

## MEGHALAYA ACT NO. 5 OF 2005.

As passed by the Meghalaya Legislative Assembly

Received the assent of the Governor on the 30th April, 2005.

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THE MEGHALAYA VALUE ADDED TAX (AMENDMENT) ACT, 2005.

An  
Act

further to amend the Meghalaya Value Added Tax Act, 2003  
Be it enacted by the Legislature of the State of Meghalaya in the  
Fifty- sixth year of the Republic of India as follows:

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

(2) It shall come into force at once.

**Insertion of heading**

2. In the Meghalaya Value Added Tax Act, 2003- before the beginning of Section 1, the following words shall be inserted as headings:-

**“CHAPTER – 1  
PRELIMINARY”**

**Amendment of Section 2**

3. In the Meghalaya Value Added Tax Act, 2003,  
(1) The words “means plant, machinery and equipment used in the process of manufacturing excluding civil structures as may be prescribed” appearing after the word “Capital goods” in Section 2(xii) shall be deleted and replaced by the following words: –  
“in relation to a registered dealer engaged in manufacture means plant and machinery and equipments which are accounted for as fixed assets or Capital assets in the books of account of such dealer “  
(2) Between the words “cost of labour” and the words “in” appearing in Clause (ii) of Sub-section (xxxiii) of Section 2 the words “and services” shall be added.  
(3) The words “of labour” appearing between the word “cost” and the word “shall” appearing in Clause (ii) of Sub-section (xxxiii) of Section 2 shall be deleted.

**Amendment of Section 5**

4. In the Meghalaya Value Added Tax Act, 2003.  
(1) The words “the Schedule to be notified in the official gazette at the rate set out against each of such goods in the Schedules to be notified” appearing in the last part of

Section 5(1) - shall be deleted and replaced by the following words –

“Schedule II, III and IV appended to this Act at every point of sale of such goods within the State at the rate specified therein”.

(2) the words “exempt from tax in schedule to be notified” appearing in the last part of Section 5(2)(a) shall be deleted and replaced by the following words–

“exempted under Section 8(i) (a)”.

(3) the words “ at the prescribed percentage” appearing in the last part of section 5(2) (c ) shall be deleted and replaced by the following words –

“on the basis of such percentages of the value of works contract as specified in Schedule IV A” appended to this Act.

**Amendment of Section 6.**

5. In the Meghalaya Value Added Tax Act, 2003,
- (1) the words “Purchase Tax Payable On purchase of Certain goods” appearing in the margin of section 6 shall be deleted and substituted by the words “Levy of tax on purchases”.
  - (2) the entire provision of Section 6 shall be deleted and substituted by the following ;  
“ Every dealer who in the course of his business purchases any taxable goods.
    - (i) from a registered dealer in the circumstances in which no tax under Section 5 is payable by that registered dealer on the sale price of such goods, or
    - (ii) from any other person, shall be liable to pay tax on the purchase price of such goods, if after such purchase, the goods are not sold within the State of Meghalaya or in the course of inter-State trade and commerce or in the course of export out of the territory of India, but are –
      - (a) sold or disposed of otherwise, or
      - (b) consumed or used in the manufacture of goods declared to be exempt from tax under this Act, or
      - (c) after their use or consumption in the manufacture of goods, such manufactured goods are disposed of otherwise than by way of sale in the State of Meghalaya or in the course of inter-State trade and commerce or export out of the territory of India; or
      - (d) used or consumed otherwise, and such tax shall be levied at the same rate at which tax under Section 5 would have been levied on the sale of such goods within the State on the date of such purchase”.

**Amendment of  
Section 8**

6. In the Meghalaya Value Added Tax Act, 2003-
- (1) After the word "Exemptions" appearing in the margin heading of Section 8, the following words shall be added-  
"and zero – ratings"
  - (2) the words "Schedule to be notified in the official Gazette" appearing in Section 8(1)(a) shall be deleted and replaced by the following words :  
"Schedule I appended to this Act".

