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GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
(DEPARTMENT OF LAW, JUSTICE & LEGISLATIVE AFFAIRS)
8TH LEVEL, C-WING, DELHI SECRETARIAT,
I.P. ESTATE, NEW DELHI – 110002.

No.F. 14(6)/LA-2005/112

Dated the 28th March, 2005

NOTIFICATION

No.F.14(6)/LA-2004 – The following Act of the Legislative Assembly of the National Capital Territory of Delhi received the assent of the Lieutenant Governor of National Capital Territory of Delhi on 24th March, 2005 and is hereby published for general information:-

**“THE DELHI VALUE ADDED TAX (AMENDMENT) ACT, 2005”
(DELHI ACT 5 OF 2005)**

(As passed by the Legislative Assembly of the National Capital Territory of Delhi on the 21st March, 2005).

(24th March, 2005)

An Act to amend the Delhi Value Added Tax Act, 2004

BE it enacted by the Legislative Assembly of the National Capital Territory of Delhi in the Fifty-sixth Year of the Republic of India as follows: -



1. **Short title, extent and commencement.** - (1) This Act may be called the Delhi Value Added Tax (Amendment) Act, 2005.

(2) It extends to the whole of the National Capital Territory of Delhi.

(3) It shall come into force on such date as the Government may, by notification in the official Gazette, appoint.
2. **Amendment of section 2.** - In the Delhi Value Added Tax Act, 2004 (Delhi Act 3 of 2005) (hereinafter referred to as "the principal Act"), in section 2, in sub-section (1)-
 - (a) In clause (a), the sub-clause (iii) shall be re-lettered as sub-clause (iv) and before sub-clause (iv) as so re-lettered, the following shall be inserted, namely:-

“(iii) a cost accountant within the meaning of the Cost and Works

- (b) In clause (d), for sub-clause(i), the following shall be substituted, namely:-

"(i) the provision of any services, but excluding the services provided by an employee;" ;

- (c) In clause (j), for sub-clause (ii), the following shall be substituted, namely:-

"(ii) any department of the Central Government or a State Government, a local authority, Panchayat, Municipality, Development Authority, Cantonment Board and each autonomous or statutory body or an industrial, commercial, banking, insurance or trading undertaking whether or not of the Central Government or any of the State Governments or of a local authority, if it buys, sells, supplies or distributes goods;" ;



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

"(ra) 'manufacture' with its grammatical variations and cognate expressions, means producing, making, extracting, altering, ornamenting, finishing or otherwise processing, treating or adapting any goods, but does not include any such process or mode of manufacture as may be prescribed;" .

3. **Amendment of section 3. – In the principal Act, in section 3 -**

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

" (2) Every dealer shall be liable to pay tax at the rates specified in section 4 of this Act on every sale of goods effected by him-

- (a) **while he is a registered dealer under this Act; or**

(b) on and from the day on which he was required to be registered under this Act.”;

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

“ (3) -The amount of tax payable under this Act by a dealer, is the dealer’s net tax for the tax period calculated under section 11 of this Act.” .

4. Amendment of section 4. - In the principal Act, in section 4, in sub-section (1)-

(a) in clause (c), the word “and” occurring at the end thereof, shall be omitted;

(b) clause (d) shall be re-lettered as clause (e) and before clause (e) as so re-lettered, the following shall be inserted, namely:-

“(d) in respect of the goods involved in the execution of the works contract, at the rate of twelve and a half paise in the rupee; and” .

5. Amendment of section 5. - In the principal Act, in section 5, for sub-section (2), the following shall be substituted, namely: -

“(2) In the case of turnover arising from the execution of a works contract, the amount included in taxable turnover is the total consideration paid or payable to the dealer under the contract excluding the charges towards labour, services and other like charges, subject to such conditions as may be prescribed:

Provided that where the amount of charges towards labour, services and other like charges is not ascertainable from the books of accounts of the dealer, the amount of such charges shall be calculated at the prescribed percentages.”



