

Bihar Value Added Tax Rules, 2005

[24th March, 2005]

S.O.26 dated 24th March, 2005 – In exercise of the powers conferred by section 93 of the Bihar Value Added Tax Act, 2005, the Governor of Bihar hereby makes the following rule:

1. Short title and commencement:

- (1) These rules may be called Bihar Value Added Tax Rules, 2005.
- (2) These rules shall come into force from the date of their issue.

2. Definitions:

- (1) In these rules, unless there is anything repugnant to the subject or context—
 - (a) *The Act* means Bihar Value Added Tax Act 2005;
 - (b) *Circle* means a unit of Commercial Taxes administration as specified in the Government notification issued in this behalf from time to time, within the local limits of which a dealer's place of business is situated;
 - (c) *Circle Incharge* means the Deputy Commissioner of Commercial Taxes or the Assistant Commissioner of Commercial Taxes or the Commercial Taxes Officer, Incharge of the Circle or the officer specially empowered by the Commissioner in this behalf;
 - (d) *Deputy Commissioner, Commercial Taxes* means a Deputy Commissioner of Commercial Taxes appointed under section 10 of the Act;
 - (e) *Tax Invoice* means the invoice issued by the registered selling dealer to the purchasing registered dealer in terms of section 53 of the Act.
 - (f) *Joint Commissioner, Commercial Taxes* means a Joint Commissioner of Commercial Taxes appointed under section 10 of the Act;
 - (g) *Ward* means an administrative unit as specified in the order issued by the Commissioner in this behalf from time to time within the area of a circle;
 - (h) *Forms* means a Form prescribed under these rules;
 - (i) *Quarter* means a quarter ending on the 30th June, 30th September, 31st December, 31st March of a year;
 - (j) *Government Treasury* means, in relation to a dealer the treasury or sub-treasury, as the case may be, of the district or subdivision in which his place of business is situated.
 - (k) *section* means a section of the Act;
 - (l) *sub-section* means any sub-section of a section of the Act.
- (2) all other words, terms or expressions not defined herein shall have the same meaning as is assigned to them in the Act.

3. Registration of dealer

- (1) An application for registration under sub-section (2), sub-section (3) or sub-section (4) of section 19 shall be made in Form A-I.
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- (2) Such an application shall be presented by a dealer within seven days from the date of his becoming liable for payment of tax under the Act and shall be –
- (a) signed, as the applicant, by the proprietor of the business; or in the case of a firm, by the partner authorised to act on behalf of the firm; or in the case of the business of an undivided Hindu family, by the Karta of the family; or in the case of a company incorporated under the Companies Act, 1956 (1 of 1956) or a Corporation constituted under any law, by the managing director or the principal executive officer thereof; or in the case of a society, club or association of persons or a department of Government or local authority, by the principal executive officer, or officer-in-charge thereof, and
 - (b) verified in the manner specified in the said Form.

Provided that a dealer, in whose respect a valid Taxpayer Identification Number has been granted under the earlier law shall be allowed to continue with the same Taxpayer Identification Number.

Provided further that for this purpose the Circle Incharge may require the dealer to furnish such information as may be deemed fit.

- (3) An application for registration shall be filed before the Circle Incharge within whose jurisdiction the place of business of the dealer is situated.
 - (4) In the case of a dealer to whom section 22 applies, an application for registration shall be accompanied by a correct and complete declaration in Form D-I containing the particulars laid down in the Form along with two photographs (3.5 cm x 2.5cm) of the person or persons.
 - (5) On receipt of any application for registration, the applicant shall be granted a Certificate of Registration in Form C-I by the authority specified in sub-rule (3) at the earliest, preferably within fifteen days.
- Provided that in the case of a dealer registered under the earlier law, the Certificate of Registration in form C-I shall be granted by the Circle Incharge within one month of the appointed date.*
- (6) The full information contained in the application for registration shall be entered in the register in form VR-I.
 - (7) At the end of each month, a register of all registered dealers granted registration during the month shall be prepared in Form VR-I and such register shall be signed by the Circle Incharge.
 - (8) The Circle Incharge shall, within a month, verify or cause to be verified the particulars furnished by the applicant. If upon enquiry, any of the particulars furnished in the application are found to be incorrect, or the applicant has misrepresented or suppressed any fact, the Circle Incharge shall, after giving the dealer an opportunity of being heard, cancel the certificate of registration granted under sub rule (5).
 - (9) (a) In case of such dealers who have got more places of business than one, situated in different circles in Bihar, or in case of a dealer having no fixed place of business in Bihar and who sells goods inside the State either direct or through agents or salesmen or otherwise, shall apply before the Commissioner or before the officer specially authorised in this behalf. After receipt of such application, Commissioner or the officer specially authorised in this behalf shall direct the applicant to get himself registered in the circle specified in the direction.
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- (b) The provisions of sub rules (1) to sub rule (8) shall, apply *mutatis mutandis* to an application for registration under this sub rule.

4. Grant of duplicate copy of permanent registration certificate

- (1) If a registration certificate granted under these rules is lost, destroyed, defaced or becomes unintelligible, the holder of such certificate shall apply to the concerned Circle Incharge for issuance of a duplicate copy of the certificate. Such an application shall be accompanied by –
- (i) a receipted challan for rupees one hundred by way of fees;
 - (ii) an indemnity bond in Form B-I;
- (2) The said authority, in lieu of the certificate, which was claimed to be lost, shall proceed to grant a duplicate certificate, which shall be stamped “Duplicate” in red ink.

5. Amendment in and cancellation of registration certificate

- (1) (a) Every dealer to whom the provisions of section 23 apply, shall inform in writing, the appropriate authority specified in sub-rule (3) of rule 3 about the complete details necessitating action under section 20.
- (b) Where the information furnished by a dealer under section 23 or otherwise received by the authority specified under sub-rule (3) of rule 3 necessitates amendment of any information furnished by him in Form A-I and subsequently entered in register in Form VR-I, the said authority shall make suitable amendments in the said register in Form VR-I within fifteen days of the receipt of information under section 23 or otherwise:
- (c) Where the information furnished by a dealer under section 23 or otherwise received by the authority specified in sub-rule (3) of rule 3 necessitates amendment in a declaration furnished under section 22, the dealer shall furnish to the said authority a revised declaration; until such revised declaration is furnished to the said authority the original declaration shall continue to be deemed valid and binding on such dealer.
- (2) (a) Every registered dealer to whom sub-section (2) of section 20 applies shall forthwith apply in Form A-II together with his registration certificate to the appropriate authority specified in sub-rule (3) of rule 3, for cancellation of his certificate of registration.
- (b) On receipt of such application the authority specified in sub-rule (3) of rule 3 shall, after verification of the particulars furnished therein and without prejudice to the dealer’s liability to pay any sum due under the Act or under the earlier law, cancel the registration certificate within thirty days of receipt of such application.

6. Security

If reasonable grounds exist to believe that it is necessary in the interest of revenue so to do, the Circle Incharge may, for reasons to be recorded in writing, require a dealer to furnish security which shall ordinarily be equivalent to the amount of the tax estimated as being payable by the dealer for a period not exceeding one quarter of any year and for this purpose the Circle Incharge may also consider the requirement of statutory declarations under these rules by the dealer.

7. Collection of Advance Tax

- (1) Subject to the prior sanction of the Joint Commissioner of Commercial Taxes (Administration) of the concerned division, the advance tax under sub section (7) of section 3 shall ordinarily be for a period not exceeding three months of any year.
- (2) Notwithstanding anything contained in sub rule (1), if the authority specified in Rule 62 is satisfied that, in the case of any goods or class or description of goods or in the case of any dealers or any class of dealers, it is necessary in the interest of revenue so to do, he may, with the prior sanction of the Commissioner, require any dealer to pay advance tax for a period not exceeding twelve months in such installments as may be deemed fit.

8. Tribunal

- (1) The Tribunal under section 9 shall consist of three or more members appointed by the State Government. One member shall be a Judicial Member and one other member shall be a departmental Member.
 - (2) The Judicial member shall be:
 - (a) a retired Judge of a High Court who, at the time of his appointment, shall not be more than 65 years of age, or
 - (b) an officer of Judicial Service not below the rank of a District Judge.
 - (3) The Departmental Member shall be a person who is or has been an officer not below the rank of Joint Commissioner of Commercial Taxes.
 - (4) The other member or members, as the case may be, shall be a person or persons:
 - (a) who has or have been for at least ten years in the practice as an Advocate in any High Court or the Supreme Court, or
 - (b) who has been or have been an Associate or a Fellow Member of the Institute of Chartered Accountants of India for a minimum period of 10 years, or
 - (c) who is or has been an officer of the Indian Audit and Accounts Service not below the rank of Deputy Accountant General.
 - (5) The judicial member shall be the Chairman of the Tribunal.
 - (6) No person who has attained the age of 62 years shall be appointed as a member other than the judicial member.
 - (7) No member of the Tribunal, other than the Judicial Member, shall continue as member after attaining the age of 65 years:

Provided that the officer of the Judicial Service appointed as Judicial Member shall, subject to the provisions of sub-rule (9), be entitled to continue as member till the expiry of his term.
 - (8) Subject to the provisions of sub-rule (7), the members of the Tribunal shall ordinarily be appointed for a period of three years which may be extended by a period not exceeding three years.
 - (9) The appointment of a member of the Tribunal may be terminated before the expiry of his tenure if the member –
 - (a) is adjudged as an insolvent, or
 - (b) is engaged, during his term of office, in any paid employment outside the duties of his office, or
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- (c) is, in the opinion of the State Government, unfit to continue in office by reasons of infirmity of mind or of body or for any other reason.

9. Powers of Circle Incharge to allot work among officers

For smooth functioning of the office, the Circle Incharge shall allot work and records or proceedings among the officers posted in the circle who shall, in respect of the work allotted to him, be responsible for revenue collection target, distribution of statutory Forms, carrying out such functions as may be required for the purposes of section 25, 27, 28, 30, 31, 32, 33, 39, 56, 57, 58 and section 59 of the Act and such other functions as may be assigned to him by the Circle Incharge.

10. Evidence in support of claims in respect of goods leviable to tax at the first point of their sale in Bihar

- (1) A dealer who claims that any amount of his turnover, being the sale price at the subsequent stages of such goods as are specified in Schedule IV of the Act, should be exempt from tax shall substantiate such claim before the authority specified in rule 62 by producing the purchase order, if any, the original copy of the cash memoranda or bills issued to him and a true declaration in writing from the selling dealer or his manager declared under section 22 in Form D-III that the goods in question have already been subjected to sales tax on the first point of their sale in the State of Bihar.
 - (2) Registered dealers shall get the declaration in Form D-III printed and shall issue such Forms from a bound book containing 25 leaves in triplicate, duly perforated and such Forms shall bear printed serial number.
 - (3) Before furnishing declaration to the purchasing dealer in Form D-III, the selling dealer or any person authorized by him in his behalf, shall fill in all required particulars in the Form and shall also affix his signature in the space provided in the Form for this purpose. Thereafter, the counterfoil of the Form shall be retained by the selling dealer and the other two portions marked 'Original' and 'Duplicate' shall be made over by him to the purchasing dealer.
 - (4) The selling dealer shall also maintain, serially and chronologically, a complete account in Register VR-II in respect of all Forms of declarations printed and issued by him and also file a statement of Forms along with the quarterly statement required to be furnished under sub section (2) of section 24.
 - (5) The purchasing dealer shall also maintain serially and chronologically a complete account in register in Form VR-III in respect of the Forms of declaration, received by him from the selling dealers.
 - (6) If any such Form, whether blank or duly filled in, is lost, destroyed or stolen, the dealer from whose custody such loss, destruction or theft occurs shall report the fact to the authority specified in rule 62 immediately, make appropriate entries in the remarks column of the register in Form VR-II or VR-III, as the case may be, take steps for the issue of a public notice of the loss, destruction or theft and shall furnish in respect of every such Form so lost an indemnity bond to the authority specified in sub-rule (1) for such sum as the said authority may, having regard to the circumstances of the case, fix.
 - (7) A registered dealer shall not transfer Form D-III to any other person.
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11. Payment of tax at a fixed rate under section 15 in lieu of the tax payable by a dealer

- (1) The provisions of section 15 shall apply to such dealers whose gross turnover, as per their own estimate, is not expected to exceed rupees forty lacs during a financial year.
- (2) A dealer entitled to pay tax at a fixed rate under section 15 shall intimate the authority specified in rule 62 authority in Form A-XI. Such intimation shall be submitted at the counter of the circle. The incharge of the counter, after ascertaining that all the columns of the application have been properly filled in, signed and verified shall -
 - (i) grant the person a receipt in lieu thereof, and
 - (ii) enter the same in register VR-XII.
- (3) Notwithstanding anything contained in sub rule (1), if the gross turnover of a dealer paying tax under section 15 exceeds rupees forty lacs during the course of the year or he imports any goods from outside the State for the purpose of his business, his entitlement to pay tax at fixed rate in lieu of the tax payable shall cease from the date on which his gross turnover first exceeded rupees forty lacs or, as the case may be, he first sold the goods imported by him from outside the State.

