

JAMMU AND KASHMIR VALUE ADDED TAX RULES, 2005

(No. III of 2005, dt. 9-6-2005)

In exercise of the powers conferred by section 85 of the Jammu and Kashmir Value Added Tax Act, 2005 (Act No. III of 2005), the Government hereby make the following rules to carry out the purposes of the said Act, namely:

PRELIMINARY

1. Short title and commencement

- (1) These rules may be called the Jammu and Kashmir Value Added Tax Rules, 2005.
- (2) They shall be deemed to have come into force on the first day of April, 2005.

2. Definitions

- (1) In these rules, unless the context otherwise requires:
 - (i) "Act" means the Jammu and Kashmir Value Added Tax Act, 2005 and any reference to a schedule to the Act includes reference to a Schedule as amended from time to time;
 - (ii) "Agent" means an authorized representative as defined in rule 87;
 - (iii) "Circle" means the jurisdiction of the Assessing Authority determined by the Commissioner under rule 3;
 - (iv) "Commercial Taxes Officer" means the officer appointed by that designation by the Government under sub-section (2) of section 3;
 - (v) "Empowered Authority" means the officer empowered to exercise powers under the Act;
 - (vi) "Form" means a form appended to these Rules;
 - (vii) "Inspector" means a Commercial Taxes Inspector appointed by the Competent Authority and posted in the Department;
 - (viii) "Jurisdictional Assessing Authority" means the Assessing Authority Incharge of a Local Commercial Tax Circle in which the principal place of business of a dealer is located;
 - (ix) "Month" means a calendar month;
 - (x) "Quarter" means a unit of three months of the year;
 - (xi) "Registering Authority" means an officer who in his capacity as Deputy Commissioner Commercial Taxes or Jurisdictional Assessing Authority issues a certificate of registration to the dealer;
 - (xii) "Return Period" means the period for which the returns are prescribed to be filed by a dealer;
 - (xiii) "Section" means a section of the Act;
 - (xiv) "State" means the State of Jammu and Kashmir;
 - (xv) "Treasury" means a treasury or sub-treasury of the Government or any branch of the Jammu and Kashmir Bank Ltd., or any Scheduled /Nationalized bank as maybe notified by the Government from time to time;
 - (xvi) "Warehouse" means any enclosure, building or a vessel in which a dealer keeps stock of goods for sale or re-sale.
- (2) Words and expressions used herein but not defined shall have the same meaning as assigned to them in the Act.

JURISDICTION & DELEGATION OF POWERS

3. Jurisdiction of Assessing Authority

- (a) The Government may by notification in the Government Gazette create circle or circles in respect of which the Assessing Authority/ authorities shall exercise jurisdiction for the purposes of assessment and other functions under the Act.
- (b) The Assessing Authority Incharge of a circle in which the assessee has his place of business or in case he has more than one place of business, the Assessing Authority Incharge of the Circle in which his Head Office as specified in the certificate of registration is located, shall have jurisdiction over such assessee:

PROVIDED that if more than one Assessing Authorities have been posted in a circle or same area has been allotted to more than one circle, the Commissioner shall determine their respective jurisdiction either on the basis of area or persons / class of persons / dealers or in any other manner as he may consider necessary:

PROVIDED FURTHER that the Assessing Authority shall continue to hold jurisdiction unless the place of business or the head office, as the case may be, is changed to some other place falling in any other circle and necessary amendment thereof is made in the certificate of registration on the application made by the assessee.

- (c) A dealer having more than one place of business in the State shall nominate the principal place of business as his head office in the application for registration provided that if the dealer fails to make such nomination the Commissioner may nominate his head office for the purpose of the Act and the Rules.
- (d) Where a doubt or dispute arises with regard to the jurisdiction, the Commissioner shall determine it and his decision shall be final:

PROVIDED that no person shall have the right to call in question the jurisdiction of Assessing Authority over him:

- (i) after furnishing the return under sub-section (1) or sub-section (2) of section 31 or completion of assessment whichever is earlier; or
- (ii) after the time for furnishing return under sub-section (1) or sub-section (2) of section 31 has expired but no such return has been furnished; or
- (iii) after the expiry of the date fixed in the notice issued under sub-section (1) of section 42:

PROVIDED FURTHER that in case of a change of place of business/head office, the proceedings taken by the Assessing Authority shall not be invalid unless amendment regarding such change as required by second proviso to sub-rule (b) of this rule is made.

- (e) (i) If a dealer has more than one place of business in the State and one or more of such branches are located in a Division other than the one in which his head office is located the Assessing Authority(ies) having jurisdiction over the area(s) in which such branch(es) is/are located shall have the power to call for such information as may be necessary for the purpose of the Act. (ii) The Assessing Authority having jurisdiction over a dealer may authorize the Assessing Authority having jurisdiction over the area in which a branch or branches of a dealer is/are located to examine the account books and other documents relating to such branch(es) and such other Assessing Authority shall send the report to the Assessing Authority having jurisdiction over the Head office after examining such account books and other documents.
- (f) In calculating the period of limitation under sections 41, 42 & 43, the time taken in determination of jurisdiction shall be excluded.

Explanation: For removal of any doubt, it is clarified that the Assessing Authority having jurisdiction in respect of an assessee shall have the jurisdiction over all places of his business and in respect of all the business carried on by him within the State.

4. Delegation of powers

Without prejudice to the provisions of section 5 of the, Act the Commissioner may delegate any of his powers in writing except those of revision, determination of jurisdiction and determination of issues, to any authority not below the rank of an Assessing Authority. The Commissioner may not delegate the powers vested in him to a departmental officer with doubtful integrity or against whom any departmental inquiry has been ordered or against whom any case is pending in any court of law.

INCIDENCE AND LEVY OF TAX

5. Determination of taxable turnover

(1) The taxable turnover shall be determined by allowing the following deductions from the turnover:

- (a) The aggregate of the sale price received and receivable by the dealer in respect of sale of any goods in the course of inter-State trade and commerce and export out of the territory of India and sales in the course of import into the territory of India;
- (b) The value of all goods transferred or despatched outside the State otherwise than by way of sale;
- (c) All amounts allowed as discount, provided that such discount is allowed in accordance with the regular practice of the dealer or is in accordance with the terms of any contract or agreement entered into a particular case and provided also that the accounts depict that the purchaser has paid only the sum originally charged less discount;
- (d) All sums in respect of goods sold which are declared tax-free under section 54;
- (e) All sums collected by way of tax under the Act;
- (f) All sums received or receivable by way of interest on the unpaid amount payable in respect of goods delivered on hire purchase or any system of payment by instalments, where such interest is specified and charged for by the dealer separately without including such amounts in the price of the goods delivered and does not exceed thirty percent per annum on the amount remaining unpaid.

6. Computation of input tax and output tax

- (1) Input tax in respect of a VAT dealer for a tax period is the aggregate of tax paid in respect of goods purchased in the State from other VAT dealer(s) on tax invoice(s) during the tax period, which shall be the aggregate of entries made in column (8) in the Input Tax register prescribed in Form VAT-48 in respect of the said period.
- (2) Output tax in respect of a VAT dealer for a tax period shall be the aggregate of tax calculated on the sale of taxable goods made by him in the State during the tax period. It shall be represented by total of entries in column (8) of the Output Tax Register prescribed in Form VAT-49.

7. Method of calculation of credit of input tax

To claim the credit of input tax the dealer shall maintain a commodity-wise account of his purchases, production and sales of goods and co-relate the goods purchased with taxable sale within the State or sale in the course of export outside the territory of India or inter-State sale or goods sent on stock or consignment transfer, and accordingly calculate the input tax credit as provided for the determination of input tax credit under section 21 of the Act. In such a case amount of input tax credit will be the amount of tax paid or payable on the purchase of goods, made from the registered dealers, other than those who have opted for payment of tax under section 25, within the State and whose original VAT invoice has been received in that tax period as reduced by the amount of reverse tax credit and input tax, for which credit has been availed earlier but such goods have subsequently been returned in that tax period.

8. Input tax credit on closing stock held on commencement of the Act

- (1) Subject to the conditions laid down in sub-rule (2) and sub-rule (3) of this rule the Input Tax Credit in respect of closing stock on the date of the commencement of the Act, shall be allowed to such registered dealers who furnish the information called for by the Commissioner in this regard under section 95.
- (2) The Input Tax Credit shall be available only in respect of the taxable goods other than the capital goods purchased from registered dealers within the State on or after 01-04-2004 and still lying in stock on 01-04-2005. The Input Tax Credit shall be available only after the end of the first quarter of the commencement of the Act, subject to the condition that the dealer is able to prove to the satisfaction of the Jurisdictional Assessing Authority through documentary evidence that the said stock of goods has suffered tax. The Jurisdictional Assessing Authority shall carry out the verification within a period of three months after the last date of submission of details notified by the Commissioner in this behalf.
- (3) The set off shall be given for the whole of the tax paid at a rate at which tax has been paid under the Jammu and Kashmir General Sales Tax Act, 1962 or the applicable rate of tax under the Act, whichever is less. The Input Tax Credit shall be available over a period of six months i.e. in two quarters after an interval of three months needed for verification.

9. Adjustment of Input Tax Credit in relation to credit and debit notes

The excess or less Input Tax Credit as provided under section 23 of the Act shall be compensated by the dealer by adjusting the amount of tax credit allowed to him in respect of the tax period subject to the condition:

- (a) That all amounts allowed to the purchasers in respect of the goods returned by them to the dealer shall be deducted from the taxable turnover, provided that the goods are returned within a period of three months from the date of delivery of the goods and the accounts depict the date on which the goods were returned, the date on which the refund was made and the amount of such refund together with the details of credit notes issued as specified under sub-section (1) of section 26;
- (b) That all amounts recovered from the seller in respect of the goods returned to them by the dealer, when the goods are taxable shall be deducted from the taxable turnover, provided that the goods are returned within the period of three months from the date of delivery of the goods and the accounts depict the date on which the goods were returned, the date on which the refund was made and the amount of such refund.

