

[Authoritative English Text of this Department Notification No. EXN-F(5)-4/2005 dated 2nd December, 2005, as required under clause (3) of Article 348 of the Constitution of India]

**GOVERNMENT OF HIMACHAL PRADESH
EXCISE AND TAXATION DEPARTMENT**

NOTIFICATION

Shimla-171002, 2nd December, 2005.

No. EXN-F(5)-4/2005.--- The Governor of Himachal Pradesh, in exercise of the powers conferred on him by section 64 of the Himachal Pradesh Value Added Tax Act, 2005 (Act No. 12 of 2005) is pleased to make the following rules for carrying out the purposes of the said Act, namely: -

**THE HIMACHAL PRADESH VALUE ADDED
TAX RULES, 2005.**

**CHAPTER-1
PRELIMINARY**

1. Short title and commencement. -- (1) These rules may be called the Himachal Pradesh Value Added Tax Rules, 2005.

(2) They shall come into force with immediate effect.

2. Definitions. — (1) In these rules, unless there is anything repugnant in the subject or context, --

- (a) “Act” means the Himachal Pradesh Value Added Tax Act, 2005;
- (b) “agent” means a person authorised in writing in **Form VAT-XVI** by a dealer to appear on his behalf before any officer empowered under the Act to carry out the purposes of the Act, being --
- (i) a relative of the dealer; or
 - (ii) a person in the regular and whole-time employ of the dealer; or
 - (iii) a person who has been enrolled as Chartered Accountant in the register of Accountants maintained by the Union Government under the Auditor’s Certificate Rules, 1932; or
 - (iv) a person who possesses a degree in commerce, law, economics or banking, including higher auditing, conferred by any Indian University incorporated by law for the time being in force or any foreign University duly approved in this behalf by the State Government;
- (c) “Appropriate Assessing Authority” in respect of any particular dealer means the Assistant Excise and Taxation Commissioner or the Excise and Taxation Officer, within whose jurisdiction the dealer’s place of business is situated, or if the dealer has more than

one place of business in Himachal Pradesh, the Assistant Excise and Taxation Commissioner or the Excise and Taxation Officer within whose jurisdiction the principal place of business in Himachal Pradesh of such business is situated, or such other person as may be appointed under section 3 of the Act and authorised by the State Government to make assessment in respect of such dealer within the meaning of clause (c) of section 2 of the Act;

(d) “appropriate Government Treasury” means a Treasury or Sub-Treasury of Government or a branch of the State Bank of India or a branch of the State Bank of Patiala situated in the district, in which the dealer concerned has his place of business or the principal place of business of the business in Himachal Pradesh if the business is carried on at more than one place in the State;

Explanation.—The branch of the State Bank of Patiala, shall be deemed to be the appropriate Government Treasury only (a) if the State Government has so authorised the Bank, and (b) in relation to dealers, where there is no Treasury or Sub-Treasury of Government or a branch of the State Bank of India;

- (e) “Assistant Excise and Taxation Commissioner” means the person appointed by that designation by the State Government under section 3 of the Act to assist the Commissioner;
- (f) “bricks” means mud bricks baked in a kiln and includes roofing tiles made from mud;
- (g) “charge code” means the number assigned by the Commissioner to a circle of assessments;
- (h) “Form ‘C’” means the form ‘C’ prescribed under the Central Sales Tax (Registration and Turnover) Rules, 1957;
- (i) “Excise and Taxation Officer” means the person appointed by that designation by the State Government under section 3 of the Act to assist the Commissioner;
- (j) “Form” means a form appended to these rules;
- (k) “month” means a calendar month;
- (l) “section” means a section of the Act;
- (m) “small works contractor” means a Class “C” or a Class “D” works contractor who is qualified to offer tender or bid for works upto twenty five lakhs rupees and six lakhs rupees respectively; and
- (n) ***“tax fraction” means any fraction calculated in accordance with the formula:***

$$\frac{S \times R}{R+100}$$

Where S is sale price of the taxable goods and R is the rate of VAT or TOT as the case may be.

(2) The words and expressions used in these rules but not defined shall have the same meaning respectively as assigned to them in the Act.

CHAPTER-II
REGISTRATION, NOMINATION OF HEAD OFFICE
AND TAXABLE QUANTUM FOR CERTAIN DEALER

3. Application for registration. -- (1) The application for registration under section 14 shall be made to the appropriate Assessing Authority in **Form VAT-I** and shall be signed in the case of a—

- (i) proprietorship, by the proprietor of the business;
- (ii) partnership, by all the partners;
- (iii) Hindu Joint Family business, by the Manager or Karta of the Hindu Joint Family;
- (iv) company incorporated under the Companies Act, 1956, or under any other law, by the Chairman, Managing Director or the Principal Officer managing the business;
- (v) society, by the Chairman, secretary or an officer managing the business;
- (vi) club or an association of persons, by the person managing the affairs of the club or the association,

duly authorised by the members in this behalf; and

(vii) Government Department, by the Head of Department or any other officer or officers duly authorised in writing by him.

(2) The application under sub-rule (1) shall be accompanied by a deposit receipt, in **Form VAT-II** of a fee of one hundred rupees in the appropriate Government Treasury.

(3) The application for obtaining a general registration certificate shall also be made in Form VAT-I by a dealer who opts to pay tax under section 9 or under sub-section (2) of section 16 and the words application for “GENERAL REGISTRATION” shall be conspicuously mentioned therein.

4. Security.-- (1) The security or additional security required to be furnished under section 15 for registration may be in the following forms, namely: -

(a) cash deposit or Post Office Saving Account or Scheduled Bank's Saving Bank Account Pass Book or fixed deposit receipt duly pledged to the Assessing Authority or bank guarantee from a Scheduled bank; or

(b) personal bond with two solvent sureties to the satisfaction of the appropriate Assessing Authority and executed in **Form VAT-III** on a non-judicial paper of

the appropriate value.

(2) The security furnished under sub-rule (1) shall be maintained in full so long as the registration certificate continues to be in force. If the amount of security already determined is rendered inadequate, the Assessing Authority may at any time and for sufficient reasons demand additional security.

(3) Where the security or additional security furnished by a person is in the form of Bank Guarantee, the person furnishing such guarantee shall get the same re-validated atleast thirty days before the date of its expiry.

(4) Where the security or additional security furnished by a person is in the form of a surety bond and the surety becomes insolvent or is otherwise incapacitated or dies or withdraws, the person shall, within fifteen days of the occurrence of any of these events, inform the authority granting the registration, and shall within thirty days of such occurrence, furnish a fresh security or additional security for the like amount.

(5) In the event of default in payment of any tax, interest or penalty due, the security or additional security furnished by the dealer under sub-rule (1) shall be liable to forfeiture and adjustment, by the Assessing Authority, towards recovery of such tax, interest or penalty after intimation to him and the

deficiency in the amount of security or additional security shall be made up by the dealer within a period of thirty days from the date of such intimation.

5. Certificate of registration. -- (1) *When the appropriate Assessing Authority, after making such enquiry as it may consider necessary, is satisfied that the application is in order and the applicant has fulfilled the requirements of the provisions of the Act and these rules, it may register such dealer or such person and issue him a certificate of registration in Form VAT-IV (specifying clearly the certificate of registration issued to dealer paying lumpsum as “GENERAL REGISTRATION” and in case of a dealer paying Value Added Tax as “VAT REGISTRATION”) which shall be valid either from the date of receipt of the application under sub-rule (1) of rule 3 or from the commencement of the liability to pay tax, whichever is latter, but in case of registration under sub-section (2) of section 14 the certificate of registration shall be valid from the date of its grant.*

(2) The registration certificate shall specify the following, amongst other particulars: -

- (a) the location of the business and of any branch of the business;
- (b) the nature of the business;

(c) the tax or the return period; and

(d) the intervals at which the tax shall be payable.

(3) As far as may be consistent with the Act and the rules, the particulars referred to in clauses (b) and (c) of sub-rule (2) of this rule shall be described in the registration certificate in the same terms as are used by the dealer or the person in his application form.

(4) Every Value Added Tax (VAT) registration certificate shall bear a unique number to be known as 'the Taxpayer's Identification Number' (hereinafter referred as "TIN") consisting of 11 digit numerals, wherein,-

(a) the first two digits will represent 'the State Code' as used by the Union Ministry of Home Affairs;

(b) the next two digits will represent 'the Charge Code';

(c) the next four digits will represent 'the Registration Number' proper;

(d) the next one digit will represent 'the Act Identification Code', namely, the Himachal Pradesh Value Added Tax Act, 2005 (or the Central Sales Tax Act, 1956); and

(e) the last two digits will represent the 'Check Code', as follows: -

ILLUSTRATION: STRUCTURE OF THE 11 DIGIT TAX PAYERS IDENTIFICATION NUMBER

State Code		Charge Code		Registration Number				Act Code	Identification	Check Code	
0	2	0	1	0	0	0	1		1	0	

(5) The certificate of registration shall be kept at the principal place of business and an attested copy of it shall also be kept at each of the additional places of business to which it relates.

(6) Notwithstanding anything contained in this rule, a dealer opting to pay tax under section 9 or 16(2) shall be allotted a general registration number and the certificate or registration shall specify at the top “GENERAL REGISTRATION CERTIFICATE”.

6. Furnishing attested copy of certificate of registration. --

The appropriate Assessing Authority shall, on payment of a fee of rupees fifty per copy, furnish the registered dealer with an attested copy of the certificate of registration for every additional place of business enumerated therein.

7. Issue of duplicate copy of certificate of registration. --

The registered dealer may, on an application, and after the deposit of a fee of fifty rupees in the appropriate Government Treasury, obtain from the appropriate Assessing Authority, a duplicate copy of a certificate of registration issued to him which has been lost, destroyed, defaced or mutilated.

8. Maintenance of register of registered dealers.-- (1) The name and other particulars of business of every dealer registered under sub-section (1) of section 14, shall be entered in a register in **Form VAT-V** in the first instance.

(2) The name and other particulars of business of every person registered under sub-section (2) of section 14 shall be entered in a register in **Form VAT –VI**.

9. Replacement of certificate of registration under section 14(2). -- Any dealer who is registered under sub-section (2) of section 14 for the purpose of establishing his business, shall apply for the replacement of his certificate of his registration within 30 days of the establishment of business and shall also surrender his existing certificate of registration to the appropriate Assessing Authority. The certificate of registration shall be replaced by the appropriate Assessing Authority from the date of commencement of business by issuing the certificate of registration under sub-section (1) of section 14 and by cancelling the existing certificate of registration, whereafter the entry in register in **Form VAT-VI** shall be omitted and necessary entry in register in **Form VAT-V** shall be made simultaneously by the Assessing Authority.

10. Amendment etc. of certificates of registration. --
(1) Every dealer shall, by making an application in this

behalf, furnish the information under sub-section (6) of section 14 to the appropriate Assessing Authority within 30 days of the occurrence of any contingency specified therein or on acquiring the ownership of the business by transfer under clause (a) of the said sub-section or in the event of any change in the partnership:

Provided that where the amendment of registration certificate relates to any additional place of business located outside the jurisdiction of the appropriate Assessing Authority, the information about such amendments shall also be forwarded to the authority within whose jurisdiction such additional place of business is located.

(2) When any dealer furnishes the information under sub-rule (1), he shall also send his certificate of registration to the appropriate Assessing Authority, who may amend or replace or cancel the certificate of registration, as the case may be, which shall be deemed to have been amended or replaced, or cancelled, as the case may be on the date of receipt of information from the dealer by the Assessing Authority.

(3) The Appropriate Assessing Authority shall make necessary entries of amendments or replacements or cancellation of registration certificates, as the case may be, in the registers in **Form VAT-V** or **VAT-VI**, as the case may be.

(4) Any dealer who has been issued a “GENERAL REGISTRATION CERTIFICATE” may at any time apply to the appropriate Assessing Authority for conversion of his certificate of registration into Value Added Tax registration. The said authority shall amend the “GENERAL REGISTRATION CERTIFICATE” of such dealer so as to make the amendment to be effective from the first day of the following quarter or month accordingly as such dealer has been paying the tax..

11. Cancellation of certificate of registration under section

14(6). -- (1) Every registered dealer making an application for cancellation of certificate of registration shall, besides surrendering the registration certificate and attested copies thereof, if any, to the Appropriate Assessing Authority and also submit alongwith the application the following documents, namely: -

- (a) unused statutory forms;
- (b) return, if any, due for submission on the date of application;
- (c) a statement showing the value of goods imported or manufactured by him during the immediately preceding two years; and
- (d) a statement of closing stock;

(2) (a) Every dealer whose registration certificate has been

cancelled, shall, within fifteen days of the date of service of the notice given in this behalf, also furnish such other information or document as may be required by the Appropriate Assessing Authority.

(b) In case the dealer fails to surrender unused statutory forms within the stipulated period such forms shall be declared obsolete through a public notice published in the Official Gazette.

(3) The particulars of all certificates of registration cancelled under the Act shall be notified by the Appropriate Assessing Authority in the Official Gazette, as soon as possible.

(4) The Appropriate Assessing Authority shall pass necessary orders of cancellation of certificate of registration within sixty days from the receipt of application and a copy of the order of cancellation shall be issued and served upon the dealer or other person, as the case may be, within fifteen days of the date of order of cancellation of certificate of registration.

(5) Except as provided in rule 12, the cancellation of registration certificate shall take effect from the date of order of cancellation or the date of notification issued, as the case may be in this behalf, by the assessing authority, whichever is later.

12. Cancellation of certificate of registration as per section 4. -- (1) When the Appropriate Assessing Authority is

satisfied that the gross turnover of any dealer registered under section 14 has, for three successive years, failed to exceed the taxable quantum, it shall forward to the Commissioner a list giving the particulars of such dealers whose certificates of registration may be cancelled by the last day of June or the last day of December in each year, and the orders of such cancellation shall come into effect from the last day of September next following or from the last day of March next following respectively and the liability of the dealer to pay tax under sub-section (6) of section 4 shall cease with effect from the said date.