12. Input Tax Credit

- (1) Claims in respect of input tax credit shall be made by a registered dealer in his return under section 24.
- (2) The total amount of input tax credit to which a dealer is entitled during a month shall be the amount arrived at after applying the following Formula:

$$ITC = O + C + I - R$$

Where,

- ITC = The total amount of input tax credit to which the dealer is entitled during the month;
- O = The tax paid, under the earlier law, on opening stock of such goods as had been purchased on or after 01.04.2004 but before 31.03.2005;
- C = The thirty-sixth part of the tax paid in respect of capital goods purchased on or after 01.04.2005;
- I = The tax paid on inputs purchased during the month, charged either in the bill or invoice or through a debit note issued to the purchasing dealer; and
- R = The amount of reverse credit, if any, incurred by the dealer during the month and computed in accordance with the provisions of rule 14 and rule 15.

Provided that in case the aggregate of the reverse credit computed in respect of a month exceeds the input tax paid on inputs purchased during the month such excess shall be added to the output tax of the concerned month.

- (3) For the purposes of this rule, no input tax credit shall be claimed in respect of inputs purchased or acquired from any place outside the State of Bihar.
- (4) Save in respect of any claim for input tax credit arising under section 17, a claim for refund of any unadjusted input tax shall only be made and allowed in the twenty-fifth month after the month in which such claim for unadjusted input tax had arisen. In case a claim for refund of input tax arises under section 17 it shall first be applied towards adjustment from the liability under the Act or the Central Sales Tax Act,

1956. Only the amount, if any, remaining after such adjustment shall be refunded as per the provisions of section 68 or section 69, as the case may be.

- (5) (a) In case of goods purchased from inside the State and transferred either to consignment agent or branch or head office or to a sub contractor, the input tax credit shall be claimed by the transferee on the basis of the declaration in Form D-IV issued by the transferor. In such cases the value shown in the declaration in Form D-IV shall be deemed to be the value of purchase by the transferee.
- (b) No input tax credit shall be available to a registered dealer for tax paid or payable at the time of purchase of goods if such goods are not sold because of any theft, loss or destruction for any reason, including natural calamity, and if a dealer has already taken any input tax credit against purchase of such goods the dealer shall incur a reverse tax credit at the end of the month in which such goods are stolen, lost or destroyed.
- (c) No input tax credit shall be claimed by a registered dealer in respect of tax paid at the time of purchase unless he encloses a declaration in form D-XI, giving details of his purchases, along with the return filed by him in form RT-I.
- (6) The tax paid on the purchase of the following goods shall not qualify for input tax credit, if the same have been used as capital goods:
- (a) Civil structure and immovable goods or properties;
- (b) Vehicles of all types;
- (c) Office equipment;
- (d) Furniture, fixture including electrical fixtures and fittings.

13. Input tax credit on account of opening stock

Subject to the provisions of rule 56, the input tax credit on account of opening stock to which the dealer is entitled shall –

- (a) in a case where such opening stock has been valued exclusive of tax and -
- (i) tax under section 12 and 6 of the earlier law has been charged from the dealer holding such stock, be the aggregate of the tax suffered by such opening stock under section 12 and section 6 of the earlier law,
- (ii) tax under 6 of the earlier law has been charged from the dealer holding such stock, be the tax suffered by such opening stock under section 6 of the earlier law;
- (b) in a case where the opening stock of any goods, held by a dealer from whom tax under section 12 and section 6 of the earlier law has been charged, is valued inclusive of the tax levied under the earlier law then, the tax element included in the opening stock of such goods and qualifying for input tax credit under section 16 shall be the amount arrived at after applying the following formula:

$$O = [V + (1.01 \times Tr \times V)] \div (101 + 1.01Tr)$$

Where,

- O = The entitlement to input tax credit on account of opening stock of the dealer from whom tax under section 12 and section 6 of the earlier law has been charged;
- V = The value of the opening stock, inclusive of tax under the earlier law, of such

goods which have been purchased between 01.04.2004 and 31.3.2005 and on which tax under section 12 and 6 of the earlier law has been paid; and

Tr = The rate of tax applicable to the goods in stock under the earlier law.

- (c) in a case where the opening stock of any goods, held by a dealer from whom tax under section 12 of the earlier law has been charged, is valued inclusive of the tax levied under the earlier law then, the tax element included in the opening stock of such goods and qualifying for input tax credit under section 16 shall be the amount arrived at after applying the following Formula:

$$O = (V \times Tr) \div (100 + Tr); \text{ where,}$$

O = The entitlement to input tax credit on account of opening stock of the dealer from whom tax under section 12 of the earlier law has been charged;

V = The value of the opening stock, inclusive of tax under the earlier law, of such goods which have been purchased between 01.04.2004 and 31.3.2005 and on which tax under section 12 of the earlier law has been paid; and

Tr = The rate of tax applicable to the goods in stock under the earlier law.

- (d) in a case where the opening stock of any goods, held by a dealer from whom tax under section 6 of the earlier law has been charged, is valued inclusive of the tax levied under the earlier law then, the tax element included in the opening stock of such goods and qualifying for input tax credit under section 16 shall be the amount arrived at after applying the following Formula:

$$O = V \div 101; \text{ where,}$$

O = The entitlement to input tax credit on account of opening stock of the dealer from whom tax under section 6 of the earlier law has been charged; and

V = The value of the opening stock, inclusive of tax under section 6 of the earlier law, of such goods which have been purchased between 01.04.2004 and 31.3.2005 and on which tax under section 6 of the earlier law has been paid.

- (e) Notwithstanding anything contained in clauses (a), (b), (c) or (d), claims in respect of input tax credit relating to opening stock shall be made by a dealer only in such return filed by him under sub section (1) of section 24 along with which he encloses a true declaration in Form IXC as specified under rule 12 of the Bihar Sales Tax Rules, 1983 issued by the dealer from whom such goods were purchased under the earlier law.

Provided that in the case of a manufacturer, claims in respect of input tax credit relating to opening stock shall be made by a dealer only in such return filed by him under sub-section (1) of section 24 along with which he encloses the following certificate issued by a Chartered Accountant within the meaning of sub-section (2) of section 54:

Certificate

Certified that:

- (1) I/We have examined the records, accounts and invoices/bills maintained by M/s (specify name and address) bearing Taxpayer Identification Number

- (2) The goods mentioned in the Table appended to this certificate are being held in stock by the above named dealer on 31-3-2005 and have been purchased from within the State of Bihar after 1-4-2004 upon payment of the tax applicable to them under section 12 and/or section 6 of the Bihar Finance Act, 1981; and
- (3) The said dealer is in possession of the original copies of the invoices/bills issued to him by the respective selling dealers.

Sl No.	Description of Goods held in stock on 31-3-2005	Applicable Tax rate under the earlier law	Value of Goods in stock	Tax on the value specified in column (4)
(1)	(2)	(3)	(4)	(5)

Date

Place

Signature of Authorised Person(s)

Office Seal

14. Reverse Credit in case of a Non-Manufacturer

- (1) A non-manufacturing dealer shall incur a reverse credit in the following circumstances:
- Stock transfers effected within the State out of goods purchased from within the State after paying thereon the tax leviable either under the Act or the earlier law;
 - Stock transfers effected outside the State out of goods purchased from within the State after paying thereon the tax leviable either under the Act or the earlier law;
 - Goods returned by the purchasing dealer in terms of sub-rule (5) of Rule 18;
 - Inputs purchased by the dealer from another registered dealer and the right wherein to use is transferred to another person or used for self consumption or as gift;
 - Inputs purchased by the dealer from another registered dealer and consumed in the manufacture of goods part of which are specified in Schedule IV of the Act; and
 - Inputs purchased by the dealer from another registered dealer on which input tax credit has been claimed by the purchasing dealer and which have been lost, stolen or destroyed.
- (2) The dealer shall compute the reverse credit that he has incurred during a month on account of -
- The value of stock transfers within the state, which shall be the amount arrived at after applying the following Formula -

$$R_1 = [(A \times I) \div P]$$

Where,

R_1 = The reverse credit on account of stock transfers within the state;

A = The total value of stock transfers within the state;
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- I = The input tax paid by the dealer on purchase of inputs, other than those specified in Schedule I, during the month; and
- P = The value of goods, other than goods specified in Schedule I of the Act, purchased during the month from within the state.

- (b) The value of stock transfers outside the state, which shall be the amount arrived at after applying the following Formula:

$$R_2 = [4 \times B \div 100]$$

Where,

R_2 = The reverse credit on account of stock transfers outside the state;

B = The total value of stock transfers outside the state.

- (c) In respect goods returned by the purchasing dealer in terms of sub-rule (5) of Rule 18, which shall be the amount arrived at after applying the following Formula:

$$R_3 = (C \times R_t) \div 100$$

Where,

R_3 = The reverse credit incurred by the purchasing dealer on account of goods returned by the purchasing dealer in terms of sub-rule (5) of Rule 18;

C = The value, exclusive of tax, of the goods returned by the purchasing dealer in terms of sub-rule (5) of Rule 18; and

R_t = The rate of tax applicable to the goods.

- (d) In respect of inputs purchased by the dealer from another registered dealer and the right wherein to use is transferred to another person or used for self consumption or as gift which shall be the amount arrived at after applying the following formula:

$$R_4 = (D \times I) \div P$$

Where,

R_4 = The reverse credit on account of goods the right wherein to use is transferred to another dealer or used for self consumption or as gift;

D = The aggregate of the purchase values of goods the right wherein to use is transferred to another dealer or used for self consumption or as gift;

I = The input tax paid by the dealer on purchase of inputs, other than those specified in Schedule I, during the month;

P = The value of goods, other than goods specified in Schedule I of the Act, purchased during the month from within the state.

- (e) In respect of inputs purchased by the dealer from another registered dealer and consumed in the manufacture of goods part of which are specified in Schedule IV of the Act which shall be the amount arrived at after applying the following formula:

$$R_5 = (E \times I) \div F$$

Where,

R_5 = The reverse credit on account of goods manufactured by a manufacturer part of which are specified in Schedule IV of the Act;

E = The aggregate of the quantities of goods manufactured which are specified in Schedule IV of the Act;

I = The input tax paid by the dealer on purchase of inputs, other than those specified in Schedule I, during the month; and

F = The aggregate of the quantities of all goods manufactured.

- (f) Inputs purchased by the dealer from another registered dealer on which input tax credit has been claimed by the purchasing dealer and which have been lost, stolen or destroyed which shall be the amount arrived at after applying the following formula:

$R_6 = (G \times I) \div P$; *where,*

R_6 = The reverse credit on account of inputs purchased by the dealer from another registered dealer on which input tax credit has been claimed by the purchasing dealer and which have been lost, stolen or destroyed;

G = The aggregate of the purchase values of inputs purchased by the dealer from another registered dealer on which input tax credit has been claimed by the purchasing dealer and which have been lost, stolen or destroyed;

I = The input tax paid by the dealer on purchase of inputs, other than those specified in Schedule I, during the month;

P = The value of goods, other than goods specified in Schedule I of the Act, purchased during the month from within the state.

15. Reverse Credit in case of a Manufacturing Dealer

- (1) A manufacturing dealer shall incur a reverse credit in the following circumstances:
- (a) Sales by a manufacturer of goods specified in Schedule I and which have been manufactured by him from inputs other than those specified in Schedule I;
 - (b) Stock transfers effected within the State by a manufacturer of goods specified in Schedule I and which have been manufactured by him from inputs other than those specified in Schedule I;
 - (c) Stock transfers effected outside the State by a manufacturer of goods specified in Schedule I and which have been manufactured by him from inputs other than those specified in Schedule I;
 - (d) Inputs purchased by the dealer from another registered dealer and used in the manufacture of goods the right wherein to use is transferred to another dealer or used for self consumption or as gift;
 - (e) Inputs purchased by the dealer from another registered dealer on which input tax credit has been claimed by the purchasing dealer and used in the manufacture of goods which have been lost, stolen or destroyed; and
 - (f) Inputs purchased by the dealer from another registered dealer and consumed in the manufacture of goods part of which are specified in Schedule IV of the Act.
- (2) A manufacturing dealer shall first compute the input-output ratio by applying the
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following Formula:

$$K = (OB + PR - CB) \div V; \text{ where,}$$

K = The input-output ratio for the immediately preceding year;

OB = The value of opening stock of all goods on the first day of the immediately preceding year;

PR = The value of all goods purchased during the immediately preceding year;

CB = The value of closing stock of all goods on the last day of the immediately preceding year; and

V = The aggregate of the sale of goods sold within the state, sales in the course of inter-state trade and commerce, stock transfers, exports and sales of goods specified in Schedule I of the Act during the immediately preceding year.