10. Credit notes and debit notes

- (1) Where a registered dealer has given a tax invoice in respect of sale of goods and thereafter the goods or any part thereof are returned to the seller, if the sale is cancelled or for any other reason, or the value of the sale is altered, whether due to a discount or otherwise, he shall subject to the provisions of section 26 give to the buying dealer a credit or debit note containing the following details:
- (a) The nature of the document issued;
 - (b) A consecutive serial number;
 - (c) The date of issue of the document;
 - (d) The name, address and registration number of the selling dealer;
 - (e) The name and address of the buyer, together with the buyer's registration number, if registered;
 - (f) The number and date of the relevant tax invoice;
 - (g) The value of the goods and the amount of the tax credited or debited to the buyer; and
 - (h) Signature of the selling dealer.
- (2) A credit or debit note shall be issued in duplicate with the original marked "original" delivered to the buyer and the copy retained by the registered dealer.
- (3) A registered dealer shall not give more than one credit note or debit note in respect of the same adjustment and may provide a duplicate, where the original of the debit note or the credit note is lost or destroyed with the declaration that it is a duplicate of such credit or debit note.

11. Turnover tax

A dealer opting to pay turnover tax under section 25 shall be entitled to avail benefit of turnover tax subject to the following conditions and restrictions, namely:

- (a) He shall file returns in Form VAT -12;
- (b) He shall maintain due account of purchases and sales in the sale and purchase register;
- (c) He shall not collect any sum by way of tax on the sale of goods till the time his liability to pay turnover tax exists;
- (d) He shall not have any goods in stock brought from outside the State on the date he opts to pay turnover tax and shall not sell any goods brought from outside the State after such date;
- (e) He shall not be a dealer who has claimed tax rebate on stock in hand under section 96 of the Act as on the date of commencement of the Act;
- (f) He shall not be a dealer who has withdrawn his option to pay turnover tax;
- (g) Has paid tax under section 12 for a period of less than twelve months or he was not registered under the Act during the preceding period of twelve months;
- (h) He shall not be a casual dealer or a dealer who is registered voluntarily under section

28.

REGISTRATION, AMENDMENT, CANCELLATION AND SECURITY

12. Registration

- (a) Every dealer other than a Casual Trader liable to be registered (including voluntary registration) shall submit an application in Form VAT-01 to the jurisdictional Registering Authority. The application for registration by a casual trader shall, however be, in Form VAT-02;
- (b) The Registering Authority shall examine in detail each application submitted for registration in order to satisfy itself as also to ensure that the application contains all

- the requisite information and thereupon shall acknowledge the receipt of application;
- (c) After an application of registration has been acknowledged by the Registering Authority it shall cause an inspection of the business premises of the dealer to be conducted and the verification of the contents of the application carried out by the Inspector of the concerned Commercial Taxes Circle;
- (d) The Inspector shall submit his inspection and verification report within 7 days of the application being marked by the Registering Authority, in his name;
- (e) Immediately after receiving the report under sub-rule (d), the Registering Authority shall make such other enquiry as it deems fit to satisfy itself as to the bona fide intentions of the applicant dealer and the documents submitted by him for the grant of registration;
- (f) The Registering Authority on being satisfied that the dealer is genuine and the application is in order and complete in all respects, shall assign TIN in case of a VAT dealer and a voluntary registration dealer, and a registration number in case of other dealers and issue a certificate of registration in Form VAT-03 to a VAT dealer and a Voluntary Registration Dealer, in Form VAT-04 to a Turnover Tax Dealer and in Form VAT-05 to a Casual Trader and also certified copies of such certificate for any additional place of business, within 20 days from the date the applicant dealer makes the requisite application to the Registering Authority in this behalf;
- (g) The Registering Authority may demand a security prescribed under Rule 27 before issuing a certificate of registration;
- (h) If the Registering Authority is not satisfied that the particulars and details given in the application are correct and complete, it shall, for reasons to be recorded in writing after giving the dealer a reasonable opportunity of being heard reject such an application;
- (i) The documents which shall accompany the application for registration in Form VAT-01 shall be as may be notified by the Commissioner, Commercial Taxes Department from time to time;
- (j) Every application for registration in Form VAT-01 and Form VAT-02 shall be accompanied by a Treasury receipt of Rupees five hundred paid under the Head 0040 as registration fee;
- (k) If the registered dealer is a partnership firm or an association of persons it shall submit further application in Form VAT-01(A) to the Registering Authority
- (l) If a registered dealer has more than one place of business, he shall submit a further application in Form VAT-01(13) to the Registering Authority along with Form VAT-01, if the additional place of business exists at the time of submission of an application for registration and in other cases within one month from the opening of additional place of business;
- (m) It shall be mandatory on the part of every registered dealer to display the certificate of registration in a prominent spot at his main place of business, and certified copies shall accordingly be displayed at the additional place of business, if any;
- (n) Any registered dealer who closes any of his additional places of business shall report such closure, within one month of such closure and surrender the copy of certificate of registration issued and certified copies of additional place(s) of business to the Jurisdictional Registering Authority;
- (o) Where a dealer liable to get registered under Section 27 has failed to do so the Jurisdictional Registering Authority shall proceed against the dealer under Section 30.

13. Transitional issues regarding registration

- (1) Every dealer registered under the Jammu and Kashmir General Sales Tax Act, 1962 shall be deemed to be registered under the Act, upon making an application in Form VAT-01 to the Jurisdictional Assessing Authority, and shall be deemed to be so till the time a fresh registration is granted to it under the Act.

- (2) Every dealer registered under the Jammu and Kashmir General Sales Tax Act, 1962 shall make such an application within three months of the appointed day without paying any fee or security and the Jurisdictional Assessing Authority shall issue a fresh registration to such dealer.
- (3) In case a dealer fails to make an application under sub-rule (2) above a notice shall be issued in Form VAT-43 by the concerned Jurisdictional Assessing Authority asking the dealer to give reasons why his registration may not be cancelled.
- (4) In case a dealer fails to respond to the notice issued to him under sub-rule (3) he shall no more be deemed to be a registered dealer under the Act.

14. Conducting inquiry for determining turnover of an un-registered dealer

The Jurisdictional Assessing Authority may conduct inquiry as he may consider necessary for the purposes of determining the turnover for a tax period or a year of an un-registered dealer.

15. Estimation of turnover of an un-registered dealer

The Jurisdictional Assessing Authority may proceed to estimate the turnover for a tax period or a year for the purpose of registration either on the basis of purchases or daily sales particulars or on the basis of stock value, whichever he considers as more relevant.

16. Validity of registration certificate

Every certificate of registration other than the certificate of registration of a casual trader issued under Rule 12 shall be valid for a period of five years from the date of issue and, in case of dealers already registered under Jammu and Kashmir General Sales Tax Act, 1962, the validity of 5 years shall commence from the date a fresh registration is granted to them under Section 104. However in case of a casual trader the certificate of registration shall be valid only for the period as recorded in his certificate of registration.

17. Renewal of registration certificate

- (1) Within three months from the date of expiry of certificate of registration an application for its renewal shall be made to the Jurisdictional Registering Authority in Form VAT-06 along with a fee of Rs. 500/- deposited in the Treasury.
- (2) The Jurisdictional Registering Authority, subject to the condition that the quarterly returns for the preceding quarters have been filed and the tax due thereon has been paid shall renew the certificate of registration within seven days from the receipt of the application, if found in order, for a further period of five years.
- (3) In case application for renewal is not in order, the same shall be returned to the applicant communicating the reasons in writing.

18. Issue of duplicate copy of registration certificate

Where the certificate of registration issued to a dealer is lost, misplaced, destroyed or defaced, he shall apply to the Jurisdictional Registering Authority for issue of a duplicate certificate, on an application affixing court fee stamps of Rs.10.00 and fees of Rs.200 deposited in the treasury. The Jurisdictional Registering Authority thereupon shall issue a duplicate certificate of registration.

19. Amendment in registration certificate

- (1) If a dealer to whom a certificate of registration has been issued, changes the name, style, nature or place of business or opens a new branch of business or effects any other change in his business, he shall within thirty days of such change apply to the Jurisdictional Registering Authority for amendment in the certificate of registration.
- (2) The Jurisdictional Registering Authority, on receipt of such application, may, after such enquiry, as it may deem necessary, within twenty days, amend the certificate of registration.

20. Register of dealers

A register of dealers registered under the Act, for turnover tax and voluntary registration shall be maintained in Form VAT-07 and for casual traders in Form VAT-08.

21. Suspension of registration

The authority who passes an order under sub-section (7) of Section 27 suspending the registration of a dealer shall before doing so issue a notice in Form VAT-86 to the dealer stating therein the reasons for such an action. The order suspending the registration certificate shall be in Form VAT-87.

22. Restoration of registration certificate

The order of restoration shall be in Form VAT-88.

23. Cancellation of registration

- (1) Every registered dealer who either discontinues his business or sells his business shall submit an application in writing together with a final return along with his registration certificate to the Registering Authority to cancel the registration and such an application shall be made within three months of such an event.
- (2) Where a registered dealer carrying on business as an individual enters in a partnership, he shall inform the Registering Authority in writing along with a final return within 30 days of his entering into such partnership requesting for cancellation of his registration and make an application for fresh registration of the partnership.
- (3) Where a registered dealer dies, his legal heirs shall submit an application in writing along with a final return, for the cancellation of registration within 30 days from the date of his death.

24. Duties and obligations not affected

The duties and obligations imposed by the Act and Rules on any registered dealer shall not be affected by the cancellation of his registration, to the extent that they are necessary to recover the tax due and obtain any information for which the dealer was responsible during the period his registration was in force.

25. Communication regarding cancellation

- (1) The communication regarding cancellation of registration shall be in Form VAT-10.
- (2) Every registered dealer who requests for the cancellation of any registration granted to him, shall surrender the certificate of registration along with certified copies, if any, issued, to the jurisdictional Assessing Authority.
- (3) A dealer registered under Section 28 shall apply in Form VAT-41 to the Jurisdictional Assessing Authority for cancellation of his registration certificate.