(2) The particulars of all registration certificates cancelled under the Act shall be notified by the authority cancelling the registration certificates in the Official Gazette as soon as possible thereafter.

13. Surrender of cancelled certificate of registration.--

Every registered dealer or his legal representative whose certificate of registration has been cancelled, either *suo moto* by the Appropriate Assessing Authority or on dealer's legal representative's application under clause (b) or under clause (c), of sub-section (6) of section 14 shall surrender his certificate of registration to the Appropriate Assessing Authority for destruction, within 15 days of the date of service of the notice issued in this behalf.

14. Renewal of certificate of registration. --The certificate of registration granted to a dealer shall be renewed by the appropriate Assessing Authority, on application from the dealer, after such period from the date of its grant as the Commissioner, may, by order, direct and on payment of the fee of one hundred rupees into the Government treasury.

15. Nomination of principal place of business in the case of a dealer having more places of business than one.-- (1) Where a dealer has within Himachal Pradesh more than one place of business (hereinafter referred to as “branches”) he shall nominate one of such branches, in which business is done, as the principal place of the business for the purpose of this rule:

Provided that if the dealer fails to nominate one of the branches to be the principal place of business the appropriate Assessing Authority may nominate one of such branches to be the principal place of business for the purpose of this rule.

(2) All applications (including application for grant of registration), returns (including the turnover of all branches) or statements required under the Act or these rules shall be submitted in respect of all the branches jointly by the person-in-charge of the principal place of business to the appropriate Assessing Authority. The person-in-charge of each branch also shall also, at all reasonable times and on demand by any officer

not below the rank of an Excise and Taxation Inspector furnish the name and address of the principal place of business and intimate whether or not returns of turnover of his branch have been despatched to such principal place of business.

(3) The turnover for the whole business shall be the aggregate of the turnover of all the branches.

(4) All notices and orders under the Act or these rules to be issued to or served on, shall be issued and served on the person-in-charge of the principal place of business nominated under sub-rule (1):

Provided that the notice and order may, in case of inspection of business premises and accounts, be served by any Assessing Authority on any branch also.

(5) A notice or order, issued to or served on the person-in-charge of such principal place of business, shall be deemed to have been issued to and served on all branches of the dealer concerned.

16. Taxable quantum for registration of certain dealers.--

In relation to a dealer, --

- (a) who resides outside the State but delivers any goods for sale in the State or purchases any goods in the State; and

(b) who purchases the goods specified in Schedule 'C', the taxable quantum shall be rupee 1/-.

CHAPTER-III
DETERMINATION OF TAXABLE TURNOVER,
INPUT TAX CREDIT AND CALCULATION OF NET
TAX PAYABLE

17. Deductions from gross turnover. -- (1) In calculating his taxable turnover, a registered dealer may deduct from his gross turnover, --

- (i) turnover of sales of goods declared tax free under section 9 of the Act;
- (ii) turnover of sales of goods made;
 - (a) outside the State;
 - (b) in the course of *inter-State* trade or commerce;
 - (c) in the course of import of goods into India; and
 - (d) export of goods out of the territory of India under section 58 of the Act;
- (iii) amount charged separately as interest in the case of a hire-purchase transaction or the ***amount charged as interest under*** any system of payment by instalments;

- (iv) sale price of taxable goods where such sale was cancelled:

Provided that the deduction under this clause shall be claimed only if the person is in possession of all copies of tax invoice or retail invoice, as the case may be;

- (v) sale price, in respect of any goods returned within a period of six months:

Provided that the dealer shall claim the deduction under this clause only on the basis of debit note issued by the purchaser for the goods returned;

- (vi) amount allowed as cash discount provided such discount is in accordance with regular trade practice;

- (vii) turnover of sales of goods to the following for their bonafide use subject to the production of certificate by appending the same with the return in Form VAT-XV:-

- (1) United Nations Organisation and its constituent agencies like:

(i) UNDP

(ii) UNESCO

(iii) UNFPA

(iv) UNHCR

(v) UNICEF

(vi) UNIDO

(vii) UNICEF

(viii) WFAO

(ix) WHO

(x) ILO

(2) Diplomatic Missions.

Certificate

Certified that we have purchased following goods from M/s _____ holding Registration Certificate No. _____ under the Himachal Pradesh Value Added Tax Act, 2005 for our bonafide consumption: -

Sr.No.	Description of goods	Purchase value of goods	No. & Date of cash memo or retail invoice issued
1.	2.	3.	4.

Place:

Date:

**Signature of the purchaser
with full address and seal.**

Explanation. -- For the purpose of this sub-rule the turnover of the goods sent on consignment basis or branch transfer basis shall be excluded from the dealer's gross turnover.

(2) The deduction referred to in clauses (i) to (vii) of sub-rule (1), shall be claimed in the tax period in which the event occurs:

Provided that if the turnover of the period is less than the claim, then the balance of such deduction shall be claimed in the subsequent tax period(s).

(3) The provisions of clauses (i) to (vii) of sub-rule (1) shall also apply for the determination of taxable turnover of purchases for levy of purchase tax under clause (b) sub-section (1) of section 6 of the Act to the extent applicable.

(4) (a) The value of the goods involved in the execution of a works contract shall be determined by taking into account the value of the entire works contract and deducting therefrom the components of payment made towards labour and services, including:

- (i) labour charges for execution of the works;
- (ii) amount paid to a sub-contractor for labour and services;
- (iii) charges for planning, designing and architects fees;
- (iv) charges for obtaining for hire, machinery and tools used for the execution of the works contract;
- (v) cost of consumables, such as, water, electricity and fuel, used in the execution of the works contract, the property in which is not transferred in the course of execution of a works contract;

- (vi) cost of establishment of the contractor to the extent it is relatable to supply of labour and services;
- (vii) other similar expenses relatable to supply of labour and services;
- (viii) profit earned by the contractor to the extent it is relatable to supply of labour and services;

(b) The amounts deductible under these heads shall be determined in the light of the facts of each particular case on the basis of the material produced by the contractor.

(5) The sale price of the goods sold by the commission agent on behalf of his principal, registered under the Act, shall be added in the taxable turnover of the agent.

18. Classification of taxable turnover according to rate of tax.-- Every registered dealer shall classify his taxable turnover of sale or purchases, determined in accordance with the provisions of the Act and the rules, on the basis of rate of tax specified in the Schedule(s) appended to the Act or as notified by the Government.

19. Calculation of tax on taxable turnover.-- Every registered dealer other than a registered person shall calculate tax payable on taxable turnover of sales by applying the rate of tax specified in the Schedule(s) appended to the Act or as

notified by the Government.

20. Conditions for input tax credit.-- (1) The input tax credit under section 11 shall be available to a registered dealer, if such dealer has, --

- (a) in his possession the original VAT invoice, issued to him by a taxable person, from whom purchase of such goods has been effected, wherein tax has been separately charged; and
- (b) maintained proper accounts recording therein, in chronological order, all purchases of goods eligible for input tax credit and all adjustments thereto;

(2) No input tax credit shall be available in respect of the goods specified in the Schedule appended to these rules.

21. Calculation of input tax credit.-- Subject to provisions of rules 22 and 23, a registered dealer (including the dealer falling under the Special Economic Zone or Software Technology Parks) shall be entitled to input tax credit of whole of the input tax paid on purchases of goods during the tax/ return period after reducing therefrom reverse input tax credit:

Provided that in respect of goods specified in second proviso to sub-section (3) and sub-section (4) of section 11 of the Act, input tax credit shall be availed only to the extent by which the amount of tax paid in the State exceeds four

percent:

Provided further that the purchase tax paid under section 6 of the Act shall be considered as input tax credit for the purpose of subsequent sale in the hands of same person.

22. Input tax credit where identification of goods is possible.-- Where a registered dealer has used the goods purchased partially for taxable sales and maintained commodity-wise account of his purchases and their use in manufacture or sales, and correlates such purchases with sale of taxable goods, the input tax credit for the tax/ return period shall be an amount of value added tax paid or payable on such purchases as reduced by the reverse input tax credit:

Provided that in respect of goods specified in sub-section (4) of section 11 of the Act, input tax credit shall be availed only to the extent by which the amount of tax paid in the State exceeds four percent, and the amount calculated above shall be reduced by a sum calculated in accordance with the following formula:

$$\frac{P \times 4}{100}$$

Where "P" is purchase price, excluding the tax amount, representing the sum in respect the goods that are dispatched in a manner referred to above.

23. Input tax credit where identification of goods is not possible.-- Where a registered dealer has used the goods

purchased partially for taxable sales and is unable to maintain accounts as provided in rule 20 and the sale by him includes sale of tax free goods and taxable goods and / or branch or consignment transfers, then it shall be presumed that goods so purchased during the tax period have been used in the proportion of turnover of sales of tax free goods, taxable goods and branch or consignment transfers respectively of the tax period and the input tax credit shall be calculated and claimed in that proportion accordingly.

24. Input tax credit on stock held at the commencement of the Act. -- (1) Subject to provisions of sub-section (2) of section 62 input tax credit on goods, other than capital goods, held in stock, by a registered dealer, under the Himachal Pradesh General Sales Tax Act, 1968 (hereinafter referred to as the repealed Act), at the commencement of the Act, shall be available subject to the following conditions, namely: --

(a) the registered dealer has submitted to the appropriate Assessing Authority,---

- (i) statement of such goods, within *four months* of the commencement of the Act in the form as may be notified by the Commissioner, making therein a claim of input tax credit only for that amount which has been charged separately or the price has been shown as inclusive of tax on the

invoices; and

- (ii) proper certificate(s) in **Form ST-XXV** prescribed under the repealed Act proving specifically the amount of tax paid.

(b) The registered dealer shall retain documents/ evidence relating to the claim of input tax credit for a period of five years from the date of commencement of the Act and shall provide such document(s)/ evidence to the appropriate Assessing Authority or any other officer appointed under sub-section (1) of section 3 for scrutiny as and when required:

Provided that in respect of goods transferred on consignment or branch transfer basis, the input tax credit shall be allowed only to the extent by which the amount of value added tax paid in the State exceeds four percent.

(2) The Appropriate Assessing Authority or the officer appointed under sub-section (1) of section 3 of the Act shall verify the claim made under clause (a) of sub-rule (1) and within *thirty days* of its filing, determine the amount of input tax credit available to the registered dealer. Such credit shall then be availed of by the claimant proportionately over a period of one year beginning after *five* months from the date of commencement of the Act.

(3) No input tax credit shall be admissible in respect of the goods which were purchased from the industrial units

exempted from the payment of tax under the repealed Act.

25. Input tax credit on duplicate tax invoice.-- (1) In case the original tax invoice has been lost, destroyed or mutilated, a registered dealer shall make an application to the appropriate Assessing Authority and attach alongwith the same a duplicate copy of tax invoice issued to him by the selling registered dealer and furnish an Indemnity Bond in **Form VAT-VII** for the amount equal to the amount of input tax credit claimed under such invoice.

(2) On receipt of such application, the appropriate Assessing Authority shall cross-check the transaction, and after being satisfied about the genuineness of the transaction, allow the claim by an order passed in this regard.

(3) The registered dealer shall avail of the input tax credit only after receipt of the order specified in sub-rule (2).

26. Net tax payable.-- After determination of output tax liability and input tax credit, the registered dealer shall calculate his net tax liability for the tax/return period in accordance with the provisions of section 12.

CHAPTER – IV
DEALERS ENGAGED IN CASUAL BUSINESS

27. Application for grant of permission. -- (1) A casual dealer shall apply in **Form VAT-VIII** to the appropriate Assessing Authority and pay into Government treasury a non-refundable fee of one hundred rupees by means of a challan in **Form VAT-II** and append the treasury receipt with his application.

(2) The casual dealer alongwith the application in **Form VAT-VIII** furnish to the appropriate Assessing Authority sale bill book(s) and account books for authentication and shall append the list of commodities to be sold.

(3) The casual dealer may withdraw his application any time before the date of commencement of casual business.

28. Security.-- (1) The appropriate Assessing Authority on receipt of the application under rule 27 shall, keeping in view the quantum of business undertaken or likely to be undertaken, determine the amount of security which shall not exceed one lakh rupees.

(2) Every casual dealer shall furnish the security for the amount determined under sub-rule (1) which shall be in the form of bank guarantee from a local Scheduled Bank or a demand draft in favour of the Appropriate Assessing Authority.

(3) The appropriate Assessing Authority at any stage during the currency of the casual business event may, demand additional security, if he is satisfied that the security already obtained is inadequate:

Provided that the total amount of security including the additional security shall not exceed rupees one lakh.

29. Grant of permission.-- When the appropriate Assessing Authority is satisfied that the application, in Form VAT-VIII, is complete in all respects and the security has been furnished under sub-rule (1) of rule 28, it shall grant permission to the casual dealer in Form VAT-IX, which shall be in triplicate. The first two copies shall be given to the casual dealer. Such authority shall enter the particulars of such permission in a register to be maintained for the purpose:

Provided that if the said authority is not satisfied that the particulars contained in the application are correct and complete or that the casual dealer has not furnished the security he shall, after affording an opportunity of being heard, reject the application for reasons to be recorded in writing.

30. Import of goods by the casual dealer.-- (1) A casual dealer who brings goods from outside the State shall report to the first check post or barrier on entry into the State and furnish second copy of the certificate in **Form VAT-IX** issued

by the Appropriate Assessing Authority and shall declare his goods in **Form VAT- XXVI-A.**

(2) The casual dealer referred to in sub-rule (1) shall furnish details of such goods to the Appropriate Assessing Authority/ Excise and Taxation Officer incharge of the nearest check-post before the commencement of the casual business event. The details of the goods imported during the currency of the said business event shall also be furnished to the Appropriate Assessing Authority forthwith.