Provided that the value of K shall be taken at 0.85 in the case of a dealer commencing business at any time after the appointed date.

(3) After computing the value of K as aforesaid, the dealer shall compute the reverse credit that he has incurred during a month on account of:

(a) Sales by a manufacturer of goods specified in Schedule I and which have been manufactured by him from inputs other than those specified in Schedule I, which shall be the amount arrived at after applying the following Formula:

$$R_7 = (H \times K \times I) \div P; \text{ where,}$$

R_7 = The reverse credit on account of sales by a manufacturer of goods specified in Schedule I and which have been manufactured by him from inputs other than those specified in Schedule I;

H = The total value of sales by a manufacturer of goods specified in Schedule I and which have been manufactured by him from inputs other than those specified in Schedule I;

K = The input-output ratio computed under sub-rule (2) as aforesaid;

I = The input tax paid by the dealer on purchase of inputs, other than those specified in Schedule I, during the month;

P = The value of goods, other than goods specified in Schedule I of the Act, purchased during the month from within the state.

(b) Stock transfers effected within the State by a manufacturer of goods specified in Schedule I and which have been manufactured by him from inputs other than those specified in Schedule I, which shall be the amount arrived at after applying the following Formula:

$$R_8 = (J \times K \times I) \div P; \text{ where,}$$

R_8 = The reverse credit on account of stock transfers effected within the State by a manufacturer of goods specified in Schedule I and which have been manufactured by him from inputs other than those specified in Schedule I;

J = The total value of stock transfers effected within the State by a manufacturer of goods specified in Schedule I and which have been manufactured by him from inputs other than those specified in Schedule I;

K = The input-output ratio computed under sub-rule (2) as aforesaid;

- I = The input tax paid by the dealer on purchase of inputs, other than those specified in Schedule I, during the month;
- P = The value of goods, other than goods specified in Schedule I of the Act, purchased during the month from within the state.

- (c) Stock transfers effected outside the State by a manufacturer of goods specified in Schedule I and which have been manufactured by him from inputs other than those specified in Schedule I, which shall be the amount arrived at after applying the following Formula:

$$R_9 = (L \times K \times 4) \div 100; \text{ where,}$$

R_9 = The reverse credit on account of stock transfers effected outside the State by a manufacturer of goods specified in Schedule I and which have been manufactured by him from inputs other than those specified in Schedule I;

L = The total value of stock transfers effected outside the State by a manufacturer of goods specified in Schedule I and which have been manufactured by him from inputs other than those specified in Schedule I;

K = The input-output ratio computed under sub-rule (2) as aforesaid;

- (d) Inputs purchased by the dealer from another registered dealer which have been used by him in the manufacture of such goods the right wherein to use is transferred to another dealer or have been used for self consumption or as gift, which shall be the amount arrived at after applying the following Formula:

$$R_{10} = (M \times K \times I) \div P; \text{ where,}$$

R_{10} = The reverse credit on account of goods the right wherein to use is transferred to another dealer or used for self consumption or as gift;

M = The aggregate of the values of goods the right wherein to use is transferred to another dealer or used for self consumption or as gift;

K = The input-output ratio computed under sub-rule (2) as aforesaid;

I = The input tax paid by the dealer on purchase of inputs, other than those specified in Schedule I, during the month;

P = The value of goods, other than goods specified in Schedule I of the Act, purchased during the month from within the state.

- (e) Inputs purchased by the dealer from another registered dealer on which input tax credit has been claimed by the purchasing dealer and used in the manufacture of goods which have been lost, stolen or destroyed which shall be the amount arrived at after applying the following Formula:

$$R_{11} = (N \times K \times I) \div P; \text{ where,}$$

R_{11} = The reverse credit on account of inputs purchased by the dealer from another registered dealer on which input tax credit has been claimed by the purchasing dealer and used in the manufacture of goods which have been lost, stolen or destroyed;

N = The aggregate of the values of inputs purchased by the dealer from another registered dealer on which input tax credit has been claimed by the purchasing dealer and used in the manufacture of goods which have

been lost, stolen or destroyed;

K = The input-output ratio computed under sub-rule (2) as aforesaid;

I = The input tax paid by the dealer on purchase of inputs, other than those specified in Schedule I, during the month;

P = The value of goods, other than goods specified in Schedule I of the Act, purchased during the month from within the state.

- (f) In respect of inputs purchased by the dealer from another registered dealer and consumed in the manufacture of goods part of which are specified in Schedule IV of the Act which shall be the amount arrived at after applying the following Formula:

$$R_{12} = (O \times I) \div Q; \text{ where,}$$

R_{12} = The reverse credit on account of goods manufactured by a manufacturer part of which are specified in Schedule IV of the Act;

O = The aggregate of the quantities of goods manufactured which are specified in Schedule IV of the Act;

I = The input tax paid by the dealer on purchase of inputs, other than those specified in Schedule I, during the month; and

Q = The aggregate of the quantities of all goods manufactured.

16. Total reverse credit and revised reverse credit

- (1) The total amount of reverse credit incurred by the dealer shall be the aggregate of the values of $R_1, R_2, R_3, R_4, R_5, R_6, R_7, R_8, R_9, R_{10}, R_{11}$ and R_{12} , if any, computed in accordance with the provisions of rule 14 and rule 15.

- (2) (a) Notwithstanding anything contained in rule 14 and rule 15, every dealer to whom provisions of rule 15 apply shall, at or before the time of filing of annual return, make a revised computation of the total amount of reverse credit, if any, incurred by him during the year. The revised reverse credit shall be computed in the manner hereinafter provided:

- (b) The dealer shall first compute the revised input-output ratio by applying the following Formula –

$$K = (OB + PR - CB) \div V$$

Where,

K = The input-output ratio for the year to which the input tax credit relates;

OB = The value of opening stock of goods on the first day of the year to which the input tax credit relates;

PR = The value of goods purchased during the year to which the input tax credit relates;

CB = The value of closing stock of goods on the last day of the year to which the input tax credit relates; and

V = The aggregate of the sale of goods within the state, sales in the course of inter-state trade and commerce, stock transfers, exports and sales of goods specified in Schedule I of the Act during the year to which the input tax credit relates.

- (c) The revised reverse credit shall then be recomputed by reapplying the value of

K computed as aforesaid to the formulae mentioned in rule 15 and for this purpose the following values of I, P, H, J, L, M, N and Rt, wherever appearing, shall be taken as –

- I = The input tax paid by the dealer on purchase of inputs, other than those specified in Schedule I, during the year to which the input tax credit relates;
- P = The value of goods, other than goods specified in Schedule I of the Act, purchased during the year to which the input tax credit relates;
- H = The total value of sales during the year to which the input tax credit relates by a manufacturer of goods specified in Schedule I and which have been manufactured by him from inputs other than those specified in Schedule I;
- J = The total value of stock transfers during the year to which the input tax credit relates effected within the State by a manufacturer of goods specified in Schedule I and which have been manufactured by him from inputs other than those specified in Schedule I;
- L = The total value of stock transfers during the year to which the input tax credit relates effected outside the State by a manufacturer of goods specified in Schedule I and which have been manufactured by him from inputs other than those specified in Schedule I;
- M = The aggregate of the values of goods during the year to which the input tax credit relates the right wherein to use is transferred to another dealer or used for self consumption or as gift;
- N = The aggregate of the values of inputs purchased during the year to which the input tax credit relates by the dealer from another registered dealer on which input tax credit has been claimed by the purchasing dealer and used in the manufacture of goods which have been lost, stolen or destroyed; and
- Rt = The rate of tax applicable to the goods.

- (d) If the revised reverse credit computed in terms of the provisions of clause (c) of this sub-rule is different from the aggregate of the reverse credit for the entire year computed under sub-rule (1) as aforesaid, the dealer shall –
- (i) deposit the amount of difference, in case the revised reverse credit computed in terms of the provisions of clause (c) of this sub-rule exceeds the aggregate of the reverse credit for the entire year computed under sub-rule (1) and enclose the proof of payment with the annual return;
 - (ii) add the amount of difference to his entitlement of input tax credit during the month the annual return is filed, in case the revised reverse credit computed in terms of the provisions of clause (c) of this sub-rule is less than the aggregate of the reverse credit for the entire year computed under sub-rule (1).
- (e) If the proportion, expressed as a percentage, of exports during the year to which the input tax credit relates to the aggregate value disposed during the said year is greater than the proportion, expressed as a percentage, of value addition effected to the aggregate value disposed, and the input tax credit, as adjusted by the revised reverse credit, if any, to which he is entitled for the year
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is more than the output tax for the said year then the dealer shall claim and be allowed a refund, in accordance with the provisions of rule 43, of such excess in the month following the month in which the annual return is filed.

Explanation 1: The expression *aggregate value disposed* shall mean the aggregate of the sale of goods within the state, sales in the course of inter-state trade and commerce, stock transfers, exports and sales of goods specified in Schedule I of the Act during the year to which the input tax credit relates.

Explanation 2: The expression *value addition* shall be the amount which remains after deducting the sum of the total purchases during the year and the closing stock at the end of the year to which the claim for input tax credit relates, from the sum of the aggregate value disposed and the value of opening stock at the beginning of the year to which the claim for input tax credit relates.

17. Refund of tax to foreign diplomats or foreign missions

- (1) Any foreign diplomat or mission making any purchase of any goods not specified in Schedule I or Schedule IV of the Act after payment of tax shall apply for refund of the tax so paid.
- (2) Such application shall:
 - (a) be made to the Circle Incharge within whose jurisdiction the dealer selling the goods is situated;
 - (b) be accompanied by the original copy of the invoice issued by the selling dealer showing separately the tax charged;
 - (c) contain the address of the applicant; and
 - (d) contain the following certificate, granted by an officer of the concerned Embassy especially authorised in this behalf:

Certificate

“Certified that the goods mentioned in the Invoice accompanying this application have been purchased by (name of the purchaser) who is entitled for refund of tax under sub-section (2) of section 17 of the Bihar Value added Tax Act, 2005.

Further certified that I have been duly authorised to sign this certificate”

Date

Signature

Seal of Embassy

Name and designation
of signing authority

- (3) On receipt of such application the authority specified in sub-rule (2) shall pass refund order in Form-O within seven days of such receipt. The concerned Treasury or the Bank, as the case may be, shall prepare a Bank draft in the name specified in the refund order and forward the same to the concerned Circle Incharge within five days of the receipt of the refund order.
 - (4) Upon receipt of the Bank draft from the Treasury or the Bank, as the case may be, the Circle Incharge shall send the same by registered post to the applicant within three days of receipt of such draft.
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18. Taxable turnover

For purposes of section 35 the taxable turnover of the dealer shall be that part of his gross turnover which remains after deducting therefrom:

- (1) The aggregate value of the transactions specified in section 6;
- (2) Sale price on account of sales exempted under section 7;
- (3) In the case of works contract, the amount remaining after deducting from the gross value of the contract the amount on account of the following—
 - (a) Labour charges for execution of the works contract,
 - (b) Amount paid to sub-contractor on account of labour and services,
 - (c) Charges for planning, designing and architects fees,
 - (d) Charges for obtaining on hire machineries and tools used in the execution of the works contract,
 - (e) Cost of consumables such as water, electricity, fuels, etc. used in execution of the works contract the property in which is not transferred in the course of execution of a works contract,
 - (f) Cost of establishment of the contractor to the extent it is relatable to supply of labour and services,
 - (g) Other similar expenses relatable to supply of labour and services,
 - (h) Profit earned by the contractor to the extent it is relatable to the supply of labour and services, and
 - (i) Goods or transactions exempted under section 6 or section 7 of the Act;
- (4) Value of goods transferred otherwise than by way of sale;
- (5) The value of goods sold but returned to the dealer within a period of six months from the date of the original sales and in respect of which the selling dealer has issued to the purchasing dealer a credit note specified in section 53 of the Act;
- (6) Sale price at the subsequent stages of sale of such goods as are specified in Schedule IV of the Act as being subject to tax at the first point of their sale in Bihar if necessary evidence as required by sub-section (2) of section 13 are annexed with the return required filed by the dealer under sub-section 3 of section 24.