6. **Amendment of section 8.** -In the principal Act, in section 8, in sub- section (1), for the opening phrase reading as "This section shall apply where, in relation to the sale of goods by any dealer-", the following shall be substituted, namely: -

"Subject to such conditions as may be prescribed, this section shall apply where, in relation to the sale of goods by any dealer - "

7. **Amendment of section 9.** - In the principal Act, in section 9 -

- (a) for sub- section (1), the following shall be substituted, namely:-

"(1) Subject to sub-section (2) of this section and such conditions, restrictions and limitations as may be prescribed, a dealer who is registered or is required to be registered under this Act shall be entitled to a tax credit in respect of the turnover of purchases occurring during the tax period where the purchase arises in the course of his activities as a dealer and the goods are to be used by him directly or indirectly for the purpose of making -



- (a) sales which are liable to tax under section 3 of this Act;
or

- (b) sales which are not liable to tax under section 7 of this Act.

***Explanation.* - Sales which are not liable to tax under section 7 of this Act involve exports from Delhi whether to other States or Union territories or to foreign countries."** ;

- (b) in sub- section (2), clause (e) shall be re-lettered as clause (f) and before clause (f) as so re-lettered, the following shall be inserted, namely:-

"(e) for goods purchased from a casual trader;" ;

- (c) In sub- section (6), for the opening phrase reading as " "Where-", the following shall be substituted, namely: -

" Notwithstanding anything contained to the contrary in sub- section (1), where- ";

- (d) after sub-section (8), the following shall be inserted, namely:-

"(9)(a) Notwithstanding anything contained to the contrary in sub- sections (1) and (3) and subject to sub-section (2), tax credit in respect of capital goods shall be allowed as follows :-

(i) $\frac{1}{3}^{\text{rd}}$ of the input tax on such capital goods arising in the tax period, in the same tax period;

(ii) balance $\frac{2}{3}^{\text{rd}}$ of such input tax, in equal proportions in two immediately successive financial years:

Provided that, where the dealer sells such capital goods, the dealer shall be allowed as tax credit, the balance amount of the input tax, if any, in respect of such capital goods as has not been earlier availed as tax credit, such tax credit shall be allowed in the tax period in which such capital goods are sold and only after adjusting the output tax payable by him:

Provided further that where the dealer exports from Delhi such capital goods otherwise than by way of sale, the dealer shall be allowed as tax credit, the balance amount of the input tax , if any, in respect of such capital goods as has not been availed earlier as tax credit, in the tax period in which such capital goods are transferred and as reduced by the prescribed percentage of the purchase price of such capital goods :

Provided also that no tax credit in respect of capital goods shall be allowed if such capital goods are used



exclusively for the purpose of making sale of exempted goods specified in the first schedule:

Provided also that no tax credit in respect of capital goods shall be allowed on that part of the value of such capital goods which represents the amount of input tax on such capital goods, which the dealer claims as depreciation under section 32 of the Income Tax Act, 1961 (43 of 1961).

- (b) If any capital goods in respect of which tax credit is allowed under clause (a) of this sub-section is transferred to any other person otherwise than by way of sale at the fair market value before the expiry of a period of five years from the date of purchase, the tax credit claimed in respect of such purchase shall be reduced in the tax period during which such transfer takes place."

8. Amendment of section 14. - In the principal Act, in section 14 -

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

"(4) Every dealer wishing to claim a tax credit in excess of one lakh rupees on opening stock shall furnish with the statement a certificate signed by an accountant in the prescribed form certifying that the net credit claim made is true and correct.";

- (b) sub-sections (5) and (6) shall be omitted.