31. Extension of period of casual business event or opening of new outlet.-- If the casual dealer intends to extend the period of conducting the casual business event or intends to open a new outlet, he shall inform the Appropriate Assessing Authority, in writing, in this behalf atleast three working days in advance and such authority, on receipt of such information and after satisfying itself as to the genuineness of the request may extend the period of permission for conducting casual business event and incorporate the fact of extending the period, and /or opening the new outlet in **Form VAT-IX:**

Provided that while extending the period of permission or allowing opening of a new outlet, the Appropriate Assessing Authority may review the security already furnished.

32. Mode of payment of tax.-- Subject to provisions of sub-rule (4) of rule 33, a casual dealer shall, on the conclusion of the business, deposit the amount of tax due in the appropriate Government treasury by a challan in **Form VAT-II** on the conclusion of the business:

Provided that if the period of casual business event exceeds seven days, the amount of tax shall be deposited weekly on the first working day after the close of the week and final instalment immediately on the conclusion of the casual business event, whichever is earlier.

33. Procedure after closure of casual business event and finalization tax liability.-- (1) The casual dealer shall furnish to the appropriate Assessing Authority a statement showing the details of sales and purchases and tax liability in **Form VAT-X** immediately after the conclusion of the casual business event. He shall also append the details of unsold goods and shall produce account books before Appropriate Assessing Authority for determining the final tax liability.

(2) The Appropriate Assessing Authority may, on the date of receipt of statement in **Form VAT-X** or on the next working day, examine the account books of the casual dealer immediately and shall determine the final tax liability of the casual dealer and require him to deposit immediately the amount of tax so determined.

(3) Where a casual dealer fails to discharge his tax liability as determined by the appropriate Assessing Authority, the same shall be recovered out of the security furnished by the casual dealer. Any amount remaining unrecovered shall be recoverable under the provisions of the Act and these rules.

(4) After satisfying itself that the casual dealer has discharged his tax liability, the Appropriate Assessing Authority shall release the security if nothing is due, and issue him a clearance certificate in **Form VAT-XI** (in triplicate) and he shall be given the first and the second copies thereof. The dealer shall deposit the second copy at the last check-post or barrier while leaving the State.

34. Detention of goods of casual dealer.-- If a casual dealer fails to discharge his tax liability under rule 33, the goods, if any, being transported by him shall be detained and put to auction, if required, in accordance with the procedure laid down in *rule 62*.

35. Failure to seek permission.-- If a casual dealer fails to apply for permission under rule 27 or contravenes any provision of the rules 27 to 34 he shall be afforded an opportunity of being heard in the matter before taking final action.

CHAPTER-V
PAYMENT OF TAX AND RETURNS

36. Payment of tax and other dues. (1) A dealer, all partners in a partnership, all members in a society or association or club and all persons forming a business concern shall be jointly and severally responsible for making payment of the tax, penalty, interest or any amount due under the Act or these rules.

(2) Every dealer liable to pay,--

(i) a lumpsum, by way of composition, under section 7 or sub-section (2) of section 16 and

(ii) tax under sub-section (4) of section 16 of the Act shall pay such lump-sum and the tax before filing the return.

(3) Any other amount due under the Act shall be paid in accordance with such directions as may be issued by the Appropriate Assessing Authority.

37. Mode of payment of tax etc.-- (1) Any amount payable by a dealer in respect of tax, interest, penalty, composition money, registration fee or any other liability or amount due under the Act or these rules shall be paid into Appropriate Government treasury. No payment of any such amount, shall be accepted at the office of the Assistant Excise and Taxation Commissioner, or the Excise and Taxation Officer in-charge of a district except through a Bank Draft or crossed cheque payable at a local Scheduled Bank in favour of the Assessing

Authority.

(2) All payments under the Act shall be made by a Challan in **Form VAT- II**, obtainable free of charge at the District Excise and Taxation Office and its sub-offices.

(3) Challan shall be filled up in quadruplicate. The copy of the challan marked as “Duplicate” shall be retained by the treasury, the copy marked as “Original” shall be sent by the Treasury Officer to the Assistant Excise and Taxation Commissioner or Excise and Taxation Officer In-charge of the district and the copies marked as “Triplicate” and “Quadruplicate” shall be returned to the person making payment, duly signed, in proof of payment. The “Triplicate” copy or the challan shall be furnished by the person making the payment to the Assessing Authority alongwith the return or application.

38. Deduction of tax from the bills/invoices of work contractor.-- (1) Every person entering into a contract with a works contractor or a works contractor entering into contract with a sub-contractor for transfer of property in goods in execution of a works contract shall furnish to the appropriate Assessing Authority, particulars of such *contract* in **Form VAT-XII** within a period of thirty days of such contracts.

(2) Every person entering into a contract with a works contractor or a works contractor entering into contract with a sub-contractor for transfer of property in goods involved in

execution of a works contract and liable for deduction of tax under section 17 shall make an application to the Appropriate Assessing Authority in **Form VAT-XII** for allotment of tax deduction number. If the application is complete in all respects, the Appropriate Assessing Authority shall, within seven days from receipt of such application, allot a tax deduction number to the applicant.

(3) For the purpose of section 17, every person in a department of any Government, a corporation, Government undertaking, a co-operative society, a local body, a trust or a private or public limited company or any other concern responsible for making any payment or discharge of any liability on account of valuable consideration payable for the transfer of property in goods, whether as goods or in some other form, involved in the execution of works contract or for carrying out any works, shall, at the time of, --

- (i) payment thereof in cash or by issue of a cheque or bank draft or any other mode; or
- (ii) credit of such sum to the account of the works contractor; or
- (iii) discharging liability on account of the said valuable consideration to the works contractor,

deduct an amount equal to 2 percentum of such sum towards the tax under section 17 of the Act.

(4) The deduction under sub-rule (1) shall be made from all payments being made in respect of all works contract executed, whether in part or in full.

(5) The amount, which any person is required to deduct in a month under the foregoing sub-rules, shall be paid by him within fifteen days of the close of each month into the Appropriate Government Treasury by a challan in **Form VAT-II** separately for each work contractor. The person making the payment shall append the “Quadruplicate” copy of the challan to the return in **Form VAT-XIII** which shall be furnished by him to the appropriate Assessing Authority within thirty days of the expiry of each quarter in respect of the deduction made by him during the immediately preceding quarter, and shall also furnish the “Triplicate” copy to the works contractor concerned as a certificate of tax deduction and payment, who shall append it to his return in **Form VAT-XV** or, as the case may be, in **Form VAT-XV-F**, in case he has opted to pay a lumpsum, by way of composition, in lieu of the amount of tax payable under the Act. A return which is unsigned or not accompanied by the appropriate copy of the challan shall be treated to be no return.

(6) The works contractor to whom a certificate of tax deduction and payment referred to in sub-rule (5) has been furnished shall,

subject to verification of genuineness and correctness of the certificate, be entitled to deduct the amount shown in it from the gross amount of tax due from him for the period specified in the certificate and shall pay the balance in the manner laid down in rule 37.

39. Maintenance of daily collection register and reconciliation of payment. -- (1) There shall be maintained in each district a Daily Collection Register in **Form VAT-XIV** in which shall be recorded the particulars of every challan received in proof of payment of tax or penalty or any other amount due under the Act as made by a dealer or other person.

(2) Every Treasury Officer shall, within the first week of each month, send to the district Excise and Taxation Office, a statement of the amounts credited in the treasury under the Act and these rules during the preceding month.

(3) The Assistant Excise and Taxation Commissioner or the Excise and Taxation Officer incharge of each district shall, in the first week of each month, prepare a statement showing collection of various amounts paid under the Act or these rules and shall forward it to the Treasury Officer of his district for verification. If any discrepancy is discovered at the time of verification the officer incharge of the district shall arrange necessary reconciliation with the Treasury.

40. Period of returns.-- (1) Subject to the provisions of sub-rule (2), every registered dealer shall furnish self-assessed return in **Form VAT-XV** quarterly within thirty days from the expiry of each quarter of a financial year:

Provided that every registered dealer whose gross turnover during the preceding financial year was rupees five crores or more shall furnish the return monthly within thirty days from the expiry of each month of a financial year.

(2) Notwithstanding the provisions of sub-rule (1), the Appropriate Assessing Authority may, for reasons to be recorded in writing, fix monthly returns for any dealer and such order shall remain in force until revised by the Assessing Authority.

(3) The dealer for whom monthly return period has been fixed under sub-rule (2) shall furnish a self-assessed return in **Form VAT-XV** for each month, within fifteen days from the close of each month.

(4) The return in **Form VAT-XV** shall be sent to the appropriate Assessing Authority or the circle Excise and Taxation Inspector posted for Value Added Tax work at places other than the district headquarters, together with the treasury or bank receipt in proof of payment of the tax due. The original copy of the return shall be retained in the office and the duplicate copy shall be returned to the dealer after

acknowledging the same by signing and affixing the dated official stamp and the inward number.

(5) Every registered dealer shall also furnish an annual return for the preceding year in **Form VAT-XV-A** on or before 31st October next. The annual return shall be accompanied by--

- (i) a copy of final accounts including balance sheet as at the end of the year, profit and loss cum manufacturing/ trading account for the year; and
- (ii) a statement reconciling the difference, if any, between such accounts and the turnover reported in the annual return,

and verified in the following manner--

“I/We, _____ son of S/Shri _____ hereby declare that the above statement of accounts for the year ended at 31st March, _____ in respect of M/s _____ is true and correct and is based on the regular books of account maintained for the year and nothing has been concealed therefrom.

Signature of the dealer with status

Date: _____

Place: _____

(6) Every return, which is required to be furnished under these rules, shall be incomplete unless accompanied with lists, statements, declarations certificates and documents mentioned therein or which are required to be filed with the return under these rules. The return shall be signed by Karta in case of an

Hindu Undivided Family, proprietor in case of a proprietorship concern, a partner in case of a partnership firm, or a whole time employee authorised by Karta, proprietor or partner, as the case may be, in writing in this behalf, head of the department or an officer authorised by him in case of a Government department and chairman, director, secretary or principal officer in case of a society or a company. A return, which is unsigned or is signed by any other person, shall be treated as no return. An authorised signatory alone shall sign each list and statement accompanying the return. Any list or statement, which is unsigned or is not signed by an authorised signatory, shall be treated as no list or statement.

41. List of sales and purchases.-- Every registered dealer shall append to his return the lists of sales and the lists of purchases in **Form LS-I** and **LP-I** as specified in return in **Form VAT-XV**.

42. Maintenance of demand and collection register.-- Every Assessing Authority shall maintain a Demand and Collection register in **Form VAT-XVII** showing the payment of tax, penalty, interest, lumpsum by way of composition, other amount, input tax credit carried over by dealers in his jurisdiction.

43. Returns etc. by dealers making un-authorised collection.-- Any dealer who has made un authorised collection

of tax shall be required under section 20 to pay the amount so collected into the Government treasury and shall furnish a return in **Form VAT-XV-C** which shall be accompanied by a receipt in **Form VAT-II** from such treasury showing the payment of such amount and a list in **Form L.S.-III** within 10 days of the close of each month unless otherwise directed by the Appropriate Assessing Authority.

44. Scrutiny of returns, inspection and audit of returns accounts, etc.-- *(1) The Appropriate Assessing Authority shall scrutinize every return of a dealer filed under section 16 of the Act. If any mistake is detected in the return upon such scrutiny and the person is found to have paid less tax than that payable as per such return, such authority shall serve a notice upon the dealer concerned directing him to rectify the same and to pay the amount of tax less paid, alongwith the interest payable under section 19 of the Act and produce the treasury receipt(s) before him, within the time specified in the said notice:*

Provided that if the dealer is found to have paid tax or interest in excess of the amount payable according to such return, the said authority shall inform the same to the dealer by sending a notice within one month of completion of such scrutiny.

(2) If upon receipt of the notice referred to in the sub-rule (1), the dealer complies with the direction made in such notice and furnishes proof of such compliance including furnishing of

a copy of the treasury receipt, the Assessing Authority shall make a record of the same and close the scrutiny. If the dealer does not comply with such directions or expresses his disagreement in writing, adducing reasons for such disagreement with the directions made in such notice, the Assessing Authority, unless he accepts such reasons as correct and justified, shall refer the matter to the Assistant Excise and Taxation Commissioner or other officer incharge of the district within a fortnight, recommending initiation of audit under section 61 of the Act, in respect of such dealer.

(3) For the purposes of audit of returns, annual statement and accounts, the Commissioner or the appropriate Assessing Authority or any other officer appointed under sub-section (1) of section 3 may require any dealer to produce evidence for verification of correctness of any return and any other additional information(s) as may be considered necessary.

(4) The Commissioner shall select, on the basis of the parameters laid down, a certain number of persons in the manner laid down under sub-rule (2) for audit under section 61, either mechanically or with the use of computers:

Provided that the Commissioner may, upon receipt of information or otherwise, select those persons for audit, who, according to him, are required to be audited.

(5) The audit shall be performed by the designated officers as a

team. Such a team may consist of one or more Excise and Taxation Officer, Assistant Excise and Taxation Commissioner or Deputy Excise and Taxation Commissioner, as the Commissioner may deem fit.

(6) For the purpose of audit of returns, annual statement and accounts, the notice shall clearly state the period(s), the date, time and place fixed for such audit. The notice shall provide a period of not less than 10 days for production of account books as specified in the notice.

(7) A person who has been served a notice under sub-rule (2) shall produce on the specified date and time account books as specified in the notice. The audit shall, as far as possible, be conducted on the business premises of the dealer.

(8) During the course of the audit, the officer or authority referred to in sub-rule (1) may require the dealer to afford him the necessary facility to inspect/ verify the account books for the period in the notice. The dealer shall also provide his explanation to the queries asked by such officer or authority.

CHAPTER VI LUMP SUM (IN PAYMENT OF TAX) BY WAY OF COMPOSITION

45. Lumpsum by way of composition.-- (1) A registered dealer (other than the dealer who imports the goods from outside the State and the dealer dealing in medicines) shall

have the option to pay presumptive lumpsum tax by way of composition under section 7 or sub-section (2) of section 16, and shall pay such tax in the manner as prescribed in this chapter.