**Amendment of  
section 11**

7. In the Meghalaya Value Added Tax Act, 2003 -
- (1) the entire provision under Section 11(1) shall be deleted and replaced by the following :  
" Subject to other provisions of this section, Input Tax Credit shall be allowed to a registered dealer for purchase of taxable goods, other than goods specified in Schedule V appended to this Act, made within the State of Meghalaya from a registered dealer holding a valid certificate of registration and which are intended for the purpose of-
    - (a) sale or resale by him in the State; or
    - (b) sale in the course of inter-State trade or commerce; or
    - (c) sale in the course of export out of territory of India; or
    - (d) use as capital goods or as raw materials in the manufacture and processing of taxable goods, other than the goods specified in Schedule V appended to this Act, intended for sale of the nature referred to in clauses (a),(b) and (c ) above.  
Provided that no person shall be entitled to input tax credit on the following types of capital goods;
      - (i) Civil structure and immovable goods or properties.
      - (ii) Building materials used in construction activity (Tax credit will be available to contractors for their transactions)
      - (iii) Vehicles of all types.
      - (iv) Office equipments, fixed assets or capital goods, which are not meant for use in the manufacturing activity.
      - (v) Furniture fixture including electrical fixtures and fittings.
      - (vi) Capital goods purchased prior to the appointed day ( date of commencement of this Act) or
    - (e) used as containers or materials for packing of taxable goods, other than the goods specified in Schedule V, intended for sale of the nature referred to in clause(1) (a),(b) and (c) above

Provided further that if purchases are used partially for the purpose specified in this sub-section, input tax credit shall be allowed proportionate to the extent they are used for the purpose specified in this sub-section.

(2) the entire provision of section 11(5) shall be deleted and substituted by the following –

“ Input tax credit on capital goods admissible under this section shall commence from the date of commencement of commercial productions and shall be adjusted against tax payable on output in thirty six equal monthly installments.

Provided further that no person shall be entitled to input tax credit on capital goods if such person is the second and subsequent purchaser of such capital goods.

(c) the words “ unless the registered dealer has an original tax invoice for the relevant supply or purchases” appearing in the last part of section 11(6) –shall be deleted and replaced by the following words :

“until the tax period in which the dealer receives the tax invoice in original in the prescribed form evidencing the amount of input tax credit.”

(d) after Section 11(9)( c ), the following proviso shall be inserted :

Provided that input tax credit may be allowed on input tax paid in excess of the prevailing rate of CST on such inputs.

(e) After sub-section 9(e) of section 11 the new clause shall be inserted as section 11(9) (f) –

section 11(9) (f) - “claim and settlement of input tax credit shall be completed within a period of six months from the date of the claim”

**Amendment of section 14**

8. In the Meghalaya Value Added Tax Act, 2003, the words “ the following period or periods” appearing in the last part of Section 14(2) shall be deleted and replaced by the following words-  
“ subsequent period or periods but not carried beyond the second financial year after which the excess amount shall be refunded to the dealer”

**Amendment of section 17**

9. In the Meghalaya Value Added Tax Act.2003 –  
(a) the words “ Levy of presumptive tax on registered retailers” appearing in the margin heading of section 17 shall be deleted and replaced by the following words-  
“Composition of Tax”

(b) the entire provision of Section 17, shall be deleted and replaced by the following words –

“17(1) Notwithstanding anything contained in this Act, the Government may, by notification published in the Official Gazette and subject to such conditions and restrictions, if any, as may specify therein, permit any dealer, who is engaged in the business of selling at retail any goods or merchandise and whose gross turnover calculated from the commencement of any year exceeds within such year, the threshold of such turnover but does not exceed five lakhs rupees, to pay at his option, in lieu of the amount of tax payable under the provisions of this Act, an amount by way of composition calculated at the rate of 1% of such gross turnover.

(2) For the purpose of this section a dealer will be considered to be engaged in the business of selling at retail if 9/10 of his turnover of sales consists of sales made to persons who are not dealers and if any questions arises as to whether any particular dealer is a retailer, then the officer in charge of the case shall refer the question to the Assistant Commissioner of Taxes (Appeals) who shall, after hearing the dealer if necessary, decide the question.

(3) Nothing in this section will apply to a dealer who is a manufacturer or who is an importer or who has purchased any goods from a registered dealer whose sales of the said goods are not liable to tax under the provisions of this Act.

(4) If on the basis of evidences reasonable grounds exist to believe that the dealer was not eligible to pay tax at a rate fixed under this sub- section, the prescribed authority may, impose a penalty equivalent to three times of the amount of tax arrived at after applying the rate notified under this sub-section to the gross turnover of the dealer computed on the basis of evidence available in this regard.

Provided that no order under this sub-section shall be passed without giving the dealer a reasonable opportunity of being heard.

(5) A dealer in whose case composition under this section is in force, shall not-

(i) be entitled to any claim of input tax credit in respect of purchases of any goods by him in the State.

(ii) charge any tax in the invoice in respect of sales of goods made by him; and

(iii) issue tax invoice to any other dealer who has purchased the goods from him.

- (6) The option so exercised under this section shall be final for that year and shall continue for subsequent years until the dealer becomes ineligible, or withdraws his option in writing.