26. Penalty for non-registration

Notice directing payment of penalty imposed under sub-section (1) of Section 30 shall be in Form VAT-09. The penalty shall be payable in the manner as prescribed for payment of any other sum due under the Act.

27. Payment of security

- (1) The security for registration may be furnished by the dealer in any of the following modes
- (i) By Fixed Deposit Receipt from a scheduled bank or nationalized bank pledged to the concerned Registering Authority;
 - (ii) Cash Deposit in the Treasury under the Head 0040 - Sales Tax;
 - (iii) Bank Guarantee from a scheduled or nationalized bank agreeing to pay to the Government on demand the amount at any time during the currency of the certificate of registration;
 - (iv) By furnishing any other form of security as may be notified by the Commissioner.
- (2) The security to be demanded by the Registering Authority shall be:
- (a) equivalent to 2% of the estimated annual taxable turnover of the dealer and additional security equivalent to 0.5% of the actual annual taxable turnover returned by the dealer (after being registered) in respect of a dealer who applies for registration as a VAT dealer, and
 - (b) equal to 1% of the estimated gross annual turnover in respect of a dealer who applies for registration as a turnover tax dealer or a voluntary registration dealer and equal to 1% of the estimated taxable turnover of a casual trader:

PROVIDED if a dealer in whose case security has been demanded fails to pay the security so demanded within 15 days from the date of its demand the Registering Authority shall consign the file to records. In case a dealer thereafter chooses to register he shall do so by applying afresh:

PROVIDED FURTHER that the security or additional security shall be refundable in the following manner when reasons for its demand no longer exist:

- (a) if the security has been remitted by cash into the treasury it shall be refundable in the same manner as prescribed for refund of tax or penalty under Section 50.
- (b) if the security is in any other prescribed mode, the Jurisdictional Assessing Authority shall order its release.

RETURNS, ASSESSMENTS AND PAYMENTS

28. Returns

- (1) The tax period for every registered dealer shall be a quarter.
- (2) Every registered dealer other than a casual trader shall submit a quarterly return [Form VAT-II by a VAT dealer or a voluntary registration dealer and Form VAT-12 by a dealer liable to turnover tax] containing particulars of sales and purchases accompanied by proof of full payment of any tax due, to the Jurisdictional Assessing Authority within one month from the expiry of each tax period.
- (3) Every dealer other than a casual trader liable to pay tax under the Act shall also furnish an annual return. Such return shall be filed in Form VAT II-A by a VAT dealer or a voluntary registration dealer, and in Form VAT-12-A by a turnover tax dealer within 120 days from the expiry of that year. A trading account shall

accompany every such return. However in respect of a VAT dealer, a list as prescribed under sub-rule (7) of Rule 63 shall also be furnished along with.

- (4) Every Department of the Government, statutory or local authority shall submit a quarterly return as prescribed in sub-rule (1) to the Jurisdictional Assessing Authority;
- (5) The tax depicted in the return shall be due on the last day of the month at the end of the relevant tax period.
- (6) As long as any dealer remains registered he shall submit such quarterly return whether or not any tax is due for any tax period.
- (7) Every dealer shall file two copies of the prescribed return form one of which shall be returned to the dealer duly signed, dated and stamped in the blank space provided for the purpose on the left hand corner of the Return Forms, as acknowledgement of receipt of the said Return Form. The other copy meant for departmental use shall also similarly be signed, dated and stamped in the blank space provided for acknowledgement.
- (8) The Government may notify any Bank as responsible for receipt of payment of tax or any other amount due under the Act, subject to such conditions as may be specified.

29. (1) Where any dealer submits a return after due date and also where a dealer submits a revised return such return shall be accompanied by the proof of payment of the interest due under Section 32.

- (2) Every casual trader shall furnish to the registering authority a quarterly return in Form VAT-13 along with proof of full payment of tax due within one month after the expiry of the quarter,
- (3) Where a casual trader stops his occasional transactions during the course of a quarter he shall submit to the Jurisdictional Assessing Authority a final quarterly return in Form VAT-13 alongwith the proof of full payment of the tax due within one month of the completion of last transaction.
- (4) The Assessing Authority shall, after examination of the return furnished to it by the casual trader and the accounts maintained by him including the sale invoices issued, assess him to tax inmediately after receiving the return and after adjusting any tax due from him, refund the balance amount of security to him as prescribed in Rule 54, but where any amount is found due from him, after adjustment of security, he shall pay the same for which a demand notice shall be issued in accordance with the provisions of the Act.

30. Notice required to be served as mentioned in sub-section (2) of Section 31 shall be in Form VAT-14.

31. Notice required to be served as mentioned in sub section (2) of Section 35 shall be in Form VAT-47.

32. Self-assessment

Every registered dealer other than a Casual Trader who has filed a return and paid the tax due thereon within the prescribed time, shall, subject to the provisions of Section 35, be deemed to have been assessed on the basis of such return, for the period to which it relates.

33. Tax audit

- (1) For the purpose of selection of dealers for tax audit under Section 36, the Commissioner shall seek a report from the Jurisdictional Assessing Authority regarding all such dealers where:
 - (a) the quantum of sales are not commensurate with the quantum of purchases and the stock held in trade by the dealer;

- (b) there is substantial increase or decrease in taxable turnover of sales in any tax period as compared to previous tax period;
 - (c) nil returns are being received in case of dealers who hitherto have been returning taxable sales; and
- (2) Where the Commissioner on the basis of information available with him as per sub-rule (1) above or has otherwise reasons to believe that any dealer is trying to evade liability to tax under the Act and anything necessary for the purpose of investigation into his liability can be found by way of tax audit may direct any Tax Officer to undertake tax audit of records, stock in trade and the related documents of such dealer:
- PROVIDED that the authority so directed shall give a reasonable notice in writing in Form VAT-16 to the dealer fixing the date, time and place for conducting tax audit:
- PROVIDED FURTHER that strict regard shall be had to the convenience of the dealer, when such Tax Audit is conducted.
- (3) The report of tax audit shall be submitted to the Commissioner within 30 days.

34. Audit assessment

Subject to the provisions contained in Section 39 of the Act the following categories of cases may be taken up for Audit assessment

- (i) Cases where gross turnover exceeds twenty lakh rupees in a year;
- (ii) Cases where claim of input tax credit exceeds two lakh rupees in a year;
- (iii) Cases where amount of refund exceeds one lakh rupees in a year;
- (iv) Cases where 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 or stock transfers /consignment sales exceeds ten lakh rupees in a year;
- (v) Cases where there is a decrease in gross turnover compared to the previous year;
- (vi) Cases where payment of tax is lesser compared to the previous year;
- (vii) Cases where claim of sales, purchases or consignment of goods does not match with the accounts of other parties to the transaction;
- (viii) Cases in which the ratio between purchases and sales or between input tax and output tax or between stocks and sales is not commensurate or is way out of the general trend of the trade or industry;
- (ix) Cases based on definite intelligence about evasion of tax; and
- (x) Cases of any particular trade which the Commissioner may select.

35. The Commissioner or the Assessing authority or any other Tax Officer as the case may be shall, in each case, selected for audit assessment under Section 39 serve on the dealer a notice in Form VAT-17

- (a) 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 produce in support thereof; and
- (b) stating the period in respect of which assessment is proposed and he shall fix a date ordinarily not less than 20 days after the issuance of the notice for producing such accounts and documents and for considering any objections which the dealer may prefer.

36. Notice for assessment of an unregistered dealer

Notice for assessment of an unregistered dealer shall be in Form VAT 18.

37. Notice for escaped assessment/re-assessment

Notice as required by sub-section (1) of Section 42 shall be in Form VAT-19.

38. Register of cases fixed for hearing

Every Assessing Authority shall maintain a register in Form VAT-20 recording therein the particulars of cases fixed for hearing.

39. Payment

- (1) The notice of demand issued under the provisions of the Act shall be in Form VAT-21 which shall be accompanied by the challan in Form VAT-22 duly filled in and signed by the Assessing Authority.
- (2) The tax payable in respect of a quarter shall be paid under a challan in Form VAT-15 duly filled in and signed by the dealer himself.
- (3) Any other sum payable under the Act or these Rules shall also be paid in challan Form VAT-15.
- (4) The challan shall be filled up in quadruplicate. The Treasury Officer shall certify the receipt of money on the foils of challan. The first foil shall be retained by Treasury, the second foil shall be sent to the Assessing Authority in the manner indicated in sub-rule (6) of this Rule and the third foil (including fourth foil in case of Form VAT-15) shall be delivered to the payer.
- (5) An assessee making payment by means of crossed-cheque or crossed bank draft, may deposit it in the office of the concerned Deputy Commissioner Commercial Taxes of the Division along with the relevant challan in Form VAT-22 duly filled in and signed by the Assessing Authority or in Form VAT-15 duly filled in and signed by the assessee himself. The Deputy Commissioner Commercial Taxes of the Division shall issue a provisional receipt in Form ' VAT-23 and send the cheque/bank draft along with the challan to the treasury for collection. The cost of realization of the amount of cheque or bank draft shall be payable by the assessee and the date of encashment of the cheque or the bank draft shall be the date of collection.
- (6) The Treasury Officer shall send to the Deputy Commissioner Commercial Taxes of the Division a statement in Form VAT-24 within seven days from the last date of each month along with counter foils of challans meant for the Assessing Authorities.
- (7) On receipt of the statement in Form VAT-24, the counter foils meant for the assessee shall be delivered to them. The provisional receipt issued earlier to the assessee shall be returned by him and cancelled under the signatures of the Deputy Commissioner Commercial Taxes or an Assessing Authority duly authorized by him in this behalf. The section officer of the office of the Deputy Commissioner Commercial Taxes shall enter the challan in the daily collection register maintained in Form VAT-25 and at the end of the entries relating to the month make out a statement with a certificate in the following Form signed by him and countersigned by the Deputy Commissioner Commercial Taxes

| A. Receipt for the Division | On challan in Form VAT-15 | On challan in Form VAT-22 | Total |
|---|---------------------------------|---------------------------------|-------|
| (i) Receipt at the end of the preceding month | | | |
| (ii) Receipts during the month | | | |

| | | | |
|--|--|---------------------------|----------------------------------|
| (iii) Receipts at the end of the month | | | |
| | | | |
| B. Circle wise receipts | Receipts at the end of preceding month | Receipts during the month | Receipts at the end of the month |
| | 2 | 3 | 4 |
| | | | |

Certified that the entries made above (from serial No.____ to serial No.____) on the basis of statements in Form VAT-24 and supported by the counter foils of the challan received from treasuries are correct and complete.