(2) Such payment (hereinafter called “the lumpsum”) shall be deemed to be tax for the purpose of application of provisions relating to assessment, use of declaration forms, maintenance of record relating to such forms, levy of interest, imposition of penalties for contraventions and offences against provisions of the Act, and recovery of outstanding dues.

(3) The application, in the prescribed form, offering to pay the lumpsum shall be made to the Appropriate Assessing Authority and signed by a person eligible to make an application for registration under the Act. The Appropriate Assessing Authority shall scrutinise the application filed by the dealer and the option shall become operative w.e.f. 1st day of the month following the day on which such option is filed if it is correct and complete. On receipt of the application, such authority shall ascertain that it is complete and its contents are correct, and thereafter allow the applicant to make payment of the lumpsum.

(4) The dealer exercising such option under sub-rule (2) shall be deemed to have been allowed to make payment of the lumpsum w.e.f. the beginning of the month following the date of application. In case, the appropriate Assessing Authority

finds the option incomplete it shall allow the dealer to complete the same by affording an opportunity of being heard.

(5) A dealer paying lumpsum shall pay the lumpsum in equal quarterly instalments payable within thirty days of the expiry of each quarter and shall, in proof of the payment so made, furnish to the appropriate Assessing Authority, a treasury receipt.

(6) The dealer opting to pay the lumpsum shall not issue a tax invoice under section 30 and the input tax credit in respect of goods purchased from such dealer shall be nil, and such dealer shall also not be entitled to claim any input tax credit on the purchase of goods made by him.

(7) The dealer opting to pay lumpsum shall be entitled to charge tax as may be prescribed.

(8) Notwithstanding anything contained in this Chapter, the State Government may at any time withdraw the facility of making payment of the lumpsum from any or all class(s) of dealers.

46. Lumpsum scheme in respect of brick- kiln owners. --

(1) A brick-kiln owner (including a lessee of a brick-kiln) shall, under sub-section (2) of section 16 and subject to the provisions of rule 45 and this rule, at his option, pay a lumpsum by way of composition, in lieu of tax payable under

the Act, at the rates given in the following Table: -

TABLE

<i>Sl. No.</i>	<i>Capacity of kiln</i>	<i>Category</i>	<i>Lumpsum amount payable per annum when a kiln is designated to be fired at one place</i>
1.	<i>Brick-kiln of capacity of more than 33 number of Ghoris</i>	<i>A</i>	<i>Rs.1,93,600/- plus Rs.6,800/- per additional Ghoris above 33 Ghoris</i>
2.	<i>Brick-kiln of capacity of 28 to 33 number of Ghoris</i>	<i>A</i>	<i>Rs.1,93,600</i>
3.	<i>Brick-kiln of capacity of 22 to 27 number of Ghoris</i>	<i>B</i>	<i>Rs.1,51,250</i>
4.	<i>Brick-kiln of capacity of below 22 number of Ghoris</i>	<i>C</i>	<i>Rs.1,21,000</i>
5.	<i>Brick-kiln not fired during the year ending 30th September in which stock in and outside the kiln as on 1st October last does not exceed five lakhs bricks of all categories.</i>	<i>D</i>	<i>Rs.30,250</i>

Note: - If a kiln is designated to be fired at two places, the rate of lump sum payable by the owner of such kiln shall be double of the aforesaid rates.

Explanation.—For the purpose of this rule, “Ghoris” means a vertical column of bricks of width equalling the length of a brick separated from the next similar vertical column by a distance of about 4” to 5” and “number of ghori” means the number of vertical columns of bricks capable of being

accommodated between the inner and outer wall of the vessel of a brick-kiln over its full width.

(2) A brick-kiln owner may at any time exercise his option to pay lumpsum in lieu of tax in the following form:

Form of application

To

***The Assessing Authority,
_____ District _____.***

Subject: Option to pay the lumpsum by way of composition under sub-section (2) of section 16 of the Himachal Pradesh Value Added Tax Act, 2005.

***I -----(name), aged-----
(years), son of Shri ----- resident of village/town ----
----- District ----- proprietor/ partner/ manager/
managing director of M/s ----- ----holding
TIN/GRN -----owner of brick kiln situated at -----
----- (Place), District -----, do hereby opt to pay
lump sum (in lieu of tax payable under the Act) by way of
composition under sub-section (2) of section 16 of the
Himachal Pradesh Value Added Tax Act, 2005 and the rules
framed thereunder with effect from the beginning of the
quarter and declare that I fall in category ----- as
specified in sub-rule (1) of rule 47 as the brick-kiln is of the
capacity of ----- number of ghor.***

Place -----

Date -----

Signature of brick-kiln owner

ACKNOWLEDGEMENT

*Received option from Shri -----
Proprietor/ Partner/ Manager/ Managing Director of M/s
_____ holding TIN/GRN (if any) for
presumptive/lumpsum tax payable under section 7 or 16(2) of
the Himachal Pradesh Value Added Act, 2005.*

*Place
Date*

*Signature of Assessing Authority
Name in CAPITALS:
Designation:*

(3) The option exercised by the brick-kiln owner under sub-rule (2) shall cover all brick-kilns operated by him and the owner shall pay lumpsum for all his brick-kilns at the rates specified in sub-rule (1) of this rule.

(4) Every brick-kiln owner under this rule shall furnish a return in **Form VAT-XV-D** annually within thirty days of the close of the each quarter.

(5) For the purpose of verification of capacity of a brick-kiln, its status---whether it is being worked, fired or closed--- and the stock of bricks at the site of the kiln site, any officer not below the rank of an Excise and Taxation Inspector may inspect brick- kiln(s) of an owner liable to pay lumpsum

(6) (a) In case a brick-kiln is intended to be closed for the next whole year beginning 1st October, the owner thereof who is liable to pay the lumpsum shall inform the Appropriate Assessing Authority, in writing, atleast ten days before such

closure and declare the stock of bricks at the site of the kiln. The brick-kiln shall be placed in category D from the next year only if the opening stock of all types of bricks at the sight of the kiln on that day does not exceed five lakh bricks and the kiln is not fired throughout that year.

(b) If the brick-kiln owner fails to furnish information about closure of a kiln in the manner specified in clause (a), it shall be presumed that the brick-kiln has been functioning normally.

(7) Notwithstanding the operation of a brick-kiln for a part of the year the owner thereof shall be liable to make payment of lumpsum for the whole year except that an owner who opts for payment of lumpsum for the first time shall be liable to pay lumpsum from the beginning of the month in which he exercises his option and for the period before exercising the option for the first time, he shall be liable to pay tax under the usual provisions of law.

47. Lumpsum scheme in respect of lottery dealer. --

(1) Every dealer (duly authorised by the Director, State Lotteries) engaged in the business of purchase or sale of lottery tickets (hereinafter in this rule called the “lottery dealer”) shall, under sub-section (2) of section 16 and subject to the provisions of rule 45 and this rule, at his option, pay the lumpsum, at the rates given in the following Table:-

TABLE

<i>Sl. No.</i>	<i>Type of lottery</i>	<i>Lumpsum amount payable</i>
<i>1.</i>	<i>Daily Lottery</i>	<i>Rs. 50,000 per draw</i>
<i>2.</i>	<i>Weekly Lottery</i>	<i>Rs.2.5 lakhs per draw</i>
<i>3.</i>	<i>Monthly Lottery</i>	<i>Rs.10 lakhs per draw</i>
<i>4.</i>	<i>Festival Lottery</i>	<i>Rs.10 lakhs per draw</i>
<i>5.</i>	<i>Instant Lottery</i>	<i>Rs.10 lakhs per draw</i>

(2) The lottery dealer opting to pay lumpsum shall make an application in the following form for allowing him to pay the lumpsum --

Form of application

To

The Assessing Authority,
_____ District _____.

Subject: Option to pay the lumpsum by way of composition under sub-section (2) of section 16 of the Himachal Pradesh Value Added Tax Act, 2005.

Sir,

I, ----- (name), aged -----(years), son of Shri ----- resident of village -----, tehsil -----, Proprietor/ partner/ Manager/ Managing Director of M/s ----- holding TIN/**GRN** ----- -- in respect of business premises situated ----- at (place), district -----, am a lottery dealer doing the business with effect from _____ do hereby opt to pay the lumpsum (in lieu of tax payable under the Act) by way of composition under sub-section (2) of section 16, and the rules framed

thereunder on the sale of lottery tickets and declare that I shall be dealing in the following type of lotteries –

Sl. No.	Type of Lottery	Name of the State/ Private operator of lottery

Place -----

Signature of lottery dealer

Date -----

ACKNOWLEDGEMENT

Received option from M/s -----
(mention complete name and address with TIN/GRN, if any.)

Place

Signature of Assessing Authority

Date

Name in CAPITALS:

Designation:

(3) The lottery dealer exercising the option in the manner stated in sub-rule (2) shall have to opt to pay the lumpsum in respect of all the schemes of lotteries operated by all the States or private operators of lotteries, in which he is doing business.

(4) The option to pay the lumpsum may be exercised by a lottery dealer at any time and it shall take effect from the next first draw after exercising the option.

(5) Every lottery dealer shall furnish a return in **Form VAT-XV-E** monthly within fifteen-days of the close of the each quarter.

48. Lumpsum scheme in respect of works contractors.--

(1) Every “small works contractor” (falling in category ‘C’ and ‘D’) engaged in the business of execution of the works within the State (hereinafter in this rule called “the works contractor”) shall, under sub-section (2) of section 16 and subject to the provisions of rule 45 and this rule, at his option, pay the lumpsum on the transfer of property in goods (whether as goods or in some other form) involved in the execution of the work contract, by way of composition calculated at 4 percent of the taxable turnover for execution of each works contract awarded to him during a financial year.

(2) The works contractor opting to pay the lumpsum shall, within thirty days of award of the contract to him, make an application for allowing him to make payment under sub-rule (1) in the following form : -

Form of application

To

The Assessing Authority,
_____ District _____.

Subject: Option to pay the lumpsum by way of composition under sub-section (2) of section 16 of the Himachal Pradesh Value Added Tax Act, 2005.

Sir,

I, ----- (name), aged -----
(years), son of Shri ----- resident of village ----
-----, tehsil -----, Proprietor/ partner/ manager/

managing director of M/s ----- holding TIN/**GRN** -
 ----- and doing business of execution of works contracts
 with effect from _____ do hereby opt to pay lumpsum
 (in lieu of tax payable under the Act) by way of composition
 under sub-section (2) of section 16 of the Himachal Pradesh
 Value Added Tax Act, 2005 and rule framed thereunder on
 the transfer of property in goods (whether as goods or in some
 other form) involved in the execution of the works contracts
 given below: -

Name and address of the contractee	No. and date of award of contract	Place of execution of contract	Total cost of the contract (with escalation) Rs.	Period of execution

2. A copy of the contract or agreement alongwith its enclosures is appended to this application.

Signature of works contractor

Place -----

Date -----

ACKNOWLEDGEMENT

Received option from M/s -----
 (mention complete name and address with TIN/**GRN**, if any.)

Place

Date

Signature of Assessing Authority

Name in CAPITALS:

Designation:

(3) The works contractor shall have to pay the lumpsum in respect of every works contract awarded to him after the exercise of option to pay the lumpsum and, in respect of

other contracts awarded to him prior to exercise of such option, he shall pay tax under section 6 of the Act.

(4) The withdrawal of option to pay the lumpsum by the works contractor shall apply only to the works contracts awarded to him subsequent to such withdrawal, but in respect of other contracts he shall continue to pay the lumpsum till the completion of each of contract.

(5) The works contractor shall file a quarterly return in Form VAT-XV-F.

49. Lumpsum scheme in respect of village industries.--

(1) Any registered dealer running a village industrial unit and registered as such with the Department of Industries, Himachal Pradesh, shall, under section 7 or sub-section (2) of section 16 and subject to the provisions of rule 45 of this chapter, at his option, pay the lumpsum, at the rates given in the following table, namely: -

<i>Dealer having annual turnover</i>	<i>Lumpsum payable</i>
upto Rs. 25 lakhs	@ 25% of the rate of tax notified under section 6
above Rs. 25 lakhs but upto Rs.50 lakhs	@ 50% of the rate of tax notified under section 6

(2) The application to pay the lumpsum shall be made on the following form: -

Form of application

To

*The Assessing Authority,
_____District _____.*

Subject: Option to pay the lumpsum by way of composition under sub-section (2) of section 16 of the Himachal Pradesh Value Added Tax Act, 2005.

Sir,

*I -----(name), aged ----- (Years), son of Shri ----- resident of ----- -- (Address), town: -----, District: -----, * proprietor/ partner/ karta/ manager/ director/ authorised signatory of business of manufacturing and selling ----- goods exclusively in the name and style of M/s -----, situated at ----- (Place), District: ----- holding TIN/GRN -----do hereby opt to pay lumpsum by way of composition in lieu of the tax payable under sub-section (2) of section 16 of the Himachal Pradesh Value Added Tax Act, 2005 and the rules framed thereunder.*

2. I am doing the business in the following goods: -

3. I am running a village industrial units as defined in rule 49 of the Himachal Pradesh Value Added Tax Rules, 2005 for manufacture and sale of goods specified in para (2) ibid.

Place _____

Signature of applicant

Date _____

ACKNOWLEDGEMENT

*Received option from M/s -----
(mention complete name and address with TIN/GRN,, if any.)*

Place
Date

Signature of Assessing Authority
Name in CAPITALS:
Designation:

(3) The dealer running a village industry shall file an quarterly return in Form VAT-XV-G.

(4) The dealer whose taxable turnover during a year exceeds fifty lakh rupees shall pay the tax under the Act,--

(a) at the rates specified in sub-rule (1) of this rule on the taxable turnover upto fifty lakh rupees; and

(b) at the normal rates of tax notified under section 6 on that part of taxable turnover which exceeds fifty lakh rupees.

Such dealer shall also inform the Appropriate Assessing Authority about the date on which his taxable turnover exceeded fifty lakh rupees during the year, and the Assessing Authority shall with effect from the 1st day of April next modify the certificate of registration of such dealer into a certificate of a VAT dealer, and thereupon such dealer shall cease to be eligible for making payment of lumpsum under this Chapter.

