

CHAPTER - III

INCIDENCE AND LEVY OF TAX

6. Levy of tax on sale or purchase of goods. - (1) Every dealer whose total turnover for a year is not less than ten lakh rupees and every importer or casual trader or agent of a non-resident dealer, or dealer in jewellery of gold, silver and platinum group metals or silver articles or contractor or any State Government, Central Government or Government of any Union Territory or any department thereof or any local authority or any autonomous body whatever be his total turnover for the year, shall be liable to pay tax on his sales or purchases of goods as provided in this Act. The liability to pay tax shall be on the taxable turnover, -

(a) in the case of goods specified in the Second and Third Schedules, at the rates specified therein and at all points of sale of such goods within the State; and in the case of goods specified below at the rate of twenty per cent, at all points of sale of such goods within the State, namely:—

<i>Sl. No.</i>	<i>Description of Goods</i>	<i>HSN Code</i>
(1)	(2)	(3)
1 Aerated drinks		
(1) Mineral Water		2201.10.10
(2) Packaged drinking water		****
(3) Branded soft drinks, excluding soda		2202.10
2. Air conditioners		8415
3 Building Materials		
(a) Ceramic Floor and wall tiles including vitrified tiles whether polished or not		6907 and 6908
(b) Marbles and Granite slabs and tiles		
(c) (i) Paint, other than cement paints, enamel, polishes, students water colour and artist paints		
(ii) Lacquers		
(d) Sanitary Equipments		

wash basins, pedestals, baths, water closet pans, flushing cisterns, urinals and similar sanitary fixtures only of ceramics, china ware or porcelain ware	6910
4 Dishwashers	8422
5 Health Drinks	
Boost, Bournvita, Complan, Horlicks and similar other items	1901 and 1806.90.40
6 Microwave ovens and other ovens	
(1) Microwave ovens	8516.50.00
(2) Other ovens-cookers, cooking plates, boiling rings, grillers and roaster	8516.60.00
7 Refrigerators	8418
8 Vacuum cleaners	8509.10.00
9 Washing Machines	8450

(b) Omitted.

(c) in the case of transfer of the right to use any goods for any purpose whether or not for a specified period, at the rate of four percent at all points of such transfer;

(d) in the case of goods not falling under clauses (a) or (c) at the rate of 12.5% at all points of sale of such goods within the State. Government may notify a list of goods taxable at the rate of 12.5%;

(e) in the case of transfer of goods involved in the execution of works contract where transfer is in the form of goods, at the rates specified for such goods in clauses (a) or (d) above, as the case may be;

(f) In the case of transfer of goods involved in execution of works contract, where the transfer is not in the form of goods, but in some other form, at the rate of 12.5 per cent and when the transfer is in the form of goods at the rates prescribed under the respective Schedules.

Provided that where the sale is to the Administrator, Union Territory of Lakshadweep, Laccadive Co-operative Marketing Federation, Kozhikode or the Lakshadweep Harbour Works and registered dealers certified by the Administrator, Union Territory of Lakshadweep, the tax payable under clause (d) shall be at the rate of four per cent, subject to such conditions as may be prescribed:

Provided further that a bar attached hotel, as defined under explanation to clause (c) of section 8 or a dealer in petroleum products shall be liable to pay tax under this sub-section if his total turnover under this Act and the total turnover under the Kerala General Sales Tax Act, 1963 (15 of 1963) together is not less than the limit specified under this sub-section:

Provided also that where the total turnover of a dealer, other than an importer or casual trader or agent of a non-resident dealer or dealer in jewellery of gold, silver and platinum group metals and silver articles or contractor, exceeds ten lakh rupees for the first time during the course of an year, such dealer shall be liable to pay tax under this sub-section only on the turnover in excess of ten lakh rupees; but he shall be liable to pay tax irrespective of the total turnover in any subsequent year :

Provided also that in respect of works contracts executed under the Sampurna Gramin Rosghar Yojana or the beneficiary committees using the Member of Parliament/Member of Legislative Assembly Funds or Natural Calamity Relief Funds or Sarva Siksha Abhiyan Funds, or funds of Local Authorities or Command Area Development Authority or execution of work under Jalanidhi Project (KRWSA) or OFD works through Beneficiary Farmers' Associations or Karshaka Samithy where the total amount in respect of individual contract does not exceed ten lakhs rupees, the tax payable under clause (f) above shall be four per cent.

Provided also that where the sale is to or by Military, Naval, Air Force or NCC Canteen and Canteen Stores Department, the tax payable under clauses (a) or (d) above shall subject to

such conditions and restrictions, as may be prescribed, be at half the rate applicable to such goods.

(1A) Notwithstanding anything contained in sub-section (1),

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(a) where a dealer whose total turnover for a year is below the limit specified in sub-section (1) collects tax under section 30 on his sales, he shall, whatever be his total turnover for the year, be liable to pay tax under sub-section (1) on the taxable turnover for the year.

(b) where the sale of any goods is exempted at the point of sale by any dealer, such dealer may, at his option, pay tax in respect of the sale of such goods and thereupon he shall, whatever be his total turnover, be liable to pay tax on the taxable turnover for the year.

(2) Notwithstanding anything contained in sub-section (1),

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(a) every dealer who purchases taxable goods from any person other than a registered dealer shall pay tax on the purchase turnover of goods at the rates specified under sub-section (1).

(b) every dealer who purchases taxable goods from any registered dealer other than a dealer liable to tax under this Act and despatches the goods to any place outside the state otherwise than by way of sale in the course of interstate trade or export shall pay tax on the purchase turnover of the goods at the rates specified under sub-section (1), provided that the maximum rate leviable under this clause shall not exceed four per cent:

Provided that a dealer, other than an importer, casual trader, agent of non-resident dealer, dealer in jewellery of gold, silver and platinum group metals or silver articles or contractor or any State Government, Central Government or Government of any Union Territory or any department thereof or any local authority or autonomous body shall not be liable

to tax under this sub-section if his total turnover is less than five lakh rupees.

(c) every awarder, not being a Government department or Local Authority, who purchases taxable goods from any person, other than a registered dealer, within the State for execution of works contract and issues the same for incorporation in the work, without including its value in the gross contract amount, shall pay tax on the purchase turnover of such goods at the rates specified under sub-section (1), if the cost of the work exceeds one crore rupees.

(3) Omitted.

(4) Goods specified in the First Schedule shall be exempted from tax.

