

Value Added Tax Act, 2003

Section 2 - Definitions

In this Act unless the context otherwise requires:-

- (1) Agriculture with its grammatical variations includes horticulture, the raising of crops, grass or garden produce and grazing but does not include dairy farming, poultry farming, stock breeding and mere cutting of wood.
- (2) Agriculturist means a person who cultivates land personally.
- (3) Agricultural produce or horticultural produce shall not be deemed to include tea, beedi leaves, raw cashew, timber, wood, tamarind and such produce, except coffee as has been subject to any physical, chemical or other process for being made fit for consumption, save mere cleaning, grading, sorting or drying.
- (4) Appellate Tribunal means the Karnataka Appellate Tribunal constituted under the Karnataka Appellate Tribunal Act, 1976 (Karnataka Act 59 of 1976).
- (5) Assessment means an assessment made or deemed to have been made under this Act and includes a re-assessment.
- (6) Business includes:-
 - (a) any trade, commerce, manufacture or any adventure or concern in the nature of trade, commerce or manufacture, whether or not such trade, commerce, manufacture, adventure or concern is carried on in furtherance of gain or profit and whether or not any gain or profit accrues therefrom; and
 - (b) any transaction in connection with, or incidental or ancillary to, such trade, commerce, manufacture, adventure or concern.
- (7) Capital goods means plant, including cold storage and similar plant, machinery, goods vehicles, equipments, moulds, tools and jigs whose total cost is not less than an amount to be notified by the Government or the Commissioner, and used in the course of business other than for sale.
- (8) Commissioner means any person appointed to be a Commissioner of Commercial Taxes under Section 3 of the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957).
- (9) Company shall have the meaning assigned to it in the Companies Act, 1956 (Central Act 1 of 1956).
- (10) To cultivate with its grammatical variations and cognate expressions means to carry on any agricultural operation;
- (11) To cultivate personally means, to cultivate land on one's own account, -
 - (a) by one's own labour, or
 - (b) by the labour of one's own family, or
 - (c) by servants on wages payable in cash or kind but not in crop share, or by hired labour under one's personal supervision or the personal supervision of any member of one's family.

Explanations.- (1) A person who is a widow or a minor or is subject to any physical or mental disability shall be deemed to cultivate the land personally if it is cultivated by her or his servants or by hired labour.

(2) In the case of undivided family, the land shall be deemed to have been cultivated personally, if it is cultivated by any member of such family.

(12) Dealer means any person who carries on the business of buying, selling, supplying or distributing goods, directly or otherwise, whether for cash or for deferred payment, or for commission, remuneration or other valuable consideration, and includes-

(a) an industrial, commercial or trading undertaking of the Government, the Central Government, a State Government of any State other than the State of Karnataka, a statutory body, a local authority, company, a Hindu undivided family, an Aliyasanthana Family, a partnership firm, a society, a club or an association which carries on such business;

(b) a casual trader, a person who has, whether as principal, agent or in any other capacity, carries on occasional transactions of a business nature involving the buying, selling, supply or distribution of goods in the State, whether for cash or for deferred payment, or for commission, remuneration or other valuable consideration;

(c) a commission agent, a broker or del credere agent or an auctioneer or any other mercantile agent by whatever name called, who carries on the business of buying, selling, supplying or distributing goods on behalf of any principal;

(d) a non-resident dealer or an agent of a non-resident dealer, a local branch of a firm or company or association situated outside the State ;

(e) a person who sells goods produced by him by manufacture or otherwise;

(f) a person engaged in the business of transfer otherwise than in pursuance of a contract of property in any goods for cash deferred payment or other valuable consideration.

(g) a person engaged in the business of transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;

(h) a person engaged in the business of delivery of goods on hire purchase or any system of payment by installments;

(i) a person engaged in the business of transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;

Explanations.- (1) A society (including a cooperative society), club or firm or an association which, whether or not in the course of business, buys, sells, supplies goods or distributes goods from or to its members for cash, or for deferred payment or for commission, remuneration or other valuable consideration, shall be deemed to be a dealer for the purposes of this Act.