9. Amendment of section 16. - In the principal Act, in section 16 -

- (a) in sub-section (1) -

- (i) after the opening words "Notwithstanding anything contained" and before the words "in this Act", the words "**to the contrary**" shall be inserted;
- (ii) for the words " twenty five lakh ", the words "**fifty lakh**" shall be substituted;
- (iii) In the proviso, after the words "section or if he is registered" and before the words "under the Central Sales Tax Act, 1956 (74 of 1956)", the words "**in Delhi**" shall be inserted;

(b) in sub- section (3)-

- (i) for the word " intends" and the word " intention", the word "elects" and the word "election" shall respectively be substituted;
- (ii) in clause (a), after the words, brackets and figures "(Delhi Act 9 of 1999)" and before the words "at the time of the commencement of this Act," the words, bracket and figures, "**or the Delhi Sales Tax on Right to Use Goods Act, 2002 (Delhi Act 13 of 2002),**" shall be inserted;
- (iii) In clause (b), for the words "twenty five lakh", the words " fifty lakh" shall be substituted ;

(c) in sub-section (4), for the word "chooses", the word "elects" shall be substituted;

(d) in sub-section (5), clauses (a) to (e) shall be re-lettered as clauses (b) to (f) respectively, and before clause (b) as so re-lettered, the following shall be inserted, namely:-

"(a) not purchase goods from a person who is not registered under this Act;" ;



(e) in sub- section (6) –

(i) in clause (a), after the words, brackets and figures “(Delhi Act 9 of 1999)” and before the words “at the time of the commencement of this Act ;”, the words, brackets and figures “**or the Delhi Sales Tax on Right to Use Goods Act, 2002 (Delhi Act 13 of 2002),**” shall be inserted;

(ii) in clause (b), for the words “twenty five lakh”, the words “fifty lakh” shall be substituted ;

(f) after sub- section (9), the following shall be inserted, namely:-

“(10) - If the turnover of a dealer who elects to pay tax under this section exceeds fifty lakh rupees or such other amount as may be specified by the Government by notification in the official Gazette, he shall be liable to pay tax under section 3 of this Act on and from the day his taxable turnover exceeds fifty lakh rupees or such other amount as may be specified by the Government by notification in the official Gazette and shall be entitled to claim credit of the input tax paid under this Act on trading stock, raw material and packaging material held by him in Delhi on such day :

Provided that such dealer has intimated the Commissioner within seven days of his becoming liable to pay tax under section 3 of this Act in the prescribed form and has furnished such other information to the Commissioner as may be prescribed.

(11) The Commissioner may notify a dealer or a class of dealers who shall not be entitled to opt for payment of tax under this section.”.

10. **Insertion of new section 16A.** - In the principal Act, after section 16, the following shall be inserted, namely: -

“16A. Special provisions relating to casual traders. -(1) Notwithstanding anything contained to the contrary in this Act, a casual trader shall -

(a) at least three days before commencing business in Delhi, inform the Commissioner of such particulars of his business in such form and manner as may be prescribed;

(b) deposit security in cash or in the form of bank draft as may be fixed by the Commissioner which shall not exceed estimated liability to pay tax for seven days or such lesser period for which the casual trader is conducting the business in Delhi;

(c) pay tax daily on the sales made during the previous day;

(d) furnish to the Commissioner, immediately after conclusion of his business in Delhi, a return in the prescribed form and manner; and

(e) not issue any tax invoice.

(2) The Commissioner shall, after verification of information furnished to him under clause (a) of sub-section (1) and after getting security under clause (b) of that sub-section, shall register the casual trader.

(3) Upon registration of casual trader, the Commissioner may issue the required forms to him for use as the declaration referred to in sub-section (2A) of section 61 of this Act for bringing goods for sale in Delhi and for taking the unsold goods out of Delhi and the casual trader shall render complete account of the used forms and surrender the unused forms alongwith the return referred to in clause (d) of sub-section (1).

(4) The Commissioner shall, after examination of the return furnished by the casual trader under clause (d) of sub-section (1), the forms referred to in sub-section (3) and the accounts maintained by him including the retail invoices issued, assess him to tax within five days and shall serve upon him a notice of assessment and after adjusting any tax and any other dues payable under this Act, refund the balance amount of security to him in case security is deposited in the form of cash deposit.

(5) The casual trader shall pay immediately the amount mentioned in the notice of assessment.