- (8) The Deputy Commissioner Commercial Taxes shall forward to each Assessing Authority a statement signed by him in Form VAT-24 along with counter foils of challans pertaining to his Circle during the second week of the month. The Inspector posted in the Circle shall enter the challans in the daily collection registers maintained in Form VAT-25 and make out a statement at the end of entries relating to the month and also append a certificate signed by him in the following Form which shall be countersigned by the Assessing Authority:

| A. Receipt for the Division | On challan in Form VAT-15 | On challan in Form VAT-22 | Total |
|---|---------------------------|---------------------------|-------|
| 1 | 2 | 3 | 4 |
| (i) Receipt at the end of the preceding month | | | |
| (ii) Receipts during the month | | | |
| (iii) Receipts at the end of the month | | | |

Certified that the above entries made from S.No.____ to S.No.____ and the statements made out on the basis of Form VAT-24 and counter foils of challans; received from the office of Deputy Commissioner Commercial Taxes are correct and complete.

- (9) After the entries are made in the daily collection register the counter foils of challans shall be delivered by the Inspector to the concerned record keepers against proper receipt. The record keeper shall place the counter foils of relevant assessment files with an entry in the order sheet in following form and duly signed by him:

"Counterfoil of challan dated _____ showing payment of Rs _____ on (date) _____ for the quarter ending on _____ is placed in file."

For this purpose a stamp may be used for the sake of convenience.

40. Firm or association of persons jointly and severally liable to payment

In case the dealer is a Firm or association of persons or any other body of individuals, the partners, members or individuals thereof as the case may be, shall be jointly and severally liable to payment of tax, penalty, interest or any other sum payable under the Act.

41. Maintenance of demand and collection register

Every Assessing Authority shall maintain two demand and collection registers in Form VAT-26 and Form VAT-27 or in any other forms and with such modifications as may be found necessary by the Commissioner from time to time.

RECOVERY AND REFUND

42. Certificate for recovery of tax as arrears of Land Revenue

- (1) Where a dealer or any other person is in default or is deemed to be in default in making a payment of tax or any other amount due under the Act, the authority concerned shall forward a certificate under Section 44 in Form VAT-28 to the Collector. A copy thereof shall be forwarded to the assessee and the duplicate copy placed on the assessment record.
- (2) The Collector on receipt of the certificate shall enter the details in the register of certificates as maintained in Form VAT-29.

43. The Collector on receipt of the certificate in Form VAT-28 shall proceed to recover from such defaulter the amount specified therein in the manner prescribed hereinafter.

44. When a certificate has been received by the Collector he shall cause to be served upon the defaulter a notice in Form VAT-30 requiring the defaulter to pay the amount specified in the certificate forthwith in the case where the amount has become due on assessment under Section 38 and in other cases within 15 days from the date of service of notice.

45. The certificate shall not be executed until the period of 15 days has elapsed since the date of the service of notice, other than where the amount, which has become due is an assessment made under Section 38.

46. If the Collector concerned is not able to effect recovery because the defaulter does not reside or carry on business or has no property in the said District, he may forward a certificate to the Collector of the District where the said defaulter resides or carries on business or owns property, for further proceedings.

47. There shall be recoverable in the proceedings in execution of every certificate:

- (1) Interest specified in sub-section (4) of Section 51 and
- (2) all charges incurred in respect of:
 - (a) the service of notice on dealer to pay the arrears, warrants and other processes and
 - (b) all other proceedings taken for realizing the arrears.

48. If in consequence of an order passed by any authority under the Act or a Court after the issue of certificate, there is a variation by way of reduction or enhancement in the amount as specified in the certificate, the Assessing Authority shall immediately after passing such order or receipt of such order as the case may be amend it and send necessary intimation to the Collector and endorse a copy thereof to the assessee.

49. The Collector shall issue a provisional receipt in Form VAT-23 under his signature to the assessee who deposits in his office any amount in cash or by crossed cheque/bank draft. The amount so deposited shall be entered daily in the daily collection register maintained in Form VAT-25 which shall be closed and cash balance struck at the close of the day. The cash receipts and cheques/bank drafts collected during the day shall be deposited on the next following day in the treasury on the challan in Form VAT-15 or Form VAT-22 as the case may be. In respect of payment against each certificate a separate challan shall be used. The counter foils of the receipted challan meant for the assessee shall be obtained from the treasury and delivered to him. The provisional receipt in Form VAT-23 issued to the assessee

earlier shall be returned by him and cancelled by the Collector under his signature.

50. The Collector shall within one week from the last day of each month prepare a statement in Form VAT-31 and send it to the concerned Assessing Authority who shall verify the credits from the counter foils of challan received from the treasury through the Deputy Commissioner Commercial Taxes.

51. After the recovery of demand as specified in the certificate and the interest due upto the date of collection and recovery charges, if any, the Collector shall cancel the certificate and send it back to the Assessing Authority for record on the file of the assessee.

Explanation: (i) If the demand which has been referred for collection to the Collector is enhanced in consequence of any subsequent order a fresh certificate shall be issued in respect of such additional demand.

(ii) Collector includes Deputy Commissioner Commercial Taxes vested with the powers of Collector under the Jammu & Kashmir Land Revenue Act, Samvat 1996 or any other officer to whom such powers may be vested for the purpose of recovery of demand payable under the Act and also includes an Assistant Collector.

52. Application for stay/extension to the date of payment of demand

The application for stay of recovery of amount of tax or any other amount demanded under the Act or permission to pay such amount in instalments or extension of date for payment of such demand shall be in Form VAT-32.

53. The intimation under sub- section (10) of Section 44 shall be in Form VAT -33 and the notice under sub-section (1) of Section 45 shall be in Form VAT-34.

54. Refund

(1) In cases where refund is due to a dealer as per Section 22 or Section 29 or Section 50 or Section 53 or Section 55 the Assessing Authority shall issue a refund voucher in Form VAT-35. It shall be payable at the treasury to which it is addressed:

PROVIDED that if the dealer desires payment by adjustment towards any amount subsequently payable by him, he may exercise option in writing before the issuance of notice of demand or revised demand as the case may be. The Assessing Authority shall issue refund adjustment order in Form VAT-36 authorizing the dealer to deduct the sum refundable from amount payable in respect of next return period following the sanction of refund and the dealer shall attach the said order with the next return to be furnished by him.

(2) The Assessing Authority shall soon after the issue of the refund voucher issue an advice in Form VAT-37 to the Treasury Officer concerned, containing therein the name and address of the refundee, the amount of refund, date of issue and serial No. of refund voucher.

(3) When the Assessing Authority commences the use of a fresh refund voucher book he shall intimate to the Treasury Officer(s) of his District the serial number of the book and the serial Number of the vouchers contained in it.

(4) The refund shall be payable within a period of 90 days from the date it is granted. If the refundee fails to encash it within the aforesaid period, he shall return it to the Assessing Authority who shall extend the date of its validity for a further period of 30 days after being satisfied that the refund voucher has not been encashed. He shall also send intimation to this effect to the concerned Treasury Officer.

(5) If the refund voucher has been lost or damaged before encashment the Assessing

Authority shall after being satisfied with the contention of the refundee obtain from him an indemnity bond in Form VAT-38 and issue a fresh refund voucher and also send information to this effect to the concerned Treasury Officer provided that the date of issue of original refund voucher shall be the date on which refund is granted.

- (6) The authority issuing the refund order in Form VAT-35 shall forward his specimen signatures duly attested by the next higher authority to the treasury to whom the refund vouchers are addressed for encashment.

55. Prior approval of the Commissioner for refund

- (1) The refund voucher except in the case referred to in sub-rule (2) of this rule shall ordinarily be issued along with the notice of demand if the refund is due in pursuance of the order of assessment, re-assessment or rectification made by the Assessing Authority or within 15 days from the date of receipt of the order passed under Section 72, Section 73 or Section 74 or an order of the Court.
- (2) If the amount of refund except the refund due in pursuance of an order under Section 72, Section 73 or Section 74 or an order of the Court is Rs. 10,000/- or more the Assessing Authority shall obtain the prior approval of the Commissioner before it is granted. The proposal for obtaining the approval alongwith the relevant records shall ordinarily be submitted to the Commissioner within ten days of the issue of notice of demand or the receipt of the order of a Court.
- (3) The Commissioner may delegate the powers under sub-rule (2) of this rule to the Dy. Commissioner Commercial Taxes of the Division for a period specified by him.

56. Recovery of the sum payable out of the refund due to the assessee

If an amount of tax or any other sum is payable by an assessee who is entitled to refund, the Assessing Authority may instead of issuing refund voucher to the assessee, pass an order in Form VAT-39 directing the recovery of the sum payable out of the refund due to such assessee and send the refund voucher to the treasury along with a challan for deposit under the appropriate Head of Account. The receipted foil of the challan meant for the assessee shall be delivered to him along with a copy of the order of adjustment.

57. Register of refunds

The Assessing Authority shall enter in a register in Form VAT-40 particulars of all applications for refund and of the orders passed thereon. The entries relating to the encashment of refunds issued in a month shall be got verified from the Treasury during the following month and a certificate of verification shall be appended to it by the Treasury Officer.

