

**S. P. MAHANTA**

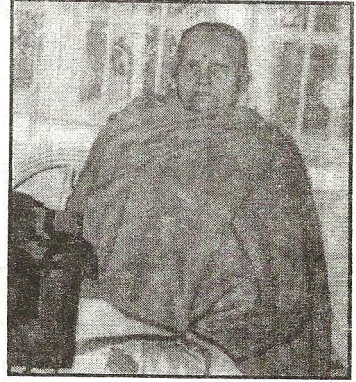
**MEGHVAT  
2005**

**VALUE ADDED  
TAX  
IN  
MEGHALAYA**

**ASSAM LAW HOUSE**



(L) Dharanidhar Mahanta  
(Advocate)



Smti. Ratna Mahanta

**This book is dedicated to my late father D.D. Mahanta  
and my beloved mother Smti. Ratna Mahanta.**

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VALUE ADDED TAX  
IN  
MEGHALAYA  
ACT & RULES  
2005

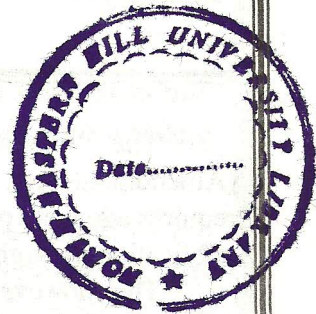
*By*

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### PUBLISHER NOTE

The Present Value Added Tax Act & Rules alongwith the (Amendment) Act, 2005 and Notifications is a timely on which, however, requires adequate publicity through various medias. One of such media is publication through book.

This, however, cannot be denied that in the book there may be certain inadvertent mistakes, here and there. But even then the publisher keeps a hope that the book will get due appreciation from all concerned. I hope the present publication will cover a long distance to serve the public interest.

Inspite of our meticulous care, it is possible that some errors and omissions may have escaped on attended. It may be notified that this book is being sold on the condition and understanding that information given in this book is merely for referance and must not be taken as having authority of or binding in any way on neither the publisher, seller or printer will be responsible for any damage or loss accruing anybody whether a purchaser of this publication or not. For authoritative informations contact the concerned department, any discrepancy or mistake if found by our readers should be immediately notice to the publisher so that corrected in the next edition.

*Publisher*

## PREFACE

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*This book is edited and compiled with due care in order to cater to the needs of new pattern of tax, when new legislations are coming up from first point to last point tax.*

*A Society is known by the law which governs it, which applies all the more to democratic societies, where statute law covers almost every sphere of economic & social activities.*

*A series of enactment as tax reform in current year justify the new tax system in the state of Meghalaya.*

*I am indebted to Mr. J. Lyngdoh IAS, Commissioner of Taxes, Meghalaya, Shillong, who had promptly rendered all help in procuring the Acts, Amendments and Rules with upto date notification for the benefit of the citizen of the state. I also express my gratitude to Mr. S. Dykes, Joint Secretary, Department of Law, Government of Meghalaya for encouraging me to undertake the present venture.*

*In fine, I shall fail in my duty, if I do not offer my thanks due to Mr. M. Ahmad of M/s. Assam Law House, for very kindly taking the responsibility of its publication.*

*I hope that this book will prove not only its worth to the Bench and the Bar but also to all concerned Department, Tax practitioners, Legal Practitioners, Chamber of Commerce and public involved with the subject. I also highly appreciate & acknowledge the efforts of all my predecessors who has helped the taxation laws evolve to its present form. Any error pointed out by my esteemed readers will be taken note of & all efforts will be made to rectify the same in the next edition. All suggestions will also be welcome and gladly received.*

**Dated : 10. 6. 2005**  
**Shillong**

**S. P. Mahanta**  
**Advocate**

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# THE MEGHALAYA VALUE ADDED TAX ACT, 2003

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# THE MEGHALAYA VALUE ADDED ACT , 2003<sup>1</sup>

(MEGHALAYA ACT NO. 2 OF 2005)

AN  
ACT

To provide for an consolidate the Laws relating to levy of Value Added Tax on Sales and Purchases of goods on the State of Meghalaya.

Be it enacted by the Legislative of the State of Meghalaya in the Fifty fourth year of Republic of India as follows —

## [CHAPTER - I Preliminary ]\*

1. **Short title, extent and commencement** :— (1) This Act may be called the Meghalaya Value Added Tax Act, 2003;

(2) It extends to the whole of Meghalaya.

(3) It shall come into force on such date as the State Government may by Notification in the Official *Gazette* appoint and different dates may be appointed for different provisions.