(6) On being satisfied that the amount due has been paid, the Commissioner shall release the security or balance security, as the case may be.

(7) Notwithstanding anything contained in this Act the taxable quantum in respect of a casual trader shall be nil."

11. **Amendment of section 20.** - In the principal Act, in section 20, in sub-section (1), in clause (a), for the words "trading stock ;" appearing at the end thereof, the words "finished goods ;" shall be substituted.

12. **Amendment of section 24.** - In the principal Act, in section 24 -

(a) for sub- section (1), the following shall be substituted, namely:-

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

(b) in sub-section (2), after the words, brackets and figures "or the Delhi Sales Tax on Works Contract Act, 1999 (Delhi Act 9 of 1999)" and before the words "under the said Acts and valid", the words, brackets and figures "or the Delhi Sales Tax on Right to Use Goods Act, 2002 (Delhi Act 13 of 2002)" shall be inserted.

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

"(1A) If, upon the information which has come into his possession, the Commissioner is satisfied that any person who has been liable to pay tax under this Act in respect of any period or periods, has failed to get himself registered, the Commissioner may for reasons to be recorded in



writing, assess to the best of his judgment the amount of net tax due for such tax period or tax periods and all subsequent tax periods."

14. **Insertion of new section 36A.** - In the principal Act, after section 36, the following shall be inserted, namely: -

" 36A. Tax deducted at source. - (1) Any person, not being an individual or a Hindu undivided family, who is responsible for making payment to any dealer (hereinafter in this section referred to as "the contractor") for discharge of any liability on account of valuable consideration payable for the transfer of property in goods (whether as goods or in some other form) in pursuance of a works contract, shall, at the time of credit of such sum to the account of the contractor or at the time of payment thereof in cash or by any other mode, whichever is earlier, deduct tax thereon at the rate of two percent.

(2) Where, on an application being made by the contractor in this behalf, the Commissioner is satisfied that any works contract involves both transfer of property in goods and labour and service, or involves only labour and service and accordingly, justifies deduction of tax on a part of the sum in respect of the works contract or, as the case may be, justifies no deduction of tax, he shall, after giving the contractor a reasonable opportunity of being heard, grant him such certificate and for such period as may be appropriate :

Provided that nothing in the said certificate shall affect liability of the contractor to pay tax under this Act.

(3) Where any such certificate is granted, the person responsible for making payment under sub-section (1) shall, until such certificate is cancelled by the Commissioner, deduct tax at the rate specified in such certificate or deduct no tax, as the case may be.

(4) The amount deducted under this section shall be deposited into the appropriate Government treasury by the person making such deduction before the expiry of twenty eight days following the month in which such deduction is made in the manner as may be prescribed.

(5) The person making such deduction under this section shall, at the time of payment or discharge, furnish to the contractor from whose bills or invoices such deduction is made, a certificate as may be prescribed in respect of the amount deducted, the rate at which it has been deducted and the details of deposit into the Government treasury.

(6) Any deduction made in accordance with the provisions of this section and credited into the appropriate Government treasury shall be treated as payment of tax on behalf of the person from whose bills or invoices the deduction has been made, and he shall claim the adjustment towards the payment of output tax of the amount so deducted in his return for the tax period in which certificate of such deduction was issued to him.

(7) A dealer claiming adjustment in his tax return of the amount deducted under this section shall preserve the certificate issued to him for a period of seven years and shall produce the same to the Commissioner on demand.

(8) If any person as is referred to in this section fails to make the deduction or, after deducting fails to deposit the amount so deducted as required in this section, the Commissioner may, by order in writing, direct that such person shall pay, by way of penalty, a sum not exceeding twice the amount deductible under this section besides tax deductible but not so deducted and, if deducted, not so deposited into the appropriate Government treasury.

(9) Without prejudice to the provisions of sub-section (8), if any person fails to make deduction or, after deducting, fails to deposit the amount so deducted, he shall be liable to pay simple interest at the annual rate to be notified by the Government on the amount deductible under this section but not so deducted, and if deducted, not so deposited from the date on which such amount was deductible to the date on which such amount is actually deposited into the appropriate Government treasury.