19. Returns

- (1) If the authority specified in rule 62 requires a dealer to furnish returns under sub-section (1) of section 24 of the Act he shall serve upon him a notice in Form N-I and such dealer shall comply with the notice within thirty days from the date of service of such notice. Such return shall be in the form RT-IX.
- (2) Every registered dealer, other than a dealer paying tax under section 15, shall furnish to the authority specified in rule 62:
 - (a) a monthly return in Form RT-I in duplicate;
 - (b) a quarterly statement in Form RT-II in triplicate;
 - (c) an annual return in Form RT-III in duplicate.
- (3) Every dealer paying tax under section 15 shall furnish to the authority specified in rule 62, a quarterly return in Form RT-IV in duplicate:

Provided that the return for the fourth quarter shall be deemed to be the annual return in respect of such a dealer.

- (4) The revised return as provided under sub-section (7) of section 24 shall be in Form RT-V in duplicate.
- (5) Such returns shall be filed before the authority specified in rule 62.
- (6) All returns or statements mentioned in the rules shall be signed and verified in the manner provided in the Form by the proprietor of the business; or, in the case of a firm, by the partner authorized to act on behalf of the firm; or, in the case of business of an undivided Hindu family, by the Karta of the family; or, in the case of a company incorporated under the Companies Act, 1956 (Act 1 of 1956) or a corporation constituted under any law, by the managing director or principal executive officer thereof; or, in the case of a society, club or association of persons or body of individual or a department of Government or local authority, by the principal executive officer, or officer in charge thereof; or, by the declared manager under section 22 in all cases.
- (7) On receipt of any return or statement the person in charge of the receipt counter shall grant the person a receipt in lieu thereof.
- (8) (a) All statements under sub-section (2) of section 24 furnished during a day shall be handed over to the Circle In-Charge on the following day and the said In-Charge shall ensure that all such statements are entered in the register in form VR-V within fifteen days of receiving them.
 (b) The Circle Incharge shall sort, or cause to be sorted, circle-wise and such sorted statements shall be sent to the circle concerned; a copy of such sorted list shall also be forwarded to the Commissioner along with a summary of the same.
 (c) Upon receipt of the sorted statements referred to in clause (b), the Circle Incharge of the concerned circle shall cross-verify, or cause to be cross-verified the information contained in the said statements with the corresponding statements furnished by the dealers registered in his circle.
- (9) (a) If a dealer fails to file the returns or statements specified under sub section (1) or the statement under sub section (2) of section 24, the authority specified in rule 62 shall serve upon the dealer a notice in Form N-II requiring him to show cause for such failure.
 (b) On the date fixed for hearing the person proceeded against shall be allowed to rebut the accusations leveled against him; but shall not ordinarily be allowed an adjournment. If an adjournment becomes necessary, the specified authority shall record reasons therefor.
 (c) After giving a hearing, the specified authority shall record an order containing precisely and clearly the gist of accusations, the manner in which the person proceed against was made aware of that, the reply, if any, furnished, and the decision thereon.

20. Opportunity of hearing

- (1) The authority referred to in rule 62 shall, in the matter of a proceeding under:
 - (a) sub-section (3) of section 13, sub-section (3) of section 15, sub-section (1) of section 28, sub-section (5) of section 39, sub-section (5) of section 40, sub-section (6) of section 41, sub-section (6) of section 47, sub-section (8) of section 53, sub-section (4) of section 54, sub-section (3) of section 59 and sub-section (2) of section 62, serve or caused to be served upon the person proceeded
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against a notice which shall contain a gist of accusations, a date of hearing which shall in no case be less than twenty-four hours nor more than 15 days from the date of issue of notice, and the date of hearing.

- (b) sub-section (6) of section 10, sub-section (5) of section 19, sub-section (1) of section 27, sub-section (1) of section 29, sub-section (5) of section 72, sub-section (4) of section 73, section 74 and section 76, serve or caused to be served upon the person proceeded against a notice which shall contain a gist of the ground or grounds on which the proceeding has been initiated, a date of hearing which shall in no case be less than twenty-four hours nor more than 15 days from the date of issue of notice, and the date of hearing.
- (2) On the date fixed for hearing the person proceeded against shall be allowed to rebut the accusations leveled against him, or, as the case may be, reply to the ground or grounds on which the proceeding has been initiated; but shall not ordinarily be allowed an adjournment. If an adjournment becomes necessary, the authority specified in rule 62 shall record reasons therefor.
- (3) After giving a hearing, the authority referred to in sub-rule (1) shall record an order containing precisely and clearly the gist of accusations, or, as the case may be, the ground or grounds on which the proceeding has been initiated, the manner in which the person proceeded against was made aware of that, the reply, if any, furnished, and the decision thereon.
- (4) A true copy of order shall be made over to the person proceeded against.

21. Scrutiny of Returns

- (1) The officer Incharge of the record shall ensure that the full information contained in returns is entered in register in form VR-IV.
- (2) The authority specified in sub rule (1) shall, within thirty days of the returns and statements being placed on the record of the dealer, scrutinize them in accordance with the provisions of sub section (1) of section 25.
- (3) The notice under sub section (2) of section 25 shall be in Form N-III.
- (4) If any amount is found payable by the dealer pursuant to an order under sub-section (3) of section 25 the authority specified in sub-rule (1) shall require the dealer to pay the said amount by a date which shall, ordinarily, not be less than thirty days from the date of service of the notice requiring such payment:

Provided that the authority may, in respect of any particular dealer, and, for reasons to be recorded in writing, extend the date of such payment, or allow such dealer to pay the tax due by installments in the manner specified under sub-rule (3) of Rule 27.

Provided further that where the authority specified under sub-rule (1) considers it expedient in the interest of State revenue, it may, for reasons to be recorded in writing, require any dealer to make such payment forthwith.

22. Audit and Re-assessment

- (1) For the purposes of section 26, the Commissioner shall, in respect of any financial year, select by the 31st of March of the year following the financial year, such number of dealers as may be deemed fit, for audit, to be conducted either singly or by a team of officers for ascertaining the correctness of accounts maintained by such dealers.
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The number of registered dealers to be audited every year shall ordinarily be not more than ten percentum of the total number of registered dealers in the state.

- (2) After making selection of the registered dealers under sub-rule (1), a list relating to each circle shall be sent to the concerned Circle Incharge and a copy of the same shall also be forwarded to the Joint Commissioner Incharge of Administration of the division.
- (3) A list of dealers of a circle selected for audit shall be displayed for public viewing on the notice board of the concerned circle.
- (4) The concerned circle Incharge shall constitute audit teams, from amongst the officers posted in the circle, in respect of the selected dealers.
- (5) The head of the audit team constituted under sub rule (4) shall serve upon the dealer selected for audit, a notice in Form N-IV specifying therein, the time, date, the expected duration of the audit at the place of business of the dealer and the nature of accounts and documents to be examined by the audit team and the dealer shall comply with the terms of such notice.
- (6) The audit authority may require the assistance of any authority or person for the cross verification of any information gathered during the course of an audit.
- (7) The audit report drawn by the audit team shall be scrutinized by the Circle incharge and a final report shall be prepared a copy of which shall be handed over to the dealer.
- (8) The dealer shall file his reply to the issues raised in the final report within a period not exceeding thirty days of the receipt of the report.
- (9) If, having regard to the final report and the reply filed by the dealer, the authority specified in rule 62 has reasons to believe that the dealer has not disclosed his correct tax liability or has concealed or omitted any fact leading to any reduction in the tax payable by him, he shall proceed to reassess the dealer in terms of the provisions of section 31.

Provided that no reassessment under section 31 shall be made unless the dealer is served with a notice in Form N-V.

23. Assessment of fair, mela, etc.

- (1) While assessing a non-resident dealer doing business temporarily by way of a fair or mela under the provisions of section 30 the authority specified in rule 62 shall take into account -
 - (i) The value of goods kept in stock, or
 - (ii) The estimate of daily sales effected by such dealer, or
 - (iii) The place of such business, or
 - (iv) The number of people visiting such fair or mela, or
 - (v) The cash in hand at any point in time during such fair or mela, or
 - (vi) Any combination of the above, or
 - (vii) Any other information that, in the opinion of the specified authority, is relevant in arriving at an estimate of the tax payable by such dealer.

Provided that, no such assessment shall be made unless the dealer has been given an opportunity of being heard.

- (2) The specified authority shall, for the purpose of this rule, assess any dealer doing
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business in such fair or mela every week in respect of his transactions for the week.

24. Hearing under section 32 and 33

- (1) The notice of hearing in the matter of proceedings under 32 and 33 shall be in Form N-VI and from N-VII respectively.
- (2) On the date fixed for hearing the person proceeded against shall be allowed to rebut the accusations leveled against him, but shall not ordinarily be allowed an adjournment. If an adjournment becomes necessary, the authority specified in rule 62 shall record reasons therefore.
- (3) After giving a hearing, the authority referred to in sub-rule (2) shall record an order containing precisely and clearly the gist of accusations, the manner in which the person proceeded against was made aware of that, the reply, if any, furnished, and the decision thereon.
- (4) A true copy of order shall be made over to the person proceeded against.

25. Assessment on Audit Objections

- (1) If any irregularity relating either to fact or law committed in the course of any proceedings is pointed out by the Comptroller and Auditor General, the authority specified in rule 62 shall, upon being satisfied about the lawfulness of such objection and after giving the dealer an opportunity of being heard, proceed to reassess the tax due from the dealer.
- (2) If the specified authority is not satisfied about the lawfulness of the objection, he shall communicate his views to the Commissioner with a copy of the original order and the audit objection, a copy of which shall also be forwarded to the Comptroller and Auditor-General.
- (3) The Commissioner or any other officer especially empowered by him in this behalf, after the receipt of the communication mentioned in sub-rule (2) and after applying his mind to the questions involved shall pass appropriate order in this regard:

Provided that no such order shall be passed without serving upon the dealer concerned a notice requiring him to file, within one month of the date of the service of notice, a reply to the objection raised by the Comptroller and Auditor General.

26. Intra-State Stock Transfer

- (1) Where any dealer claims that he is not liable to pay tax under the Act in respect of any goods, on the ground that the movement of such goods from one place to another within Bihar was occasioned by reason of transfer of such goods other than by way of sale, the burden of proving the claim shall be on that dealer and for this purpose he shall furnish to the authority specified in rule 62 authority along with the statement required to be furnished by him under sub section (2) of section 24 -
 - (a) a true and complete declaration in Form D-V obtained from the consignee;
 - (b) correct and complete record of the name, address, Taxpayer Identification Number, if any, of the person to whom the goods were transferred incorporating therein the quantity of the goods and the value thereof;
 - (c) copy of accounts rendered by the agent or the office to the whom the goods were transferred, and
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- (d) copy of the railway or the lorry receipts relating to such transfer.
- (2) The transferor shall issue to the transferee a challan in Form D-VI.

27. Payment of Tax, Interest and Penalty

- (1) A notice of demand under sub-section (2) of section 39 and sub-section (3) of section 25 shall be in Form N-VIII and notice under sub-section (3) of section 43 shall be in Form N-IX.
- (2) Every dealer or any other person required to pay any tax or interest or penalty under the Act shall pay the amount of tax or interest or penalty into Government Treasury, or any Bank authorised by the Commissioner in this behalf, by Challan in Form CH-I:

Provided that if the circle incharge is satisfied that a dealer has been and is maintaining adequate funds in his bank account he may permit him to pay the amount of tax or interest or penalty, if any, through a crossed cheque drawn on a bank functioning at the place where the Government Treasury is situated or to any Bank to be specified by the Commissioner. Such permission may, at any time, be revoked without assigning any reason.

Provided further that where a dealer is permitted to pay the amount of tax or interest or penalty, as the case may be, by a crossed cheque or crossed bank draft such cheque or draft, shall be drawn by the dealer in favour of the Deputy Commissioner or the Assistant Commissioner or the Commercial Taxes Officer in charge of the circle, as the case may be, to which the payment relates. Where the cheque or draft is on a bank other than a branch of the Reserve Bank or the State Bank of India it or the Bank authorised in this behalf shall also include an additional amount equal to the actual collection charges, if any.

Explanation: For the purposes of calculating penalty, if any, under the Act and the rules, the date of receipt of cheque or draft, as the case may be, by Bank or the treasury or the Circle concerned, as the case may be, shall ordinarily be deemed to be the date of payment by the dealer, save in the case of a cheque, which is dishonoured.