### NOTE

*In the year of 1954 France was the first country to introduce the Value Added Tax. Now, introduce in the State of Meghalaya.*

---

1. Published in the *Gazette* of Meghalaya Extraordinary No. 25, Dated 4th March, 2005 vide Notification No. LL(B) 53/2002/314.

\*. As Amended by the Meghalaya Value Added Tax (Amendment) Act, 2005.

**2. Definitions:—** In this Act, unless the context otherwise requires—

- (i) “Act” means the Meghalaya Value Added Tax Act 2003;
- (ii) “Appellate Authority” means the Authority authorized by the State Government under Section 27;
- (iii) “Appellate Tribunal” means the Tribunal authorised by the State Government under Section 29;
- (iv) “Appointed Day” means the day on which the Act comes into force;
- (v) “Assistant Commissioner” means Assistant Commissioner of Taxes appointed under sub-section (I) of Section 25 or deemed to have been appointed under Section 116;
- (vi) “Assessee” means any person by whom tax or any other sum of money is payable under this Act and includes every person in respect of whom any proceedings under this Act have been taken for the assessment of tax payable by him;
- (vii) “Assessing Authority” means any person not below the rank of Superintendent of Taxes authorised by the Government, or by any authority empowered by the Government to make any assessment under this Act.
- (viii) “Board” means Meghalaya Board of revenue constituted under the Meghalaya Board of Revenue Act or under any statutory modification or re-enactment thereof;
- (ix) “Business” includes —
  - (i) any trade, commerce or manufacture or execution of work contract or any adventure or concern in the nature of trade, commerce, manufacture, whether or not such trade, commerces, manufacture or execution

of work contract or adventure or concern is carried on with the motive to make gain or profit and whether or not any gain or profit accrues from such trade, commerce, manufacture, execution of works contractor adventure or concern and;

- (ii) any transaction in connection with or incidental or ancillary to such trade, commerce, manufacture, execution of work contract, adventure or concern;
- (x) "Business Premises" means any place where a dealer or a transporter purchases, sells, transports, books or delivers goods and include such place where he stores, processes, produces or manufactures goods or keeps books of accounts, any vehicles, or vessels or any other carrier where in the goods are stored as used for transporting the goods;
- (xi) "Commissioner" means Commissioner of Taxes appointed under sub-section (1) of Section 25 or deemed to have been appointed under Section 116;
- (xii) "Capital Goods" [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]\* ;
- (xiii) "Casual Trader" means a person who whether as principal agent or any other capacity, has occasional transactions involving buying, selling, supplying or distributing goods in the State. Whether for cash or for deferred payment, or for commission, remuneration or other valuable consideration;

---

\*. As Amended by the Meghalaya Value Added Tax (Amendment) Act, 2005.

- (xiv) "Declared goods" means the goods declared to be of special importance in inter-State trade or commerce under Section 14 of the Central Sales Tax Act, 1956 (*Central Act 74 of 1956*);
- (xv) "Deputy Commissioner" means Deputy Commissioner of Taxes appointed under sub-section (1) of Section 25 or deemed to have been appointed under Section 116;
- (xvi) "Dealer" means any person who carries on (whether regularly or otherwise) for cash or for commission or for remuneration or for deferred payment or for other valuable consideration, within the State of Meghalaya, the business of —
- (a) transferring property in goods otherwise than in pursuance of any contract, or
  - (b) transferring property in goods (whether as goods or in some other form) involved in the execution of any works contract, or
  - (c) delivering goods on hire, purchase or any system of payment in installment, or
  - (d) transferring the right to use goods for any purpose (whether or not for specified period) ; or supplying by way of or as part any service or in any manner of goods being food or any other article for human consumption or any drink (*whether or not intoxicating*); or
  - (e) being a association (whether incorporated or not) or body of persons, supplying to its members any goods, and Dealer also includes —

- (1) a local authority, a body corporate, a company, any co-operative society or other society or a club, a firm, a Hindu undivided family or other association of persons which carries on such business;
  - (2) a commission agent, a broker, a factor, a del credere agent, an auctioneer, a mercantile agent, by whatever name called who carries on business within the State;
  - (3) an agent of a non-resident dealer or a local branch of a firm or a company or an association of person, whether incorporated or not, situated outside the State carrying on such business within the State; and
  - (4) a department or undertaking or enterprise of the Government of any State or Union Territory or of the Government of India.
- (xvi) "Goods" means all kinds of movable property other than newspapers, actionable claims, stock shares, or securities and includes livestock, all materials, articles, commodities involved in the execution of any works contract, lease or hire purchase or those to be used in fitting out, improvement or repair of movable property.
- (xvii) "Government" means the State Government;
- (xviii) "Input Tax" means tax payable by the purchasing dealer to the seller;
- (xix) "Manufacture" with all its grammatical variation and cognate expressions producing, making extracting, altering, ornamenting, finishing, assembling or otherwise processing, treating or adapting any goods

but does not include any such processor mode of manufacture as may be prescribed;