Explanation.— For the purpose of this sub-rule,--

(i) “Village Industry” means any industry notified by the State Government and located in “rural area” in tiny sector which produces any goods or renders any services with or

without the use of power and in which the total fixed capital investment in land, building, plant and machinery per head of an artisan or a worker does not exceed Rs.50,000/-, but shall not include an industry which is specified by the State Government in the Schedule; and

- (ii) “Rural Area” means an area, as defined in clause (46) of section 2 of the Himachal Pradesh Panchyati Raj Act, 1994.

50. Lumpsum scheme in respect of other dealers.-- (1) Any dealer specified in this rule shall, under section 7 or under sub-section (2) of section 16 and subject to the provisions of rule 45 and this rule, at his option, shall pay the following lumpsum, namely: -

<i>Dealer having annual turnover</i>	<i>Lumpsum payable</i>
<i>upto Rs. 8 lakhs</i>	<i>Rs.3,600/- per annum</i>
<i>above Rs. 8 lakhs upto Rs.14 lakhs</i>	<i>Rs.8,000/- per annum</i>
<i>above Rs.14 lakhs and upto Rs. 20 lakhs</i>	<i>Rs.14,000/- per annum</i>
<i>above Rs.20 lakhs and upto Rs. 25 lakhs</i>	<i>Rs.20,000/- per annum</i>

(2) The application to pay the lumpsum shall be made on the following form: -

Form of application

To

The Assessing Authority,

_____District_____.

Subject: *Option to pay the lumpsum by way of composition under section 7 and sub-section (2) of section 16 of the Himachal Pradesh Value Added Tax Act, 2005.*

Sir,

*I -----(name), aged ----- (Years), son of Shri ----- resident of ----- -- (Address), town: -----, District: -----, * proprietor/ partner/ karta/ manager/ director/ authorised signatory of business of making and selling ----- goods exclusively in the name and style of M/s -----, situated at ----- (Place), District: ----- holding TIN/GRN-----do hereby opt to pay lumpsum by way of composition in lieu of the tax payable under section 7 and sub-section (2) of section 16 the Himachal Pradesh Value Added Tax Act, 2005 and rules framed thereunder.*

2. I am doing the business in the following goods:-

Place _____

Date _____

Signature of the person making the application

Status _____

ACKNOWLEDGEMENT

Received option from M/s -----

(mention complete name and address with TIN/GRN, if any.)

Place

Date

Signature of Assessing Authority

Name in CAPITALS:

Designation:

(3) The dealer whose taxable turnover in a year exceeds twenty five lakh rupees, shall pay the tax under the Act at the normal rates specified in section 6 on the component turnover exceeding 25 lakhs rupees. Such dealer shall also inform the Appropriate Assessing Authority about the date on which his taxable turnover exceeds 25 lakhs rupees during the year. The Assessing Authority shall w.e.f. the 1st of April next modify the certificate of registration of such dealer into the certificate of a VAT dealer and there upon he shall cease to be eligible for payment of lumpsum under this chapter.

(4) The dealer shall file a quarterly return in Form VAT-XV-H and make payment of the lumpsum quarterly within fifteen days after the close of the each quarter.

CHAPTER-VII MAINTENANCE OF ACCOUNTS

51. Maintenance of accounts by a dealer.-- (1) The following accounts shall normally be maintained by a registered dealer other than the dealers paying presumptive tax or lumpsum under section 7 or sub-section (2) of section 16, --

(a) cash book, day book, ledger, invoice books and purchase vouchers;

(b) a monthly tax account specifying total output tax, total input tax credit and net tax payable or the excess tax credit due for carry forward;

- (c) purchase records, showing details of purchases on which tax has been paid, purchases made without payment of tax, purchases made from an exempted industrial unit and purchases made from outside the State. Original tax invoices for purchases on which tax has been paid and invoices for purchases made without payment of value added tax shall all be retained in date and numerical order;
- (d) sales records showing separately sales made in the State at different rates of tax, zero rated taxable sales, and tax-free sales. Copies of tax invoices related to taxable sales and invoices related to tax free sales shall all be retained in date and numerical order;
- (e) ***record of inter-State sales inter-State transfers of goods, including that of goods sent for job work, supported by statutory declarations and such other evidence as may be relevant;***
- (f) details of input tax credit calculations where the registered dealer is making both taxable and tax-free sales;
- (g) stock records showing stock receipts and deliveries of goods and manufacturing records;
- (h) order records and delivery challans, wherever applicable;
- (i) final annual accounts including trading account, balance sheet and profit and loss account at the end of the year;

(j) bank records, including statements, cheque books counter foils and pay-in-slips.

(2) A dealer may maintain account books as per his requirement and nature of business but these shall contain all the information specified in this rule.

(3) Every person who is required to deduct tax under section 17, shall keep account of the payments made, whether by cash, adjustment, credit to the account, recovery of dues or in any other manner, to the work contractors in relation to or for the execution of the works contract(s) or the supply of goods, as the case may be. The accounts shall be kept separately in respect of each works contract or the contract for the supply of goods and each contractor or supplier, as the case may be. Such person shall, when required by any other officer of the Excise and Taxation Department not below the rank of an Excise and Taxation Inspector produce the accounts before him.

52. Particulars to be mentioned in tax invoice.-- (1) A tax invoice shall be issued from duly bound invoice book except when invoices are prepared on computer or any other electronic or mechanical device. It shall be atleast in triplicate and contain consecutive serial number.

(2) The respective copies of the invoice shall bear these words prominently. The original copy shall carry the note, "Input

Tax Credit is available to a registered dealer against this copy” and the second copy shall carry the note. “This copy does not entitle the holder to claim input tax credit”. The original copy shall be issued to the purchaser, the second copy shall be for transportation of the goods and the last copy shall be retained by the seller.

(3) The words VAT invoice shall be prominently printed on the invoice.

(4) The tax invoice shall, as far as may be, in **Form VAT-XVIII**.

53. Particulars be mentioned in a retail invoice.-- (1) A retail invoice shall be issued from duly bound invoice book except when the invoices are prepared on computer or any other electronic or mechanical device. It shall be atleast in duplicate.

(2) The first copy of a retail invoice shall be issued to the purchaser of goods. The second copy shall be retained by the selling dealer.

(3) The retail tax invoice shall, as far as may be, in **Form VAT-XIX**.

54. Particulars etc. to be mentioned in cash memo.-- A cash memo or a bill shall be issued from the duly bound

invoice book except when the cash memo or bill is prepared on computer or any other electronic or mechanical device. The cash memo or bill to be issued by the dealer in respect of goods sold by him or on his behalf exceeding Rs.200/-, in value in any one transaction shall, as far as may be, in **Form VAT-XX**.

55. Particulars etc. to be mentioned in Credit/ Debit Note.--

(1) A credit/ debit note shall be issued from the tax invoice book and shall contain the following information:--

- (a) words 'credit note' or 'debit note' shall be written on the invoice prominently;
- (b) the name, address and registration number of the person to whom issued;
- (c) date and number of invoice to which credit or debit note relates;
- (d) brief reasons about issuance of debit or credit note; and
- (e) the value of goods and the amount credited or debited alongwith tax effect.

(2) The note shall carry the date of issue and signature of proprietor or partner or director as the case may be.

(3) The retail tax invoice shall, as far as may be, in **Form VAT-XXI**.

56. Electronic maintenance of record.-- (1) A dealer may electronically maintain or generate all or any of the records, returns and invoices prescribed under rules 52 to rule 54, using a computer, in electronically readable format after informing the Commissioner or Appropriate Assessing Authority about the system to be followed. Whenever changes are made in the system the dealer shall inform the Commissioner or the appropriate Assessing Authority within fifteen days.

(2) The printout (hard copies) of records and documents shall be taken out at the end of each month and kept in bound folders, separately for each type of record, returns and invoices.

(3) The dealer shall ensure that proper back-up records are also maintained and preserved so that in the event of destruction due to unavoidable accidents or natural calamities, the information can be restored within reasonable period of time. All such records, returns, invoices and other documents (both electronic and hard copy, including back-up records) shall be preserved and retained for a period of six years (counted from the first day of the financial year following the financial year to which a record, return, invoice pertains) or until the assessment becomes final, whichever is later.

(4) It shall be the duty of a dealer, who maintains electronic

records, to produce on demand, the relevant records, in hard copy and/ or in the electronically readable format alongwith the flow and treatment of transactions through accounting system, from the stage of initiation to closure and storage to the Appropriate Assessing Authority or any other officer not below the rank of Excise and Taxation Officer.

(5) The dealer shall also provide account of the audit trail and inter-linkages, whether paper or electronic, and the financial accounts record layout, data dictionary and total number of records in each field alongwith sample copies of such records.

(6) In case any dealer is found to be misusing this facility or not providing access to the information or if there are any other cogent reasons, the Commissioner or any other officer, duly authorised by him, not below the rank of Excise and Taxation Officer may, after recording such reasons and after taking into consideration the explanation tendered by the person regarding the discrepancies, if any, prohibit a person from electronically maintaining or generating any records, returns or invoices using computer.

57. Manner of authentication of accounts books.-- (1) A dealer when required by the Appropriate Assessing Authority shall produce any book, document or account relating to his business before it for the purpose of authentication.

(2) The Appropriate Assessing Authority shall, as far as

possible, with prior notice, authenticate the books of accounts of the dealer.

(3) (a) The Appropriate Assessing Authority shall append his signatures alongwith his seal at one or more places in each of the books, documents or account and record a certificate in the following form at the opening page thereof: -

“Certified that the book/document/account contains---- pages and I have put my signatures alongwith the official seal at pages..... and

Date.....

District

Signature of the Appropriate Assessing Authority.”

(b) The Assessing Authority shall keep a regular record of such authentication in the respective file of the dealer for utilization at the time of inspection of his premises or accounts or stocks.

(4) The Appropriate Assessing Authority shall make note of such authentication on the list of accounts required to be maintained under clause (b) of sub-section (2) of section 32 by the dealer.

58. Record of cross checking and survey.-- The appropriate Assessing Authority shall keep a record of the notices issued for the purpose of crosschecking, survey and authentication of account books.

CHAPTER-VIII
CARRIAGE AND TRANSPORT OF GOODS AND
INSPECTION OF GOODS IN TRANSIT

59. Carriage and transport of goods. -- (1) Every carrier of goods or agent of a transporter including an employee of a transport company or booking agency shall in respect of goods sale or purchase whereof is taxable under the Act, maintain true record of such goods, transported, delivered or received for transport in the forms or transport receipt, forwarding note way-bill, despatch register and delivery register which shall, as far as may be in **Forms VAT-XXII, VAT-XXII-A, VAT-XXII-B, VAT-XXII-C** and **VAT-XXIV** respectively. Such record shall be preserved by him for a period of five years. He shall also preserve in record the letters of authority mentioned in clause (c) of sub-rule (3) of this rule for a similar period.

(2) Transport receipts and way-bills shall be serially numbered in a consecutive order. The serial number shall be upto 1,00,000 where-after a fresh series of transport receipts and Way-bill, shall start, intimation thereof shall be given by the transporter to the Assistant Excise and Taxation Commissioner or the Excise and Taxation Officer of the district before bringing the fresh series in use.

(3) No carrier of goods or agent of a transport company or booking agency shall transport, accept for booking or release any consignment of goods the sale or purchase of which is taxable under the Act, unless ---

- (a) the consignment is covered by a copy of purchase invoice or sale bill or delivery note as the case may be;
- (b) the particulars regarding consignment intended to be booked are furnished in the forwarding note in **Form VAT- XXII-A** by the consignor;
- (c) the transport receipt bears stamped endorsement from the consignee indicating his full particulars and registration certificate number, if any;

(4) The driver or the person-in-charge of a vehicle shall always carry with him a copy of Way-bill in **Form VAT-XXII-B** or a copy of the transport receipt in **Form VAT-XXII** in respect of each consignment of goods shall also be carried.

(5) Where delivery of consignment is given to the consignee without the aid of Transport Company or booking agency, the owner, driver or the person-in-charge of the vehicle shall maintain the record regarding delivery of consignments in a register in **Form VAT- XXII**.

60. Accounts of goods received or despatched by registered dealers.-- (1) Every registered dealer shall maintain true record of goods received or goods despatched by road in a register which shall be in Form VAT-XXIV and VAT XXIV-A respectively.

(2) No dealer or any person acting on his behalf shall take delivery of goods, the sale or purchase of which is taxable under the Act, or deliver the goods for booking to a carrier of goods including an agent of a transport company or booking agency, unless: -

(a) a copy of the purchase invoice, sale bill or delivery note, as the case may be, covering the consignment is furnished to the transporter or his representative;

(b) particulars of consignment intended to be booked are furnished in the forwarding note in **Form VAT-XXII-A;**

(c) the agent who takes delivery or delivers goods for booking is in possession of a letter of authority bearing his signatures duly attested from the consignee or consignor, as the case may be; and

(d) stamped endorsement indicating his full particulars and registration certificate number under the Act, if any, is recorded on the transport receipts by the consignee.

61. Delivery note, declarations, surety bond and personal bond. -- (1) The delivery note and the declaration referred to

in sub-section (2) and (4) of section 34 shall be in **Form VAT-XXVI** and **VAT-XXVI-A** respectively.

(2) The declaration referred to in the first proviso to sub-section (4) of section 34 shall be in **Form VAT- XXVII**.

(3) For purposes of sub-section (6) of section 34, the owner of goods or his representative, the driver or other person-in-charge of the goods vehicle or vessel on behalf of the owner of the goods, shall furnish security, or execute a bond with or without sureties as the officer concerned shall direct the security bond and the personal bond shall be in **Forms VAT-XXVIII** and **VAT-XXVIII-A** respectively.

(4) Notwithstanding anything contained in this rule, no declaration shall be required in respect of the transport of goods meant for personal use and such goods shall not be detained at the check-post/ barrier or other place.

