

1999. AN ACT TO and Collect ITC tax transfer of work contract in National Capital Territory of Delhi. Enacted by the Legislative Assembly of the National Capital Territory of Delhi in the Fiftieth year of the Republic of India as follows: CHAPTER 1 Preliminary 1, Short Title, Extent and Commencement This may be called the Delhi Tax on Work Contract Act, 1999. (2) It extends to the whole of the National Capital Territory of Delhi. (3) It shall come into force on such date as Government may, by notification in the Gazette appoint. 2. Definitions—A word or expression used in this Act shall have the meaning assigned to it in the following provisions: (a) "assessing authority" means any person appointed by the Commissioner of Sales Tax under the Delhi Sales Tax Act, 1975 (43 of 1975); "connector" means any person who executes a work contract and includes a sub-contractor; "contractee" means any person for whom or for whose benefit a work contract is executed; (b) "The Tax Act" means the Delhi Sales Tax Act, 1975 (43 of 1975) or "Vendee" means any person who, whether for valuable consideration, commission, remuneration or otherwise, transfers property in goods (whether as goods or in some other form) involved in the execution of a work contract and includes any State Government and the Central Government which so transfers such property in goods, and any society, club or association of persons which so transfers the property in goods (i) (l) (n) (o) (p) goods" goods as defined in the Central Sales Tax Act, 1956 (M 956); "Delhi" means the National Capital Territory of Delhi; "goods" means every kind of movable property in goods (whether as goods or in some other form) involved in the execution of a work contract; "Governor" means the Governor of the National Capital Territory of Delhi as appointed by the President under Article 139 of the Constitution; "person" includes an individual, or body of individuals whether incorporated or a Hindu undivided family, a authority, a corporation, a company, body or authority owned or set up by, or subject to administrative control of the Central Government or any State Government (including the Government of Union territory) or a cooperative society, whether registered or not; "prescribed" means prescribed by rules; "registered dealer" means a dealer registered under section 11; "rules" means rules made under this Act; "sale" means transfer of property in goods (whether as goods or in some other form) effected in the execution of a work contract in Delhi; and the word "sell" with all its grammatical variation and cognate expressions shall be construed accordingly; (q) "sale price" in relation to a transfer of property in goods (whether as goods or in some other form) involved in the execution of a contract in Delhi, means such amount as is arrived at by deducting from the total consideration paid or payable to a person for execution of such work contract, the amount representing labour and service charges for such execution; "taxable turnover" means such turnover as is arrived at after deducting from the turnover of sales such as may be prescribed. "tax" means tax payable under this Act and includes a lump sum amount by way of composition payable in lieu of the amount of tax; (l) "turnover of sale" means the aggregate of the amount of sale price received or receivable by or in respect of any transfer or disposal in goods involved in the execution of any work contract, whether executed fully or partially during any period; (m) "any agreement for carrying out for cash or for deferred payment or for any valuable consideration, the building construction, manufacture, processing, fabrication, erection, installation, fitting out, improvement, repair or commissioning of any movable or immovable property; (v) "year" means the financial year, (2) All words and expressions used and defined in this Act but defined in the Delhi Sales Tax Act, 1975 shall have the meanings assigned to them in that Act. CHAPTER II INCIDENCE AND LEVY OF TAX 3. of Every dealer whose turnover of sales during the year immediately preceding the commencement of this Act exceeds the taxable turnover, shall be liable to pay tax under this Act on his taxable turnover of sales effected by him on or after such commencement. (2) Every dealer to whom sub-section (1) does not apply, shall, with effect from the date immediately following the day on which his turnover of sales calculated from the commencement of any year first