- (3) If the authority specified in rule 62 is satisfied that owing to circumstances beyond the control of a dealer, he is not in a position to pay the full amount due under sub section (2) of section 39, he may, on application from the dealer and for reasons to be recorded in writing, permit the dealer to pay the amount due in installments, if the dealer agrees to pay an amount which is not less than one-third of the amount payable on the date of the application.

Provided that, such installments shall not ordinarily extend beyond the expiry of a period of twelve months from the date of receipt of the application.

- (4) (a) The Bank authorised to receive payments under sub rule (2) shall forward to the Circle Incharge a list of all payments received along with such other documents directed by Commissioner in this behalf each day by the end of next following day.
- (b) The list referred to in clause (a) shall also be posted by the bank on the web-site of the department when so required.
- (5) Notwithstanding anything contained in sub-rule (1), the Commissioner may, by a notification issued in this behalf empower any authority appointed under section 10 for the purpose of receiving payment of tax or interest or penalty in cash. Such order shall be subject to such conditions and restriction as may be imposed by the notification.
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- (6) The challan in Form CH-I shall be filled up in five copies. The portion of the challan marked "Original" shall be sent by the Treasury Officer to the concerned circle incharge. The portion of the challan marked "Duplicate" shall be retained by the treasury and the portion marked "Triplicate" and "Quadruplicate" shall be returned to the dealer or the taxpayer after being duly receipted. The dealer or the taxpayer shall retain the portion marked "Triplicate" and shall furnish the portion marked "Quadruplicate" along with his return to the authority specified in rule 62. The copy marked "For Circle" shall be forwarded by the Bank to the circle incharge.
- (7) The Commissioner may by an order provide for the acceptance of any payment of any tax or interest along with return or penalty, directly by any branch of the State Bank of India or of any other Nationalised Bank or of any other Bank authorized in this behalf. The manner in which such payment shall be made or the challan to be submitted by a dealer or accepted by the Branch of the Bank and other matters incidental thereto shall be as specified in the order and be subject to such conditions and restrictions as may be laid down therein.

28. Deduction of tax at source from the bills of supply contractors

- (1) No deduction shall be made under section 40 –
 - (a) if the dealer is not liable to pay tax under the Act;
 - (b) if the supplier, being a dealer registered under section 19 of the Act, produces before the deducting authority a certificate in Form C-III issued by the in charge of the circle in which he is registered.
- (2) A supplier, for the purpose of obtaining the certificate in Form C-III, shall apply for the same in Form A-III and the authority specified in rule 62, after verifying the particulars furnished in the application, shall issue the certificate in Form C-III.
- (3) The provisions of sub rules (3), (4), (5) and (6) of rule 29 shall apply *mutatis mutandis* in so far as they relate to deductions, deposits, returns and certificates.

29. Deduction of tax at source from the bills of works contractors

- (1) The deduction referred to in sub-section (1) of section 41 shall be made at the rate notified in this behalf from time to time by the Government.
- (2) Such deduction shall be made from payments purporting to be the full or part payment of the sale price, being made in respect of all contracts executed, whether in part or in full, after commencement of this Act:

Provided that no deduction shall be made on account of the payment pertaining to the following –

- (a) *Labour charges for execution of the works contract,*
 - (b) *Amount paid to sub-contractor on account of labour and services,*
 - (c) *Charges for planning, designing and architects fees,*
 - (d) *Charges for obtaining on hire machineries and tools used in the execution of the works contract,*
 - (e) *Cost of consumables such as water, electricity, fuels, etc. used in execution of the works contract the property in which is not transferred in the course of execution of a works contract,*
 - (f) *Cost of establishment of the contractor to the extent it is relatable to supply of labour and services,*
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- (g) *Other similar expenses relatable to supply of labour and services,*
- (h) *Profit earned by the contractor to the extent it is relatable to the supply of labour and services, and*
- (i) *Goods or transactions exempted under section 6 or section 7 of the Act.*

Provided further that the amount deducted during a year shall be refunded, in accordance with the provisions of section 68, to the person from whose bills such deductions are made if he does not become liable to tax during the year during which the said deductions were made:

Provided also that no such refund shall be made unless the person claiming the refund files, before the Circle In-Charge, an application in form A-XIII after the end of the financial year during which the deduction or deductions, as the case may be, were made.

- (3) (i) The person making such deduction under sub-section (1) of section 41 and responsible for depositing the same shall forward the crossed cheque or a crossed bank draft, drawn in favour of the concerned circle incharge, accompanied by separate Challans in Form CH-I in respect of each contractor by the 15th day of the following month. The person making the deduction shall also enclose a statement in Form RT-VI giving details about such deductions.

Explanation: The expression “concerned circle incharge” shall—

- (a) in a case where the contractor is registered, be the Circle Incharge of the circle within whose jurisdiction the concerned contractor is registered;
- (b) in a case where the contractor is not registered, be the circle incharge within whose jurisdiction the concerned works contract is being executed.

Provided that no cheque or draft, as aforesaid, shall be accepted by the concerned Circle Incharge unless the same is accompanied by the statement in form RT-VI.

- (ii) Where the cheque or draft is on a bank other than a branch of the Reserve Bank of India or the State Bank of India or the bank specially authorised in this behalf, it shall also include an additional amount equal to the actual collection charges.
 - (iii) Upon receipt of the cheque or draft specified in sub-clause (i) the concerned Circle Incharge shall deposit the same in the concerned Treasury or the Bank, as the case may be.
 - (iv) After the deposit is made, the portions of the challan marked “Triplicate” and “Quadruplicate” shall be handed over to the contractor from whose bills the deduction has been made.
- (4) (i) Every person deducting tax in accordance with sub-section (1) of section 41 shall, at the time of payment, whether in part or in full, issue to the person from whom such deduction is made, a certificate in Form C-II and furnish fully and correctly all such particulars as are specified therein.
 - (ii) The certificate mentioned in clause (i) shall be in quadruplicate.
 - (iii) The portions marked “Original” and “Duplicate” shall be handed over to the contractor from whose bills the deductions have been made who shall furnish the portion marked “Original” to the authority specified in rule 62 as evidence of payment of tax by deduction at source along with the return to be filed under section 24 and the portion marked “Duplicate” shall be retained by the contractor.
 - (iv) The portion marked “Triplicate” shall be sent to the concerned circle incharge along with the relevant Challan.
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- (v) The “Quadruplicate” portion shall be retained by the person issuing this certificate.
- (5) (i) Every person making the deductions referred to in sub-section (1) of section 41 shall also send to the circle incharge within whose jurisdiction the concerned contractor is registered, a quarterly return in Form RT-VII by the 31st July, 31st October, 31st January and 30th April in respect of the deductions made by him during the quarter immediately preceding.
- (ii) If any contractor is not registered in any circle, a separate quarterly return shall be sent to the circle incharge within whose jurisdiction the concerned contract is being executed.
- (6) Any deduction made in accordance with the provisions of sub-section (1) of section 41 and paid in the Government Treasury or the bank, as the case may be, shall be treated, to such extent, as payment of the tax on behalf of the contractor from whom such deduction was made and credit shall be given to him for the amount so deducted and deposited in the Government Treasury or the bank, as the case may be.

30. Issuance of Tax Clearance Certificate

- (1) The application for the tax clearance certificate under section 42 shall be submitted in duplicate before the circle incharge in Form A -IV. The circle incharge, after making such inquiry as is deemed fit, shall either reject or accept the application within seven days of the receipt of the application.
- (2) (a) An application referred to in sub-rule (1) shall be rejected if the dealer is either in arrears of admitted tax, interest, penalty or tax assessed or reassessed, in relation to which no stay order has been passed within a period of one year from the date of the passing of the order levying tax, by any superior court, or has not furnished a return for any period.
- (b) Where an application is rejected the circle in charge shall specify the amount of arrears outstanding against the dealer or the period for which the return has not been filed. If the arrears are paid or the return is furnished, as the case may be, the tax clearance certificate shall be granted to the dealer, which shall be in Form C-IV.
- (c) The tax clearance certificate granted under this rule shall ordinarily be valid for a period of one year from the date of its issue or for such lesser period as may be specified in the certificate.
- (3) The copy of the tax clearance certificate marked “Original” shall be handed over to the applicant, and the copy marked “Duplicate” shall be retained in the concerned circle.
- (4) A register in Form VR-VI shall be maintained in each circle and the details of each application referred to in sub-rule (1) shall be entered in the said register.
- (5) If any contract is awarded to the contractor on the basis of such Tax Clearance Certificate, the applicant shall inform the circle in charge within seven days of award of the contract.

31. Forfeiture of tax collected in violation of the Act

- (1) The authority referred to in rule 62 shall, in the matter of a proceeding under sub-section (2) of section 44, serve upon any person or a registered dealer proceeded
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against a notice in Form N-X, fixing a date of hearing which shall in no case be less than fifteen days from the date of issue of such notice.

- (2) Where an order for forfeiture is passed under section 44, the Commissioner shall cause a notice to be published in more than one widely circulated newspaper containing the following details:-
 - (a) The name of the dealer or person, as the case may be, from whom the amount illegally collected has been forfeited;
 - (b) The period during which the amount was illegally collected;
 - (c) The amount forfeited; and
 - (d) Any other information that may be deemed fit in the facts and circumstances of the case.
- (3) The person from whom the amount so forfeited was collected shall apply to the Commissioner in Form A-V for the refund of the amount forfeited.

32. Special Mode of Recovery

The authority referred to in rule 62 shall, in the matter of a proceeding under sub-section (1) of section 47, serve upon any person or a registered dealer, a notice in Form N-XI.

33. Books of Accounts

- (1) Every dealer required by sub-section (1) of section 52 to maintain accounts shall keep accounts of stock, purchases, sales, receipts and dispatches in such a manner so as to give information—
 - (a) in respect of sales or purchases within the State of Bihar of different classes of goods liable to tax at different rates of tax;
 - (b) in respect of sales or purchases in the course of inter-state trade or commerce;
 - (c) in respect of sales or purchases in the course of import into or export out of the territory of India;
 - (d) in respect of goods received or dispatched by him other than by way of sale either from or to within the State or from or to outside the State.
 - (2) Every dealer, other than a dealer paying tax under section 15, required to maintain accounts under section 52 shall, in addition to the accounts required to be maintained under sub-rule (1), with a view to give information regarding his transactions, also maintain, monthwise:
 - (a) separate accounts of purchases or receipts of goods liable to tax at different rates:
 - (i) from outside the state, showing therein the name and address of the consignor, his Taxpayer Identification Number in the respective state, his registration number under the Central Sale Tax Act, 1956, if any, the invoice number or document evidencing receipt of goods and the date thereof and the purchase price of the goods;
 - (ii) from within the State of Bihar, showing therein the name and address of the consignor, his Taxpayer Identification Number, if any, the tax invoice,
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the retail invoice number or the document evidencing receipt of goods, as the case may be, and the date thereof and the purchase price of the goods and the tax, if any, charged thereon.

- (b) separate accounts of sales or dispatches of goods liable to tax at different rates:
- (i) to outside the state, showing therein the name and address of the consignee, his Taxpayer Identification Number, if any, his registration number under the Central Sale Tax Act 1956, if any, the invoice number or the document evidencing dispatch of goods, the date thereof and the sale price of the goods;
 - (ii) to within the State of Bihar, showing therein the name and address of the consignee, Taxpayer Identification Number, if any, the tax invoice or the retail invoice number or the document evidencing dispatch of goods, as the case may be and the date thereof and the sale price of the goods and the tax, if any, charged thereon.
- (3) Every dealer mentioned in sub rule (2) shall also maintain a separate Value Added Tax Register in Form VR-VII.
- (4) Every dealer, required by sub-section (1) of section 52 to maintain accounts, shall, in addition to the accounts and register required to be maintained under sub-rules (1), (2) and (3), also maintain monthwise, separate accounts in respect of:
- (i) quantity of opening stock, receipts, issue and closing stock of different inputs received;
 - (ii) quantity of opening stock, production, sales or dispatches and closing stock of different finished goods.
- (5) Every dealer required by sub-section (1) of section 52 to maintain accounts and whose Gross Turnover exceeds rupees forty lacs shall get his accounts audited under section 54 of the Act and shall file along with the annual return:
- (i) a tax audit report in Form TAR-I;
 - (ii) a copy of the audited income statement in Form TAR-II, in a case where such income statement is either prepared or required to be prepared under any law for the time being in force, in respect of his business in the State of Bihar;
 - (iii) a copy of the audited balance sheet in Form TAR-III, in a case where such balance sheet is either prepared or required to be prepared under any law for the time being in force, in respect of his business in the State of Bihar; and
 - (iv) a detailed flow of goods in Form TAR-IV, in a case where an income statement or a balance sheet is not required to be prepared under any law for the time being in force, in respect of his business in the State of Bihar;
- (6) Every dealer paying tax under section 15 shall prepare, and file along with the annual return, a trading and profit and loss account in Form TAR-V.
- (7) Every dealer claiming input tax credit on account of capital goods shall maintain a register of such goods containing the following particulars:
- (i) Location of the capital goods;
 - (ii) Date of purchase of the capital goods and such particulars regarding the purchase as the persons or dealers from whom such goods are purchased, details of bill or invoice relating to such capital goods;
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- (iii) Quantity of the capital goods;
 - (iv) Cost of purchase of the capital goods.
- (8a) The retail invoice under sub-section (4) of section 53 shall be issued to the purchaser if the value of the transaction exceeds Rs. 200/-.
- (8b) The retail invoice mentioned in clause (a) shall be serially numbered and shall contain the following details—
- (i) Name and style of the business of the selling dealer;
 - (ii) Taxpayer Identification Number of the selling dealer;
 - (iii) Nature of purchaser (whether consumer or a dealer not registered under the Act);
 - (iv) Name and address of the purchaser in case of sale to a dealer;
 - (v) Date of issue;
 - (vi) Description of goods, their quantity and value;
 - (vii) Tax, if separately charged;
 - (viii) Signature of the person issuing the retail invoice.
- (9) Every dealer referred to in sub-section (1) of section 53 shall preserve all books of accounts including tax invoices, retail invoices, debit notes and credit notes until the expiry of six years after the end of the year to which they relate or, in the case of a dispute, till the final disposal of the proceedings relating to the dispute, whichever is later.