58. Reimbursement of tax

- (1) The Jurisdictional Assessing Authority shall reimburse the amount of tax on an application made in Form VAT-40-A by the agencies or persons referred to in Section 53, who shall prove their identity and bonafides through documentary evidence before such an authority.
- (2) Every application made under sub-rule (1) shall be accompanied by the invoices in original depicting the amount for which the goods have been purchased as also the amount of tax paid in respect of such purchases.
- (3) The Jurisdictional Assessing Authority on receipt of the application and the invoice/s shall verify the contents and on being satisfied that the claim is in order issue a refund voucher in Form VAT - 35.
- (4) The agencies or persons seeking reimbursement shall prefer their claim before the

concerned Jurisdictional Assessing Authority within 90 days of effecting the purchase.

- (5) The concerned Jurisdictional Assessing Authority shall within 30 days of the receipt of the claim of reimbursement issue the refund to the claimant and if the claimant so desires the concerned Jurisdictional Assessing Authority shall issue the refund voucher in the name of the treasury which shall be nearest to where the claimant has its office /residence as the case may be.
- (6) In case there is a delay on the part of the Department to grant the refund within the time prescribed, in sub- rule (5), the agencies and the persons referred to in Section 53 shall, on an application being made in this behalf to the concerned Jurisdictional Assessing Authority be entitled to in addition to the refund, a simple interest @ 18% p.a. from the date the refund becomes due to the date the refund is made.

59. Refund in case of zero-rated sales

A registered dealer entitled to refund under sub-section (3) of Section 55 of the J&K Value Added Tax Act, 2005 shall make an application for grant of refund along with interest to the concerned Jurisdictional Assessing Authority in Form VAT -40-B.

TAX CLEARANCE CERTIFICATE FOR SUPPLY OF TAXABLE GOODS

60. A person on behalf of:

- (a) a Department of the Government or Central Government or any Govt. of a State or Union Territory;
- (b) a local authority;
- (c) a Corporation established by or under Central or State Act;
- (d) a Co-operative Society; or
- (e) any Board constituted by or under Central or State Act, who entertains a tender/contract for supply of taxable goods shall before doing so seek from the intending supplier a tax clearance certificate issued by the Jurisdictional Assessing Authority. The intending supplier shall make an application for grant of Tax Clearance Certificate to the Jurisdictional Assessing Authority in Form VAT-45.

61. Clearance certificate for supply contractors

The Assessing Authority after consulting the records and making such inquiry as it may consider necessary shall, issue a certificate in Form VAT-46.

ACCOUNTS & RECORDS

62. Nature of accounts to be maintained

- (1) Every registered dealer and every person liable to be registered under the Act shall keep and maintain a true and correct account of his daily transactions showing the goods produced, manufactured, bought and sold by him and the value thereof separately with invoices and bills.
- (2) Every such dealer or person, shall keep separate account of every purchase and sale made in the State, in the course of inter-State trade or commerce, in the course of import into India and in the course of export out of India.
- (3) Every dealer shall maintain account of purchases and sales made in the State in respect of different classes of goods liable to tax at different rates of tax separately.

He shall maintain:

- (a) an Input Tax Register in Form VAT-48 recording therein in chronological order all purchases made.
 - (b) an Output Tax Register in Form VAT-49 recording therein in chronological order all sales made.
 - (c) details of credit and debit notes issued during any period.
- (4) Every such dealer or person shall keep current books of accounts at the place or places of business entered in his certificate of registration and every purchase and sale must be brought to account as soon as the purchase or sale is made.

Explanation: For the purpose of this sub-rule current books of accounts shall include Computer Hardware and Software used in connection with business activities of the dealer or person.

- (5) The registers, accounts and documents maintained shall be sequentially numbered and where the registers and documents are maintained by means of a Computer or any other similar mechanical devise, the dealer shall maintain copies in paper of such registers and other documents printed on a monthly basis.
- (6) Any entry in such registers, accounts and documents shall not be erased, effaced or overwritten and all incorrect entries shall be scored out under attestation and correct entry recorded and where the registers, account and documents are maintained by means of a Computer or any other similar mechanical devise, the dealer shall also maintain a record of correction or change of any entry.
- (7) Every commission agent broker, del-credere agent, auctioneer or any other mercantile agent doing business as a dealer, shall maintain following accounts showing:
 - (a) particulars of authorizations received by him to purchase or sell goods on behalf of each principal separately,
 - (b) particulars of goods purchased or if goods received for sale on behalf of each principal each day,
 - (c) details of purchases or sales effected on behalf of each principal each day, and
 - (d) details of accounts furnished to each principal each day.
- (8) Every wholesale dealer, importer, exporter and manufacturer shall maintain monthly stock account in respect of commodities dealt with by him, and such stock account shall contain particulars of purchases or receipts, sales, deliveries and balance of stock.
- (9) Every manufacturer of goods shall maintain monthly production of accounts showing quantitative details of the various raw materials used in the manufacture and the quantitative details of the goods so manufactured.
- (10) Every dealer or person who is required to maintain stock accounts shall maintain subsidiary accounts for each godown for keeping the stocks.
- (11) Every dealer or person shall also maintain annual accounts including trading, profit and loss account and balance sheet.
- (12) Every dealer or person required to keep or maintain books of accounts or other record including tax invoices relating to his purchases and sales shall retain them until the expiration of eight years after the end of the year to which they relate.

63. Tax invoice

- (1) A VAT invoice shall be issued by a VAT dealer when making sale of goods in the State to another VAT dealer for resale thereof or for use in manufacture or processing of goods for sale. A retail invoice shall be issued by a VAT dealer or a casual trader when making sale of goods in the State to Non-VAT dealers, un-registered dealers and consumers.
- (2) The VAT invoice shall be in Form VAT-50 and the retail invoice shall be in Form

VAT-51.

- (3) A retail invoice shall be in duplicate. The original shall be given to the purchaser and the duplicate (carbon copy) shall be kept for record.
- (4) A VAT invoice shall be in triplicate. The original shall be given to the purchaser, the duplicate to the transporter and the triplicate shall be kept for record. Duplicate and triplicate shall be carbon copies of the original. Each invoice shall be machine numbered in an ascending order. Each copy shall bear the pre-printed purpose viz. "ORIGINAL Purchaser" copy, "DUPLICATE"-Transporter's copy, TRIPLICATE -Office copy.
- (5) The VAT invoice shall contain the following particulars on the original as well as on all the copies thereof:
 - (a) the word "VAT INVOICE" in bold letters at the top;
 - (b) the name, address and TIN of the selling dealer;
 - (c) the name, address and TIN of the purchasing dealer;
 - (d) VAT invoice book number, an individual serialized number and the date of issue;
 - (e) full description of the goods;
 - (f) the quantity or number, as the case may be, of the goods;
 - (g) the value of goods sold;
 - (h) the rate and amount of tax charged thereon indicated separately;
 - (i) signature of the selling dealer or his declared business manager;
 - (j) The name and address of the Printer who has printed the tax invoice;
- (6) Only an original copy of VAT invoice shall be valid to set up a claim of input tax credit. The original copy shall bear the words "Valid for input tax credit" on it. ,
- (7) Every VAT dealer shall furnish to the Jurisdictional Assessing Authority along with the annual return and trading account, the list of VAT invoice books used during the year mentioning therein the total number of VAT invoices issued out of each VAT invoice book so used.

64. Manner in which audit of accounts referred to in Section 60 shall be conducted

- (1) A dealer whose gross turnover in a year exceeds the limit specified in Section 60, shall get the accounts maintained by him for that year audited by a Chartered Accountant/ Cost and Works Accountant and shall furnish to the Assessing Authority a certificate of such audit in Form VAT-52 and a statement of accounts in Form VAT-53 thereto duly signed by such Chartered Accountant/Cost and Works Accountant.
- (2) The Chartered Accountant/ Cost and Works Accountant auditing the accounts shall express his opinion in explanatory note to be annexed to the statement, on points to which he does not agree. In respect of others, he should certify that as per his opinion and according to information given to him by the dealer, the particulars contained in Trading/ Manufacturing and profit and loss account and Balance Sheet are true and correct.
- (3) Notice under sub-section (3) of Section 60 shall be in Form VAT - 54.

65. Declaration of Business Manager

- (1) Every dealer shall declare the name of his business manager in Form VAT-01-(C) at the time of filing of application for registration.
- (2) Such declaration shall be signed in the case of
 - (a) Hindu undivided Family, by the karta.
 - (b) Club by all members of its governing body.
 - (c) An association by all members of its governing body.

- (d) Society, by all members of its governing body.
- (e) Firm by all its partners.
- (f) Company, by its managing director and shall be accompanied by a certified copy of resolution passed by Board of Directors in this behalf.

In other cases, by the guardian or trustee or other person, carrying on business on behalf of another person and also by the person on whose behalf the business is carried on, if not under disability.

- (3) The Form VAT-01 (C) shall be accompanied by two copies of recent passport size photographs and two specimen signatures duly certified by the person signing the declaration form.
- (4) In case of a change of business manager the dealer shall inform the Jurisdictional Assessing Authority concerned within 15 days from the date of such change and shall file a fresh declaration.
- (5) All acts done by the business manager for purposes of the Act and Rules shall be deemed to have been done by the dealer and the dealer shall be responsible for all such acts done by his business manager.

INSPECTIONS, SEARCH & ESTABLISHMENT OF CHECKPOSTS

66. Surprise visit

Unless any officer appointed under Section 3 but not below the rank of an Assessing Authority in his discretion deems it necessary to make a surprise visit, he shall as far as possible have regard to the convenience of the dealer. Ordinarily he shall make such inspection at the premises of the dealer and he shall not require the dealer to produce his accounts, registers or documents at his office except for urgent reasons and in the public interest:

PROVIDED that an Inspector may also be authorized in writing by the Assessing Authority or any other higher authority to exercise the powers under this rule.