exceeds in such year, the taxable quantum shall be liable to pay tax under (his Act on all sales effected by after that date. (3) Every dealer who becomes liable to pay tax under this Act, shall continue to be liable until his registration certificate duly cancelled' upon such cancellation his liability to pay tax shall be levied on the turnover of his sales again first exceeds the limit specified in sub-section 3. 10 DELHI GAZETTE Provided (that Where the dealer becomes liable to pay again in the same year in which he ceased to be liable as aforesaid, then in respect of such sales as take place during the period commencing on the date of cessation of liability to tax and, up to the time when his turnover of all sales does not exceed such limit, no tax shall be payable. (4) For the purpose of this Act "taxable quantum" means five lakh rupees. 4. Liability of Dealer.—Subject to the provisions of this Act and the rules made thereunder, a tax shall be levied on the taxable turnover of sales involving transfer of property in goods in the execution of a works contract commenced or continued for execution on or after the commencement of this Act, whether such contract was entered into prior to or subsequent to the commencement of this Act. 5. Levy of Tax.—Same as provided in sub-sections (2), and every dealer shall file return and pay tax under this Act for each year on his taxable turnover of sales on transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract, in the manner as may be prescribed at the rate of eight paise on every rupee of his turnover of sales. (2) Tax shall be paid at the rate of four paise on every rupee of his net turnover of sales pertaining to declared goods, if the goods have not suffered tax earlier and no tax shall be payable on turnover of such goods, if such goods have suffered tax earlier under the Delhi Sales Tax Act and transferred from the contractor to the contractee in the same form in which they were purchased by the contractor. (3) No tax shall be levied on the turnover of sales on transfer of property in goods specified in the Third Schedule to the Delhi Sales Tax Act, involved in the execution of works contract, if such goods are transferred from the contractor to the contractee in the same form in which they were purchased by the contractor. No such tax shall be leviable on the turnover of sales on transfer of goods, whether as goods or in some other form involved in the execution of works contract, if such transfer from the contractor to the contractee constitutes a sale in the course of Inter-State trade or commerce under section 3 or a sale outside the State under section 4 or a sale in the course of Import or Export under section 5 of the Central Sales Tax Act, 1956. (5) No tax shall be payable under this section on turnover or sales relating to the amount paid to the contractor as consideration for the execution of works contract whether wholly or partly subject to the production or proof, as may be prescribed, that such sub-contractor is a registered dealer liable to tax under the Act and that the turnover of such amount is included in the return of turnover filed by such sub-contractor and tax (hereupon has been paid. EXTRAORDINARY (6) No tax shall be payable under this section on the amount representing the value of the goods supplied to the contractor by the contractee, provided that ownership of such goods remains with the contractee under the terms of the contract. (7) Where in respect of sale price referred to clause (q) of sub-section (I) of section 2, the contractor does not maintain proper accounts or the accounts maintained by him not found by the assessing authority to be correct or the amount actually received in towards charges for labour and other services and proportionate to supply of labour and services are such charges for labour and services such profit may, the purposes of deductions, determined on the basis of such percentage of the of the works contract as may be prescribed and different percentages may be prescribed for different contracts.

6. Composition of Subject to conditions and in such circumstances as may be prescribed, the assessing authority of area may, dealers liable to pay tax under this section Every dealer who elects to pay tax under this section shall apply in the prescribed form to the assessing authority to be permitted to pay the amount of tax under sub-section (I) and, in being so permitted, shall pay the same. 7. Deduction of Tax.—Every dealer other than an individual and a Hindu undivided family responsible for making payment any dealer (hereinafter in this section referred to as "the contractor") shall be liable on account of valuable consideration payable for the transfer of property in goods (whether as goods or in some

other form) in pursuance of a shall, at the discretion of such person to the contractor or at the time of making such (the contractor, either in cash or in any other deduct an amount equal to two per cent from the value of contract. Where, on application being by the contractor, the Commissioner is satisfied that contract involves both transfer of property in and labour and service, or involves only labour and accordingly, justifies deduction of tax on the value of the works contract or, as the case may be, justifies no deduction of tax, he shall, send the contractor a reasonable opportunity of being satisfied him with certificate as may be appropriate: -provided that nothing in the said certificate shall affect the assessment or the sales tax liability of the person under this Act. Provided further that where any deduction has been by a contractor from the payments made to his contractor in accordance with sub-section (3) amounts payments shall be deducted from the amount on deduction is to be made under this sub-section on certificate as prescribed in (S) or in this section. Contractor responsible (or making any or discharge or any liability to any subcontractor, in pursuance of a contract with the subcontractor for the transfer of property in goods (whether or not some other form) involved in the execution, wholly in part, or the work undertaken by the contractor, at the time of such payment or discharge, or by cheque or draft or in any other mode, deduct equal to two per cent of such payment or charge, purporting to be full tax payable under this Act on such invoice or bill: -provided that no deduction under this sub-section be made on the amount on which deduction has already been made under sub-section (1) or sub-section (2) or sub-section (3) shall be deposited into Government treasury by the person making such deduction before the expiry of fifteen days following the day in which such deduction is made in the manner prescribed. (5) The making such deduction under sub-section (1) or sub-section (2) or sub-section (3) shall, at the time of payment or discharge, furnish to the dealer whose bills or invoices such deduction is made a certificate as prescribed in respect of the amount deducted, the rate at which it has been deducted and the date of deposit into the treasury. (6) Any deduction made in accordance with the provisions of this section and credited into the Government Treasury shall be treated as payment on behalf of the person from whose bills or invoices the deduction has been made, and credit shall be given to him for the amount so deducted on the production of the certificate, referred to in sub-section (5) above, in the assessment for the relevant assessment year. (7) If any person as is referred to in sub-section (1) or sub-section (2) or sub-section (3) fails to make the deduction or, after deducting fails to deposit the amount deducted required by sub-section (4), the assessing authority may, after giving to such person an opportunity of being heard, by order in writing, direct that such person shall pay, by way of penalty; a sum not exceeding (where the amount deductible under this section besides the amount deducted but not so deducted and, if deducted, not so deposited into the Government treasury. (8) Without prejudice to the provisions of sub-section (7) if any person fails to make the deduction, or, after deducting, fails to deposit the amount so deducted, he shall be liable to pay simple interest at the rate of two per cent per month on the amount deductible under this section but not so deducted if deducted, not so deposited from the date when such amount was deductible to the date on which such payment is actually deposited. (9) Where the amount has not been deposited after deduction, such amount together with interest and penalty referred to in and sub-section (8) shall be chargeable upon all the of the person concerned and shall be recoverable as arrears of land revenue. CHAPTER 11. TAX CLEARANCE CERTIFICATE AND ACCOUNTS. Notwithstanding anything contained in any other law [or the time being in force, no person shall enter into any works contract with any dealer for execution by him of such works contract and shall make payment to such dealer for execution of works contract, unless the Commissioner certifies in the prescribed manner that such dealer:— has no liability to pay tax, interest, penalty or any amount due or has not defaulted in furnishing any return or returns together with the receipted challan or challans showing payment of all tax payable under this Act; has not defaulted, in making payment of tax otherwise payable by or due from under this Act; has made satisfactory provision for securing the payment of tax by furnishing bank guarantee in favour of the Commissioner or otherwise, as the case may be; 12 DELHI GAZETTE : EXTRAORDINARY (it,) -upon undertaking -for getting himself registered as dealer observing and complying provisions of this Act contractor has started the business of transfer of property in goods involved in execution of works contract for the first time in (2) Where on application made by a dealer in prescribed form, the Commissioner, after making such enquiry as he deems fit and proper, is

satjstledænd issues e certificate in the prescribed form to the effect that such dealer is not to pay tax under section 5 or that he has payable by, or due from him under that section, or has undertaken to register and comply the provisions of the Act and the Rules, payment anything obtained in satisfaction be made to such dealer for execution by him of a works contract referred in section 5 on production by him of such certificate of the Commissioner. (3) The application for registration under Glib-section () shall be made by the contractor or dealer to the Commissioner and shall be in such form and shall contain such particulars as may be prescribed. (D) information to be furnished for awarding a works contract.