(5) Notwithstanding anything contained in sub-section (1), but subject to sub-section (2), any registered dealer not being,

(a) an importer; or

(b) a dealer making any sale in the course of interstate trade or commerce or export; or

(c) a dealer registered under the Central Sales Tax Act, 1956 (Central Act 74 of 1956); or

(d) a dealer effecting first taxable sale of goods within the State; or

(e) a dealer covered by sub-section (1A); or

(f) a contractor,

whose total turnover for a year is below fifty lakh rupees, may, at his option, pay tax at the rate of half per cent of the turnover of sale of taxable goods as presumptive tax instead of paying tax under sub-section (1):

Provided that a dealer holding stock of goods purchased in the course of interstate trade on the date of coming into force of the Act, will have the option to pay tax under this sub-section from the beginning of the quarter following the quarter in which he has sold such goods in the state and paid tax under sub-section (1) of section 6 and his registration under

the Central Sales Tax Act, 1956 (Central Act 74 of 1956) is cancelled:

Provided further that any dealer covered by sub-section (1A) may, at his option pay tax under this sub-section from such period as may be prescribed:

Provided also that a dealer shall not be eligible to opt for payment of tax under this sub-section if his total turnover in respect of goods to which this Act applies, whether under this Act or under the Kerala General Sales Tax Act, 1963 (15 of 1963) had exceeded fifty lakh rupees during the year preceding the year to which such option relates.

Provided also that a dealer shall not be liable to pay presumptive tax under this sub section, if his total turnover is less than ten lakh rupees.

Explanation: "First taxable sale" for the purpose of this sub-section shall mean the sale of taxable goods effected by a registered dealer immediately after the import of such goods into the State or its manufacture in the State as the case may be, but shall not include the sale of goods in respect of which tax under section 5 or under sub-section (4) of section 59 of the Kerala General Sales Tax Act 1963 (15 of 1963) had been paid and which are held as opening stock on the date of coming into force of the Act.

(6) Notwithstanding anything contained in sub-section (1), where goods sold are contained in containers or are packed in any packing materials, the rate of tax and the point of levy applicable to such containers or packing materials, as the case may be, shall, whether the price of the containers or the packing materials is charged separately or not be the same as those applicable to goods contained or packed, and in determining turnover of the goods, the turnover in respect of the containers or packing materials shall be included therein:

Provided that where the sale or purchase of goods contained in any containers or packed in any packing materials is exempt from tax, then, the sale or purchase of

such containers or packing materials shall also be exempt from tax.

Explanation: - For the purposes of sub-section (6), the word “containers” includes gunny bags, tins, bottles or any other containers.

(7) Notwithstanding anything contained in sub-section (1),

(a) any authorised retail or wholesale distributor dealing exclusively in rationed articles namely, rice, wheat and kerosene under the Kerala Rationing Order, 1966 shall not be liable to pay tax on the turnover of such goods;

(b) sale of any building materials, industrial inputs, plant and machinery including components, spares, tools and consumables in relation thereto to any developer or industrial unit or establishments situated in any Special Economic Zone in the State for setting up the unit or use in the manufacture of other goods shall, subject to such conditions or restrictions, as may be prescribed, be exempted from tax.

Explanation: For the purpose of this sub-section, Special Economic Zone shall mean a Special Economic Zone approved and notified as such by the Central Government and includes an existing Special Economic Zone.

(c) sale of medicines and drugs falling under the Third Schedule, in respect of which tax had been paid under the Kerala General Sales Tax Act, 1963 (15 of 1963) and which are held as opening stock on the 1st day of April, 2005 shall, subject to conditions and restrictions, as may be prescribed, be exempted from tax.

(8) The Rules of Interpretation of the Schedules of this Act shall be as set out in the Appendix.

7. Trade discount etc. deemed to be sale in certain cases: - Notwithstanding anything contained in any other provisions of this Act, where a dealer allows any trade discount or in terms of quantity in goods 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 r 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.

8. Payment of tax at compounded rates: - Notwithstanding anything contained in section 6-

(a) (i) any works contractor not being a dealer registered under the provisions of the Central Sales Tax Act, 1956 (Central Act 74 of 1956), or a dealer effecting first taxable sale in the State may, at his option, instead of paying tax in accordance with the provisions of the said section, but subject to payment of tax if any, payable under sub-section (2) thereof, pay tax at two per cent of the whole contract amount.

Provided that any works contractor who undertakes works of the Government Departments or Local Authorities or Kerala Water Authority shall not be liable to tax under sub-section (2) of section 6, if he pays compounded tax at the rate of three per cent on the whole contract amount:

Provided further that notwithstanding anything contained elsewhere in this Act, a works contractor who intends to pay tax at compounded rate in accordance with clause (a) in respect of all the works undertaken by him during a year, may instead of filing separate application for, compounding for individual works may, file a single option for payment of tax under the said clause before 30th April of the year to which the option relates subject to eligibility:

Provided also that the application for compounding in accordance with the above proviso for the year 2006-07 shall be filed before 30th day of November, 2006:

Provided also that in the case of any work covered under the above provisos which remains unexecuted or part of which remains to be executed at the end of the year, the contractor shall continue to pay tax in respect of such works in accordance with the provisions of clause (a) of this section.

(ii) any works contractor, other than those undertaking electrical, refrigeration or air conditioning contracts or contracts relating to supply and installation of

plant, machinery, rolling shutters, cranes, hoists, elevators(lifts), escalators, generators, generating sets, transformers, weighing machines, air conditioners and air coolers, deep freezers , laying of all kinds of tiles (except brick tiles) , slabs and stones (including Marble) , and not falling under clause (i) above, may, at his option, instead of paying tax in accordance with the provisions of the said sections, pay tax at four per cent of the whole contract amount.

Provided that the provisions of this clause shall not apply to any works contract in which the transfer of material is in the form of goods.

Explanation I: “First taxable sale” for the purpose of this section shall have the same meaning as assigned to the term by the explanation under sub-section (5) of section 6.

Explanation II: For the purpose of this clause “whole contract amount” shall not include that portion of a contract which represents amount paid to sub-contractors for execution of works contract provided that the sub-contractor is a registered dealer liable to tax under sub-section (1) or sub-section (1A) of section 6, and the contractor claiming deduction in respect of such amount furnishes certificates in such form as may be prescribed.

Explanation III: A composite contract for the construction of building shall not be treated as a contract of the nature specified under clause (ii) above which are made ineligible for payment of compounded tax under the said clause merely for the reason that the contract also involves work of the said categories.