(2) The Central Government or a State Government or a local authority or a statutory body which whether or not, in the course of business, buys, sells, supplies or distributes goods, directly or otherwise, for cash or deferred payment or for commission, remuneration or other valuable consideration shall be deemed to be a dealer for the purposes of this Act.

(3) In respect of the transfer of the right to use feature films, the person who transfers such right to the exhibitor and from whom the exhibitor derives the right to make such use shall be deemed to be the dealer under this clause.

(4) (a) An agriculturist who sells exclusively agricultural produce grown on land cultivated by him personally or a person who is exclusively engaged in poultry farming and sells the products of such poultry farm shall not be deemed to be a dealer within the meaning of this clause;

(b) Where the agriculturist is a company and is selling pepper, cardamom, rubber, timber, wood, raw cashew or coffee grown on land cultivated by it personally, directly or otherwise, such company, shall be deemed to be a dealer in respect of turnovers relating to sales of such produce.

(13) Document includes written or printed records of any sort, title deeds and data stored electronically in whatever form.

(14) Export means a sale of goods taking place in the course of export of the goods out of the territory of India only if the sale either occasions such export or is effected by a transfer of documents of title to the goods after the goods have crossed the customs frontiers of India and includes the last sale of any goods preceding the sale occasioning the export of those goods out of the territory of India, if such last sale took place after, and was for the purpose of complying with the agreement or order for or in relation to such export.

(15) Goods means all kinds of movable property (other than newspaper, actionable claims, stocks and shares and securities) and includes livestock, all materials, commodities and articles (including goods, as goods or in some other form) involved in the execution of a works contract or those goods to be used in the fitting out, improvement or repair of movable property, and all growing crops, grass or things attached to, or forming part of the land which are agreed to be severed before sale or under the contract of sale.

(16) Goods vehicle means any kind of vehicle used for carriage of goods either solely or in addition to passengers (other than aeroplanes and rail coaches) and includes push cart, animal drawn cart, tractor-trailer and the like.

(17) Government means the Government of Karnataka.

(18) Import means sale or purchase in the course of the import of goods into the territory of India if the sale or purchase either occasions such import or is effected by transfer of documents of title to the goods before the goods have crossed the customs frontiers of India and includes procurement of goods from outside the State either as a result of purchase or otherwise.

(19) Input means any goods including capital goods purchased by a dealer in the course of his business for re-sale or for use in the manufacture or processing or packing or storing of other goods or any other use in business.

(20) Input tax has the meaning assigned to it in Section 10.

(21) Maximum retail price or MRP shall mean the price marked on the package in which the goods are contained.

(22) Output tax has the meaning assigned to it in Section 10.

(23) Place of business means any place where a dealer purchases or sells goods and includes, -

(a) any warehouse, godown or other place where a dealer stores or processes his goods;

(b) any place where a dealer produces or manufactures or processes goods;

(c) any place where a dealer keeps his accounts including documents and in a case where a dealer carries on business through an agent (by whatever name called), the place of business of such agent.

(24) Prescribed authority means an officer of the Commercial Taxes Department, authorised by the Government or the Commissioner to perform such functions as may be assigned to him.

(25) Prevailing market price shall mean the published wholesale price in force in the market and in cases where there is no such published wholesale price, the prevailing market price of any goods.

(26) Published shall mean published in any newspaper, journal or periodical or notified by a market committee or any such authority.

(27) Registered dealer means a dealer registered under this Act.

(28) Return means any return prescribed or otherwise required to be furnished by or under this Act.

(29) Sale with all its grammatical variation and cognate expressions means every transfer of the property in goods (other than by way of a mortgage, hypothecation, charge or pledge) by one person to another in the course of trade or business for cash or for deferred payment or other valuable consideration and includes,-

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

(b) a transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;

(c) a delivery of goods on hire purchase or any system of payment by installments;

(d) a transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.