**Amendment of section 19**

10. In the Meghalaya Value Added Tax Act. 2003 –
- (1) the words – “one month” appearing in section 19(1) shall be deleted and substituted by the words - “three months”.
  - (2) the words “whose registration has been continued under section 116” appearing in section 19 (1) between the word “dealers” and the word “shall” shall be deleted-
  - (3) the words “purchased on or after 1.4.2004 and” shall be inserted in section 19(1) before the word “held”
  - (4) After the words “Meghalaya Finance (Sales Tax) Act” appearing in Section 19(2) (a)- the words “and the Meghalaya Sales Tax Act” shall be added.
  - (5) after the words “after the commencement of this Act” appearing in Section 19 (2) (b)- the following words “and the entire balance shall be given as a set off within a period of six months” shall be inserted.
  - (6) sub-section (3) of section 19 shall be deleted.
  - (7) The existing sub-section (4) of section 19 shall be read as sub-section (3) and the words “and sub-section (3)” appearing in the sub-section shall be deleted.

**Amenment of Section 22**

11. In the Meghalaya Value Added Tax Act, 2003, between the words “not” and “liable” and between the word “pay” and “in” appearing in the proviso to Section 22(3) - the words - “be” and “tax” shall be inserted respectively.

**Amendment of Section 34**

12. In the Meghalaya Value Added Tax Act, 2003-  
(a) The margin heading of Section 34-

“Imposition of penalty for failure to get registered” shall be deleted and replaced by the following words-

“ Suspension of certificate of registration”

(b) the entire provision of Section 34 (1) and (2) shall be deleted and replaced by the following words-

“(1) Suspension of certificate of registration will be withdrawn and registration certificate shall be restored on an application made by the dealer on furnishing evidence of payment of all taxes and on furnishing of overdue return or returns within 45 days from the date of suspension”

“(2) If a certificate of registration of a dealer is suspended or if the suspension is withdrawn, the information will be made public through publication in the Official Gazette and insertion of notice in newspaper”.

**Amendment of Section 35**

13. In the Meghalaya Value Added Tax Act, 2003- (1) after the words “State Bank of India” in sub-section (4) of section 35 the words “or any Bank authorised by the Government” shall be inserted.

**Amendment of Section 36**

14. In the Meghalaya Value Added Tax Act, 2003 - (1) clause (a) and clause (d) of section 36(1) shall be deleted and clause (b), (c),(e) and (f) shall read as clause (a), (b), (c) and (d) respectively. (2) In section 36 (3), the words “at the rate of 2 percent per month on the tax” appearing between the word “penalty” and the word “and” shall be deleted and substituted by the following words:- “not exceeding one and half times of the tax payable” (3) The following words appearing in the last part of section 36(3) “or to the date of its payment” shall be deleted.

**Amendment of section 37**

15. In the Meghalaya Value Added Tax Act, 2003- the word “presumptive” appearing in section 37(2) shall be deleted and substituted by the word “composite”

**Amendment of section 40**

16. In the Meghalaya Value Added Tax Act, 2003 after section 40 (3) the following new sub-sections will be added:- “(4) when a dealer is in default or is deemed to be in default in making the payment under section 52, section 53 and section 54, he shall be liable to pay simple interest on such amount at the rate of two

percent per month from the date of such default for so long as he continues to make default in the payment of the said tax”.

“(5) where any amount of tax payable is enhanced by any such order, interest shall be payable on the amount by which the tax is enhanced after the expiry of a period of three months from the date of the order”.

“(6) Where the realization of any amount remains stayed by the order of any court or authority and such order is subsequently vacated, interest shall be payable also for any period during which such order remain in operation”.

**Amendment of Section 41.**

17. In the Meghalaya Value Added Tax Act, 2003-
- (1) after the following word appearing in the margin heading of Section 41-  
“Interest”- the following words shall be added-  
“on refund”
  - (2) sub-sections (4), (6), (7) and (8) of Section 41 shall be deleted and sub-section(5) shall read as sub- section (4).

**Amendment of Section 43.**

18. In the Meghalaya Value Added Tax Act, 2003- the year “2003” appearing in section 43 (1) shall be substituted by “2005”.