34. Credit Note and Debit Note

- (1) The credit note under clause (a) of sub-section (9) of section 53 shall contain the following particulars –
- (a) The serial number and date of the Credit Note;
 - (b) Name and style of the business of the selling dealer and his Taxpayer Identification Number;
 - (c) Name and style of the business of the purchasing dealer and his Taxpayer Identification Number;
 - (d) In case of goods returned subsequent to sales thereof—
 - (i) the serial number and date of the Tax Invoice issued in respect of which the purchasing dealer has returned the goods;
 - (ii) the description, quantity and value of the goods returned;
 - (e) In case of a transaction other than that specified in clause (d), the reason necessitating issuance of the credit note and details thereof;
 - (f) Signature and the status of the person issuing the credit note.
- (2) The debit note under clause (b) of sub-section (9) of section 53 shall contain the following particulars –
- (a) The serial number and date of the Debit Note;
 - (b) Name and style of the business of the selling dealer and his Taxpayer Identification Number;
 - (c) Name and style of the business of the purchasing dealer and his Taxpayer Identification Number;
 - (d) The serial number and date of the Tax Invoice issued in respect of which the Debit Note is being issued;
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- (e) The description, quantity and value of the goods in respect of which the Debit Note is being issued;
- (f) Reasons for issuance of such Debit Note;
- (g) Signature and the status of the person issuing the debit note.

35. Inspection, Search and Seizure

- (1) When any accounts, registers or documents are inspected or examined by any authority or Inspector appointed under section 10, or any officer empowered under section 86, such officer, authority or inspector shall affix his signature and official seal at one or more places thereon.
- (2) Where any authority or an Inspector appointed under section 10 or any officer empowered under section 86, conducts a search under sub-section (3) of section 56 or, as the case may be, a seizure of goods under sub-section (4) of section 56, he shall, as far as applicable, follow the procedure prescribed in the Code of Criminal Procedure, 1973 (Act 2 of 1974):

Provided that a list of all the goods seized shall be prepared by the authority specified in sub-rule (1) and be signed by the said authority, the dealer or the person in charge of the goods or the person incharge of the premises, and not less than two witnesses.

- (3) When any accounts, registers or documents of a dealer seized by any authority appointed under section 10 or any officer empowered under section 86, have to be returned to the dealer, such return may be made after taking such extracts therefrom as may be considered necessary. The authority making the return shall affix its signature and official seal on such accounts, registers or documents and the dealer shall give a receipt, in acknowledgment, which shall mention the number and particulars of the places where the signature and the seal have been affixed on the accounts, register or documents returned to him.
- (4) The Commissioner may, by an order in writing, empower any officer, ordinarily not below the rank of a Deputy Commissioner, to authorise the conduct of any inspection, search or seizure.
- (5) The authority empowered under sub-rule (4) shall examine the information available and after such further enquiry, as may be deemed fit, and upon being satisfied that it is in the interest of revenue so to do, issue the letter of authorization.

36. Auction of Seized Goods and Release of Security

- (1) Goods which are seized under sub-section (3) of section 56 and which are not released owing to failure to furnish security or to pay the penalty imposed under clause (b) of sub-section (4) of section 56 within the time allowed shall be sold in public auction after following the procedure as indicated below: -
 - (2a) The step for public auction shall be taken by the circle incharge, who shall cause to be published on the notice board of his office, a list of the goods seized and intended for sale with a notice under his signature, specifying the place where, and the day and time at which, the seized goods are to be sold and display copies of such lists and notices at more than one public place near the place where the goods were seized. Normally a notice of not less than ten days shall be given before the auction is conducted; but this condition may be waived in case of goods of perishable nature.
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- (2b) Intending bidders shall deposit as earnest money a sum equal to ten percentum of the estimated value of goods;
- (2c) At the appointed day and time, the goods shall be put up in one or more lots, as the officer conducting the auction sale may consider desirable, and shall be knocked down in favour of the highest holder subject to confirmation of the sale by the circle in charge conducting auction or an officer subordinate to the said circle in charge;
- (2d) The auction purchaser shall pay the sale value of the goods in cash immediately after the sale and he will not be permitted to carry away any part of the goods until the sale has been confirmed by the authority specified in clause (a) and full value has been paid by him. If the successful bidder fails to deposit the purchase money in full, the earnest money deposited by him shall stand forfeited to the State Government. The earnest money deposited by the unsuccessful bidders shall be refunded to them after the auction is over;
- (2e) If the order imposing penalty is either stayed or reversed in appeal or revision, the goods seized shall be released forthwith. If the goods are sold before such an order and any sum received as sale proceeds on account of auction sale of such seized goods has been appropriated towards penalty imposed, the sum so appropriated shall be refunded to the owner of the goods in the manner specified in rule 43;
- (2f) Any amount of sale proceeds in excess of the amount appropriated towards penalty shall be refunded to the owner of the goods in the manner specified in rule 43; the release of security deposited under clause (c) of sub-section (4) of section 56 and refund thereof shall also be in the manner specified in rule 43.

37. **Notice for Cross-checking and Verification of Transactions**

If the authority referred to in rule 62 is in possession of any information regarding sales, purchases, transfers of goods or payments or receipts relating thereto in connection with a dealer he shall, by a notice in Form N-XII, require any person related in any manner to any of the aforesaid transactions to furnish such information as is deemed fit.

38. **Information for Survey**

For the purposes of section 58, the authority specified in rule 62 may —

- (a) direct, by notice in Form N-XIII, any dealer to keep his books of accounts ready for verification. Such verification may be made either at his place of business or the dealer may be directed to produce the same on the date and time specified in this behalf;
- (b) require a dealer to furnish information in Form RT-VIII in respect of his business;
- (c) by notice in Form N-XIV, require a dealer or any public utility or any financial institutions including banking companies to furnish such information as may be required by the notice.

Explanation: For the purposes of this rule the expression “public utility” shall include any institution which provides public utility by way of any work or project useful to members of the public at large such as a municipal body, gram panchayat, District Board, Electricity Board, State Transport Corporation, etc.

39. Information to be furnished and records to be maintained by persons engaged in the business of transporting goods, C&F agents, etc.

- (1) Every person required by sub-section (1) of section 59 to furnish information shall, within one month of the appointed date, furnish the following certificate to the concerned circle incharge of every circle within whose jurisdiction his place of business is located:

Certificate

To,

Circle Incharge _____ Circle

Certified that the business operations of M/s _____ (Name and style of the person/firm furnishing the certificate) are conducted at the following places:

Sr No.	Complete address of the place of business	Name and address of the owner of the premises mentioned in column (2)
(1)	(2)	(3)

Further certified that the above information is true and correct to the best of my knowledge and belief and that no place has been omitted from the above list and that I am authorised to sign this certificate.

Place

Signature

Date

Designation of the person
signing the certificate

- (2) If any change takes place in any of the particulars mentioned in the certificate furnished under sub-rule (1), a fresh certificate, incorporating such changes, shall be furnished to the authority specified in sub-rule (1) within seven days of such change.
- (3) For the purpose of sub-section (2) of section 59, any clearing, forwarding or booking agent or a person engaged in the business of transporting goods shall maintain a register in Form VR-VIII.

40. Check Posts

- (1) Where the State Government decides to set up a check-post, under section 60 at any place in this state, the location of such check-post shall be notified in the official Gazette. When a check-post is set up on a thoroughfare or road, barrier may be erected, across the road or thoroughfare, in the Form of a contrivance to enable traffic being intercepted, detained and searched.
- (2) No person shall transport across or beyond a check-post to any place outside the State of Bihar any goods notified under section 60 exceeding such quantity or value as may be specified in the notification, except after applying for grant of permission in Form D-VII in triplicate, before the appropriate authority or officer authorised by the State Government in this behalf.
- (3) Upon receipt of such application, the said authority or officer, on being satisfied about the particulars furnished, shall grant his permission by countersigning the declarations and seal them with his official seal; two copies of the permission shall be

returned to the person filing it after endorsing on one of these copies the particulars of the authority or officer to whom it shall be surrendered.

- (4) The driver of the vehicle carrying the goods or the person in charge of the goods shall produce the countersigned permission, for inspection and checking at any other check post, which may fall in the route, and shall surrender one copy thereof to the authority or officer to whom he has been directed under sub-rule (3) to surrender it.

Explanation: For the purposes of this rule expression ‘*appropriate authority/officer*’ shall mean the authority or officer-in-charge of a check-post.

41. Restriction on Movement

- (1) No person shall transport any consignment of goods referred to under sub-section (1) of section 61, exceeding such quantity or value, as maybe specified in the notification, except in accordance with the following conditions, namely: -
- (a) If any such consignment is to be transported by or on behalf of a dealer, within the state, he shall issue a declaration in Form D-VIII supported by an invoice, cash memo or bill in the case of movement is as a result of sale or a challan in case the movement is otherwise than as a result of sale in respect of goods which is being transported or is otherwise in transit or in transit storage and produce such cash memo or bill and produce such invoice or cash memo or bill or challan, as the case may be, with aforesaid Form of declaration on demand before the authority specified in rule 62.
- (b) In case of goods being imported from any other state, by or on behalf a dealer who is in possession of a valid certificate of registration, the person transporting the goods or the dealer, as the case may be, shall carry a declaration in Form D-IX supported by a bill or cash memo in case the movement is as a result of sale or a challan in case the movement is otherwise than as a result of sale in respect of goods which is being transported or is otherwise in transit or in transit storage and produce such bill or cash memo or challan, as the case may be, along with the aforesaid Form of declaration on demand before the authority specified in rule 62.
- (c) In case of goods being exported from the State to any other State, by or on behalf a dealer, the person transporting the goods or the dealer, as the case may be, shall carry a declaration in Form D-X supported by a bill or cash memo in case the movement as a result of sale or a challan in case the movement is otherwise than as a result of sale in respect of goods which is being transported or is otherwise in transit or in transit storage and produce such bill or cash memo or challan, as the case may be, along with the aforesaid Form of declaration on demand before the authority specified in rule 62.
- (2) Where the consignment is to be transported from any railway station, steamer station, air-port or post office the dealer shall endorse the serial number of the declaration in Form D-VIII or Form D-IX, as the case may be, on the railway receipt or other document required for the purpose of obtaining delivery of the consignment and shall also sign the said Form and present the duplicate copy of the Form so filed along with the railway receipt or other document to be furnished for obtaining delivery of the consignment and subsequent to delivery of consignment from any railway station, steamer station, airport or post office, the consignment shall thereafter be
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transported accompanied with the original copy of the said Form without undue restriction, except for normal checking and inspection enroute, after which the original copy shall be furnished to the appropriate authority and a receipt shall be obtained for the same.