67. Inspection under sub-sections (3) and (6) of Section 66

- (1) The Empowered authority or an officer authorized by the Commissioner under sub-sections (3) and (6) of Section 66 as the case may be, may do any or all of the following acts, namely:
 - (i) to enter the said building or place with such assistance of police officers as may be required, to search the same and to place identification marks on such books of accounts or other documents found therein, as in his opinion, will be relevant to or useful for any proceedings under the Act and to make a list of such books or documents with particulars of the identification marks thereon;
 - (ii) to examine such books or documents and to make copies of or extracts from such books or documents;
 - (iii) to take possession of and *seize* any such books or documents under sub-sections (3) and (4) of Section 66 and to make a note and/or inventory of any other article or thing found in the course of such search which, in his opinion will be useful for or relevant to any proceedings under the Act.
- (2) Whenever any building or place to be searched is closed, any person residing in or being in charge of such building or place shall, on demand by the Empowered authority or the authorized officer as the case may be, allow him free ingress thereto and afford all reasonable facilities for search therein.
- (3) If ingress into such building or place cannot be so obtained it shall be lawful for the

Empowered Authority or the authorized officer as the case may be, executing the Authority, with such assistance of a police officer as will be required to enter such building or place and search *therein and* in order to effect an entrance into such building or place to break open any outer or inner door or window of any building or place, whether that of the person to be searched or of any other person to be searched or of any other person if after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain an admittance.

- (4) Where any person in or about such building or place is reasonably suspected of concealing about his person any articles for which search is being made, such person may also be searched by the Empowered Authority or the authorized officer as the case may be, with such assistance, as he may consider necessary. If such person is a woman, the search shall be made by any other woman with strict regard to decency.
- (5) Before making a search the Empowered Authority or the Authorized Officer as the case may be, about to make the search shall, call upon two respectable inhabitants of the locality in which the building or place to be searched is situated to attend and witness the search and may issue an order in writing to them or any of them so to do.
- (6) The search shall be made in presence of the witnesses aforesaid and a list of all things seized in the course of such search and of the places in which they were respectively found shall be prepared by the Empowered Authority or the Authorized Officer as the case may be and signed by such witnesses.
- (7) The occupant of the building or place searched or some person on his behalf shall be permitted to attend during the search and copy of the list prepared under the preceding clause shall be delivered to such occupant or person. A copy shall also be forwarded to the Commissioner.
- (8) When any person is searched, a list of all things taken possession of shall be prepared and copy thereof shall be delivered to such person. A copy shall also be forwarded to the Commissioner.
- (9) If the Empowered Authority or the Authorized Officer as the case may be, seizes any books of accounts /registers or documents under section 66, he shall forthwith grant a receipt for the same and shall return them under proper receipt to the dealer or to the person from whose custody they were seized after completing proceedings under the said section. The proceedings shall ordinarily be completed within a period of 90 days from the date of seizure. The Empowered Authority or the Authorized Officer as the case may be, may take copies or extracts of the seized documents as may be considered necessary. The officer may before returning the books of accounts etc. affix his signatures and his official seal at one or more places thereon and in such case the dealer or the aforesaid person will be required to mention in the receipt given by him the number of places where the signatures and the seal of the officer have been affixed on such books of accounts.
- (10) Notwithstanding anything contained in sub-rule (9), the authority or the officer who seized any account books, registers or other documents may for reasons to be recorded in writing, with the prior approval of the Commissioner, retain such account books, registers or documents for a further period not extending beyond 30 days from the date of completion of all the proceedings under the Act.
- (11) In all searches under these rules if any building or place is an apartment in actual occupancy of a woman who according to custom does not appear in public the authority making the search shall before entering such apartment give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing and may then break open the apartment and enter it.
- (12) If the Empowered Authority or any officer authorized by the Commissioner as the case may be under sub-section (6) of section 66 finds any goods, the sale of which, is liable to tax and which are found in any office, shop, godown, warehouse, vehicle or in any other place of business or in any building or place of the dealer but not accounted for by the dealer in his accounts, registers or other documents maintained in the course of his business, he may seize such goods and prepare a list of all such goods seized under this sub-rule and get it signed by two respectable witnesses:

PROVIDED the goods so seized shall be kept under official custody or handed over to any person for the safe custody till orders for their release are issued by the Empowered Authority or the Authorized Officer as the case may be. The goods shall be handed over to such person after obtaining declaration on Form VAT-55 in presence of two respectable witnesses who shall sign such declaration form.

- (13) Soon after the seizure of the goods, the Empowered Authority or Authorized Officer as the case may be, may levy penalty under sub-section (6) of Section 66 of the Act provided that before passing the order, a reasonable opportunity of being heard is given to the dealer by issuing a notice in Form VAT-56. The goods shall be released after passing orders subject to payment of penalty imposed, if any. And in case the penalty demanded is not paid within the period under rules, it shall be put to auction and the sale proceeds of the goods shall be paid to the owner of the goods after deducting the amount of such penalty besides other expenses incurred on unloading, handling and auctioning. The excess amount shall be refunded to the owner of the goods on an application made in Form VAT-57 within a period not exceeding 90 days from the date of auction. In case no claim of ownership is made within the said period the amount shall be forfeited to the Government. No interest shall accrue on such amount.

68. Establishment of Check-posts and inspection of goods thereat

- (a) When a Check-post is set up on a thoroughfare under Section 67 a barrier may be erected across such thoroughfare to enable vehicles or conveyance being intercepted, detained and searched.
- (b) For the purpose of sub-section (2) of section 67 the value of goods shall be rupees five thousand.
- (c) The waybill, delivery note, certificate of ownership and declaration referred to in section 67 shall be in Form VAT-58, Form VAT-59, Form VAT-60 and Form VAT-61 respectively.
- (d) When the officer in-charge of the notified area/Check-post or any other officer not below the rank of Sub-Inspector of Commercial Taxes Department is not present on spot, the guard on duty may detain the vehicle or conveyance for a period not exceeding half an hour in order to enable the officer in-charge to arrive and take action as required by section 67.
- (e) Every transporter, clearing and forwarding agency shall in respect of the goods, the sale whereof is taxable under the Act, maintain correct and complete records of such goods transported, delivered or received for transport consisting of receipt and delivery register (inward) in Form VAT-62 goods booked and despatched (outward) register in Form VAT-63 transport receipts and other records. These records shall be preserved for a period of nine years.
- (f) No transport agency or forwarding or clearing agency or any other carrier of goods shall
- (i) accept for booking any consignment of goods the sale whereof is liable to tax in the State unless the consignment is covered by a bill of sale or certificate of ownership;
 - (ii) release any consignment of goods the sale whereof is liable to tax in the State unless the consignee being:
 - i. a dealer, furnishes a delivery note; and
 - ii. any other person furnishes a declaration duly filled in by the consignee or his authorized agent.

- (g) Forms of waybill serially numbered in consecutive order shall be printed by the transporter or forwarding agency or any other carrier of goods. The last serial No. shall be 1,00,000 where after a fresh series of waybill shall be used and intimation thereof given to the Dy. Commissioner Commercial Taxes or any other officer authorized by the Commissioner in this behalf, before bringing it into use.

The waybill shall be in triplicate, the first foil shall be retained by the transporter/ forwarding agency and 2nd and 3rd foils shall be presented to the officer in-charge of check-post through which the goods are under transport. The officer in-charge after being satisfied that the goods under transport are completely in accordance with the particulars contained in the way bill and bill of sale or certificate of ownership, shall retain the 2nd foil and deliver the 3rd foil to the person incharge of the goods. If the goods loaded in a vehicle are physically checked and found to be in accordance with the particulars specified in accompanying documents the words checked and found in order shall be stamped on such documents:

PROVIDED that if a transporter or person in-charge of goods importing goods into the State through Check-post set up under sub-section (1) of section 67 of the Act, is unable to present to the officer in-charge a way bill or certificate of ownership for a sufficient reason he shall execute a bond in Form VAT-64 undertaking to obtain 2nd and 3rd foils of the delivery note duly signed by the consignee at the time of delivery of the goods and surrender the 2nd foil to the officer in-charge check-post set up under sub-section (1) of Section 67 of the Act at the time of his exit:

PROVIDED FURTHER that if such transporter or person Incharge of goods fails to furnish 2nd foil of the said delivery note to the Officer Incharge Check-post set up under sub-section (1) of Section 67 of the Act he shall be liable to a fine equal to five times of tax liability of the goods imported or Rs.5,000/- whichever is less.

- (h) (i) Blank forms of delivery note, certificate of ownership or declaration shall be issued by the concerned Assessing Authority or any other officer authorized by the Commissioner in this behalf, on application made by the dealer or any other person, free of charge.
- (ii) Delivery note, certificate of ownership or declaration shall be in triplicate, the first foil shall be retained by the dealer etc. and 2nd and 3rd foils shall be handed over to the transporter/clearing agency before the delivery of the goods is taken.
- (iii) The transporter shall keep the 3rd foil for his office record and the 2nd foil shall be attached with the monthly return.
- (i) Nothing contained in this rule shall require the consignment of goods carried by Railway or Airlines and delivered to the consignee at the Railway Station/Airline office to be accompanied by a waybill, but the consignee shall present the other documents referred to in this rule to the officer in-charge check-post.
- (j) The rules regarding use, custody and maintenance of declaration forms prescribed under rule 6 of the Central Sales Tax U&K) Rules, 1958 shall mutatis mutandis apply to the use, custody and maintenance of delivery note and certificate of ownership and declaration.
- (k) (i) Any person who seeks to import the goods notified under sub-section (3) of Section 67, the value of which exceeds the limit prescribed in sub-rule (b) of this rule, shall furnish to the exporting dealer of the other State or the sender of the goods as the case may be (hereinafter in this sub-rule referred to as consignor) the declaration in

Form VAT- 65 in duplicate, duly filled in and signed by him;

- (ii) The form of declaration will be obtained by the dealer or person from the Jurisdictional Assessing Authority.
- (iii) The driver or any other person incharge of any vehicle carrying the goods as aforesaid shall obtain from the consignor the copies of declaration Form VAT-65 and such other documents, duly verified and signed by him (consignor) and carry the same with him and shall, before crossing any check post established under sub-section (1) of section 67 deliver to the officer incharge thereof duplicate portion of the said declaration and deliver the original portion and the remaining documents alongwith the goods, to the person importing the goods or the person to whom goods are sent, as the case may be.
- (iv) The persons importing the goods shall produce on demand or before issue of new declaration forms as the case may be the original portion of the declaration Form VAT-65 to the Assessing Authority who issued such declaration forms.