(10) Where the amount has not been deposited after deduction such amount together with interest and penalty referred to in sub-section (8) and sub-section (9) shall be a charge upon all the assets of the person concerned and recoverable as arrears of land revenue.

(11) Every person responsible for making deduction of tax under this



within the prescribed time and in the prescribed form and shall also furnish a return in the prescribed form within the prescribed period:

Provided that, unless intimated otherwise by the Commissioner, every person having obtained Tax Deduction Account Number under the Delhi Sales Tax on Works Contract Act, 1999 (Delhi Act 9 of 1999) shall be deemed to have obtained a Tax Deduction Account Number under this Act and shall use the same Tax Deduction Account Number under this Act.

(12) Any person who fails to comply with the requirement under sub-section (11) shall be liable to pay, by way of penalty, a sum of two hundred rupees per day from the day on which requirement arose until the failure is rectified:



Provided that the amount of penalty payable under this sub-section shall not exceed twenty thousand rupees.

Explanation. - Nothing contained in this section shall apply to works contract executed in the course of inter-state trade or commerce or outside the state, or in the course of import into or export out of India."

15. Amendment of section 38. - In the principal Act, in section 38 -

(a) in sub-section (3), for the word, brackets and figures " sub-section (4)", the words, brackets and figures " **sub-section (4) and sub-section (5)**" shall be substituted;

(b) in sub-section (4), after the words "will be undertaken" and before the words "the amount shall", the words and figures "**or sought additional information under section 59 of this Act,**" shall be inserted;

(c) in sub-section (5), after the word "Act" occurring at the end thereof, the words "**within fifteen days from the date on which the return was furnished or claim for the refund was made.**" shall be inserted ;

(d) sub-sections (6) to (8) shall be re-numbered as sub-sections (8) to (10) respectively and after sub- section (5), the following sub-sections shall be inserted, namely:-

"(6) The Commissioner shall grant refund within fifteen days from the date the dealer furnishes the security to his satisfaction under sub-section (5)."

(7) For calculating the period of one month under clause (a) of sub-section (3), the time taken to furnish the security under sub-section (5) to the satisfaction of the Commissioner shall be excluded." ;

(e) after sub- section (10) as so renumbered, the following shall be inserted, namely :-

"(11) Notwithstanding anything contained to the contrary in sub-section (3) of this section, no refund shall be allowed to a dealer who has not filed any return due under this Act."

16. **Substitution of new section for section 49.** - In the principal Act, for section 49, the following shall be substituted, namely: -

"49. **Accounts to be audited in certain cases.** - If, in respect of any particular year, the gross turnover of a dealer exceeds forty lakh rupees or such other amount as may be prescribed, then, such dealer shall get his accounts in respect of such year audited by an accountant within a period of nine months from the end of that year and obtain within that period a report of such audit in the form duly signed and verified by such accountant and setting forth such particulars as may be prescribed under section 44 AB of the Income Tax Act, 1961 (43 of 1961), as amended from time to time, and a true copy of such report shall be furnished by such dealer to the Commissioner within twenty eight days from the end of the tax period ending on 31st December of the following year :

Provided that in a case where the dealer is required under section 44AB of the Income Tax Act, 1961 (43 of 1961) to get his accounts audited, it shall be sufficient compliance with the provisions

of this section if such dealer gets his accounts audited under the said section 44AB of the Income Tax Act 1961 (43 of 1961) and the rules framed thereunder and furnishes to the Commissioner a true copy of the report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed under section 44AB of the Income Tax Act, 1961 (43 of 1961):

Provided further that the Commissioner may require a dealer or class or classes of dealers to get his or their accounts audited by an accountant and obtain report of such audit duly signed and verified by such accountant and setting forth such particulars and in such format as may be notified by the Commissioner and furnish copy of such report to the Commissioner by the date notified by him."