- (3) Registered dealers shall get the declaration specified in clause (b) of sub-rule (1) printed and shall issue such Forms from a bound book, containing 25 leaves in triplicate, and shall get the book authenticated by the authority specified in rule 62 who shall authenticate the same by putting his signature and official seal on the triplicate copy of the first and last page of each book, and such Forms shall bear printed serial number:

Provided that new Form shall not be authenticated in respect of any dealer until he has rendered satisfactory account of old Forms authenticated in respect of him:

Provided further that if, for reasons to be recorded in writing, the specified authority is not satisfied that the applicant for declarations specified in clause (b) of sub-rule (1) has defaulted in furnishing any return or statement or revised return or has failed to deposit any tax or interest due, or has failed to pay any tax assessed under the Act with regard to which no stay order has been passed, within a period of twelve months from the date of the passing of the order levying tax, by any superior court, the specified authority shall withhold authentication of such Forms until such time as the applicant furnishes such returns or statements or deposits such tax or interest or penalty, as the case may be.

- (4) Registered dealers shall get the declaration specified in clause (a) and clause (c) of sub-rule (1) printed and shall issue such Forms from a bound book containing 25 leaves in triplicate and such Forms shall bear printed serial number.
- (5) Before furnishing declaration specified in sub-rule (1) or (2) to the purchasing dealer or the selling dealer, as the case may be, or to any person authorized by him in his behalf, shall fill in all required particulars in the Form and shall also affix his signature in the space provided in the Form for this purpose. Thereafter, the counterfoil of the Form shall be retained by the issuing dealer and the other two portions marked 'Original' and 'Duplicate' shall be made over by him to the dealer to whom the Form is issued.
- (6) The issuing dealer shall also maintain, serially and chronologically, a complete account in Register VR-IX in respect of all Forms of declarations printed or received after being duly authenticated and used by him and also file a statement of all forms of declarations in form D-IX and D-X used by him during the quarter along with the quarterly statement required to be furnished under sub section (2) of section 24.
- (7) Any unused Form authenticated under sub-rule (3) and remaining in stock with a registered dealer on the cancellation of the certificate of registration shall be surrendered by him to the appropriate authority.
- (8) Every such Form obtained from the appropriate authority after being duly authenticated shall be kept by the registered dealer in safe-custody and he shall be personally responsible for the loss, destruction or theft of any such Form.
- (9) Where any blank or duly completed Form duly authenticated under sub-rule (3), is lost while it is in the custody of either the consignor or the consignee or in the course of transit, the dealer in respect of whom such form has been authenticated shall furnish in respect of every such Form lost, an indemnity bond in Form B-II to the authority from whom such Form was obtained.
- (10) Notwithstanding anything contained in these rules, the Commissioner on application
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made by a registered dealer who is a public sector undertaking or a public limited company or such private limited company or firm whose annual gross turnover exceeds rupees five crores, may by an order in writing and subject to such conditions and restrictions exempt such registered dealer from the use of declarations specified in clauses (a), (b) or (c) of sub-rule (1) required for movement of consignment of goods.

Explanation: For the purposes of this rule, the expression “*appropriate authority*” shall mean, the circle incharge or officer incharge of a check post.

42. Restriction on the power of the authority or officer authorized under section 60 and section 61

- (1) The authority or officer authorized by the State Government under section 60 or section 61 to intercept detain and search any road vehicle, river craft or any load carried by person shall not detain any such road vehicle, river craft or person beyond the reasonable length of time necessary for satisfying that such vehicle, craft or person is not being used for evasion of the tax payable under the Act.
- (2) Where, in the opinion of the said authority or officer, a search of the road vehicle or river craft is necessary such search shall, as far as practicable, be conducted with due regard to the convenience of the person transporting the goods and without causing avoidable dislocation.

43. Refunds

- (1) For the purposes of section 68 the following shall be the prescribed authority –
 - (a) Circle Incharge, if the amount to be refunded does not exceed Rs.50,000/-; and
 - (b) the Joint Commissioner, if the amount to be refunded exceeds, Rs.50,000/-.
- (2) An application from a person for refund of excess tax paid shall be made to the authority specified in sub-rule (1) in Form A-VIII and shall clearly specify the grounds upon which the refund is claimed.
- (3) The authority specified in sub-rule (1) shall –
 - (i) in the case of refund by adjustment against any amount payable by the dealer for any other period, issue a refund adjustment order in Form C-V accompanied by a challan for adjustment. A copy of the Refund adjustment order shall also be forwarded simultaneously to the treasury officer or the bank concerned, as the case may be; and
 - (ii) in the case of refund in cash, issue a refund payment order in Form C-VI and shall cause it to be delivered for encashment to the dealer or his manager, if any, declared under section 22. A copy of the Refund Payment order shall also be forwarded simultaneously to the treasury officer or the bank concerned, as the case may be.

44. Provisional refund

- (1) For the purpose of section 69, an application for provisional refund shall be in Form A-IX.
 - (2) If the Circle Incharge, after proper scrutiny of the return furnished by the dealer and after examining the evidences produced, is satisfied about the genuineness of the claim he shall issue the provisional refund payment order or the refund adjustment
-

order, in Form in Form C-VI or C-V, as the case may be. A copy of such order shall also be forwarded simultaneously to the treasury officer or the bank concerned, as the case may be.

45. Memorandum of Appeal and Revision

- (1) Every appeal or application for revision shall be in writing and shall –
- (a) specify the name and address of the appellant/applicant;
 - (b) specify the date of order against which it is made;
 - (c) specify the date on which order was communicated to the appellant or applicant;
 - (d) contain a clear statement of facts;
 - (e) specify the grounds on which appeal or revision is preferred without any argument or narration and numbered consecutively;
 - (f) state precisely the relief prayed for; and
 - (g) be signed and verified by the appellant or applicant or an agent duly authorized by him in writing in this behalf in the following Form, namely:

I the appellant/applicant named in the above memorandum of appeal/ application for revision do hereby declare that what is state therein is true to the best of my knowledge and belief.

.....
Signature

- (2) The memorandum of appeal shall be accompanied by :
- (i) A certified copy of the impugned order; and
 - (ii) A copy of the challan in Form CH-I in proof of the payment of the amount of tax in accordance with the provisions of sub-section (2) of section 72;
- (3) An appeal against an order of assessment or against an order imposing penalty shall be in Form A-VI.
- (4) An application for revision shall be in Form A-VII and shall be presented within ninety days from the date of the order against which it is filed.
- (5) The memorandum of appeal or application for revision shall be in duplicate and shall either be presented to the appellate or revisional authority either by hand or by registered post.
- (6) The memorandum of appeal shall be presented by the appellant or the applicant or by his agent to the Registrar or Clerk of Court of the Tribunal during office hours at the Tribunal's headquarters or sent to the Tribunal registered post.
- (7) An appellate authority shall, ordinarily within thirty days of the presentation of the appeal, either admit or reject it after proper examination of the impugned order and/ or the record relating to such order.

46. Disposal of appeal or application for revision

- (1) If a memorandum of appeal or an application for revision does not comply with all the requirements of rule 45, the appellate or revisional authority may reject it summarily:

Provided that no appeal or application for revision shall be summarily rejected under this

sub-rule unless the appellant or applicant has been given a reasonable opportunity to amend the memorandum or application so as to bring it into conformity with all the requirements of rule 45.

- (2) An appeal or application for revision may be summarily rejected on other reasonable grounds after giving the appellant or applicant a reasonable opportunity of being heard.
- (3)
 - (i) If an appellant intends to pray for stay of recovery of the disputed amount of tax, penalty or interest arising out of an order appealed against, he shall make a stay petition containing, inter-alia, substance of facts leading to the exact amount of tax, penalty or interest sought to be stayed and the exact amount of tax, penalty or interest disputed, payment of tax before and after the said order and reasons in brief for seeking stay, and stay petition shall be presented along with the memorandum of appeal under rule 45.
 - (ii) Where a stay petition has been presented by an appellant along with the memorandum of appeal or along with application for revision before the appellate authority or the revisional authority, as the case may be, and such appeal or revision has been entertained, he shall, after giving such appellant a reasonable opportunity of being heard, dispose of such stay petition within one month from the date of presentation of such petition.
 - (iii) The appellate or the revisional authority, as the case may be, may, in his discretion, by an order in writing, stay realisation of the amount of tax or interest, part or whole, as the case may be, in dispute, on such terms and conditions as he may deem fit and proper in the facts and circumstances of the case.
 - (iv) If the realisation of the amount of tax, penalty or interest is stayed by the appellate authority subject to payment of such amount of tax penalty or interest, or furnishing security for securing the payment of the amount of tax, penalty or interest in dispute, as the case may be, specified in the order referred to in clause (i), the appellant shall pay such amount of tax, penalty or interest, or furnish such security, by the date specified in such order.
 - (v) Where an appellant fails to pay any amount of tax or interest in dispute which he is required to pay according to the order referred to in sub-clause (iv) by the date specified therein or such other date as may be allowed by the appellate authority, such order staying realization of the amount of tax, or interest, as the case may be, shall stand automatically vacated after the expiry of the date specified in the order or such other date as may be allowed by the appellate authority.
- (4) Where an application for appeal or revision is admitted for hearing on merit the appellate or revisional authority shall, after giving the parties concerned a reasonable opportunity of being heard, fix a date for passing the final order on the appeal or application for revision as the case may be, if the order is not passed on the date of hearing.

47. Revision by Commissioner

For the purposes of sub-section (1) of section 74, the Commissioner may require any dealer, by notice in Form N-XV, to produce or cause to be produced before him such documents, accounts or other evidence which may be deemed fit.

48. Review

- (1) When any authority appointed under section 10 reviews under section 76 any order passed under the Act it shall record reasons for doing so.
- (2) Save with the previous sanction of the Commissioner or an authority specially authorized by him in this behalf no authority appointed under section 10, other than the Commissioner, shall review any such order except before the expiry of twenty-four months from the date of passing of the order which is sought to be reviewed.
- (3) Save with the previous sanction of the Commissioner or an authority specifically authorized by him in this behalf, no authority appointed under section 10, other than the Commissioner, shall review any order, which has been passed by any of its predecessors in office.

49. Determination of disputed questions by Commissioner

No question under section 77 shall be entertained by the Commissioner unless it is accompanied by an affidavit, sworn by the applicant, to the effect that the question has not arisen after the commencement of any proceeding under section 27, 28, 29, 30, 31, 32, 33, 72, 73 or 76.

50. Services of Notice

- (1) Notices under the Act or these rules may be served by any of the following methods, namely -
 - (a) by delivering or tendering a copy of the notice to the addressee or any adult male member or his family residing with him or to his manager, if any, declared under section 22; or
 - (b) by post or by speed post; or
 - (c) by such courier services as are approved by the Commissioner or the Joint Commissioner (Administration) incharge of the concerned division; or
 - (d) by fax or by electronic mail service.

Provided that if upon an attempt having been made to serve any such notice by any of the above mentioned methods, the authority under whose orders the notice was issued is satisfied that the addressee is keeping out of the way for the purpose of avoiding service, or that for any other reason the notice cannot be served by any of the above mentioned methods, the said authority shall order the service of the notice by affixing a copy thereof on some conspicuous part of the addressee's office or the building in which his office is locate or where he normally resides, or upon some conspicuous part or any place or business, office or residence last notified by him and such service shall be as if it has been served on the addressee personally or by publication of such notice in any daily newspaper.

- (2) A notice under sub-section (4) of section 56 may be served upon the dealer, or the person for the time being incharge of goods or the person for the time being incharge of the vehicle on which the goods are loaded by delivering a copy of the notice to such person or in case of refusal to receive notice, by affixation of such notice either on some conspicuous part of his office or residence or on the vehicle on which goods were being transported.
 - (3) When the serving officer delivers or tenders a copy of the notice to the addressee personally or to his manager or other person on his behalf, he shall require the signature of the person to whom the copy is so delivered or tendered to an
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acknowledgement of the service endorsed on the original notice. When the notice is served by affixing a copy thereof in accordance with proviso to sub-rule (1), the serving office shall return the original to the authority, under whose order the notice was served, with report endorsed thereon or annexed thereto stating that he so affixed the copy, the circumstances under which he did so and the name and address of the person, if any, by whom the addressee's office or the building in which his office is or was located or his place of business or residence was identified and in whose presence the copy was affixed. The serving officer shall also require the signature or thumb impression of the person identifying the addressee's office or building or place of business or residence to his report.

- (4) When service is made by post, the service shall be deemed to be effected by properly addressing, pre-paying and posting by registered post or speed post, the notice, and, unless the contrary is proved, the service shall be deemed to have been effected within fifteen days of issue of such notice.
- (5) The authority under whose orders the notice was issued shall, if it is satisfied from the report of the messenger or the postal acknowledgement or by taking such evidence as he deems proper that the notice has not been properly served, he may, after recording an order to that effect direct the issue of a fresh notice:

Provided that if once a notice has been served validly under the provisions of these rules no further notice shall be required to be served afresh during the course of the said proceeding and it shall be duty of the person upon whom the notice has been served to inquire about the order passed or fresh dates fixed, as the case may be, in this regard.