(iii) any contractor who had opted for payment of tax in accordance with the provisions of sub-section (7) or sub-section (7A) of section 7 of the Kerala General Sales Tax Act, 1963 (15 of 1963) in respect of any works contract prior to the date of coming into force of this Act, part of which remains to be executed on such date, such contractor may continue to pay tax in respect of the transfer of goods involved in the unexecuted portion of such contracts, at the rate specified in sub-section (7) or sub-section (7A) of said Act.

(b) Any dealer producing granite metals with the aid of mechanized crushing machine may, at his option, instead of paying tax in accordance with the provisions of the said sections, pay tax at the following rates, namely:-

(i) for each crushing machine of size not exceeding 30.48 cm x 22.86 cm = Rs.30,000 per annum

(ii) for each crushing machine of size exceeding 30.48 cm x 22.86 cm but not exceeding 40.64 cm x 22.86 cm = Rs.90,000 per annum

(iii) for each crushing machine of size exceeding 40.64 cm x 22.86 cm = Rs.1,80,000 per annum

Explanation: -_For the purposes of this clause, primary crusher shall also be reckoned for the purpose of computation of the quantum of compounded tax and the rate applicable for primary crusher shall be fifty percent of the rates mentioned in items (i), (ii) and (iii) above.

(c) (i) Any dealer in cooked food and beverages, including beverages prepared by him, other than a dealer supplying cooked food or beverages to any airline service company or institution or shipping company for serving in air craft, ships or steamer or served in air craft, ship, steamer, bar attached hotel or star hotel may, at his option, instead of paying tax in accordance with the provisions of sub-section (1) of section 6 but subject to payment of tax, if any, payable under sub-section (2) thereof, pay tax at half per cent of the turnover of cooked food and beverages prepared by him and also on the turnover of other goods in respect of which he is not the dealer effecting first taxable sale, as defined in the explanation under sub-section (5) of section 6.

(ii) Any bar attached hotel, not being a star hotel of and above three star or a club or a heritage hotel may, at its option, instead of paying tax in accordance with the provisions of section 6, but subject to such conditions and restrictions as may be prescribed, pay tax at 12.5% of the turnover of cooked food and beverages prepared by it, calculated at 15% of the turnover of foreign liquor estimated under section 7 of the Kerala General Sales Tax Act, 1963(15 of 1963) or one

hundred and fifteen per cent of the tax paid or payable under the Kerala General Sales Tax Act, 1963 (15 of 1963) or under this Act in respect of the highest turnover for the previous consecutive three years, immediately preceding the year to which the option relates, whichever is higher.

Explanation - For the purposes of this clause "bar attached hotel" shall mean a hotel or restaurant or club or any other place, which is licensed under the Foreign Liquor Rules to serve foreign liquor falling under Sl.No. 2 of the Fourth Schedule but shall not include any hotel or restaurant, not being a star hotel, which is licensed to serve only beer.

(d) Any dealer who transfers the right to use Video Cassette or Compact Disc may, instead of paying tax in accordance with the provisions of section 6, pay tax at the rate of one thousand rupees per year for every main or branch shop situated in any place within the limits of any Municipal Corporation or Municipality and rupees five hundred per year for any main or branch shop situated in any other place or places.

(e) Any dealer, who is an importer or a manufacturer who is not entitled to any deferment of tax under section 32, of medicines and drugs falling under the Third schedule may, at his option, pay, in such manner and subject to such conditions and restrictions as may be prescribed, in lieu of the tax payable by him on such goods under sub-section (1) of section 6, tax at the rate of 4 per cent of the maximum retail price of such goods.

Explanation: For the purpose of this clause, maximum retail price in respect of the goods mentioned means the maximum price printed on the package of any goods at which such goods may be sold to the ultimate consumer and in respect of supplies to Government of Kerala, where such price is not so printed on the package, the price charged on the sales to Government:

Provided that where a registered dealer has purchased any goods, —

(a) from an importer or a manufacturer who has opted for payment of tax under this clause; or

(b) from another registered dealer where the tax on the maximum retail price of such goods was paid in the state on an earlier sale, such dealer shall, notwithstanding anything contained elsewhere in the Act, but subject to such conditions and restrictions as may be prescribed, be exempt from payment of tax under sub-section (1) of section 6 in respect of the sale of such goods and be entitled to recover from the buyers the amount of tax paid by him at the time of purchase of such goods and the turnover of such goods shall not be included in the total turnover for the purpose of sub-section.

Provided further that a dealer who opts payment of tax under this clause shall not allow any trade discount or incentive in terms of quantity of goods in relation to any sale of goods covered under the clause, effected by him, for the purpose of calculating his tax liability.

(f) (i) any dealers in ornaments or wares or articles of gold, silver or platinum group metals may at his option, instead of paying tax in respect of such goods in accordance with the provisions of section 6, pay tax at 200 per cent of the highest tax payable by him as conceded in the return or accounts, either under this Act or under the Kerala General Sales Tax Act, 1963 (15 of 1963), for a period of twelve months during any of the three consecutive years preceding that to which such option relates.

(ii) A dealer who is not eligible for option under sub-clause (i) may at his option, instead of paying tax in accordance with the provisions of section 6, pay tax at four hundred per cent of the tax payable by him as conceded in the return or accounts, or tax paid by him under this Act, whichever is higher, for the previous year.

Explanation I : Where during any such preceding year the dealer had not transacted business for any period in that financial year, the tax payable for the twelve months shall be calculated proportionately on the basis of the tax payable for the period during which such dealer had transacted business.

Explanation II : A branch shall be treated as an independent place of business for the purpose of calculating the tax under this section.

(iii) Where a dealer who has opted to pay tax under clause (i) or (ii), had opened any new branch subsequent to 31st day of March, 2005, then the additional compounded tax payable with respect to any such branch shall be the average of the tax paid or payable by him in respect his principal place of business and all branches, as if such new branch had not been opened:

Provided no additional tax is payable by a dealer covered by clause (ii) for the new branches opened during the year 2005-06.

(iv) Notwithstanding anything contained elsewhere where a dealer commences business during the period from 1st day of April, 2006 to 30th day of September, 2006 may at his option, instead of paying tax in respect of such goods in accordance with the provisions of section 6, pay tax at compounded rate per month from the commencement of the business at one hundred and fifty per cent of the average monthly tax paid or payable from the commencement of business to 30th day of September, 2006 under this Act :

Provided further that where a dealer had paid tax under clause (f) and opts for payment of tax under the clause for the succeeding year, the compounded tax payable for the succeeding year to which such option relates shall be at one hundred and fifteen per cent of the tax paid under this clause or tax payable as per returns or accounts whichever is higher for the preceding year:

Provided also that a dealer who opts for payment of tax under this clause may collect tax on the sales at the rate not exceeding the rate prescribed for the commodity under the Act, but where the tax so collected during the year is in excess of the compounded tax payable for the year under this clause, the tax collected in excess of the compounded tax shall be paid over to Government in addition to the compounded tax.