- (xx) "Non-resident Dealer" means a dealer who effects purchases or sales of any goods in Meghalaya but who has no fixed of business or residence in Meghalaya;
- (xxii) "Official Gazette" means the Meghalaya Gazette;
- (xxiii) "Output Tax" in relation to any person means that the tax charged or chargeable in respect of a sale or supply of goods made by the person;
- (xxiv) "Persons" includes individual, a joint family, a company, a firm, an association of persons or a body of individuals, whether incorporated or not; the Central Government or the State Government or the Government of any other State or Union Territory in India and a local authority;
- (xxv) "Prescribed" means prescribed by the rules made under this Act;
- (xxvi) "Purchase" means any transfer of property in goods to the person making the purchase for cash or deferred payment or other valuable consideration but does not includes a transfer by way of mortgage, hypothecation, charge or pledge;
- (xxvii) "Purchase Price" means the amount of valuable consideration paid or payable by a person for the purchase of any goods, lease any sum allowed as cash discount, commission or commercial rebates granted at the time of delivery of such goods but including cost of freight or cost of delivery or the cost of

installation insurance charges or any sum charged for anything done by the seller in respect of the goods at the time of, or before delivery thereof, other than interest, if separately charged;

(xxviii) "Registered Dealer" means a dealer registered under this Act;

(xxix) "Reverse Tax" means that portion of input tax of the goods for which credit has been availed but such goods are used subsequently for any purpose other than resale or manufacture of taxable goods or execution of work contract or used as containers or packing materials within the State.

(xxx) "Resale" means a resale of purchased goods :—

(i) in the same form in which they were purchased;  
or

(ii) without using them in the manufacture of any goods; or

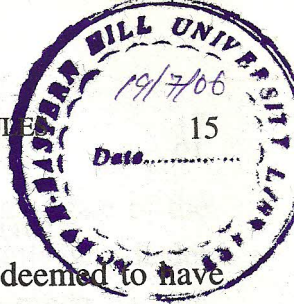
(iii) without doing anything to them, which amounts to, or results in a manufacture;

(xxxi) "Rules" means the rules framed under this Act;

(xxxii) "Sale" with all its grammatical variations and cognate expression' means every transfer of the property in goods, other than by way of mortgage, hypothecation, charge or pledge, by one person to another in the course of trade or business for each, deferred payment or other valuable consideration and includes :—

(a) transfer otherwise than in pursuance of a contract of a property in goods for cash, deferred payment or other valuable consideration;

- (b) transfer, of property in goods (whether as goods or in some other form) involved in the execution of works contract ;
- (c) delivery of goods on hire purchase or any other system of payment by installments ;
- (d) a transfer of the right to use any goods for any purpose, whether or not for specified period, for cash, deferred payment or any other valuable consideration;
- (e) a transfer of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or any other valuable consideration;
- (f) a supply, by way of or as part of any service or in any other manner whatsoever : of goods being food or any other article for human consumption or any drink (whether or not intoxicating) where such supply or service is for cash, deferred payment or other valuable consideration;
- (g) a transfer of the right to use any goods for purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration, and such transfer, delivery or supply of any good shall be deemed to be a sale of those goods by the person making the transfer, delivery or supply and purchase of those goods by the person to whom such transfer, deliver or supply is made, but not include a mortgage, hypothecation, charge or pledge.



### Explanation

- (a) A sale or purchase of goods shall not be deemed to have taken place inside the State if the goods are sold —
- (i) in the course of inter-State trade or commerce ; or
  - (ii) outside the State of Meghalaya ; or
  - (iii) in the course of import or export of goods ;
- (b) Where there is a single contract of sale or purchase of goods situated at more places than one, the provisions of this Explanation shall apply as if there were separate contract in respect or the goods at such places;
- (xxxiii) “Sale Price” means the amount of valuable consideration paid or payable to a dealer for the sale or supply of goods, less any sum allowed as cash discount according to ordinary trade practice, but including any amount charged for anything done by the dealer with or in respect of the goods at the time of or before delivery thereof other than ;
- (i) the cost of freight or delivery where such cost is separately charged ; or
  - (ii) the amount representing the cost of labour [ and services] in the execution of any works contract, where such cost shall be determined on the basis of specification detailed to that effect in the deed of contract or in the absence of such specification on the basis of the dealer’s accounts produced to the Commissioner’s satisfaction or in the case the Commissioner is not satisfied with either of the aforesaid , in the manner as may be prescribed; or

- (iii) amount of tax paid or payable by the purchaser provided that where the amount of tax is not separately indicated in the tax invoice, the amount of tax shall be calculated by multiplying the sale price inclusive of "Tax fraction" which shall be calculated in accordance with formula.