51. Manner of Furnishing security under the Act.

The security required to be furnished under section 21 and clause (c) of sub-section (4) of section 56 of the Act may be in any of the following Form, namely –

- (a) Cash deposit in the Government Treasury under the head “040-Sales Tax Receipts”
- (b) Post office saving bank account, the account being pledged to the concerned Circle Incharge;
- (c) Bank guarantee from a Scheduled Bank agreeing to pay to the State Government on demand the amount of security;
- (d) Personal bond with two sureties, acceptable to the authority; the bond shall be in Form B-II;
- (e) Government securities for the amount fixed, the security having been deposited with the authority who directs furnishing of security.

Provided that the concerned circle incharge, for reasons to be recorded in writing, may direct a person to furnish security in a particular mode.

52. Manner of refund of security

- (1) If the certificate of registration granted under section 19 is cancelled or if the penalty imposed under clause(b) of sub-section(4) of section 56 is either deposited or stayed or quashed by the competent authority, the dealer or the person whose registration has been cancelled or upon whom the penalty was imposed, as the case may be, shall apply to the concerned Circle Incharge for refund of the security furnished.
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- (2) If the concerned Circle Incharge is satisfied about the *bona fide* of the application under sub-rule (1) he shall refund the amount of security furnished if such security is not required for the purposes for which it was furnished:

Provided that if the applicant has any other unpaid liability under the earlier law or the Act the security shall first be applied towards adjustment of such liability and only the amount remaining after such adjustment, if any, shall be refunded.

53. Investigation of Offences

For the purposes of section 83 the Commissioner may authorize any authority or officer appointed under section 10 to investigate, either generally or in respect of a particular case or class of cases, all or any of the offences punishable under the Act.

54. Appearance before Taxation Authorities

- (1) An accountant may appear on behalf of any person before the Tribunal or any authority appointed under section 10 provided he is a Chartered Accountant under the Chartered Accountants Act, 1949 (Act XXXVIII of 1949).
- (2) A Company Secretary may appear on behalf of any person before the Tribunal or any authority appointed under section 10 provided he is a Company Secretary under the Company Secretaries Act, 1980 (Act 56 of 1980).
- (3) A sales tax practitioner representing any person before the Tribunal or any authority appointed under section 10 shall be –
- (a) a person who possesses a graduate degree in Commerce or Economics conferred by any Indian University incorporated by any law for the time being in force or any foreign University duly approved by the State Government or who possesses such other qualification as may be recognized by the State Government in this behalf.
 - (b) a former gazetted employee of the State Government with a minimum of ten years of service in the Commercial Taxes Department.
- (4) No sales tax practitioner shall be entitled to appear on behalf of any person before any authority appointed under section 10 unless his name stands enrolled in that behalf in a register in Form VR-X maintained by the Commissioner.
- (5) An application for enrolment for the purpose of sub-rule (4) shall be made in Form A-X to the Commissioner.
- (6) On receipt of an application under sub-rule (4) the Commissioner shall, if he is satisfied about the *bona fide* and antecedents of the application register his name as an enrolled sales tax practitioner and shall grant to the applicant a certificate to that effect.
- (7) If any person specified in sub-rule (3) is found by the Commissioner to have been guilty of misconduct in any proceeding before any authority appointed under section 10 the Commissioner may, by an order in writing, direct that such person shall be debarred from appearing before the Tribunal or any authority appointed under section 10 and make necessary endorsements in the register in Form VR-X, wherever necessary:

Provided that—

- (a) no such order shall be passed by the Commissioner, without giving the person concerned a reasonable opportunity of being heard;

- (b) the person concerned may, within one month of the passing of the order by the Commissioner, appeal to the Tribunal against such order; and
 - (c) the Commissioner shall modify the register in Form VR-X if the Tribunal sets aside the order passed by the Commissioner.
- (8) The particular contained in register in Form VR-X may from time to time, be amended by the Commissioner, if and when necessary.
- (9) An authorization to a sales tax practitioner for appearing on behalf of any person before any authority appointed under section 10 shall be in Form C-VII. Such authorization shall be valid only in respect of the proceeding for which or in the course of which it has been given.

55. Write-off of Dues

- (1) For the purposes of section 92 every circle incharge shall, within first two months of each financial year, prepare a list of such dues in Form VR-XI which in his opinion have become unrecoverable and forward the same to the Joint Commissioner (Administration) incharge of the Division.
- (2) The Joint Commissioner (Administration) incharge of the Division shall record his opinion on each entry in the list and forward the same to the Commissioner.
- (3) Upon being satisfied about the unrealisability of such of the dues entered in Form VR-XI the Commissioner shall proceed to obtain necessary orders of the State Government in this regard.

56. Declaration of Opening Stock

- (1) Every dealer holding stock of any goods on the appointed date shall furnish to the authority specified in rule 62 details of such stock in Form D-II within 45 days of the appointed date.
- (2) If a dealer required to furnish the declaration in Form D-II fails to furnish the details of opening stock as required under sub-rule(1), he shall not be entitled to I.T.C. on the opening stock under clause(d) of sub-section(1) of section 16.

57. Deferment

- (1) Such industrial units as are availing the benefit of exemption from payment of tax on the sale of their finished products granted under clause (b) of sub-section (3) of section 7 of the earlier law and who have not availed of their full entitlement shall be allowed to opt for deferment of their liability to pay tax in terms of section 96 of the Act. Such deferment shall be equivalent to his unavailed entitlement.
 - (2) No dealer eligible for deferment under sub-rule (1) shall be allowed to defer his tax liability under the Act unless he applies, to the concerned Circle Incharge, for the same in form A-XII
 - (3) Upon receipt of such application the concerned Circle Incharge shall issue the dealer a certificate in form C-VIII.
 - (4) (a) The amount of tax deferred under sub-rule (1) shall be paid in 5 equal installments payable by 31st March every year commencing after the expiry of the year during which the unavailed entitlement terminated.
 - (b) Where after expiry of the period of deferment the deferred tax is not paid within the time specified in clause (a), interest at the rate of one and half
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percentum per month or part thereof shall be payable on such amount of default till the date of its payment without prejudice to any action that may be taken for recovery under the Act.

Explanation: For the purpose of this rule, the expression “unavailed entitlement” shall mean the remaining period or the remaining monetary ceiling, whichever may be applicable, of exemption to which such unit would have been entitled on the appointed date.

58. **Exhibition of Particulars**

- (1) Every registered dealer shall, within one month of his registration under the Act cause to be exhibited at a conspicuous part of his place of his business, in letters and figures not less than 2-inch by 2-inch in size, the following particulars, namely –
 - (a) Full name and style of the business,
 - (b) The taxpayer identification number (TIN) allotted to him.
- (2) If any change takes place in the particulars specified under sub-rule (1), the changed particulars shall likewise be exhibited within thirty days of such change.

59. **Authentication of Account Books**

- (1) The authority specified under Rule 62 may, either at the time of conduct of audit or inspection, authenticate any books of account or any other document maintained or kept by the dealer.
- (2) The authority referred to sub-rule (1) shall append his signature along with his office seal at one or more places in each of the books, documents or accounts and record a certificate in the opening Form at the open page thereof –

“Certified that this book/document/account contains to pages and I have put my signature along with the official seal at page and”

Signature

Date

Designation

60. **Copy of certain orders to be sent to the dealer etc. by the assessing authority**

A copy of the order passed under section 27, 28, 29, 30, 31, 32, 33 and under clause (b) of sub-section 4 of section 56 in respect of any dealer, any clearing or forwarding agent, a person transporting goods or owner of a warehouse or godown or any other person shall be sent to the concerned dealer, clearing or forwarding agent, person transporting goods or owner of a warehouse or godown or the person, as the case may be, by the authority who passes such order along with the relevant notice of demand for payment of tax, interest or penalty, as the case may be.

61. **Manner of obtaining copy of certain orders by dealers**

- (1) Subject to the provisions of section 90, if any dealer or person requires a certified copy of a document filed by him or of an order concerning him passed by any authority appointed under section 10, he shall make an application to the authority concerned. The application shall bear adhesive court-fee stamp of the value of rupees fifty for an ordinary copy and such stamps of the value of rupees hundred for an

urgent copy. In addition, a searching fee of rupees five shall be levied in all cases except where the papers of which copies are required have not been deposited in the record room of the said authority.

- (2) On receipt of the application, the said authority shall inform the applicant of the amount of court-fee stamp required, under the provisions of sub-rule (1), for the supply of the copy. After the requisite amount of court-fee stamps are furnished by the applicant, the said authority shall cause a certified copy of the documents or order to be prepared and granted to the applicant.
- (3) The following additional fee in the shape of court fee stamp shall be payable for the grant of copies, namely –
- | | Ordinary copy | Urgent copy |
|---|---------------|-------------|
| (a) Copying fee for every 150 words or less of the order or document. | Rupees five | Rupees ten |
| (b) Authentication fee. | Rupees five | Rupees ten |
- (4) Notwithstanding anything contained in sub-rules (1), (2) and (3), an application for a copy may also be made by registered post, in which case the applicant shall pay an additional fee of rupees ten. In such case the application shall be accompanied by a challan in Form CH-I showing payment of the amount into the Government Treasury.

62. Prescribed authority for the purposes of certain sections of the Act

The Circle incharge shall be the Prescribed authority for the purposes of sections 15, 19, 20, 21, 22, 68, 69 and 70 and the Deputy Commissioner, the Assistant Commissioner and the Commercial Taxes Officer shall be the Prescribed authority for the purposes of section 23, 24, 25, 27, 28, 29, 30, 31, 32, 33, 40, 41, 43, 44, 47, 48, 50, 53, 56, 57, 58, 59, 60, 61, 62, 71, 76 and 95 of the Act. However, for the purposes of section 29, the Commissioner shall be the prescribed authority for initiating any proceeding against any judgment of the Tribunal.

63. Compounding of Offence

- (1) When the Commissioner decides under section 85 to accept any sum from a dealer or any other person charged with an offence under section 81 of the Act by way of composition of that offence, he shall issue an order directing the dealer or other person, as the case may be, to deposit into the Government Treasury, the amount of composition money by the date mentioned therein and to produce before such authority as may be specified in the order a copy of the receipted challan showing payment of such amount. A copy of the order shall be sent simultaneously to the said authority and the Government Treasury.
- (2) On receipt of the order the dealer or person shall comply with all the terms thereof failing which the order of composition shall stand cancelled.

64. Fees

The following fees shall be payable in connection with proceeding under the Act and other matters ancillary or incidental thereto, namely –

- | | | |
|-----|---|--|
| (a) | Upon a memorandum of appeal against an order of scrutiny under rule 21, assessment, reassessment, interest or penalty | Two percentum of the amount in dispute calculated to the nearest rupee subject to a maximum of Rs. 1000/- and a minimum of Rs. 100/- |
| (b) | Upon an application for revision of an appellate or revisional order concerning an order of scrutiny under rule 21, assessment, reassessment, interest or penalty | Two percentum of the amount in dispute calculated to the nearest rupee subject to a maximum of Rs. 2000/- and a minimum of Rs. 200/- |
| (c) | Upon an application for enrolment as a sales tax practitioners. | Rs. 200/- |
| (d) | Upon an application for grant of a registration certificate. | Rs. 50/- |
| (e) | Upon an application for grant of a duplicate copy of a registration certificate. | Rs. 100/- |
| (f) | Upon a memorandum of appeal against an order under section 47 or upon an application for revision other than an application for review or upon any other miscellaneous petition or petition for relief. | Rs. 5/- |
| (g) | Upon an application for amendment of a registration certificate. | Rs. 10/- |
| (h) | Upon an application for extension of time limit for payment of tax, interest, penalty or fixed amount. | Rs. 10/- |
| (i) | Upon an application for adjournment in a proceeding before any authority appointed under section 10. | Rs. 5/- |
| (j) | Upon an application for compounding of offences under the Act or these rules. | Rs. 50/- |

Provided that no fee shall be payable in respect of any application filed by or on behalf of any authority appointed under section 10.

Explanation: In this rule the expression “*amount in dispute*” means the amount which the dealer does not admit as being payable by him.

65. Punishment for Breach of Rules

Any person contravening any provision of these rules shall be punishable with a penalty, which may be imposed by an authority appointed under sub-section (1) of section 10 after allowing the person concerned an opportunity of being heard, not exceeding five thousand rupees and where the contravention is a continuing one with a daily penalty of a sum not exceeding rupees one hundred during the continuance of the contravention.