62. Printing, custody, issue etc. of declarations in form VAT- XXVI-A. -- (1) The **Form VAT-XXVI-A** shall be printed by the State Government in triplicate specifically indicating the form as “Original”, “Duplicate” and “Triplicate” and shall be serially numbered according to the scheme of series, number and colour as approved by the Commissioner from time to time.

(2) Any dealer, on whose behalf a declaration in **Form VAT-XXVI-A** is required to be furnished before the officer in-charge of the check-post or barrier or is required to be produced before any other officer referred to in sub-section (4) of section 34 of the Act, shall apply to the Appropriate Assessing Authority for the grant of declaration forms in **Form VAT-XXVI-A** stating clearly his reasonable demand for a period of not more than three months disclosing stock and details of declaration forms already in hand and also the date on which and the number in which he was last issued the declaration form:

Provided that if the Commissioner is satisfied that it is necessary so to do, he may, by order in writing, allow the **Form VAT-XXVI-A** to be issued at the check post or barrier to the owner or person incharge of a goods vehicle or vessel *or allow any class of registered dealers to make use of Form VAT-XXVI-A printed (electronically or otherwise) by himself.*

(3) If the appropriate Assessing Authority is satisfied that the requisition of the dealer is genuine and reasonable, he may issue him as many declaration forms as he may deem fit on prior payment of price of such forms, to be fixed by Government from time to time, either in cash or on deposit of such price by the dealer in the Government treasury.

(4) The dealer to whom the declaration forms have been issued shall be responsible for their proper custody and use. If a declaration form, whether blank or completed is lost either from

the custody of any dealer or in transit, he shall report the loss to the appropriate Assessing Authority from whom he obtained it.

(5) On receipt of report referred to in sub-rule (5), the appropriate Assessing authority shall call upon the dealer to furnish a reasonable security by way of an indemnity bond in **Form VAT-XXVIII-B** in respect of each lost form separately or in respect of all the lost forms collectively to safeguard against the misuse of the same.

(6) No dealer to whom a declaration form has been issued shall transfer the same to another person.

(7) No dealer shall furnish or issue any declaration except in a declaration form obtained by him from the Appropriate Assessing Authority having jurisdiction over his principal place of business and not declared obsolete or invalid under the provisions of sub-rule (10).

(8) The dealer referred to in sub-rule (3) shall maintain accounts of the declaration forms in a register in **Form VAT- XXVI-B**.

(9) The dealer shall produce the register prescribed in sub-rule (8) on demand by any Assessing Authority or any other officer subordinate to him and duly authorised by him in writing for inspection.

(10) The Commissioner may, by notification in the Official Gazette, declare certain series, designs or colour of declaration

form as obsolete and invalid. All the dealers shall, on or before the date from which the declaration forms are so declared obsolete and invalid surrender to the appropriate Assessing Authority all such forms which may be in their possession and obtain in exchange such new forms as may be substituted for the forms declared obsolete and invalid:

Provided that new forms shall not be issued to a dealer until he has rendered account of the old forms issued to him and actually returned the balance in hand, if any, to the appropriate Assessing Authority.

(11) Before a dealer referred to in sub-rule (3) makes demand to the Appropriate Assessing Authority for further issue of declaration forms, such dealer shall furnish to that authority the details of the VAT- XXXII-A form previously issued, on the record slip containing the following particulars: -

RECORD SLIP OF FORMS VAT XXVI-A RECEIVED ON _____ FROM THE ASSESSING AUTHORITY _____ / CHECK POST/ BARRIER.

Date	VAT XXVI-A No. used	Owner/ Carrier of goods	Class of goods	Value Rs.	Signature of the dealer
1.	2.	3.	4.	5.	6.
Total					

(12) The account of the **Forms VAT-XXVI-A** received and issued to each dealer shall be maintained by the appropriate Assessing Authority in **Form VAT-XXVI-C**.

(13) For the purposes of section **34 (4)** of the Act, the Officer-in-Charge of the check post or barrier will, after satisfying himself about the correctness and completeness of the declarations, sign and stamp them, showing the date of receipt, with his official seal of the check post or the barrier and return duplicate copy of the declaration to the owner or person incharge of the goods vehicle or vessel. The original copy of the declaration shall be forwarded to the appropriate Assessing Authority of the district, in which the dealer concerned has the principal place of business, under a covering statement in **Form VAT-XXVI-D**, or **VAT-XXV-E** in respect of a registered dealer or an un-registered dealer, as the case may be. The Assessing Authority shall cause to be entered the particulars of the declaration forms, received under **Forms VAT-XXVI-D** and **VAT-XXVI-E**, in a register to be prepared dealer-wise in **Form VAT-XXVI-F**.

(14) In case any dealer liable to pay tax is importing goods meant for the purpose of business from outside the State by Rail, Air, Post office or Courier, he or his agent shall file declaration in Form VAT-XXVI-A with the nearest check post or barrier, if any, or appropriate Assessing Authority or the

Excise and Taxation Inspector of the Circle as per invoice, delivery note, railway receipt, or any document of this nature:

Provided that in respect of such goods as the Commissioner may notify, the declaration in Form VAT XXVI-A shall be furnished in advance only to the appropriate Assessing Authority or the Excise and Taxation Inspector.

(15) The officer in-charge of the check-post/ barrier shall enter the relevant information in the computer and generate serially numbered computerized printouts of Form VAT-XXVI-A, in duplicate. The officer in-charge, shall charge such sum as may be fixed by the Commissioner from time to time as service charge for issuing the computer printouts of Form VAT-XXVI-A from the owner or person in-charge of the goods.

(16) The officer in-charge of the check-post/ barrier shall retain the original foil of the computer generated declaration in Form VAT-XXVI-A and shall return duly stamped and signed to the owner or person in-charge of the goods.

(17) The Commissioner may issue from time to time detailed instructions for issue of blank forms to any dealer, their use, submission after use and surrender of unused forms by him and maintenance of record in relation thereto.

63. Auction of detained goods.-- The goods ordered to be detained under sub-section (8) section 34 or other provisions

of the Act and these rules but which have not been released shall be sold in public auction after following the procedure hereinafter provided: -

(i) the owner of the goods shall have the first choice to re-acquire the goods on payment of penalty or other dues (including tax) for which the Assistant Excise and Taxation Commissioner or Excise and Taxation Officer in-charge of the district or the officer who impose the penalty or the other dues, shall issue a notice calling upon such person to re-acquire the goods within 10 days of the date of issue of such notice and on such person's failure to do so the goods shall be put to public auction;

(ii) the auction shall be conducted by a committee comprising of Assistant Excise and Taxation Commissioner or Excise and Taxation Officer incharge of the district, the officer imposing the penalty and the officer detaining to goods;

(iii) the auction shall be conducted after the Assistant Excise and Taxation Commissioner or the Excise and Taxation Officer incharge of the district or the officer imposing penalty or detaining the goods has certified that the goods have not been released even after the process of law has been completed or the goods are of perishable nature and need immediate disposal;

(iv) the Assistant Excise and Taxation Commissioner or Excise and Taxation Officer incharge of the district may fix a

particular date for putting the goods detained to auction and such date shall be widely publicized under clause (v) of this rule;

(v) the Assistant Excise and Taxation Commissioner or the Excise and Taxation Officer incharge of the district shall cause to be published on the notice-board of his office a list of the goods detained and intended to be sold and the notice shall specify the place, day and time of auction. A notice of fifteen days shall be given before the auction sale is to be conducted. A copy of such notice and list of goods shall also be displayed at one or more public places, Check-posts or Barriers and office of the Assistant Excise and Taxation Commissioner or Excise and Taxation Officer incharge of the district and the Officer incharge of the Check-posts or Barriers at which the goods were detained. A copy of the auction notice shall also be sent to the owner of the goods;

(vi) the intending bidders shall deposit the earnest money equivalent to a sum amounting to ten percent of the estimated value of the goods before the commencement of the auction;

(vii) the auction proceedings shall be recorded in writing;

(viii) the final bid shall be approved by the Deputy Excise and Taxation Commissioner incharge of the Zone, if the auction money exceeds Rupees fifty thousand;

(ix) the auction-purchaser shall pay the sale value of the goods in cash immediately after the sale and he will not be permitted to carry away any part of the goods until he has paid for the same in full and until the sale has been confirmed by the Authority specified in clause (viii). Where the purchaser fails to pay the bid money, the goods shall be resold by auction at once and earnest money deposited by the defaulting purchaser shall be forfeited to the Government. The earnest money deposited by the unsuccessful bidders shall be refunded to them immediately after the auction is over;

(x) after receiving the amount under the above said procedure the goods shall be delivered under proper receipt.

CHAPTER-IX
DEEMED ASSESSMENT, SCRUTINY OF RETURNS,
ASSESSMENT, RE-ASSESSMENT AND
RECTIFICATION OF MISTAKES Etc.

64. Procedure of deemed assessment.-- (1) The returns furnished by a dealer under section 16 shall be duly acknowledged in the manner prescribed therefor, and where all the returns relating to a financial year have been filed and are complete in material particulars, the dealer shall, subject to the provisions of sub-rule (2), be deemed to have been assessed for that year:

Provided that where the returns are not complete in

material particulars, the dealer shall be given an opportunity to complete the same within thirty days of service of the notice.

(2) For the purposes of sub-section (1) of section 16 a return shall be deemed to be --

(i) correct, if its version conforms to that of the accounts maintained by the dealer and the account version cannot be impeached by any adverse information, to the contrary, available on record till **30th November** of the following financial year; and

(ii) complete, in material particulars if it contains the entire information required to be furnished therein, is correct arithmetically and is accompanied by the statutory or prescribed lists, documents and proof of payment of the full amount of tax due according to the returns and is duly signed by the dealer:

Provided that no return shall be deemed to be correct and complete if it is either not accompanied by the statutory or prescribed lists, documents, certificates or declarations or any of these are incorrect or do not set out all the prescribed particulars or are not signed or are improperly signed and if, any list, document, certificate or declaration which is unsigned or not signed by an authorised signatory, it shall be treated as no list or document, certificate or declaration and the accompanying return shall also be treated to be incorrect and incomplete.

65. Acknowledgement of returns to be deemed assessment order. -- Save the cases selected for scrutiny under sub-rule (1) of rule 66 all other cases shall be deemed to have been assessed to tax under sub- rule (1) of rule 64 and in respect of such cases acknowledgement of the annual return shall be deemed to be the copy of the assessment order:

Provided that in respect of cases covered under the proviso to sub-rule (1) of rule 64, the appropriate Assessing Authority shall, after the required documents have been furnished to him and/ or arithmetical mistake, if any, has been corrected and tax due, if any, as a result thereof has been paid, pass an order recording his satisfaction about the completeness of the relevant returns in material particular and supply a copy of such order to the dealer concerned, and thereupon the provisions of **rule 64** shall apply accordingly.

66. Selection of cases for scrutiny.-- The following categories of cases, from the cases under sub-rule (1) of **rule 64** may be taken up for scrutiny: -

- (i) gross turnover exceeding one hundred lakh rupees in a year;
- (ii) claim of input tax credit exceeding four lakhs rupees in a year;
- (iii) claim of refund exceeding fifty thousand rupees in a year;
- (iv) claim of sales made in the course of *inter-State*

trade and commerce or in the course of export of goods out of the territory of India or in the course of import of goods into the territory of India exceeding one lakh rupees in a year;

- (v) cases of industrial units availing any concession under sub-section (5) of section 62;
- (vi) fall in gross turnover or payment of tax compared to last year;
- (vii) claim of sale, purchase or branch/ consignment transfer of goods not matching with the accounts of the other party to the transaction;
- (viii) exception cases in which ratio between purchases and sales or between input tax credit and output tax or between stocks and sales is way out of the general trend in the trade or industry;
- (ix) cases based on definite intelligence about evasion of tax;
- (x) cases selected at random by the Commissioner;
- (xi) cases of any particular trade or trades which the Commissioner may select; and
- (xii) cases in which the dealer fails to complete the return(s) in material particulars or fails to correct the same after being given an opportunity to do so within maximum period of fifteen days from the date of notice.

67. Notice of assessment. -- (1) The appropriate Assessing Authority shall, in each case selected for scrutiny under rule 66, every case where the returns are not correct and complete and in other cases where it appears to the Appropriate Assessing Authority to be necessary to make an assessment under section 21 or 22 in respect of a dealer, he shall serve a notice in **Form VAT-XXIX** upon him: -

(a) stating the period or the return period or periods in respect of which assessment is proposed; and

(b) calling upon him to produce his books of accounts and other documents, which such authority wishes to examine, together with any objection which the dealer may wish to prefer and any evidence which he may wish to produce in support thereof,

and he shall fix a date, ordinarily not less than 10 days after the date of the service of the notice for producing such accounts and documents and for considering any objection which the dealer may prefer.

(2) The assessments under sub-rule (1) shall be completed within three months after service of the notice.

68. Recording of dealer's objection and evidence.-- (1) A dealer who has been served with a notice under rule 67, may prefer an objection in writing personally or through an agent. No fee shall be payable in respect of any such objection.

(2) The Appropriate Assessing Authority may make such enquiries, in respect of the objections made under sub-rule (1), as it may deem fit and record a finding thereon. It may also depute an Inspector who has been authorised in this behalf to record the dealer's objection and to record any evidence brought in support thereof.

(3) The Appropriate Assessing Authority may, for the purpose of assessment, or for ascertaining the latest position of business done by the dealer visit any or all place(s) of business of a dealer whose gross turnover for the period under assessment exceeds five hundred lakh rupees, and it may inspect and examine with the assistance of such other officers or officials as it considers necessary all business activities, processes, accounts, records, documents and other things relevant to the assessment proceedings and where such visits are made, a day-to-day record of the same shall be kept.

69. Assessment of tax and imposition of penalty.-- (1) After considering any objection made by the dealer, any evidence produced in support thereof, the outcome of enquiries made under rule 67 the appropriate Assessing Authority after giving the dealer an opportunity of being heard, shall assess the amount of tax and impose penalty, if any, to be paid by the dealer within the period specified in sub-rule (2) of rule 67.