(5) of section 6 where the dealer opts for payment of tax in accordance with the said sub-section in respect of goods other than medicines and drugs

9. Burden of proof. - The burden of proving that any transaction of a dealer is not liable to tax under this Act shall lie on such dealer.

10. Deduction of tax at source. - (1) Every awarder shall deduct from every payment, including advance payment, made by him to any works contractor liable to pay tax under section 6, in relation to any works contract awarded, the tax payable by the contractor in respect of such contract under that section, whether the transfer of goods involved in the execution of works contract is in the form of goods or not, and remit it to Government, in the prescribed manner, on or before the fifth day of the month succeeding the month in which such deduction is made. Every such awarder shall also file such return as may be prescribed.

Provided that in respect of works contract executed under the Sampurna Gramin Rozgar Yojana or the Beneficiary Committees using the Member of Parliament/Member of Legislative Assembly Funds or Natural Calamity Relief Funds of Sarva Siksha Abhiyan Funds, where the total amount in respect of individual contract does not exceed ten lakh rupees, the maximum amount deductible under this section shall not exceed four per cent of the whole contract amount.

(2) For the purposes of sub-section (1) the awarder shall

obtain from the contractor a declaration in the prescribed form, showing his tax liability in relation to such works contract:

Provided that the awarder shall obtain from the contractor quarterly certificate issued by the assessing authority showing the tax liability or tax remittances, as the case may be, of the contractor in relation to the contract up to the end of the previous quarter.

Provided further that the awarder shall, before making final payment to the works contractor in respect of any contract, obtain a liability certificate from the assessing authority.

Provided also that the awarder shall not insist from the contractor, not being a dealer registered under the provisions of the Central Sales Tax Act, 1956 (Central Act 74 of 1956) any certificate issued by the assessing authority showing the tax liability or tax remittances, as the case may be, of the contractor, in relation to the contract, if he has opted for payment of tax in accordance with the proviso to sub-clause (i) of clause (a) of section 8.

(3) If any awarder effects any payment without deduction of the tax as provided under sub-section (1) or after making such deductions, fails to remit the same to Government within the time limit specified under the said sub-section, the awarder and any person or persons responsible for such deduction on behalf of the awarder, including a Director, Manager, Secretary or other officer of a company, shall be jointly and severally liable for payment of such amounts to the Government forthwith as if it were a tax due from him.

Explanation. - For the purposes of this section:

- (1) "Company" means any body corporate and includes a firm or other association of individuals, or a Co-operative society; and
- (2) "Director" in relation to a firm, means partner in the firm.

11. Input Tax Credit: - (1) Subject to the other provisions of this section, any registered dealer, liable to tax under sub-section (1) of section 6, shall be eligible for input tax credit.

(2) In respect of capital goods purchased by a dealer, the value of which exceeds such limit as may be prescribed, input tax credit shall be allowed over a period of three years from the date of commencement of commercial production or from the date from which the capital goods are put to use, whichever is later, in such manner and subject to such conditions as may be prescribed.

Provided that input tax credit on capital goods for industrial units including those which have undertaken expansion, diversification or modernisation shall be allowed over a period twelve months from the date of commencement of commercial production or from the date from which the capital goods are put to use, whichever is earlier from 1st day of April, 2006.

(3) Subject to the provisions of sub-section (4) to (13), input tax credit shall be allowed to a registered dealer in respect of a return period against the output tax payable by him for such period and the dealer shall pay to Government, the balance of the output tax in excess of the input tax credited in the manner prescribed.

Provided that no input tax credit shall be allowed to any amount illegally collected by way of tax as specified in sub-Section (3) (a) of Section 30 of the Act.

Provided also that where any goods purchased in the state are subsequently sold at subsidized price, the in-put tax allowable under the sub-section in respect of such goods shall not exceed the out put tax payable on such goods.

Provided also that where any goods purchased in the State are subsequently sent to outside the State or used in the manufacture of goods and the same are sent out side the State otherwise than by way of sale in the course of inter-State trade or export or where the sale in the course of inter-State trade is

exempted from tax, input tax credit under this section shall be limited to the amount of input tax paid in excess of the rate specified under sub-section (1) of section 8 of the Central Sale Tax Act, 1956 (Central Act 74 of 1956), on the purchase turnover of such goods sent outside the State:

Provided also that where it is found that the dealer claiming input tax credit under this section has charged tax under section 6 on the turnover of goods, without making any deduction in respect of the tax paid under this Act, for which input tax credit is allowed to him under this section, the input tax credit availed of by him shall be disallowed:

Provided also that input tax credit shall not be available in respect of the tax paid on the turnover subsequently allowed as discount, and shall be disallowed where it is found that the dealer has claimed input tax credit under this section on such turnover or of such goods used in the manufacture of goods sent outside.

(4) Unregistered dealers or dealers paying presumptive tax under sub-section (5) of section 6 or dealers paying compounded tax under section 8 or dealers who transfer the right to use goods under clause (c) of sub-section (1) of section 6 shall not be eligible for input tax credit.

Provided that where a dealer has opted to pay tax under section 8 in respect of certain transactions and is liable to pay tax under sub-section (1) of section 6 in respect of others, he shall be eligible for input tax credit only on the purchases of taxable goods made in relation to the sales in respect of which he pays tax under sub-section (1) of section 6:

Provided further that notwithstanding anything contained elsewhere in the Act, manufacturers of medicine who have opted for payment of compounded tax under clause (e) of section 8 shall be eligible for input tax credit, for the tax paid under this Act, under the Kerala Tax on Entry of Goods into Local Areas Act, 1994, on purchase of raw materials, packing materials and capital goods used exclusively for the manufacture of own taxable goods.

- (5) No input tax credit shall be allowed for the purchases, -
- (a) from an unregistered dealer or from a dealer not liable to tax under section 6 or from a dealer whose registration has been cancelled;
 - (b) from a dealer paying presumptive tax under sub-section (5) of section 6;
 - (c) from a dealer paying compounded tax under Section 8.
 - (d) of goods from outside the State in the course of inter State trade or commerce or otherwise in respect of tax paid on such purchase;
 - (e) of goods which are used in the manufacture, processing or packing of goods specified in the First Schedule and the Fourth Schedule;
 - (f) of goods specified in the Fourth Schedule;
 - (g) of goods, which are used, as fuel in motor vehicles or vessels or stores;
 - (h) of motor vehicles where such motor vehicle is sold as a used motor vehicle except where such motor vehicle is purchased as a used motor vehicle.