Explanations.- (1) A transfer of property involved in the sale or distribution of goods by a society (including a co-operative society), club, firm, or any association to its members, for cash, or for deferred payment or other valuable consideration, whether or not in the course of business, shall be deemed to be a sale for the purposes of this Act.

(2) Every transaction of sale by way of or as a part of any service or in any other manner whatsoever, of goods, being food or any other article of human consumption or any drink (whether or not intoxicating) where such sale or service is for cash, deferred payment or other valuable consideration, shall be deemed to be a sale of those goods by the person making the sale and purchase of those goods by the person to whom such sale is made.

(3) Notwithstanding anything to the contrary contained in this Act or any other law for the time being in force, two independent sales or purchases shall, for the purposes of this Act, be deemed to have taken place,

(a) when the goods are transferred from a principal to his selling agent and from the selling agent to the purchaser, or

(b) when the goods are transferred from the seller to a buying agent and from the buying agent to his principal, if the agent is found in either of the cases aforesaid,-

(i) to have sold the goods at one rate and to have passed on the sale proceeds to his principal at another rate, or

(ii) to have purchased the goods at one rate and to have passed them on to his principal at another rate, or

(iii) not to have accounted to his principal for the entire collections or deductions made by him in the sales or purchases effected by him on behalf of his principal, or

(iv) to have acted for a fictitious or non-existent principal.

(4) Every transfer of property in goods by the Central Government, any State Government, a statutory body or a local authority for cash or for deferred payment or other valuable consideration, whether or not in the course of business, shall be deemed to be a sale for the purposes of this Act.

(30) State Representative means any person appointed to be the State Representative under Section 58 and includes an officer empowered by the Commissioner under that Section to perform the functions of a State representative.

(31) Taxable sale means any sale of goods, which is taxable under the provisions of this Act.

(32) Tax invoice means a document specified under Section 29 listing goods sold with price, quantity and other information as prescribed.

(33) Tax period means such periods as may be prescribed.

(34) Taxable turnover means the turnover on which a dealer shall be liable to pay tax as determined after making such deductions from his total turnover and in such manner as may be prescribed, but shall not include the turnover of purchase or sale in the course of interstate trade or commerce or in the course of export of the goods out of the territory of India or in the course of import of the goods into the territory of India and the value of goods transferred or despatched outside the State otherwise than by way of sale.

(35) Total turnover means the aggregate turnover in all goods of a dealer at all places of business in the State, whether or not the whole or any portion of such turnover is liable to tax, including the turnover of purchase or sale in the course of interstate trade or commerce or in the course of export of the goods out of the territory of India or in the course of import of the goods into the territory of India and the value of goods transferred or despatched outside the State otherwise than by way of sale.

(36) Turnover means the aggregate amount for which goods are sold or distributed or delivered or otherwise disposed of in any of the ways referred to in clause (29) by a dealer, either directly or through another, on his own account or on account of others, whether for cash or for deferred payment or other valuable consideration, and includes the aggregate amount for which goods are purchased from a person not registered under the Act and the value of goods transferred or despatched outside the State otherwise than by way of sale, and subject to such conditions and restrictions as may be prescribed the amount for which goods are sold shall include any sums charged for anything done by the dealer in respect of the goods sold at the time of or before the delivery thereof.

Explanation.- The value of the goods transferred or despatched outside the State otherwise than by way of sale, shall be the amount for which the goods are ordinarily sold by the dealer or the prevailing market price of such goods where the dealer does not ordinarily sell the goods.

(37) Works contract includes any agreement for carrying out for cash, deferred payment or other valuable consideration, the building, construction, manufacture, processing, fabrication, erection, installation, fitting out, improvement, modification, repair or commissioning of any movable or immovable property.

(38) Year means the year commencing on the first day of April.