E of schedule II of the Act;
 - (xiv) in respect to such tax invoice(s) which are issued inclusive of taxes;
 (Added by Jharkhand VAT Ordinance, 2011 - w.e.f. 07.05.2011)
- (9) If goods purchased are intended for use specified under sub-Section (4) or loss of goods arising out of theft or destruction for any reason or the Stock of goods remaining unsold at the time of closure of business and are subsequently used, fully or partly, for purposes other than those specified under the said sub-Section, the Input Tax Credit already availed, at the time of such purchase shall be proportionately deducted from the Input Tax Credit, for the period during which the said utilization has taken place:
 Provided that if part of the goods purchased are utilised otherwise or lost or remain unsold, the amount of reverse tax credit shall be proportionately calculated in a manner, prescribed.
- (10) The methods that are used by a registered dealer in a tax period to determine the extent of availing the Input Tax Credit to which goods are used, consumed or supplied or intended to be used, in the course of making taxable sales, shall be fair and reasonable or as prescribed. In the circumstances if any other methods are used, the prescribed authority may, after giving sufficient reason in writing, reject the method adopted by the registered dealer and calculate the amount of input tax credit after giving the registered dealer concerned an opportunity of being heard.

(11) The State Government may, by notification in the official gazette, specify any goods or class of dealers that shall not be entitled to full or partial input tax credit.

19. Input tax credit exceeding tax liability —

(1) If the input tax credit of a registered dealer other than an exporter selling goods outside the territory of India determined under Section 18 of this Act for a period, exceeds the tax liability for that period, the excess credit shall be set off against any outstanding tax payable, penalty or interest payable under this Act as well as CST Act 1956.

(2) The excess input tax credit after adjustment under sub-Section (1) may be carried over as an input tax credit to the subsequent period or periods.

(3) In case where input tax credit is carried forward, a quarterly credit statement may be submitted by the dealer concerned and the claims shall be scrutinised by the prescribed authority.

Explanation-I – Notwithstanding anything contained in this Act, no input tax credit shall be admissible by a registered dealer, where there is nil turnover by such registered dealer for a consecutive three months.

Explanation-II - The Explanation-I shall not be applicable in the circumstances of dealers registered u/s 22 and 58.

Explanation-III - The period or periods for the purpose of this Section, shall mean one calendar month or quarter or year.

(Explanations added by Jharkhand VAT Ordinance, 2011 - w.e.f. 01.04.2010)

20. Input Tax Credit on the Closing Stock of Registered Dealers prior to appointed date —

Full input tax credit shall be allowed in the manner prescribed for goods purchased on and after 1.4.2005 and which have borne the incidence of tax under the provisions of adopted Bihar Finance Act 1981 Part I, and held as closing stock on the Appointed Day and are sold or re-sold thereafter against the current VAT liability, or consume such goods in the manufacture of taxable goods which are sold against the current VAT liability and or consume such goods for direct use in mining.

21. Adjustment of Input Tax Credit —

Where any purchaser, being a registered dealer, has been issued with a credit note or debit note in terms of sub-Section (1) of Section 24 or if he returns or rejects goods purchased, as a consequence of which, the input tax credit availed by him in any period in respect of which the purchase of goods relates, becomes less or excess, he shall compensate such less credit or excess credit by adjusting the amount of tax credit allowed to him in respect of the tax period in which the credit note or debit note has been issued or goods are returned subject to conditions as may be prescribed.

22. Levy of Presumptive Tax on Registered Dealers —

(1) The State Government may, subject to such conditions and restrictions as may be specified and prescribed, permit any class or description of registered dealers to pay a lump-sum amount by way of presumptive tax according to the capacity or to the extent of business, calculated at a flat rate not exceeding 8 percentum and not below 1.5 percentum on the gross receipt or gross turnover of purchases or of sales as prescribed. And such presumptive tax shall be paid at such intervals and in such manner as may be prescribed, subject to the condition that no input tax credit shall be admissible to such dealer;

Provided that payment of tax under this Section shall not apply to a registered dealer, who is a manufacturer or who imports goods from outside the State for the purpose of carrying out his business:

Provided further that a registered dealer may, by exercising option in the prescribed manner, elect to pay tax as specified under Section 9 or Section 10 of this Act in lieu of the provisions of this

Provided further that if the Government considers it necessary to do so, in the public interest, may allow any registered dealer, who may be a manufacturer to pay presumptive tax, notified in this behalf, with certain conditions and restrictions for a specific period.

- (2) Where the registered dealer is permitted to pay the lump-sum amount as presumptive tax under sub-Section (1) of this Section, the provisions of Section 29, 35 and 36 shall not apply so long as he complies with all the terms and conditions as prescribed under this Section.

23. Powers of Government to Amend Schedules: -

The Government may, by notification, add to or delete or amend or alter any of the items in the Schedules appended to this Act. #

24. Credit Notes and Debit Notes —

- (1) Where a tax invoice has been issued and the amount shown as tax charged in the tax invoice exceeds the Tax Payable under this Act in respect of that sale the registered dealer making the sale shall provide the purchaser with a credit note containing the requisite particulars as may be prescribed.
- (2) Where the tax invoice has been issued in respect of any sale, and the tax charged in the Tax Invoice in respect of that sale is found to be less than the amount of tax payable under this Act, the registered dealer making the sale, shall provide the purchaser with a Debit Note, containing the requisite particulars, as may be prescribed
- (3) In case of goods returned or rejected by the purchaser, a credit note shall be issued by the selling dealer to the purchaser and a debit note will be issued by the purchaser to the selling dealer containing the particulars as may be prescribed.
- (4) Notwithstanding anything contained in this section, wherever any credit notes are to be issued for any discounts or sales incentives by any VAT dealer to another VAT dealer after issuing tax invoice, the selling VAT dealer shall pass a credit note without disturbing the tax component on the price in the original tax invoice.

(New sub-section added by Jharkhand VAT Ordinance, 2011 - w.e.f. 01.04.2010)