(2) Notwithstanding anything to the contrary contained in

these rules, in case of a works contract, tax shall be assessed on the “taxable turnover” of the works contractor after deducting all sums towards labour charges, other than any sum on account of labour charges includible in the “turnover” of a dealer under clause (ze) of section 2 of the Act, which are directly related with the goods, property in which has passed in the execution of works contract, whether as goods or in some other form:

Provided that where the labour charges, are not determinable from the accounts of the works contractors, or are considered un-reasonably high considering the nature of the contract, the deductions towards labour charges shall be allowed by the Assessing Authority according to the limits prescribed in column (3) for the type of contract specified in column 2 of the Table given below: -

TABLE

Sl.No.	Type of contract	Labour charges at percentage of the value of the contract.
1.	2.	3.
1.	Fabrication and installation of plant and machinery	25
2.	Fabrication and creation of structural works of iron and steel including fabrication, supply and erection of iron trusses, purlines etc.	15
3.	Fabrication and installation of cranes and joints.	15
4.	Fabrication land installation of	15

	elevators (lifts) and escalators	
5.	Fabrication and installation of rolling shutters and collapsible gates	15
6.	Civil works like constructions of building, bridges, roads/dams, barrages, canal and diversions	25
7.	Installation of doors, door frames, windows frames and grills	20
8.	Supply and fixing of tiles, slabs, stones and sheets.	20
9.	Supply and installation of air conditioning equipments including deeps freezers, cold storage plant and dee-humidore	15
10.	Supply and installation of air conditioners and air coolers	15
11.	Supply and fitting of electrical goods, supply and installation of electrical equipments including transformers	15
12.	Supply and fixing of furniture's and fixtures, partitions including contracts for interior decoration and false ceiling	20
13.	Construction of Railway coaches and wagons on under carriages supplied by railway	20
14.	Construction or mounting of bodies of motor vehicles and constructions of trailers	20
15.	Sanitary fitting for plumbing and drainages or sewerage	25
16.	Laying under ground or surface pipe lines, cables or conductors	30
17.	Dying and printing of textiles	30
18.	Supply and erection of weighing machines and weigh bridges	15
19.	Painting polishing and white washing	30

20.	All other contracts not specified from serial No. 1 to 19 above:	25
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Provided further that the Assessing Authority shall not allow any deduction towards labour charges unless the works contractor has specifically preferred the claim therefor and unless such claim is found by the Assessing Authority to be proper and justified in each case.

(3) Every order of assessment shall be recorded in writing and where the Assessing Authority determines the turnover of a dealer at a figure different from that shown in the return submitted under the provisions of these Rules, the order shall state briefly the reasons therefor, but a failure to state reasons shall not effect the validity of the assessment order.

(4) Every assessment order recorded by the appropriate Assessing Authority shall be communicated to the dealer and a certified copy of the same assessment order, alongwith Tax Demand Notice, if any, shall be supplied to him free of cost.

70. Tax demand notice.-- (1) If any sum is payable by the dealer under rule **69**, the appropriate Assessing Authority shall serve a notice in **Form VAT-XXX** upon him specifying the date, not less than fifteen days and not more than thirty days from the date of the service of the notice, on or before which payment shall be made and he shall also fix a date, on or before which the dealer shall furnish the receipted challan in proof of

such payment.

(2) When the challan is produced, the appropriate Assessing Authority shall make the necessary entry in the personal file of the dealer and the Demand and Collection register in **Form VAT-XVII**.

71. Register of institution and assessment of cases.-- Every Assessing Authority shall maintain a Peshi register in **Form VAT-XXXI** and an Assessment register in **Form VAT-XXXII** in which he shall enter the details of each case instituted and each case assessed respectively.

72. Re-assessment of tax and rectification of clerical or arithmetical or other mistakes.-- (1) The appropriate Assessing Authority shall send a notice in **Form VAT-XXXIII**, to the dealer specified in section 23(1) of the Act, and after hearing him and making such enquiry as it considers necessary, may proceed to re-assess the tax payable on the turnover, which has been under-assessed or has escaped assessment and also take action to impose penalty and recover interest under the Act.

(2) The Assessing Authority, under sub-section (2) of section 23 or any Appellate Authority or any other officer appointed under section 3 of the Act or the Commissioner may, rectify any clerical or arithmetical mistake apparent from the record of any order passed by it:

Provided that no such rectification which has the effect of enhancing the tax, interest, penalty or any other liability shall be made unless the authority concerned has given notice in **Form VAT-XXXIII** to the dealer concerned of its intention to do so and has allowed him a reasonable opportunity of being heard:

Provided further that the Commissioner may, in the like manner rectify any mistake apparent from the record under section 47 of the Act.

(3) Any additional demand created or any refund due as a result of the rectification shall be recovered or allowed as the case may be, in the manner provided for recoveries and refunds under the Act and these rules.

73. Jurisdiction of Assessing Authorities.-- (1) An Assistant Excise and Taxation Commissioner or the Excise and Taxation Officer, incharge of the district and other Excise and Taxation Officers shall exercise the powers of Assessing Authority in relation to all dealers within his territorial jurisdiction, subject to the overall control of the Deputy Excise and Taxation Commissioner of the zone.

(2) The Assistant Excise and Taxation Commissioner or Excise and Taxation Officer, incharge of the district may on an application made to him in this behalf, for reasons to be recorded in writing by an order transfer any case from the file

of Excise and Taxation Officer serving in his district, to his own file and vice-versa.

(3) The Deputy Excise and Taxation Commissioner of the zone may *suo-moto* or on application made to him in this behalf, by order in writing, transfer any case from one Assessing Authority to another *of the same district*:

Provided that where an application for such transfer lies under sub-rule (1), no application under this sub-rule shall lie unless the former application has been rejected under sub-rule (1).

CHAPTER-X PROCEDURE FOR REFUNDS

74. Application for refund.-- An application for refund of any amount admissible under section 28 shall be made to the appropriate Assessing Authority and shall contain the grounds on which the refund is claimed.

75. Determination of amount of refund and sanction. -- (1) When the Assessing Authority is satisfied after such scrutiny *of* accounts and such inquiries as it considers necessary that the claim for refund is admissible, he shall determine the amount of refund due and shall, if the amount to be refunded: -

- (i) does not exceed *ten* thousand rupees, record an order sanctioning refund;

- (ii) exceeds *ten* thousand rupees but does not exceed *twenty five* thousand rupees, submit the record of the case together with his recommendations to the Assistant Excise and Taxation Commissioner or Excise and Taxation officer In-charge of the District, as the case may be, for orders;
- (iii) exceeds *twenty-five* thousand rupees but does not exceed *fifty* thousand rupees, submit through Assistant Excise and Taxation Commissioner or Excise and Taxation Officer Incharge of the District, the record of the case together with his recommendations to the Deputy Excise and Taxation Commissioner or other officer Incharge of the zone (except Flying Squads) concerned, as the case may be, for orders; and
- (iv) exceeds *fifty* thousand rupees, submit through the officers Incharge of the District and Zone concerned, the record of the case together with his recommendations to the Commissioner for orders;

and the Assessing Authority shall record the order sanctioning the refund mentioned in clauses (ii), (iii) and (iv) only in

accordance with the orders made by authorities specified in respective clause.

(2) When an order for the refund of any amount has been made, the officer-in-charge of the district ---

- (i) shall, if the dealer desires payment in cash issue to him a refund payment order in **Form VAT-XXXIV** for such amount as may remain after adjusting the recovery of any amount due from the dealer or other person;
- (ii) if the dealer desires payment by adjustment against any amount subsequently payable by him the officer-in-charge of the district or the appropriate Assessing Authority shall issue refund adjustment order in **Form VAT-XXXV** authorising the dealer to deduct the sum to be refunded from the amount payable by him in respect of the period for which a return is to be filed subsequent to the issue of such refund adjustment order or from any amount determined to be payable by him subsequently. After allowing adjustment the officer-in-charge of the district or the Assessing Authority, as the case may be,

shall cause a refund adjustment order to be cancelled.

(3) Where a refund payment order or a refund adjustment order is issued the authority issuing such order shall simultaneously record an order sanctioning the interest payable, if any, under section **19** on such refunds specifying therein, the amount of refund the payment of which was delayed, the period of delay for which such interest is payable and the amount of interest payable by the State Government and shall communicate the same to the dealer to whom the interest is payable and also to the Commissioner stating briefly the reasons for the delay in allowing the refund. Where an order for the payment of interest on delayed refund under this rule has been made, the sanctioning authority shall issue to the dealer interest payment order.

76. Claim of adjustment.-- In support of claim for deduction according to rule **75**, a dealer shall attach refund adjustment order to the next return to be furnished by him.

CHAPTER-XI APPEAL AND REVISION

77. Submission of appeal or application for revision. -- (1)

Every memorandum of appeal under section **45** shall –

(a) (i) be in writing; and

(ii) be in **Form VAT-XXXVI** when appeal is filed under section **45** (a) or (b), and in **Form VAT-**

XXXVII when appeal is filed under section **45** (c);

(b) specify all the particulars given in **Form VAT-XXXVI** or in **Form VAT-XXXVII** as the case may be;

(c) contain a clear statement of facts and grounds of appeal briefly but clearly set out;

(d) state precisely the relief prayed for;

(e) be accompanied by ---

(i) the original order against which appeal is made or certified copy thereof unless the omission to do so or to produce such order or copy is explained at the time of presentation of a memorandum of appeal to the satisfaction of the appellate authority; and

(ii) proof of payment of tax (including interest, payable) or of penalty, or of both unless the inability to make payment of these amounts is proved and unless a written prayer to that effect has been submitted alongwith the memorandum of appeal;

(f) be signed and verified by the appellant or by an agent duly authorised by him in that behalf in the manner provided in **Form VAT-XXXVI** or in **Form VAT-XXXVII**, as the case may be.

- (2) Every application for revision under sub-section (3) of section **46** shall be in **Form VAT-XXXVIII**.
- (3) The provisions of sub-rule (1) except the provisions of sub-clause (ii) of clause **(f)**, shall also apply *mutatis mutandis* in relation to the submission of application for revision.
- (4) The memorandum of appeal under sub-rule (1) or application for revision under sub-rule (2) shall either be presented by the appellant or applicant or his agent, as the case may be to the appellate or revisional authority or be sent to the said authority by registered post.
- (5) The memorandum of appeal or application for revision shall be accompanied by the order in original against which it is made or duly authenticated copy thereof, unless the omission to produce such order or copy is explained at the time of the presentation of the appeal or application for revision to the satisfaction of the appellate or revising authority.

78. Summary rejection. -- (1) If the memorandum or appeal or application for revision omits to state any of the particulars required under rule 77 or is not accompanied by the orders against which it is made or a duly authenticated copy thereof, the appeal or application for revision may be summarily rejected:

Provided that no appeal or application for revision shall be summarily rejected under this sub-rule unless the appellant or the applicant is given an opportunity to amend the memorandum of appeal or application for revision, as the case may be.

(2) The appeal or application for revision may also be summarily rejected on grounds other than those specified in sub-rule (1) which the appellate or revising authority may consider sufficient and which shall be reduced in writing by the appellate or revising authority:

Provided that before an order summarily rejecting an appeal or an application for revision under this sub-rule is passed, the appellant or applicant shall be given an opportunity of being heard.

79. Hearing and disposal of appeals or applications for revision. -- (1) If the appellate or revisional authority does not reject the appeal or application for revision under rule 78, it shall admit the appeal or application for revision and shall fix a date for its hearing.

(2) The appellate authority shall send a copy of the memorandum of appeal to the authority or officer against whose order the appeal has been preferred asking him to send the record of the order appealed against together with his comments.

(3) The Tribunal shall send a copy of application made to it under sub-section (3) of section 46 of the Act to the Commissioner against whose order application for revision has been preferred and call for the record of the case together with his comments.

(4) (i) The appellate authority shall give a notice of hearing to the appellant and to the authority or officer against whose order the appeal under section 45 has been preferred. Such notice may be delivered personally or may be sent by post.

(ii) The Tribunal shall give a notice of hearing to the applicant who made the application under sub-section (3) of section **46** of the Act and to the authority or officer against whose order the application for revision has been preferred. Such notice may be delivered personally or *may* be sent by post.

(5) The appellate authority shall decide such appeal after consideration of the comments that may be furnished by the authority or officer under sub-rule (2) or if the authority or the officer so desires through any of its subordinates or through an authorised representative of the State Government, and after giving an opportunity to the appellant of being heard either in person or by a duly authorised agent.

(6) The appellate authority may before deciding the appeal under sub-rule (5) itself hold such further enquiry or direct it to be held by the authority or officer against whose decision the appeal has been preferred, or by any other officer duly authorised by it for the purpose, as may appear necessary to the said appellate or revisional authority.

(7) The Tribunal shall decide such application for revision filed under sub-section (3) of section **46** of the Act after considering any representation that may be made on behalf of the Commissioner through any of his subordinate or through an authorised representative of the State Government and after giving an opportunity of being heard to the applicant either in person or by a duly authorised agent.

(8) The appellate or revisional authority aforesaid may for sufficient reasons adjourn at any stage, the hearing of an appeal or application for revision to a different time on the same day or any other day.

(9) If on the date and time fixed for hearing or on any other date and time to which the hearing may be adjourned the appellant or the applicant does not appear before the said authority either in person or through an agent, the said authority may, dismiss the appeal or revision as the case may be, or may decide it *ex parte* as it may think fit:

Provided that if, within thirty days from the date on which the appeal or application for revision was dismissed or decided *ex parte* under this sub-rule, the appellant or the applicant, as the case may be, makes an application to the appellate or revisional authority for setting aside the order and the said authority is satisfied, that the intimation of the date of hearing was not duly served on him or that he was prevented by sufficient cause from appearing when the appeal or application for revision, as the case may be, was called on for hearing, the said authority shall make an order setting aside the dismissal or *ex parte* decision upon such terms as it may think fit, and shall appoint a day for proceeding with the appeal or application for revision.