Explanation: For the purpose of clause (g) “stores” shall not include spare parts or tools in relation to any goods to which the provisions of this section applies

(i) (Omitted)

(j) which relates to goods sold by a principal through his agent in respect of which the principal has claimed input tax credit or vice versa;

(k) of goods remaining unsold at the time of closure of business;

(l) of goods which are used in the manufacture, processing or packing of goods, where such manufactured, processed or packed goods remain unsold at the time of closure of business;

- (m) of goods where tax invoice in the prescribed form is not available with the dealer or there is evidence that the same has not been issued by the selling dealer;
- (n) by a dealer who is exempted from payment of tax;
- (o) of goods notified under clause (x) of section 2;

(6) If the input tax of a dealer for a return period is more than the out put tax of that return period, the difference between the input tax and the out put tax shall be first adjusted against any interest, tax or any other amount due or demanded under this Act, from the dealer for any previous return period(s) and then to the tax payable by the dealer on the sales in the course of inter-state trade and the balance, if any, shall be carried forward to the next return period for the purpose of allowing input tax credit in the succeeding return period.

Provided that where the excess input tax so carried forward cannot be fully adjusted during the last return period of that year, the excess input tax credit so remaining unadjusted shall be refunded to the dealer as if it were a refund accrued under section 13.

(7) If goods in respect of which input tax credit has been availed of are subsequently used, fully or partly, for purposes in relation to which no input tax credit is allowable under the section, the input tax credit availed of in respect of such goods shall be reverse tax.

(8) The reverse tax as determined under sub-section (7), shall be deemed to be an amount due under this Act.

(9) Any dealer who claims input tax credit under this section in respect of any purchase shall keep the original tax invoice for such purchase (duly filled in and signed and issued by the selling dealer) wherein the input tax has been separately charged, and produce for verification as and when required by any authority empowered under this Act.

(10) Notwithstanding anything contained in any other provisions of this Act, a dealer who purchases goods from another dealer whose Certificate of Registration is suspended, shall not be eligible for input tax credit on such purchases of goods, made during the period of suspension of the Certificate of Registration.

(11) Notwithstanding anything contained in any other provisions of this Act, a dealer whose Certificate of Registration is suspended shall not be entitled to claim any input tax credit during the period of suspension of the Certificate of Registration.

(12) A registered dealer who intends to claim input tax credit under this section shall, for the purpose of determining the amount of input tax credit, maintain the accounts and such other records as may be prescribed, in respect of purchases, supplies and sales effected by him in the State.

(13). Subject to the provisions of sub-sections (4) to (7) and sub-sections (10) to (12), input tax credit shall be allowed to a registered dealer in respect of the tax paid under the Kerala General Sales Tax Act, 1963 (15 of 1963) where the tax paid by the dealer who sold the goods to such registered dealer or by any previous seller, or the Kerala Tax on Entry of Goods into Local Areas Act, 1994 (15 of 1994), in respect of goods purchased by him during a period of one year immediately preceding the date of commencement of this Act, subject to such conditions and restrictions as may be prescribed, where such goods are—

(i) held as opening stock on such date and sold or used in the manufacture of taxable goods or used in the execution of works contract or used as containers or packing materials for the packing of taxable goods in the state for sale thereafter; or

(ii) used in the manufacture of taxable goods or as packing materials for the packing of taxable goods and such

manufactured or packed goods are held as opening stock on such date; or

(iii) used in the manufacture of taxable goods and are held as opening stock on such date as work in process.

Provided that the assessing authority may adjust any amount accruing to a dealer as input tax credit under this sub-section towards any tax or other amount due from the dealer, under this Act or under the provisions of the Kerala General Sales Tax Act, 1963 (15 of 1963) or the Central Sales Tax Act, 1956 (Central Act 74 of 1956) or The Kerala Tax on Entry of Goods into Local Areas Act, 1994 (15 of 1994).

Provided further that where it is found on audit that the dealer claiming input tax credit under this sub-section has charged tax under section 6 on the turnover of such goods without making any deduction in respect of the tax paid under the Kerala General Sales Tax Act, 1963 (15 of 1963) for which input tax credit is allowed to him under this sub-section, the input tax credit availed of by him shall be liable to be disallowed to that extent and the input tax credit so disallowed shall be deemed to be reverse tax due under sub-section (7).

Explanation: - For the purposes of this sub-section “input tax” means tax paid by one registered dealer under the Kerala General Sales Tax Act, 1963 (15 of 1963) to another such dealer or, where the goods are liable to tax under the Kerala General Sales Tax Act, 1963 (15 of 1963) at the point of first purchase or last purchase or under section 5A, as the case may be, the tax paid by the dealer claiming input tax credit under this sub-section on the purchase or tax paid by such dealer under the Kerala Tax on Entry of Goods into Local Areas Act, 1994 (15 of 1994).

Provided also that no input tax credit under this sub-section shall be allowed in respect of tax paid under the Kerala General Sales Tax Act, 1963 (15 of 1963) on medicines and drugs falling under the Third Schedule to this Act and turnover of sale of such medicines and drugs shall not be included in the taxable turnover of any dealer effecting sales of such medicines and drugs, subject to such conditions and

restrictions as may be prescribed.

12. Special rebating in certain cases: - (1) In calculating the net tax payable by a dealer for a return period there shall be deducted from the tax payable for the return period, a sum equal to –

- (a) the tax paid under sub-section (2) of section 6;
and
- (b) the tax paid under section 3 of the Tax on Entry of

Goods into Local Areas Act, 1994 (15 of 1994) on the import of any goods, other than those included in the fourth schedule; where such goods are intended for re-sale or for use in the manufacture of taxable goods or for use in the execution of works contract or for use as containers or packing materials for the packing of taxable goods in the state:

Provided that where the special rebate is in respect of capital goods, the same shall be allowed over a period of three years and all the conditions and restrictions applicable to input tax credit under sub-section (2) of section 11 shall apply to the special rebate under this section also:

Provided also that where the goods in respect of which tax is payable under sub-section (2) of Section 6 is sold in the State or in the course of inter-state trade in the month in which it is purchased, the special rebate allowable in respect of such goods resold or sold in the course of inter-state trade shall be deducted from the tax payable under sub-section (1) of section 6 or under the provisions of the Central Sales Tax Act, 1956 (Central Act 74 of 1956), where the liability under sub-section (2) of Section 6 has been created in respect of such purchase.