—Any person entering into any contract with any contractor for transfer of property in goods (whether as goods, or in some form) involved in the execution of contract shall furnish within fifteen days from the date of signing of the contract/ intent such information as may be prescribed to the assessing authority under whose jurisdiction contractor's place of business is situated. Failure to do so shall entail a penalty not more than five hundred rupees per day of default after affording such person a reasonable opportunity of being heard. (E) Every dealer liable to pay tax under this Act, shall keep at his place of business a , account in the manner and manner as may be prescribed. (2) All other provisions relating to accounts, inspection, search and seizure as in the Delhi Sales tax Act shall apply mutatis mutandis. CHAPTER IV—REGISTRATION, RETURNS AND PAYMENT OF TAX Every dealer shall, while being pay tax under this Act, execute or continue to execute a works contract, unless, he possesses a valid certificate of registration provided by the Act: Provided that it shall be for the dealer to execute a works contract if the dealer has applied for registration within the prescribed time. (2) Every dealer required to possess a certificate of registration shall apply in such manner and to such authority as may be prescribed. (3) provisions of section 18 of the Delhi Tax Act and framed thereunder shall apply to a dealer if, is satisfied that an application for registration is made, it shall register the applicant and issue to him a certificate of registration in the prescribed form. (S) The Commissioner may after information furnished or otherwise called for or received under any provisions of this Act, amend from time to time, the certificate of registration. (6) any person, upon an application made by him has been registered as a dealer, and thereafter it is that he ought not to have been so registered under; of this section, he shall be liable to pay his sales made from the date which his registration certificate took effect until it is cancelled, notwithstanding that he may not be liable to pay tax under section 3.1 (7) Where a registered dealer discontinues, transfers or otherwise disposes of his activity or recreation of work contract or the turnover of sales is registered during any year, not exceeding (the limit specified in section 3 and on an application made for cancellation of his, registration certificates the prescribed authority may cancel his registration with effect from such date may fix accordance with the rules. (S) Where the Commissioner is satisfied registered dealer has discontinued, transferred or otherwise disposed of the activity of work contract and dealer has failed to apply under section (6) for cancellation of registration, the Commissioner may, after giving the dealer a reasonable opportunity of being heard, cancel the registration effect, such date as he may fix to be date which the said activity been discontinued, transferred or otherwise disposed of, as the case may be: Provided that cancellation of registration application of the dealer shall not affect the liability of the dealer to pay the (including any interest and penalty) due for any period up to the date of cancellation whether such tax (including any interest and penalty) is assessed before the date of cancellation but remains unpaid, or is assessed there Returns, payment of tax and interest.—Every dealer registered under this Act shall pay tax and interest in the manner and may be prescribed

CHAPTER V • INSPECTION, SEARCH, SEIZURE AND EVASION PROVISIONS Power of entry, inspection and seizure; accounts and goods—(1) An assessing authority or officer not below the rank of Inspector, authorised by Commissioner in his behalf with such conditions as may be specified by the Commissioner in the GAZETTE EXTRAORDINARY may be specified by the Commissioner. power of the place of business of a dealer—(2) The place where it is believed that such authority or officer that business is being done or accounts are being kept by such dealer; direct such dealer to produce accounts, registers and documents relating to his business for examinations; inspect, seize goods in possession of the dealer or in the possession of any body else on behalf of such dealer, wherever such goods are placed, and search of such place including the place of the person found concealing of (acts relating to business is suspected; break open the doors of any premises or to open any locked box, receptacle in which any goods, accounts, registers or documents of the dealer are suspected to be kept; permit access to such premises, almirah, box or receptacle is denied; to record the statement of the dealer or his manager, agent or servant or to take extracts any

record and to put identification marks on registers or documents and on any door, almirah box or receptacle. There shall be presumption — that of goods accounts registers or documents, any piece of business of dealer during inspection or search that they relate to his business the contrary is proved by him. (2) powers under clause (d) and (e) of sub-section (1) shall be exercised by the Inspector in charge of any authority not below the rank of assistant sales tax officer. accounts, registers or documents before any assessing authority or any officer below rank of assistant sales tax officer in any such authority or officer may, be recorded in writing, impound and retain in its custody for a period not exceeding six months, shall give the dealer or any other person who has used such accounts, or documents a receipt in the same. Whereas at the time of inspection, the assessing authority or any officer below the rank of assistant tax officer authorised by the Commissioner in this behalf has reason to suspect that the dealer is attempting to avoid or evade