**Amendment of section 44.**

19. In the Meghalaya Value Added Tax Act, 2003,
- (1) the following words appearing in the margin heading of Section 44 “Composition of tax” shall be deleted and replaced by the following Words-“Levy of tax on sale of non- vatable goods”
  - (2) the existing provision under Section 44 shall be deleted and replaced by the following words-  
“Every dealer of goods specified in Schedule V shall with effect from the appointed day be liable to pay tax under this Act at the first point of sale of such goods within the State at the rates specified therein”

**Amendment of Section 45.**

20. In the Meghalaya Value Added Tax Act, 2003-
- (1) between the words “State Bank of India” and the words “as required” appearing in section 45 (1) the following words shall be added:-



“or any other bank authorized by the Govt. of Meghalaya”.

- (2) Sub-section (4) of section 45 shall be deleted and the existing sub-section (5) shall be read as sub-section (4).

**Amendment of Section 46.**

21. In the Meghalaya Value Added Tax Act, 2003, the entire provision including margin heading of section 46 shall be deleted and replaced as follows :
- (a) the margin heading shall be substituted by the words “ Assessment without prejudice to prosecution for any offence”
- (b) the existing provision shall be substituted by the words “Any assessment of tax or determination of interest made under this Act shall be without prejudice to any prosecution instituted for an offence under this Act”.

**Amendment of Section 47**

22. In the Meghalaya Value Added Tax Act, 2003 –
- (1) the following words appearing in the margin heading of Section 47-  
“Assessment of dealer who fails to get himself registered” shall be deleted and replaced by the following words- “Assessment of dealers dealing in goods other than vatable goods”
- (2) the entire provision of Section 47 shall be deleted and replaced by the following words –  
“Every registered dealer liable to pay tax under Section 6 or Section 47 has to file a quarterly return and pay the full amount of tax payable by him according to such return or the differential tax payable according to revised return furnished if any, and shall furnish along with the return, as the case may be, a receipt showing the full payment of such amount into the Treasury. The assessment of tax shall be made by the Commisioner after taking into consideration the returns duly supported with proper accounts as may be prescribed”.

**Amendment of Section 50**

23. In the Meghalaya Value Added Tax Act, 2003- the word “section 57” appearing in section 50 (3) shall be substituted by “section 58”.

**Amendment of Section 56.**

24. In the Meghalaya Value Added Tax Act, 2003- in the last part of section 56(2), the words “a sum equal to amount of tax assessed or a sum of rupees ten thousand which ever is more” shall be deleted and substituted by the words :-

“a sum not exceeding the amount of tax assessed and not lower than rupees five thousand”

- Amendment of Section 62** 25. In the Meghalaya Value Added Tax Act, 2003- the words “sales” appearing in section 62 (1) shall be deleted.
- Amendment of Section 76** 26. In the Meghalaya Value Added Tax Act, 2003- in section 76(1) between the word “barrier” and the words “at such” the words:-  
“or weighing devices or godowns”  
be inserted.
- Amendment of Section 78** 27. In the Meghalaya Value Added Tax Act, 2003- year “2003” appearing in section 78(3) shall be substituted by “2005”.
- Amendment of Section 89** 28. In the Meghalaya Value Added Tax Act, 2003- the word “section 44” appearing in the last part of section 89 shall be deleted and substituted by the word “section 84 (8)”.
- Amendment of Section 90** 29. In the Meghalaya Value Added Tax Act, 2003-  
(1) after the word “Offences” appearing in the margin of section 90, the words “and penalties” shall be inserted.  
(2) The entire provision of section 90 shall be deleted and substituted by the following:-

**90(I) Whoever**

- (i) being liable to pay tax under this Act carries on business as a dealer without getting himself registered under Section. 31, or
- (ii) not being a registered dealer, falsely represents while making any sale or purchases of goods that he is a registered dealer under this Act, or
- (iii) being a registered dealer, falsely represents when purchasing any class of goods that goods of such class are covered by the certificate of registration, or
- (iv) carries on or continues to carry on business as a dealer without furnishing the security demanded under section 33 of this Act, or
- (v) fails to furnish without reasonable cause, return of his turnover under the provision of this Act, or
- (vi) fails to pay without reasonable cause, the tax payable under sub-section (I) of section 35 or under any notice of demand issued under section 47 within the time allowed and in the manner prescribed, or
- (vii) furnishes a false return of turnover or a false statement of declaration under this Act, or