17. Amendment of section 50. - In the principal Act, in section 50, in sub-section (2), to clause (d), the following proviso shall be inserted, namely: -

"Provided that a dealer may maintain separate numerical series, with distinct codes either, as a prefix or suffix, for each place of business in case the dealer has more than one place of business in Delhi or for each product in case he deals in more than one product or both;"

18. Insertion of new section 58A. - In the principal Act, after section 58, the following shall be inserted, namely: -

"58A. Special Audit. - (1) If, at any stage of the proceeding under this Act, the Commissioner, having regard to the nature and complexity of the business of a dealer and the interest of the revenue, is of the opinion that it is necessary so to do, he may direct the dealer by a notice in writing to get his records including books of accounts, examined and audited by an accountant or a panel of accountants or any other professional or panel of professionals nominated by the Commissioner in this behalf and to furnish a report of such examination and audit in the format that he may specify, duly signed and verified by such accountant or panel of accountants or professional or panel of professionals and setting forth such particulars as may be specified.

(2) The provision of sub-section (1) shall have effect notwithstanding that the accounts of the dealer have been audited under any other provision of this

(3) Every report under sub-section (1) shall be furnished by the dealer to the Commissioner within such period as may be specified by the Commissioner:

Provided that the Commissioner may, on an application made in this behalf by the dealer and for any good and sufficient reason, extend the said period by such further period or periods as he thinks fit:

Provided further that the aggregate of the period originally fixed and the period or periods so extended shall not, in any case, exceed one hundred eighty days from the date on which the direction under sub-section (1) is received by the dealer.

(4) The expenses of, and incidental to, the examination and audit of records under sub section (1) (including the remuneration of the accountant or a panel of accountants or professional or panel of professionals) shall be paid by the dealer as determined by the Commissioner and that determination shall be final and default in such payment shall be recoverable from the dealer as tax and in the manner provided for the recovery of arrears of tax under this Act."

19. Amendment of section 61. - In the principal Act, in section 61-

(a) in sub-section (1)-

- (i) after the words "require the" and before the words "driver or person", the word "owner," shall be inserted ;
- (ii) after the words " possession of such" and before the words "driver or person" the word "owner," shall be inserted ;

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

"(2) The owner, driver or person in charge of a goods vehicle shall carry with him such records as may be prescribed in respect of the goods

carried in the goods vehicle and produce the same before any officer in charge of a check post or barrier or any other officer or any agent as may be empowered by the Commissioner.”;

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

“(2A) The owner, driver or person in charge of a goods vehicle entering or leaving Delhi shall also file a declaration containing such particulars in the prescribed form obtainable from the Commissioner and in such manner as may be prescribed, before the officer in charge of a check post or barrier or before any other officer or agent empowered as aforesaid:



Provided that where the owner, driver or person in charge of a goods vehicle, after filing a declaration at the time of entering Delhi that the goods are meant to be carried to a place outside Delhi, fails, without reasonable cause, to carry such goods outside Delhi within the prescribed period, he shall, in addition to the payment of tax, if any, be liable to a penalty not exceeding two and a half times the tax that would have been payable had the goods been sold inside Delhi or one thousand rupees, whichever is more.” ;

(d) in sub-section (3), after the opening words “The” and before the words “driver or person in charge”, the word “owner,” shall be inserted;

(e) in sub-section (4) -

(i) after the words “has reason to believe that the owner” and before the words “or person in charge”, the words “or driver” shall be inserted;

(ii) In clause (a), after the words “goods vehicle to enter” and before the word “Delhi”, the word “or leave” shall be inserted;

(f) In sub-section (5) -

(i) after the opening words "Where the owner" and before the words "or the person in charge", the word ", driver" shall be inserted;

(ii) to clause (b), the following proviso shall be inserted, namely:-

"Provided that where the owner or his agent, driver or person in charge of the goods vehicle exercises the option of paying by way of penalty, a sum equal to three and a half times the tax, which in the opinion of the Commissioner, would be leviable on such goods, if such goods were sold in Delhi, the Commissioner instead of detaining or impounding the goods or the goods vehicle or the documents relating to the goods and goods vehicle shall release the same.";



(g) in sub-section (6), after the opening words "The Commissioner may permit the owner" and before the words "or the person in charge of goods", the words ", driver" shall be inserted.