tax or is concealing his liability in any manner, it may, for reasons to be recorded in writing such accounts, registers or documents of the dealer as it may consider necessary and shall give the dealer, or any other person in whose custody such accounts, registers or documents seized a receipt for the same, and may retain the same in its custody for examination, enquiry, prosecution or other legal action for a period not exceeding six months— (5) accounts, registers or documents impounded under subsection (2) or seized under sub-section (4) could be retained even beyond a period of six months and up to a maximum period of two years from the date of impounding or seizure, as the case may be, by such authority or officer, after having obtained permission in writing from the Deputy Commissioner authorised by the Commissioner. (6) The assessing authority or any other officer not below the rank of assistant sales tax officer authorised by the Commissioner under sub-section (d) may seize any goods liable to tax, which are found in the possession of a dealer or in the possession of any body else on behalf of such dealer are not accounted for in his accounts, registers or documents retained in course of his business; and a list of goods so seized shall be prepared by such authority or officer and a copy thereof shall be given to the dealer or any other person from whose custody such goods are seized— (7) Where it is not feasible to seize the accounts, registers or documents under sub-section (4) of the Act, the assessing authority or the officer concerned may serve on the owner or the person who is in immediate possession of the goods thereof an order in which he shall not remove, gaff with or otherwise deal with them except with previous permission of such authority or officer, which may, after serving such order, take such steps as may be deemed necessary under the circumstances. (8) The assessing authority or the officer referred to in sub-section (6) may, after having given dealer an opportunity of being heard and after having heard such further enquiry as it may consider fit, impose on him, for the possession of goods not accounted for, whether seized or not under sub-section (6), a penalty equal to the amount of five per cent of the value of such goods or thirty per cent of the value of such goods, whichever is less, and such authority or officer may, if he is satisfied, order payment of the penalty or on furnishing such security for the payment thereof as it may consider necessary. (9) The assessing authority or other officer as to in sub-section (6), may require any person (a) who transports or holds in custody any goods of a dealer, to give any information in his possession in or about such goods to the assessing authority or officer, as the case may be; and (b) who has in his possession any accounts, registers or documents relating to the business of a dealer, to produce such accounts, registers or documents for inspection. 14. Prosecution and Penalties under the Act— (1) A person— (a) who fails to register himself; or (b) who fails to file return or pay tax according to such return within the time stipulated; or (c) who knowingly prepares or produces accounts, registers or documents, or knowingly furnishes false returns in violation of his liability to disclosure or aversment in any statement required to be recorded or in any declaration required to be under this Act or the rules; or (d) who fraudulently avoids or deliberately conceals his liability in any manner; or (e) who fails to pay the amount demanded and within a period of not less than six months has elapsed from the date of the demand made by him; or (f) who— Explanation—An offence under this clause shall be deemed to be continuing offence until full payment is made, deliberately disregards a notice of demand; or fails to make deduction of tax at source, after deducting fails to deposit the amount so deducted as required under section 6; or (g) who obstructs in any manner the competent officer under the Act, to enter, inspect and search the business place or any other place where the goods (registers and documents) are believed to be kept; or (h) who enters into works contract with any contractor obtaining from the contractor a false certificate under section 7 or the Act; (i) fails to furnish as required under

suction 8 of 'he Act; (i) rails to maintain accounts in the mannge as regoired under Sectioa IO of (k) aids tx abéts any pér50n in commission any.such on cump\aint being •nade' a\$nst such by Nic assessing aullturity or Ille area or anytaLher competent baviitg obtained sanction from the Depu%y Commissioner havin g on conyivlion by a -ya Ving jurisdiction. be punishable With 'imple imprisonment a which and vg;ith 'IOL ekceeding .nyeoty thogsaod. , (2) , Where on u{fence under this sectiöü – committed regard to a business, every persua. •a Was responsible for Lhe conduct of the business at lhe wheq tho Offencz was commilled or who was d nswe:• a lezal lapse in any manner by his aclion shall be liable to he proceeded against and pu u this section, (3) Without prejudice to the provisions cönta• in sub-sectibn where on offence under this section - by a firm or company and it is rouded the offence has been committed witli