69. Submission of returns by forwarding agency, clearing house, etc.

- (1) Every clearing or forwarding house or agency, transporting agency, railway out agency in the State shall, submit to the Deputy Commissioner Commercial Taxes of the Division a return of all goods cleared, forwarded, transported by it during the preceding month.
- (2) The return shall be in Form VAT-82 and shall be submitted so as to reach the Assessing Authority of the area on or before the 15th day of the month following that to which it relates.

70. Seizure of records

A copy of the seizure of records seized by any officer other than the Commissioner under Section 67 shall immediately be forwarded to the Commissioner and the said records kept in personal custody by such officer subject to the provisions contained in sub-rule (9) of rule 67. The owner of the record shall on making an application have the right to examine the records in presence of such officer.

71. Detention and seizure of goods

- (a) The Additional Commissioner (SIU) or the authorized officer both of whom are hereinafter referred to as "the officer" seizing the goods under sub-section (5) of section 67, shall prepare an inventory of the goods seized and copy of the inventory shall be handed over to the person in-charge of the goods against a proper receipt. The goods seized may be kept in official custody or handed over to any person for safe custody against declaration Form VAT-55.
- (b) In case the goods are seized under sub-section (5) of section 67 of in any godown or any other premises of the transport, clearing or for-warding agency or in any vehicle or conveyance or any other place, the goods shall be kept in the official custody or handed over to the person in-charge of the godown or any other premises of the transport, clearing or forwarding agency or any other person against declaration in Form VAT-55.
- (c) Notice of hearing as required by proviso to sub section (5) of Section 67 shall be issued in Form VAT-66. The notice shall be served on the person in-charge of the

goods at the time of seizure requiring him to show cause within a period of 15 days as to why the penalty be not levied. A copy of the notice shall be forwarded to the owner of the goods, if he is a person other than the person in-charge of the goods, provided that his address is available from the documents accompanying the goods or is disclosed by the person in-charge of the goods.

- (d) On the date specified in the notice "the officer" shall consider the objections raised and the evidence adduced, if any. Thereafter he may cause such other enquiries to be made as he considers necessary, and pass an order in writing releasing the goods or levying the penalty within 30 days from the date specified in the notice of hearing provided that the Commissioner may for cogent reasons allow him to pass the order after the said period of 30 days.
- (e) Before demanding security under sub-section (10) of Section 67, a show cause notice in Form VAT-67 shall be served on the person incharge of the goods at the time of seizure requiring him to show cause within a period of 15 days as to why the security may not be obtained from him. A copy of the notice shall be forwarded to the owner of the goods, if he is a person other than the person in-charge of the goods, provided that his address is available from the documents accompanying the goods or is disclosed by the person in-charge of the goods.
- (f) On the date specified in the notice "the officer" shall consider the objections raised and the evidence adduced, if any. Thereafter he may cause such other enquiries to be made as he considers necessary, and pass on order in writing releasing the goods or demanding security within 30 days from the date specified in the notice of hearing provided that the Commissioner may for cogent reasons allow him to pass the order after the said period of 30 days.
- (g) The order of release of goods seized under sub-section (5) of Section 67 or sub-section (10) of Section 67 shall be in Form VAT-89.

72. Release/disposal of goods seized

- (1) Notwithstanding anything contained in the foregoing rules, the concerned authority may not seize the goods and if seized, may release them before making order under Section 67(5), provided that the person incharge of the goods or owner thereof pays to the said authority an amount equal to the amount of penalty leviable which shall be adjusted against the amount of penalty subsequently levied or refund it as the case may be, or furnishes security as required under the proviso to sub-section (10) of Section 67 which shall be in the modes prescribed under Rule 27.
- (2) If the amount of penalty levied under Section 67(5) is not paid within the prescribed period or the period specified in the notice of demand, as the case may be, the goods shall be auctioned in accordance with the provisions of sub-rules (3), (4), (5) (6), (7) and (8) of Rule 72 and the sale proceeds thereof shall be paid to the owner of the goods after deducting the amount of penalty demanded.
- (3) The goods seized shall be sold in public auction under the supervision of the Deputy Commissioner Commercial Taxes concerned. Notice for auction of the seized goods specifying the place, date and time of auction shall be published in a local newspaper. A copy of the notice alongwith a list of seized goods to be auctioned under the signature of an officer shall be displayed on the notice board on his office and copies thereof shall also be displayed in the office of the Deputy Commissioner Commercial Taxes concerned and at any other public place near the Notified Area (Check-post). The notice shall ordinarily be given one week before the auction is conducted unless it is considered necessary to give a shorter notice with the prior approval of the Commissioner.

- (4) On the appointed day and time the seized goods shall be put to auction in one or more lots as the officer conducting the auction may consider advisable and shall be knocked down in favour of the highest bidder. The earnest money of the unsuccessful bidders shall be refunded to them immediately after the auction is over.
- (5) Intending bidders shall deposit as earnest money a sum equal to ten percent of the estimated value of the seized goods. The successful bidder shall deposit an additional earnest money equal to twenty percent of the value of the goods auctioned immediately on the fall of the hammer.
- (6) The highest bidder shall pay the balance amount of the bid within three days when the auctioned goods shall be delivered to him. The sale proceeds shall be deposited into the Treasury under the head "0040-Sales Tax". If the bidder fails to pay the balance amount within three days of the auction the earnest money deposited by him shall stand forfeited to the Government, the seized goods shall be resold by auction in the manner prescribed in the foregoing clauses of this sub-rule.
- (7) If the goods seized are of a perishable nature, their sale shall not be postponed on account of a revision or appeal having been preferred against the order of seizure.
- (8) If any order directing seizure is reversed in revision or appeal the goods seized if they have not been sold before such reversal comes to the knowledge of the officer conducting the sale, shall be released or if they have been sold, the proceeds thereof shall be paid to the person concerned or his agent on payment of or after deducting the charges incurred by the State after receipt for the same:

PROVIDED that if the person concerned or his agent brings to the notice of the officer conducting the sale that an appeal or revision against the orders directing seizure has been filed before the appropriate authority the officer conducting the sale shall, without prejudice to sub rule (8) above postpone the sale till orders are passed in appeal or revision.

- (9) The application form for refund as provided in sub-rule (13) of Rule 67 shall be in Form VAT-57 and the amount refundable under sub-section (12) of Section 67 shall be refundable in the same manner as provided for refund of tax and penalty under section 50.

73. Delivery of goods by the transport etc. to the person on establishing identity

No transporter or for-warding or clearing agency shall deliver any consignment of goods, the sale whereof is taxable under the Act, to the consignee or his agent, unless the identity of such person is established and the acknowledgement in token of having *delivered the* goods is obtained in the delivery register maintained in Form VAT-62.

74. Modes of security on goods owned by unregistered dealers

- (a) Security referred to in section 67(10) shall be in cash or in any of the modes prescribed under rule 27. The officer incharge shall issue a receipt in the name of the owner of the goods and deliver it to the person in-charge of the goods.
- (b) The officer in-charge shall maintain daily collection register in Form VAT-25 and record therein the cash received as security. The total receipts of the day shall be deposited in the treasury during the next following working day. Record of bank guarantee shall be maintained in a separate register. A statement of cash securities and the bank guarantees in Form VAT-68 shall be sent to the Deputy Commissioner Commercial Taxes Incharge of the Division within 7 days after the expiry of each month. Counterfoils; of the receipted challans along with the bank guarantees shall be attached to the said statement. A copy of the said statement shall be sent to the Commissioner.
- (c) The Deputy Commissioner Commercial Taxes shall on receipt of the statement in

Form VAT-68 cause the entries to be made in the register maintained in Form VAT-69 and soon thereafter issue extracts thereof to the Assessing Authority having jurisdiction over the dealer. The extracts relating to the dealers of another division shall be sent to the Deputy Commissioner Commercial Taxes of such other division for onward transmission to the concerned Assessing Authority.

- (d) The security or bank guarantee shall be released after the tax and any other sum payable by the dealer is deposited into the Treasury:

PROVIDED that at the option of the dealer or if he fails to pay the tax and any other amount payable by him under the Act, the Assessing Authority shall adjust the amount of cash security against such sum payable and refund the excess amount of security, if any.

Explanation: Empowered Officer or Officer in-charge of Notified Area/Check-post or an Inspector posted at such place means an Assessing Authority.

APPEALS AND REVISIONS

75. Memorandum of appeal

The memorandum of appeal under section 72 shall be in Form VAT-70.

76. Commencement of the period for filing appeal

- (a) The period prescribed for filing appeal under sub-section (1) of Section 72 of the Act against the order, in consequence whereof, notice of demand is issued shall commence from the date of service of such notice of demand, provided that in case a certified copy of the order is served after the notice of demand the period intervening between the date of service of notice of demand and the date of service of the certified copy of the order appealed against shall be excluded for the purpose of computation of period of limitation.
- (b) The memorandum of appeal shall be presented in duplicate accompanied by certified copy of the order appealed against. The date on which it is received in the office of the Appellate Authority shall be the date of filing of the appeal.