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Where 'r' is the percentage rate of tax applicable to the sale.

- (xxxiv) "State" means the State of Meghalaya;
- (xxxv) "Tax" means tax payable under this Act;
- (xxxvi) "Tax Invoice" means a document listing the goods sold with the price, quantity, value and VAT due issued by a taxable person to another taxable person ;
- (xxxvii) "Tax Point" means the date on which a taxable person is required to account for the tax on the sale made by him;
- (xxxviii) "Taxable Goods" means goods taxable under this Act;
- (xxxiv) "Taxable Person" means a person who is registered or is liable to be registered for VAT and liable to pay tax under this Act;
- (xl) "Taxable Sale" means sale which is taxable under the provisions of this Act.
- (Xli) "Transporter" means any person who for the purposes of or in connection with or incidental to or in the course of his business transports or cause to transport goods, or holds in custody for delivery to any person after transportation and includes railways, shipping company, air cargo terminal and courier service ;

(*xlii*) “Turnover of Purchases” means the aggregate of the amount of purchase price paid and payable by a dealer in respect of any purchase of goods made by him during a given period, after deducting the amount of—

- (a) purchase price, if any refunded to the dealer by the seller in respect of any goods purchased from the seller and returned to him within the prescribed period; and
- (b) deposit, if any, refund in the prescribed period to the dealer by the seller in respect of any goods purchased by the dealer;

(*xliii*) “Turnover of Sale” means the aggregate of the amount of sale price and receivable by a dealer in respect of any sales of goods made during a given period after deducting the amount of —

- (a) sale price, if any, refunded by the seller, to a purchaser, in respect of any goods purchased and returned by the purchaser within the prescribed period; and
- (b) deposit, if any, refunded in the prescribed manner by the seller to a purchaser in respect of any goods sold by the dealer;
- (c) and includes, where the Registration Certificate is cancelled, the amounts in respect of sale made before the date of the cancellation order received or receivable after such date;

(*xliv*) “Value Added Tax” means a tax on sales or purchases levied under this Act;

(xliv) "Works Contract" means and includes any agreement for carrying out for cash or for deferred payment or for any other valuable consideration the building construction, manufacture, processing, fabrication, erection, installation, laying, fitting out, improvement, modification, repair or commissioning of any movable or immovable property;

(xlv) "Year" means financial year; and

(xlvi) "Zero rating" means zero rate of tax is to be imposed on the commodities against which rebate should be given for input taxes paid.

#### NOTE

**Appellate Authority [S. 2 (ii)]** — The State Government may appoint a officer not below the rank of Assistant Commissioner of Taxes under sub-section (1) of Section 25 and to exercise the powers and funtions of the Appellate Authority under Section 65.

**Appellate Tribunal [S. 2 (iii)]** — The Meghalaya Board of Revenue shall functions as Appellate Tribunal.

Any dealer may, appeal to the prescribed authortiy against any assessment within 45 days or such further period as may be allowed by the authority.

Any assessee or other person, who is dissatisfied with the decision of the Appellate Tribunal, may appeal to the High Court within sixty days as per provisions of Section 68.

Any assessee who is not satisfied with the decision of the Appellate Tribunal or Commissioner may, file a revision to the High

Court within sixty days after being notified of the decision as per provision of S. 70.

A revision or review presented before the High Court under Section 70 shall be heard by the consisting of not less than two Judges.

**Commissioner [ S. 2 (xi) ]** — The State Government may by notification appoint a person to be the Commissioner of Taxes, together with such other persons to assist him as it think fit and may specify the area or areas over which they shall exercise jurisdiction. The Commissioner shall have superintendence over all officers and persons employed in the execution of this Act.

The Commissioner, may revise any assesment or any order passed by a person appointed under sub-section (1) of Section 25 to assist him, as per provisions of Section 66.

\* \* \* \* \*

## CHAPTER - II

### INCIDENCE AND LEVY OF TAX

**3. Incidence Tax** — (1) *Liability* — Subject to other provisions of this Act, every dealer —

(a) whose turnover during the year immediately preceding the commencement of this Act;

(i) exceeded the taxable quantum; or who was

(ii) liable to pay tax under any of the laws repealed by this Act or Central Sales Tax Act, 1956.

(b) to whom clause (a) does not apply and —

(i) whose turnover calculated from the commencement

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