Itie consent connivance cf or is altributable to any neglect. on part Of any. partner Of the firm. or Chairman-Qi* Managihg Director, Executive Ditcc!or. Oirzccor oi Company. such Partner. Director, Managing Direnor, Executive Director, shali he liable to bc proceeded agains! Eid punished this scctien. (4) Any proweding under 'his Aet JÄelud;ng proceeding assessment, reassessment, rectificalic,-, recovery olher than (he proceeding for irrFosil isn penalty, shall carred an without prejudice • prosecutionu-lder this section; • (S) Ifa dealer raits comply with any ofthe provisions this Act at the ahada the?eunder, Shall, ir no other penalty is provi* under this Act ror Such contravcntinn or be lil* '0 imposition of penalty, cxcceidtl* rupees thousand and wheve *Itch cenwacntion railut: continuing one, Io a daily penalty not exceeding ri five hundred during period or Ille continuance contravention or failure provided Ilia(no such penzgz Shall be imposed Without ÄrfDrdi_ng the dealer opportunity of Feing h:åd, Of) conditcns 'nay preseTib=d, tl.e Ccnmissioncr atyhorisg either genera!ly or in respect a ' or class of cases, any officer not belcw the art assiGtanL Officer Io investigatt% oc the uhder this Act. (2) Every BITIcet so authorised shall. in thecön or such investigation, exercise a] powers cmfferred dic Cod: Criminal Proccdnre.] 973 (2 or 1974) an a police station [or in vestig ofa cognizable offence, CHAPTER. VI Cerlain Provisions orthe Tast AN Applicable 16. Authorities t*der the Delhi Sales empowered tw assessi reassess, ule. tax i""der Subject to the mier provisions of this Lhe rule' made (hercunder, [lie aulhor;ties lhe befog 10 assess. reassess, colle:l and eni paymentl or any tax under Delhi Tax 2 DELHI GALENIT : EXTRAORDINARY 13 collect and enforce payment of tax including interest or penalty payable by dealer under this i:' the intccesl penalty payable by such a dcaler this is a interest ar.pcnaity payable under Sales Tax Act and for Ibis purpose they all or nny of the powel\$ Lhcy have under the Delhi Tax Act, and the provisions of the Delhi Salt'S Tax reiafing IO returns, nolics, assesmenl,re-asscssment, collec%ion, registration tf.any dealer tiabte tax under this Act, imposition of [he tax liaibiity of firm or Hindu undivided ram ily to pay tax in Chg Ofsucll fifi", or partition of stich family. ot recovery or lax, appeals. revisions, (Efunds fines. penalties. charging or payment the. treatment or documents furnished hy dealer as confidenLial shall muLmis mutandis, apply (2) All provi*ions relatin@ to offences and (including. provisions relating to in iieu • _iJ#rosezuuion offence or in addition to penalties ror an offence) Of the DcJhi Sales Shall luulaliS apply relation lhc fi-assesssment, :ollection and lhc cnrorccment or the lax required Io bc colJected under (his or in to afiy prostsS5 Connected' with such re-assessmenl. concoliDn JBÜOrccment of ag payable lhc payable under Delhi Tax Act. CIIAPTER Miscellaneous 1 9, PDV,ycr Io make The Govcmnicnt make ru!es gencrany to carry purposes Act. (2) particular and without-prejudice the ..*Äcrality Of the faregaing power. such rules Inay bc made a: lbr all or any Of the matters expressly required 3110wcd by 111isAct IO be prescribed by rales. (3) In making any rutcg the may direct breach thereof shall be. punishable with fine éceeding wcnly thouiand and Offence continuing ooc, with daily fine •not cxæcdiag five rupees during the continuance of such offence. ' QI) Rules made under this section shall subject eondition or previalß publication: Provided that if the Governrment is satisfied that so exist which rpllder it tc lake action. it mayuispense with rhe condition of publicaliomor any rules to bc made under 'ee,ion. day s successive sessions, and if. the exp;vy the sessiuffin which il is\$0 Or the se5si0n immediacly following, the Legislative Assembly ag.'ez;; making any modification in theculeor Legisliti Ve Assembly agree& tile rule shou Id not be made and notifies such decision in lhc Official G37Atc, lhc rule shall form lhc dmt Of poblication or such notification have effect only in Or be or ao ctrect, as the. case my be; so, however. any such modification or anjlu!menl shall bc prejudicc to the validity dfnnytlling pftv or to bc done under Illat rule

18. Power to remove any difficulty arises in giving effect to the provisions of this Act. Government may, by order published in the official Gazette, make such provisions, inconsistent with the provisions of this Act as appear to it to be expedient for removing the difficulty: Provided that no such order shall be made after the expiry of a period of six months from the date of the commencement of this Act.

period of two years from the date of publication of this Act in the official Gazette. Under section 109 of the Finance Act, 1999, the Government of India, in exercise of powers conferred under rules 38 & 39 of the Central Tax Collection Rules (Vol-I) the Governor of National Capital Territory of Delhi has pleased to appoint the Divisional Commissioner, Delhi as Collector and confer the powers upon him to discharge the various duties and other functions of Delhi Treasury as laid down under Central Tax Collection Rules and Instructions and Government of India by order,