Provided also that where the goods in respect of which tax under sub-section (2) of section 6 or under section 3 of the Kerala Tax on Entry of Goods into Local Areas Act, 1994 has been paid, are sent outside the State or used in the manufacture of goods and the same are sent outside the State, otherwise than by way of sale in the course of inter-state trade or export or where the sale in the course of inter-state trade is

exempted from tax, the special rebate under this section shall be limited to the amount of such tax paid in excess of the rate specified under sub-section (1) of section 8 of the Central Sale Tax Act, 1956 (Central Act 74 of 1956) :

Provided also that where the goods in respect of which tax under sub-section (2) of section 6 or under section 3 of the Kerala Tax on Entry of Goods in to Local Areas Act, 1994 has been paid and where such goods are resold in the State at reduced rate or a part of which has been resold and the balance disposed in the state otherwise than by way of sale or used in the manufacture of taxable goods, then the special rebate under this section shall not exceed the output tax payable in respect of such goods or goods manufactured out of such goods.

(2) Unregistered dealers or dealer paying presumptive tax under sub-section (5) of section 6 or dealer paying compounded tax under section 8 shall not be eligible for rebate under sub-section (1).

(3) If the rebate allowed under sub-section (1) and the input tax credit allowed under section 11 is more than the output tax for that return period, the amount by which the sum of the input tax credit and rebate under sub-section (1) is in excess of the output tax for the return period shall be in the same manner as input tax under sub-section (6) of section 11, as if such rebate were also input tax credit accrued under that section.

(4) Where rebate is claimed under sub-section (1) in respect of any goods during a return period and the goods are subsequently used, fully or partly for purposes other than those specified in the said sub-section, or has remained as unsold at the time of closure of business, in relation to such goods, the rebate claimed on such goods used otherwise or remained as unsold at the time of closure shall be the reverse tax for that return period which may be determined in the same manner as if it were a reverse tax accrued under sub-section (7) of section 11.

13. Refund of input tax in the case of export or interstate sale: -

(1) Every sale in the course of export shall be a zero rate sale.

(2) Where input tax has been paid in respect of the purchase of any goods including capital goods, except those goods coming under the Fourth Schedule, and such goods are either, -

(i) sold in the course of export; or

(ii) sold in the course of inter-State trade or commerce;
or

(iii) sent to outside the State otherwise than by way of sale in the course of inter- State trade; or

(iv) (a) used or consumed in the manufacture of goods, other than those falling under the Fourth Schedule, or used as containers or as packing materials for such goods and such manufactured goods are sold in the course of export; or

(b) used or consumed in the manufacture of taxable goods or used as containers or as packing materials of such goods manufactured and such manufactured goods are sent outside the State either by way of sale in the course of inter-state trade or commerce or otherwise; or

(v) used as Capital goods; the input tax paid on such goods shall be refunded to the person making such sales in the course of export or in the course of inter-State trade or commerce or sending such goods to outside the State, as the case may be, in such manner and subject to such conditions as may be prescribed:

Provided that the dealer claiming such refund shall not claim input tax credit on such purchases for any return period:

Provided further that where the goods are sent to outside the State otherwise than by way of sale in the course of inter-State trade or export or where the sale in the course of

interstate trade is exempted from tax, the refund under this section shall be limited to the amount of input tax paid in excess of the rate specified under sub-section (1) of section 8 of the Central Sales Tax Act 1956 (Central Act 74 of 1956) on the purchase turnover of such goods sent outside the State, re-sold or used in the manufacture, as the case may be:

Provided also that in the case of capital goods, the refund of input tax will be allowed in such instalments as may be prescribed.

Explanation: For the removal of doubt it is hereby clarified that where input tax is paid on the purchase of Duty Entitlement Pass Book or any similar licence for the import of any goods and goods so imported are used, consumed or disposed of in the manner specified in this sub-section, the input tax paid on the purchase of such Duty Entitlement Pass Book or any similar licence shall for the purpose of this section and section 11, be deemed to be the input tax paid on the goods imported.

(3) Nothing contained in sub-section (2) shall be construed as preventing the assessing authority from adjusting any amount due as refund under sub-section (1) towards any tax or other amount due from the dealer, under this Act or under the provisions of the Kerala General Sales Tax Act, 1963 (15 of 1963) or the Central Sales Tax Act, 1956 (Central Act 74 of 1956) or The Kerala Tax on Entry of Goods into Local Areas Act, 1994 (15 of 1994).

4) The provisions of this section shall apply to goods purchased by a dealer during a period of one year immediately preceding the date of commencement of the Act and held by such dealers as opening stock on such date.

Explanation: For the purpose of this section—

(a) sale in the course of export means a sale falling under sub-section (1) or sub-section (3) of section 5 of the Central Sales Tax Act 1956 (Central Act 74 of 1956).

(b) input tax” includes tax paid under sub-section (2) of section 6, input tax covered by the Explanation to sub-section(13) of section 11 and the tax paid under the Tax on Entry of Goods into Local Areas Act, 1994 (15 of 1994) on any

taxable goods.

14. Reimbursement of tax: --Where tax has been collected by any dealer in the State on any sale effected under this Act to any official or personnel of, –

(a) any foreign diplomatic mission or consulate in India ;
or

(b) the United Nations or any other similar international body, entitled to privileges under any convention to which India is a party or under any law for the time being in force; or

(c) any consular or diplomatic agent of any mission, the United Nations or other body the tax so collected shall be reimbursed to such person, mission, United Nations or other body in such manner as may be prescribed.