77. Register of appeals

- (a) On receipt of the memorandum of appeal it shall be put up to the Appellate Authority for his signatures and then entered in the "Register of Appeals" maintained in Form VAT-71. Soon thereafter the duplicate copy of memorandum shall be sent to Assessing Authority who shall send the following information to the Appellate Authority, ordinarily within a period of 15 days:
- (i) Date of service of notice of demand;
 - (ii) The date of service of certified copy of order.
 - (iii) Demand on account of:
 - (a) Tax;
 - (b) Interest;
 - (c) Penalty;
 - (d) Any other sum;
 Total:
 - (iv) Amount disputed in appeal;
 - (a) Tax;
 - (b) Interest;

- (c) Penalty;
- (d) Any other sum;
- Total :
- (v) Amount paid with date of payment;
- (vi) Dates of filing of returns:
- 1st quarter _____
- 2nd Quarter _____
- 3rd Quarter _____
- 4th Quarter _____
- Annual _____
- (vii) Whether the appeal is in time, if not give reasons.
- (b) The Assessing Authority shall maintain a register of appeals in Form VAT-72 and place the duplicate copy of memorandum of appeal on the file of the appellant assessee.

78. Condonation of delay in filing appeal

- (a) On receipt of information as specified in rule 77(a) from the Assessing Authority the Appellate Authority shall determine whether the appeal is in time and in order, if so, he shall entertain it. If it is not in time or in order, the Appellate Authority shall issue a notice in Form VAT-73 requiring the appellant to explain within a period of not less than 15 days but not more than 30 days the reasons for the delay in order to determine whether it is fit for condonation of delay.
- (b) If the memorandum of appeal has been filed in time but is defective the Appellate Authority shall not refuse to entertain the appeal unless the appellant after being given an opportunity by notice in Form VAT-74 of not less than 15 days but not more than 30 days, fails to rectify the defect.

79. Procedure for the disposal of appeals

- (a) The Appellate Authority after entertaining the appeal shall fix the date of hearing by a notice in Form VAT-75. A copy of the notice shall also be issued to the Assessing Authority.
- (b) In case the appellant or his agent fails to appear on the date(s) of hearing the order shall be passed *ex parte* on the merits of the case.
- (c) The Appellate Authority shall in its order mention all the grounds taken in the memorandum of appeal and any other additional grounds allowed during the course of appellate proceedings.
- (d) The Appellate Authority shall indicate in its order the quantum of reduction in taxable turnover and the extent of reduction in the tax and any other sum reduced in consequence of his order.
- (e) A certified copy of the order shall be issued to the appellant free of charges. Certified copies of the order shall be issued to the Commissioner and the concerned Assessing Authority.

80. Supersession of orders

The orders passed by the Appellate or Revisional Authority shall supersede the orders of any subordinate authority and shall be binding on it.

81. Copy of the revision order to be issued free of charge

Copy of the order shall be issued free of charges to the applicant-assessee. Copies shall also be issued to the authority whose order is in revision and the concerned Assessing Authority.

82. Forms of Summons to appear in person and or to produce documents

Summons for the purpose of section 89 shall be in 'Form VAT-76.

83. Mode of service of notices

- (a) A notice, summons or order issued or made under the Act or rules may be served in the manner specified in sub-rule (b) on the following persons:
- (i) In the case of an individual on such individual or any member of his family not being a minor;
 - (ii) In the case of a firm on a partner thereof;
 - (iii) In the case of Hindu Undivided Family on the Karta or any male member thereof;
 - (iv) In the case of association of persons or body of individuals on any member or principal officer thereof;
 - (v) In the case of a company on the Managing Director or any other Director or the principal officer thereof;
 - (vi) In the case of Government Department on the Head of the Department/Office or any other officer to act on his behalf;
 - (vii) On a regular employee of the assessee or the authorized representative of the assessee or the declared business manager of the assessee or other persons authorized by the assessee to receive notices.
- (b) The service may be effected in any of the following manners-
- (i) By delivering it through a process server; or
 - (ii) By registered post; or
 - (iii) In case service is not possible by any of the modes specified in clauses (i) and (ii) above or the authority considers it necessary for reasons to be recorded in writing, by affixture on the last known address of the assessee in presence of two witnesses.

84. Fees

The following fees shall be payable in the form of stamps of court fee:

- | | | |
|------|---|----------|
| (i) | On a memorandum of appeal | Rs.50.00 |
| (ii) | On any other application or Petition for relief to any Authority under the Act or the Rules | Rs.10.00 |

PROVIDED that no fees shall be payable on an application for any correction of any error apparent on the face of record.

85. Inspection of documents and supply of certified copies thereof

- (1) In the case of every dealer, who is required to do any act under the provisions of the Act or these rules the 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 Assessing Authority a written application stamped with a court fee of value of Rs.5.00 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 register.
- (3) The court fee of Rs.5.00 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 Rs.5.00 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, a search fee in the Form of a court fee stamp of the value of Rs.2.00 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 making an application in this behalf bearing a court fee stamp of the value of:
- (a) Rupees 2.00 for the first 200 words or part thereof;
 - (b) Rupees 1.00 for every additional 100 words or part thereof;
 - (c) Rupees 4.00 to every notice or summons issued by an Assessing Authority;
 - (d) An extra fee of one rupee if copies are required urgently.
- (6) A copy to be granted under sub-rule (5) shall be prepared in the office of the Assessing Authority.
- (7) The provisions of sub-rules (2) to (6) shall apply mutatis mutandis to inspection of record of the offices of the Appellate and Revising Authorities and grant of copies thereof.

MISCELLANEOUS

86. 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.

87. Meaning of authorized representative

- (1) For the purpose of Section 84 and other provisions of the Act and the rules "Authorized representative" means:
- (a) A member of the assessee's family or a person in the regular employment of the assessee; or
 - (b) A legal practitioner who is entitled to practice in any Civil Court of India; or
 - (c) A Commerce or Law Graduate registered as Sales Tax Practitioner by the Commissioner; or
 - (d) A Chartered Accountant or Cost and Works Accountant; or
 - (e) An employee of the erstwhile Sales Tax Department or the Commercial Taxes Department who has retired and has held a post not lower than an Excise and Taxation Officer (of the erstwhile Sales Tax Deptt.) or a Commercial Taxes Officer for not less than three years. However in respect of this sub-rule the retired officer shall be entitled to act as an authorized representative only after two years of his date of retirement,
- (2) Authorisation for attending as authorized representative as specified in Section 84(1) shall be in Form VAT-77 and a certificate of an enrolment shall be issued by the Commissioner in Form VAT-78.
- (3) A list of authorized representatives in terms of Section 84(c) shall be maintained in the office of the Commissioner in Form VAT-79.
- (4) If an authorized representative is found guilty of misconduct in connection with any proceedings under the Act by the Commissioner, the Commissioner may direct that such person shall henceforth be disqualified to act as an authorized representative.
- (5) The order under sub-rule (4) above shall be subject to the following conditions:
- (i) No such order shall be made unless the affected person has been given a reasonable opportunity of being heard;

- (ii) The affected person may within one month of the service of the order appeal to the Government to have the order quashed; and
- (iii) No such order shall take effect till the expiry of one month from the date of service thereof or in case the appeal has been preferred and the Government issues an interim order staying the order of disqualification till the date up to which stay is granted whichever is later.

88. Authorization to sign applications etc. prescribed under rules

- (a) Returns, memorandum of appeal, or any other application prescribed under the rules shall be signed by any of the following persons:
 - (i) In the case of individual by the individual himself;
 - (ii) In case of a firm by a partner thereof;
 - (iii) In case of Hindu Undivided Family by the Karta or any other male member of the family;
 - (iv) In case of a Company by the Managing Director or any other Director or principal officer thereof;
 - (v) In the case of any other Association of persons or body of individuals by any member or principal officer thereof;
 - (vi) In the case of local authority or any other dealer not specified hereinbefore by the principal officer thereof;
 - (vii) In the case of a Department of Government or Central Government by Head of the Department/Office or any other officer competent to act on his behalf.
- (b) Notwithstanding anything contained in sub-rule (a) whereby any of the persons specified therein is not available in the State or such a person is not able to sign the memorandum of appeal or the application for any other reasons it may be signed by his authorized representative.

89. Registration of transporter, Forwarding Agency, etc

- (a) The application for registration under section 68 shall be in Form VAT-80 and shall be made to the Deputy Commissioner Commercial Taxes of the Division in which, office or in case there are more than one office in the State, the Head Office of the applicant is located. It shall be made within three months of the enforcement of this rule or of the commencement of business whichever is later:

PROVIDED that the application shall also be entertained after such period subject to the penal action warranted under clause (a) of sub-section (1) of Section 69.

- (b) The fee of Rs.1000/-shall be paid in cash to be deposited in the treasury and proof of payment attached with the said application.
- (c) Security to the extent of Rs.1.00 lac shall be furnished in any of the modes prescribed in rule 27 for registration of a dealer.
- (d) Certificate of registration shall be issued in Form VAT-81. A copy of the certificate shall be issued free of charge for each of the branches in the State.

90. Form of show cause notice

The notice for levy of penalty under Section 69 may be issued in Form VAT-83.

91. Proceedings under the Act not to become invalid

The rules prescribing the registers to be maintained by the authorities or time limit for submission of reports by the Assessing Authority to the higher authorities or prescribing time limit for issuing the order of assessment, appeal, revision are directory and the contravention

thereof shall not render any proceedings under the Act invalid, which are otherwise valid.

92. Notice required under Section 78

The notice required under sub-section (2) of section 78 shall be in Form VAT-84 and the revised notice of demand as required under sub-section (2) of Section 84 shall be in Form VAT-21.

93. Fee for application under Section 87

Fee for application under Section 87 shall be Rs.100/- and it shall be paid in cash in the treasury and proof of payment of the said fee shall be attached with the application which shall be in Form VAT-85.

94. Cross-checking of transactions under Section 91(3)

The form of intimation for purposes of cross checking of transactions under Section 91 shall be in Form VAT-42.

95. Application for enrolment as a tax practitioner

Any person desirous of being enrolled as Commercial Taxes practitioner under the Act shall apply in Form VAT-44 to the Commissioner of Commercial Taxes.