(10) The appellate or revisional authority may also impose cost on the appellant or applicant for revision for non attendance or non compliance with the orders.

(11) The appellate or revisional authority shall maintain an institution register and a disposal register of appeals or applications for revision or *suo moto* revisions in **Forms VAT-XXXIX and VAT-XXIX-A** respectively.

(12) The Commissioner may on application and for reasons to be recorded in writing transfer an appeal from one Deputy Excise and Taxation Commissioner to another.

80. Revision by Commissioner.--- (1) When the Commissioner proposes to pass an order under sub-section (1) of section 46, which adversely affects any person, he shall issue a notice in **Form VAT-XXXX** to such person or the dealer and to the Assessing Authority or the appellate authority concerned, as the case may be, before whom the proceedings referred to in that section are pending or by whom the same have been disposed of or by whom the order has been made therein. Such notice may be delivered personally or may be sent by post.

(2) The Commissioner shall pass the order under sub-section (1) of section 46 of the Act after considering any representation that may be made under sub-rule (1), either in person or through any of its subordinates by the authority or the officer before whom the proceedings are pending or by whom these have been disposed of or by whom any order has been made therein, and after giving an opportunity to the person or dealer of being heard either in person or by a duly authorised agent.

(3) The provisions of sub-rules (7), (8) and (9) of rule 79 shall, *mutatis mutandis*, apply in relation to the passing of an order by the Commissioner under sub-section (1) of section 46 of the Act.

81. Order and appeal or revision to be communicated.--

(1) A copy of every order finally disposing of an appeal or of an order summarily rejecting an appeal under rule 78 passed by the appellate authority shall be sent to the appellant and to the Assessing Authority or the officer concerned, as the case may be.

(2) A copy of every order finally disposing of an application for revision under sub-section (3) of section 46 of the Act passed by the Tribunal shall be sent to the applicant and to the Assessing Authority or the officer concerned, as the case may be.

(3) A copy of every final order passed by the Commissioner under sub-section (1) of section 46 of the Act shall be sent to the person or the dealer in whose case the same has been passed and to the Assessing Authority or appellate authority or any other officer concerned, as the case may be.

(4) The copy of the orders to be communicated under sub-rule (1), (2) or (3) may be delivered personally or may be sent by post.

82. Execution of the order of appellate or revisional authority.--

(1) Unless the order passed *in* appeal under section 45 is subject matter of further proceedings, the order passed in appeal under section 45, which has the effect of barring or modifying any order of the Assessing

Authority, appellate authority or any other officer, such authority or officer shall take action to implement the order, and the Assessing Authority or other officer shall realise the deficit or refund or adjust the amount paid in excess, as the case may be. The excess amount shall be refunded in the manner as laid down in rule 74.

(2) The provisions of sub-rule (1) shall, *mutatis mutandis*, apply to a revisional order passed under section 46.

CHAPTER-XII
ISSUE OF SUMMONS, SERVICE OF NOTICES
INSPECTION OF RECORDS BY DEALERS AND
FEES ETC.

83. Issue of summons.-- The summons to be issued by the assessing, appellate and revisional authority for the appearance of any person or for the production of a document or documents by him, may be in **Form VAT-XXXXI**.

84. Service of notice.--- (1) Notice under the Act or under these rules shall be served by one of the following methods: -

- (a) by delivery by hand of a copy of the notice to the addressee or to any other agent duly authorised in this behalf by him or to a person regularly employed by him in connection with the business in respect of which he is registered as a dealer, or to any adult male member of his family residing with the dealer.

(b) by post; provided that if upon an attempt having been made to serve any such notice by either of the above said methods, the authority concerned has reasonable grounds to believe that the addressee is evading the service of notice or that, for any other reason which in the opinion of such authority is sufficient that notice cannot be served by any of the above-mentioned methods, the said authority shall after recording the reasons therefore cause the notice to be served by affixing a copy thereof –

(i) if the addressee is a dealer, on some conspicuous part of the dealer's office or the building in which the dealer's office is located, or upon some conspicuous part of the place of the dealer's business last intimated to the said authority by the dealer or of the place where the dealer is known to have last carried on business; or

(ii) if the addressee is not a dealer, on some conspicuous part of his residence or office or the building in which his residence or office is located and such service shall be deemed to be as factual as if it has been made on the addressee personally:

Provided further that, where the officer, at whose instance the notice is to be served is on enquiry satisfied that the said office, building, place or residence is known not to exist or is not traceable, such officer may by order in writing dispense with the requirement of service of the notice under the last preceding proviso.

(2) When the officer serving a notice delivers or tenders a copy of the notice to the dealer or addressee personally or to his agent or to any of the persons referred to in clause (a) of sub-rule (1) he shall require the signature of the person to whom the copy is so delivered or tendered to an acknowledgement of service endorsed on the original notice. When the notice is served by affixing a copy thereof in accordance with the first proviso to sub-rule (b) the officer serving it shall return the original to the authority which issued the notice with a report endorsed thereon or annexed thereto, stating that he so affixed the copy, the circumstances under which he did so and the name and address or the person if any, by whom the addressee's office or residence or the building in which his office or residence is located or his place of business was identified and in whose presence the copy was affixed. The said officer shall also obtain the signature or thumb-impression of the person identifying the addressee's residence or office or building or place of business to his report.

(3) When service *is* made by post, the service shall be deemed to be effected by properly addressing or preparing the notice and posting it by registered post with acknowledgement due, and unless the contrary is proved, the service shall be deemed to have been effected at the time at which the notice would be delivered in the ordinary course of posts.

85. Inspection of record by dealers.-- (1) In the case of every dealer, the appropriate Assessing Authority shall prepare separately two files, namely, the 'personal file' and the 'confidential file'.

(2) The dealer concerned or his agent, on making to the appropriate Assessing Authority, a written application stamped with a court fee of the value of rupees ten, *may* inspect the record of his 'personal file' or any entries relating to himself in any register maintained under the rules. A separate application shall be made for the inspection of each record or register.

(3) The court fee of rupees ten paid on the application shall cover the first hour of inspection only. For each subsequent hour or part of an hour, an additional court fee stamp of rupee ten must be supplied by way of payment before hand. No fresh application shall be demanded for the continuation of an incomplete inspection on the next working day.

(4) If the document to be inspected relates to any previous year, research fee in the form of a court-fee stamp of the value of rupee twenty per application shall be charged.

(5) A person entitled under sub-rule (2) to the inspection of any document shall be granted a copy of the same on his paying the charges in the shape of court fee on the following scale on an application made in this behalf bearing a court fee stamp of the value of: -

- (a) ten rupees for every entry in a register;
- (b) ten rupees for every notice or summon issued by an Assessing Authority;
- (c) twenty rupees per page for every return or statement recorded in any enquiry held under these rules or any other document of which copies permissible under these rules;
- (d) five rupees for every adverse order of assessment of tax; and
- (e) ten rupees for every other order of assessment; and

(6) If the documents of which a copy is to be granted under sub-rule (5) relates to any previous year, search fee in the form of a court fee stamp of the value of rupee twenty per application shall be charged.

(7) A copy to be granted under sub-rule (5) shall be prepared in the office of the appropriate Assessing Authority.

(8) The provisions of sub-rules (2) to (7) shall apply *mutates-mutandis* to inspection of records of the offices of the appellate and revising authorities and grant of copies thereof.

86. Fees for certain matters.-- The following fees shall be payable in the shape of court fee stamps : --

Sl. No.	Nature of documents	Value of court fee stamps.
1.	(a) Memorandum of appeal under section 45(1) (a)	Twenty rupees
	(b) Memorandum of appeal under section 45 (1) (b) and (c)	Fifty rupees
	(c) Application for revision under section 46 (3)	One hundred rupees
	(d) Application for rectification of mistakes under section 47.	Twenty rupees
2.	Vakalatnama by an advocate or a relative or a regular and whole-time employee of the assessee or dealer or an agent, when filed before the Tribunal, Commissioner and any officer below the rank of commissioner.	Five rupees
3.	(a) Application for adjournment of any proceedings before any authority under the Act.	Five rupees
	(b) Application for restoration of appeal etc.	Twenty rupees

4.	(a) Copy of any order passed by any authority under the Act or any other document. (b) Application for urgent copies.	Two rupees for every page or part thereof. Double of the fee payable in 4 (a), above, (copies to be issued within two days from the date of receipt of application.
5.	Application for amendment or registration certificate	Twenty-five rupees.
6.	Application for grant of instalments of demand of tax etc. or postponement of payment of any demand or stay of demand of tax etc.	Ten rupees
7.	Application for deferment certificate, exemption certificate or any other certificate under the Act.	Twenty five rupees
8.	Application for statutory forms under the Act.	Nil
9.	Application for any other document not covered under Sl. No. 1 to 8, above and rule 86.	Five rupees.

CHAPTER- XIII MISCELLANEOUS

87. Superintendence and control of administration under the Act. -- (1) The Commissioner shall superintend the administration and the collection of tax leviable under the Act and shall control all officers appointed to assist him under section 3(1) of the Act.

(2) Subject to the control of the Commissioner, the Deputy Excise and Taxation Commissioner, incharge of the zone shall control all other officers subordinate to him and posted in the districts and areas under his jurisdiction.

(3) Subject to the control and direction of the Commissioner and Deputy Excise and Taxation Commissioner incharge of the zone, the Assistant Excise and Taxation Commissioner or the Excise and Taxation Officer incharge of a district is charged with the duty of carrying out the provisions of the Act.

(4) Subject to the provisions contained in sub-section (4) of section 3 and sub-section (2) of section 46, the Commissioner may either *suo-moto* or on application, for reasons to be recorded in writing transfer an assessment or revision, at any stage of the proceedings pending before any assessing authority, or revisional authority appointed to assist him under sub-section (1) of section 3 to another assessing or such revisional authority and shall communicate the order of transfer to the applicant affected by the order and to the authorities concerned.

88. Delegation of routine duties.-- An Assessing Authority may, by an order in writing, delegate or authorise generally or in any particular case any person subordinate to and working under it to exercise the powers conferred upon such authority

under these rules in so far as such powers relate to preparation and signing of receipts, notices and challans under these Rules.

89. Powers to extend time.-- Where in these rules a period is prescribed for doing a certain act, the appropriate Assessing Authority may, for special reasons to be recorded in writing, extend that period from time to time.

90. Business owned by a person under disability.-- A trustee, a guardian or manager (whether appointed by a court or otherwise), or the Court of Wards carrying on a business on behalf of an owner who is under disability, shall be liable to perform all obligations imposed by the Act and these rules in respect of such business to the same extent as the owner would have been liable if he had not been under disability and had been carrying on the business himself.

91. Business forming part of a Estate under the control of a Court.-- The Administrative General, the Official Trustee, and Executor to Administrator, under the Indian Succession Act, 1925 or any Receiver, carrying on any business forming part of an estate placed under his control by order of a court shall be liable to perform all obligations imposed by the Act and these rules in respect of such business to the same extent as if he were the owner of the business and shall also be liable to pay any tax, penalty or interest under the Act and these rules for the period during which he remained in control

thereof.

92. Supply of copies of order of Assessment, appeal or revision.-- (1) A certified copy of the assessment order alongwith a copy of the notice as prescribed in rule 70 shall be supplied to the dealer by the appropriate Assessing Authority.

(2) Immediately on passing an order in appeal or revision, its certified copy shall be supplied to the appellant or applicant, as the case may be, by the authority concerned.

CHAPTER-XIV DEFERMENT AND EXEMPTION

93. Conditions of incentives for the unexpired period of sales tax incentives.-- For the purposes of sub-section (5) of section 62, the conditions of exemption or deferment shall be the same as existing under the repealed Act at the commencement of the Act:

Provided that where any dealer (industrial unit) has been availing the incentive of partial exemption from tax levied under the repealed Act, such dealer shall be entitled to pay tax for the unexpired period of the incentive on the sale of goods manufactured by such dealer, at the rate of 25% of the rates of tax notified or specified under section 6 of the Himachal Pradesh Value Added Tax Act, 2005:

Provided further that such dealer shall not be entitled

to any input tax credit on the goods purchased by him.

94. Invoice to be issued by units enjoying incentives.--

Notwithstanding anything to the contrary contained in these rules an industrial unit which is availing the facility of exemption shall issue a retail invoice and an industrial unit which is availing the facility of deferment shall issue a tax invoice in respect of the goods sold by it.

95. Assessments etc.-- The industrial unit availing the facility of exemption from payment of tax or of making deferred payment of tax shall be governed by the provisions of the Act and these rules. The additional demand, if any created, under the Act or these rules shall be paid as per the provisions of the Act and Rules made thereunder.

SCHEDULE
Input tax restricted goods

Section 11(8) registered dealer shall not qualify for Input Tax Credit in respect of tax paid on purchase of the following goods, namely: -

Sl. No.	Description of goods
1.	Automobiles including commercial vehicles, two wheelers, three wheelers and spare parts for the repair and maintenance thereof, unless the dealer is in the business of dealing in such automobiles or spare parts.
2.	Article of food and drinks sold and prepared in eating-places including cakes, biscuits and confectionery, sweets and sweet meat.
3.	All electrical or electronic goods and appliances including air conditioners, air coolers, telephones, fax machines, duplicating machines, photocopiers and scanners, parts and accessories thereof, other than those for sale or use in the manufacture, processing, packing and those for use in computing, issuing tax invoice or sale bills, security and storing information.
4.	Petrol, diesel, aviation turbine fuel, liquefied petroleum gas and condensed natural gas, unless the taxable person is in the business of selling such products and subject to second proviso to sub-section (3) of section 11 of the Act.
5.	Furniture, fixtures including electrical fixtures and fittings, office equipments and building materials unless the dealer is in the business of dealing in such goods.
6.	Earth moving equipment such as bulldozers, JCB's and proclain etc., unless the dealer is in the business of dealing in these goods.
7.	Lime, limestone, clinker and dolomite.
8.	Timber.