AMENDMENT VIDE FINANCE ACT 2006		
(1) in section 6,—		
(a) in sub-section (1),—		
(i) in clause (a) following shall be added at the end, namely:— “and in the case of goods specified below at the rate of twenty per cent, at all points of sale of such goods within the State, namely:—		
<i>Sl. No.</i>	<i>Description of Goods</i>	<i>HSN Code</i>
(1)	(2)	(3)
1	Aerated drinks	
	(1) Mineral Water	2201.10.10
	(2) Packaged drinking water	****
	(3) Branded soft drinks, excluding soda	2202.10
2.	Air conditioners	8415
3	Building Materials	
	(a) Ceramic Floor and wall tiles including vitrified tiles whether polished or not	6907 and 6908
	(b) Marbles and Granite slabs and tiles	
	(c) (i) Paint, other than cement paints, enamel, polishes, students water colour and artist paints	
	(ii) Lacquers	
	(d) Sanitary Equipments	
	wash basins, pedestals, baths, water closet pans, flushing cisterns, urinals and similar sanitary fixtures only of ceramics, china ware or porcelain ware	6910
4	Dishwashers	8422
5	Health Drinks	
	Boost, Bournvita, Complian, Horlicks and	1901 and

	similar other items	1806.90.40
6	Microwave ovens and other ovens	
	(1) Microwave ovens	8516.50.00
	(2) Other ovens-cookers, cooking plates, boiling rings, grillers and roaster	8516.60.00
7	Refrigerators	8418
8	Vacuum cleaners	8509.10.00
9	Washing Machines	8450”;
	(ii) for clause (f), the following clause shall be substituted, namely:—	
	“(f) In the case of transfer of goods involved in execution of works contract, where the transfer is not in the form of goods, but in some other form, at the rate of 12.5 per cent and when the transfer is in the form of goods at the rates prescribed under the respective Schedules.”;	
	(iii) In the fourth proviso, after the words “Sarva Siksha Abhiyan Funds” the following words shall be inserted, namely:—	
	“or funds of Local Authorities or Command Area Development Authority or execution of work under Jananidhi Project (KRWSA) or OFD works through Beneficiary Farmers’ Associations or Karshaka Samithy.	
	(iv) after the fourth proviso the following proviso shall be added, namely:—	
	“Provided also that where the sale is to or by Military, Naval, Air Force or NCC Canteen and Canteen Stores Department, the tax payable under clauses (a) or (d) above shall subject to such conditions and restrictions, as may be prescribed, be at half the rate applicable to such goods.”;	
	(b) in sub-section (2), after clause (b), the following clause shall be inserted, namely:—	
	“(c) every awardee, not being a Government department or Local Authority, who purchases taxable goods from any person, other than a registered dealer, within the State for execution of works contract and issues the same for incorporation in the work, without including its value in the gross contract amount, shall pay tax on the purchase turnover of such goods at the rates specified under sub-section (1), if the cost of the work exceeds one crore rupees.”;	
	(c) in sub-section (5), after the third proviso, the following proviso shall be inserted, namely:—	
	“Provided also that a dealer shall not be liable to pay presumptive tax under this sub section, if his total turnover is less than ten lakh rupees.”;	
	(d) in sub-section (7),—	
	(i) for clause (b) the following clause shall be substituted, namely:—	
	“(b) sale of any building materials, industrial inputs, plant and machinery including components, spares, tools and consumables in relation thereto to any developer or industrial unit or establishments situated in any Special Economic Zone in the State for setting up the unit or use in the manufacture of other goods shall, subject to such conditions or restrictions, as may be prescribed, be exempted from tax.”;	
	(ii) after clause (b), the following clause shall be inserted, namely:—	
	“(c) sale of medicines and drugs falling under the Third Schedule, in respect of which tax had been paid under the Kerala General Sales Tax Act, 1963 (15 of 1963) and which are held as opening stock on the 1st day of April, 2005 shall, subject to conditions and restrictions, as may be prescribed, be exempted from tax.”;	
	(2) in section 8,—	
	(a) after sub-clause (i) of clause (a) the following provisos shall be inserted, namely:—	
	“Provided that any works contractor who undertakes works of the Government Departments or Local Authorities or Kerala Water Authority shall not be liable to tax under sub-section (2) of section 6, if he pays compounded tax at the rate of three per cent on the whole contract amount:	
	Provided further that notwithstanding anything contained elsewhere in this Act, a works contractor who intends to pay tax at compounded rate in accordance with clause (a) in respect of all the works undertaken by him during a year, may instead of filing separate application for, compounding for individual works may, file a single option for payment of tax under the said clause before	

30th April of the year to which the option relates subject to eligibility:

Provided also that the application for compounding in accordance with the above proviso for the year 2006-07 shall be filed before 30th day of November, 2006:

Provided also that in the case of any work covered under the above provisos which remains unexecuted or part of which remains to be executed at the end of the year, the contractor shall continue to pay tax in respect of such works in accordance with the provisions of clause (a) of this section.”;

(b) in clause (c),—

(i) in sub-clause (i) after the words “food and beverages prepared by him”, at the end, the words “and also on the turnover of other goods in respect of which he is not the dealer effecting first taxable sale, as defined in the explanation under sub-section (5) of section 6” shall be added;

(ii) in sub-clause (ii), the following words shall be added at the end, namely:—

“or one hundred and fifteen per cent of the tax paid or payable under the Kerala General Sales Tax Act, 1963 (15 of 1963) or under this Act in respect of the highest turnover for the previous consecutive three years, immediately preceding the year to which the option relates, whichever is higher.”;

(c) in clause (e),—

(i) in the Explanation, after the words “ultimate consumer” the words “and in respect of supplies to Government of Kerala, where such price is not so printed on the package, the price charged on the sales to Government” shall be added.

(ii) after the first proviso, the following proviso shall be inserted, namely:—

Provided further that a dealer who opts payment of tax under this clause shall not allow any trade discount or incentive in terms of quantity of goods in relation to any sale of goods covered under the clause, effected by him, for the purpose of calculating his tax liability.”.

(d) after clause (e) the following clause shall be inserted, namely:—

“(f)(i) any dealers in ornaments or wares or articles of gold, silver or platinum group metals may at his option, instead of paying tax in respect of such goods in accordance with the provisions of section 6, pay tax at 200 per cent of the highest tax payable by him as conceded in the return or accounts, either under this Act or under the Kerala General Sales Tax Act, 1963 (15 of 1963), for a period of twelve months during any of the three consecutive years preceding that to which such option relates.

(ii) A dealer who is not eligible for option under sub-clause (i) may at his option, instead of paying tax in accordance with the provisions of section 6, pay tax at four hundred per cent of the tax payable by him as conceded in the return or accounts, or tax paid by him under this Act, whichever is higher, for the previous year.

Explanation I : Where during any such preceding year the dealer had not transacted business for any period in that financial year, the tax payable for the twelve months shall be calculated proportionately on the basis of the tax payable for the period during which such dealer had transacted business.

Explanation II : A branch shall be treated as an independent place of business for the purpose of calculating the tax under this section.

(iii) Where a dealer who has opted to pay tax under clause (i) or (ii), had opened any new branch subsequent to 31st day of March, 2005, then the additional compounded tax payable with respect to any such branch shall be the average of the tax paid or payable by him in respect his principal place of business and all branches, as if such new branch had not been opened :

Provided no additional tax is payable by a dealer covered by clause (ii) for the new branches opened during the year 2005-06.