- (viii) concealed the particulars of his turnover or deliberately furnishes inaccurate particulars of such turnover, or
- (ix) evaded in any way the liability to pay tax, or
- (x) issues a false sale invoice or bill or cash memo or a false transport memo or challan or transfer invoice, or
- (xi) fails or neglects to issue sale invoice or bill or cash memo, or
- (xii) falsely avails credit of input tax, or
- (xiii) fails to keep true and proper accounts or records of sales or purchases or to produce such accounts before the prescribed authority or to preserve such accounts or records and to furnish any information in accordance with the provisions under this Act, or
- (xiv) knowingly prepares or produces incorrect accounts, registered or documents or furnishes incorrect information, or
- (xv) refuses to permit or prevents or obstructs in any manner, prescribed authority under this Act, to enter, inspect and search the business place or any other place where any goods, accounts, registers or other documents are believed to be kept or refuses to display materials in a computer or in a computer floppy or refuses to allow copies or print out of the material in a computer or its floppy to be taken in accordance with the provisions of this Act, or
- (xvi) prevents or obstructs, in any manner, any officer empowered under this Act to seize the goods or the accounts, registered or other documents or to perform other function under this Act or the Rules framed thereunder, or
- (xvii) prevent or obstructs any officer-in-charge or a checkpoint or barrier or weigh bridge established under the provisions of this Act from making any entry or inspection of goods or in intercepting, detaining or searching any vehicle or boat transporting goods, or
- (xviii) imports into or exports from the State and furnishes incorrect or fictitious names or addresses of consignors or consignees or incorrect particulars of goods in the documents accompanying the goods while such goods are in transit, or
- (xix) fails to deduct tax at source as required under Section 106,  
shall without prejudice to his liability under any law for the time being in force and in addition to the tax or any other dues recoverable under this Act, on conviction, be punishable with simple imprisonment which may extend to six months or with fine not exceeding rupees ten thousand or with both.

- Amendment of Section 91.**      **30.**      In the Meghalaya Value Added Tax Act, 2003  
 (1) Margin heading “penalties” shall be deleted and replaced by the following :-  
 “offence by transporter”  
 (2) the entire provisions of section 91 shall be deleted and substituted by the following :-  
 “whosoever, being a transporter fails to get himself registered as transporter under section 80 or fails to maintain proper accounts as required under section 81 of this Act shall without prejudice to his liability under any law for the time being in force and in addition to the tax or any other dues recoverable under this Act, on conviction, be punishable with simple imprisonment which may extend to six months or with fine not exceeding rupees ten thousand or with both”.
- Amendment of Section 100**      **31.**      In the Meghalaya Value Added Tax Act, 2003  
 “Section 51” appearing in section 100 (4) shall be substituted by “section 79”.
- Amendment of Section 106**      **32.**      In the Meghalaya Value Added Tax Act, 2003  
 (1) sub-section (a), (b), (c), (d), (e) and (f) of section 106 shall read as sub section (1), (2),(3), (4), (5) and (6) respectively  
 (2) in Sub-Section 2 of section 106 “the words “at the rate of four percentum of such sum being paid in respect of work contract” shall be deleted” and substituted by the words :-  
 “and in respect of work contract at the rate of 12.5% after allowing percentage of deduction from the work value as prescribed in Schedule IV –A appended to the Act”.  
 (3) at the end of proviso to the existing section 106 (b) the words shall be added :-  
 “or where the dealer produces a certificate as prescribed from the Commissioner that he has no liability to pay tax or that he has paid tax payable by or due from him.  
 (4) the words “sub-section (1)” appearing in the existing section 106 ( c), (d), (e) and (f) shall be replaced by the words “sub-section (2)”  
 (5) the word “sub-section (3)” appearing in the existing section 106 (e) shall be replaced by the words “sub-section (4)”  
 (6) the proviso to section 106 (f) shall be deleted.
- Amendment of Section 110.**      **33.**      In the Meghalaya Value Added Tax Act, 2003,  
 the word “Chapter X” appearing between the word “under” and the word “the” in Section 110 shall be deleted and substituted by the word “Chapter VI”

- Amendment of Section 111**      **34.**      In the Meghalaya Value Added Tax Act, 2003 the sub section (4) appearing in the last part of section 111 shall be read as sub-section (5).
- Amendment of Section 116.**      **35.**      In the Meghalaya Value Added Tax Act, 2003,  
(1) the word “Joint” appearing in sub – section 2(a) of section 116 shall be replaced by the word “Deputy”  
(2) the words “by the Commissioner” appearing between the word “act” and the word “for” in sub – section (3) of section 116 shall be deleted.  
(3) the entire “explanation clause” appearing below section 116 (4) shall be deleted.
- Amendment of Section 117**      **36.**      (1) the existing section 117 shall be read as **Section** section 117 (1) and the words :-  
“Nothing in the Meghalaya (Sales Of Petroleum And Petroleum Products, Including Motor Spirit And Lubricants) Taxation Act shall apply in relation to goods which are governed by the Meghalaya Value Added Tax Act,2003 on and from the appointed day” be inserted as sub-section (2).