20. Amendment of section 74. - In the principal Act, in section 74, in sub-section (1), in the second proviso, the following shall be inserted at the end thereof, namely:-

"failing which the objection shall be deemed to have not been filed:"

21. Amendment of section 79. - In the principal Act, in section 79 -

(a) In sub-section (1)-

(i) for clause (c), the following shall be substituted, namely:-

"(c) a notice issued under section 58, section 59 and direction under section 58A of this Act;" ;

(ii) in clause (i), the word "or" shall be inserted at the end.

(iii) clause (j) shall be omitted and clause (k) shall be re-lettered as clause (j);

(b) In sub-section (2), for the word, brackets and letter " clause (k)", the word, brackets and letter "clause (j)" shall be substituted.

22. **Substitution of new section for section 81.** - In the principal Act, for section 81, the following shall be substituted, namely: -

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

(2) The Commissioner or the other party aggrieved by any order passed by the Appellate Tribunal may file an appeal to the High Court and such appeal under this sub-section shall be -

(a) filed within sixty days from the date on which the order appealed against is received by the Commissioner or the other party.

(b) in the form of a memorandum of appeal precisely stating therein the substantial question of law involved.

(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 only on the question so formulated, and the respondents shall, at 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 shall decide the question of law so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

(6) The High Court may determine any issue which-

(a) has not been determined by the Appellate Tribunal;

(b) has been wrongly determined by the Appellate Tribunal, by reason of a decision on such question of law as is referred to in sub-section (1).

(7) Where an appeal has been filed before the High Court, it shall be heard by a bench of not less than two judges of the High Court, and shall be decided in accordance with the opinion of such judges or of the majority, if any, of such judges.

(8) Where there is no such majority, the judges shall state the point of law upon which they differ and the case shall, then, be heard upon that point only by one or more of the other judges of the High Court and such point shall be decided according to the opinion of the majority of the judges who have heard the case including those who first heard it.

(9) Save as otherwise provided in this Act, the provisions of the Code of Civil Procedure, 1908 (5 of 1908), relating to appeals to the High Court shall, as far as may be, apply in the case of appeals under this section."

- (a) in sub-section(1), in clause (b), after the words "**or chartered accountant**" and before the words "**who is not**", the words "**or cost accountant**" shall be inserted;
- (b) in sub-section (2), in clause (b), after the words "**or chartered accountant**" and before the words "**is found guilty**", the words "**or cost accountant**" shall be inserted.

24. Amendment of section 87. - In the principal Act, in section 87-

- (a) in sub- section (2), in clause (a), the words, brackets and letters " clause (b),(c) or (d) of" shall be omitted ;
- (b) in sub- section (3), in clause (a), the words, brackets and letters "clause (b),(c) or (d) of" shall be omitted ;
- (c) in sub- section (4), in clause (a), the words, brackets and letters "clause (b),(c) or (d) of" shall be omitted.

25. Amendment of section 102. - In the principal Act, in section 102, in sub- section (2). -

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

"(ha) the conditions subject to which a dealer can make adjustments to tax in relation to the sale of goods under section 8 of this Act;" ;

- (b) after clause (i), the following shall be inserted, namely :-

"(ia) the procedure and forms relating to casual dealers under section 16A of this Act ;" .

26. Amendment of section 106.- In the principal Act, in section 106, in sub-section(1) for the words, brackets and figures "Delhi Sales Tax on Transfer of Right to use Goods Act, 2002(Delhi Act 13 of 2002)" the words, brackets and figures " Delhi Sales Tax on Right to Use Goods Act, 2002(Delhi Act 13 of 2002)" shall be substituted.



(V.K. Bansal)
Joint Secretary(Law, Justice & L.A.)