(iv) Notwithstanding anything contained elsewhere where a dealer commences business during the period from 1st day of April, 2006 to 30th day of September, 2006 may at his option, instead of paying tax in respect of such goods in accordance with the provisions of section 6, pay tax at compounded rate per month from the commencement of the business at one hundred and fifty per cent of the average monthly tax paid or payable from the commencement of business to 30th day of September, 2006 under this Act :

Provided further that where a dealer had paid tax under clause (f) and opts for payment of tax under the clause for the succeeding year, the

compounded tax payable for the succeeding year to which such option relates shall be at one hundred and fifteen per cent of the tax paid under this clause or tax payable as per returns or accounts whichever is higher for the preceding year :

Provided also that a dealer who opts for payment of tax under this clause may collect tax on the sales at the rate not exceeding the rate prescribed for the commodity under the Act, but where the tax so collected during the year is in excess of the compounded tax payable for the year under this clause, the tax collected in excess of the compounded tax shall be paid over to Government in addition to the compounded tax.”.

(3) in section 10, in sub-section (2), after the second proviso, the following proviso shall be inserted, namely:—

“Provided also that the awarder shall not insist from the contractor, not being a dealer registered under the provisions of the Central Sales Tax Act, 1956 (Central Act 74 of 1956) any certificate issued by the assessing authority showing the tax liability or tax remittances, as the case may be, of the contractor, in relation to the contract, if he has opted for payment of tax in accordance with the proviso to sub-clause (i) of clause (a) of section 8.”;

(4) in section 11,—

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

“(1) Subject to the other provisions of this section, any registered dealer, liable to tax under sub-section (1) of section 6 shall be eligible for input tax credit.”;

(b) in sub-section (2),—

(i) after the words “capital goods purchased by a dealer”, the words “the value of which exceeds such limit as may be prescribed”, shall be inserted.;

(ii) the following proviso shall be inserted, namely:—

“Provided that input tax credit on capital goods for industrial units including those which have undertaken expansion, diversification or modernisation shall be allowed over a period twelve months from the date of commencement of commercial production or from the date from which the capital goods are put to use, whichever is earlier from 1st day of April, 2006.”.

(c) in sub-section (3), after the second proviso the following provisos shall be added, namely:—

“Provided also that where any goods purchased in the State are subsequently sent to outside the State or used in the manufacture of goods and the same are sent out side the State otherwise than by way of sale in the course of inter-State trade or export or where the sale in the course of inter-State trade is exempted from tax, input tax credit under this section shall be limited to the amount of input tax paid in excess of the rate specified under sub-section (1) of section 8 of the Central Sale Tax Act, 1956 (Central Act 74 of 1956), on the purchase turnover of such goods sent outside the State:

Provided also that where it is found that the dealer claiming input tax credit under this section has charged tax under section 6 on the turnover of goods, without making any deduction in respect of the tax paid under this Act, for which input tax credit is allowed to him under this section, the input tax credit availed of by him shall be disallowed:

Provided also that input tax credit shall not be available in respect of the tax paid on the turnover subsequently allowed as discount, and shall be disallowed where it is found that the dealer has claimed input tax credit under this section on such turnover or of such goods used in the manufacture of goods sent outside.”;

(d) to sub-section (4), the following provisos shall be inserted, namely:—

“Provided that where a dealer has opted to pay tax under section 8 in respect of certain transactions and is liable to pay tax under sub-section (1) of section 6 in respect of others, he shall be eligible for input tax credit only on the purchases of taxable goods made in relation to the sales in respect of which he pays tax under sub-section (1) of section 6:

Provided further that notwithstanding anything contained elsewhere in the Act, manufacturers of medicine who have opted for payment of compounded tax under clause (e) of section 8 shall be eligible for input tax credit, for the tax paid under this Act, under the Kerala Tax on Entry of Goods into Local Areas Act, 1994, on purchase of raw materials, packing materials and capital goods used exclusively for the manufacture of own taxable goods.”;

(e) in sub-section (5), after clause (n) the following clause shall be inserted, namely:—

“(o) of goods notified under clause (x) of section 2.”;

(f) for sub-section (7), the following sub-section shall be substituted, namely:—

“(7) If goods in respect of which input tax credit has been availed of are subsequently used, fully or partly, for purposes in relation to which no input tax credit is allowable under the section, the input tax credit availed of in respect of such goods shall be reverse tax.”;

(g) in sub-section (13), after the existing provisos the following proviso shall be inserted, namely:—

“Provided also that no input tax credit under this sub-section shall be allowed in respect of tax paid under the Kerala General Sales Tax Act, 1963 (15 of 1963) on medicines and drugs falling under the Third Schedule to this Act and turnover of sale of such medicines and drugs shall not be included in the taxable turnover of any dealer effecting sales of such medicines and drugs, subject to such conditions and restrictions as may be prescribed.”;

(6) in section 12, in sub-section (1),—

(i) in the second proviso, the words “or used in the manufacture of taxable goods” occurring in both places shall be omitted ;

(ii) after the second proviso, the following proviso shall be inserted, namely:—

“Provided also that where the goods in respect of which tax under sub-section (2) of section 6 or under section 3 of the Kerala Tax on Entry of Goods into Local Areas Act, 1994 has been paid, are sent outside the State or used in the manufacture of goods and the same are sent outside the State, otherwise than by way of sale in the course of inter-state trade or export or where the sale in the course of inter-state trade is exempted from tax, the special rebate under this section shall be limited to the amount of such tax paid in excess of the rate specified under sub-section (1) of section 8 of the Central Sale Tax Act, 1956 (Central Act 74 of 1956) :

Provided also that where the goods in respect of which tax under sub-section (2) of section 6 or under section 3 of the Kerala Tax on Entry of Goods in to Local Areas Act, 1994 has been paid and where such goods are resold in the State at reduced rate or a part of which has been resold and the balance disposed in the state otherwise than by way of sale or used in the manufacture of taxable goods, then the special rebate under this section shall not exceed the output tax payable in respect of such goods or goods manufactured out of such goods.”;

(7) in sub section (2) of section 13, the following Explanation shall be inserted, namely :—

“*Explanation:* For the removal of doubt it is hereby clarified that where input tax is paid on the purchase of Duty Entitlement Pass Book or any similar licence for the import of any goods and goods so imported are used, consumed or disposed of in the manner specified in this sub-section, the input tax paid on the purchase of such Duty Entitlement Pass Book or any similar licence shall for the purpose of this section and section 11, be deemed to be the input tax paid on the goods imported.”;