

# Rajasthan Tax Board Regulations, 2017

RAJASTHAN

India

## Rajasthan Tax Board Regulations, 2017

### Rule RAJASTHAN-TAX-BOARD-REGULATIONS-2017 of 2017

- Published on 16 February 2017
- Commenced on 16 February 2017
- [This is the version of this document from 16 February 2017.]
- [Note: The original publication document is not available and this content could not be verified.]

Rajasthan Tax Board Regulations, 2017Published vide Notification No. F. 2(42) FD/Tax/2016-78, dated 16.2.2017-Rajasthan Gazette Extraordinary Part 4(C)(2), dated 11.5.2017No. F. 2(42) FD/Tax/2016-78, dated 16.2.2017-Rajasthan Gazette Extraordinary Part 4(C)(2), dated 11.5.2017. - In exercise of the powers conferred by sub-section (9) of section 83 of the Rajasthan Value Added Tax Act, 2003(Act No.4 of 2003), the Rajasthan Tax Board with the previous sanction of the State Government hereby makes the following regulations, namely:-Chapter-I General

#### 1. Short title and commencement.

(1)These regulations may be called the Rajasthan Tax Board Regulations, 2017.(2)They shall come into force from the date of their publication in the Official Gazette.

#### 2. Definitions.

(1)In these regulations, unless the context otherwise requires,-(a)"Act" means the Rajasthan Value Added Tax Act, 2003 (Act No.4 of 2003);(b)"Appeal" means an Appeal filed before the Tax Board under any law time being in force;(c)"Bench" means a bench of the Tax Board as under:(i)"Single Bench" is a bench comprising a single member discharging judicial function;(ii)"Division Bench" is a bench comprising two members discharging judicial function; and(iii)"Larger Bench" is a bench comprising the Chairperson and two or more members discharging judicial function;(d)"Chairperson" means a person appointed by the State Government to be the Chairperson of the Tax Board and in his absence member holding charge of the Chairperson;(e)"Government Advocate" means an advocate appointed by the State Government to be a Government Advocate and includes Additional Government Advocate and Deputy Government Advocate;(f)"Member" means member of the Tax Board;(g)"Revision" means an application filed under section 65 of the Rajasthan Stamp Act, 1998 and includes a Revision filed under sub-section (4) of section 9A of the Rajasthan Excise Act, 1950;(h)"Rules" means the Rajasthan Value Added Tax Rules, 2006; and(i)"Tax Board" means the Rajasthan Tax Board constituted under section 88 of

the Act.(2)Words and expression used but not defined in these regulations shall have the same meaning as assigned to them in the Act and rules made their under.

## **Chapter II**

### **Filing, Registration and Admission of Appeals and Revision**

#### **3. Filing of appeal, cross objections and revision.**

(1)An appeal, cross objections or revision shall be filed before the Tax Board in accordance with the provisions of rule 31 of the rules.(2)A memorandum of appeal, cross objections or revision application to the Tax Board shall be submitted by the appellant or the respondent through the website of the Tax Board;(3)Where such appeal, cross objections or revision application are electronically submitted by an advocate or an authorized representative, he shall also submit electronically a letter of authority given to him by appellant or applicant. However, government advocate shall not be required to submit any document empowering him to act on behalf of the State Government, but he shall file a memorandum of appearance signed by him stating the particulars mentioned in sub-rule (5) of rule 4 of the order 3 of the Civil Procedure Code, 1908, as amended from time to time.(4)A memorandum of appeal, cross objections or a revision submitted electronically shall be deemed to have been submitted to the Tax Board on the day on which its acknowledgement appeared on the official website of the Tax Board.(5)The appeal, cross objections or revision, as the case may be, shall be digitally signed by the appellant, cross objector or applicant or his authorized counsel. However where the appellant, cross objector or applicant has given his consent to use the official website for submitting appeal, cross objections or revision, he may submit it without digital signature.(6)Notwithstanding anything contained in this regulation any appeal, cross objections, or revision under any other law wherein the electronic filing is not mandatory may be submitted manually, neatly typed on paper, in quadruplicate at the office of the Registrar of the Tax Board Ajmer.

#### **4. Date of filing of appeal.**

- The Registrar shall endorse on every memorandum of appeal, cross objections or revision the date on which it is electronically submitted or submitted under sub-regulation (6) of regulation 3 filed and shall sign the endorsement.

#### **5. Registration of appeal, cross objections and revision.**

- The Registrar shall, on receipt of appeal, cross objections or revision, as the case may be, as soon as possible satisfy himself that,-(i)the person filing the appeal, cross objections, or revision has authority to do so;(ii)the appeal, cross objections or revision conform to all the provisions of the provisions of law;(iii)if the memorandum of appeal, cross objections or revision is not accompanied by the required documents or suffers from any other defect, including proof of required statutory deposit if any, as per relevant provisions of law it shall be informed electronically or otherwise to the appellant or the cross objector or applicant to remove the defects within sixty days or within such

extended time as may be allowed by the Registrar;(iv)all the appeals, cross objections or revisions shall be chronologically registered date wise and year wise in the register maintained by the Tax Board for registering the appeals, cross objections or revisions with the numbers allotted to them;(v)if appeal or revision application is found in order or the defects have been removed within the time allowed by the Registrar, the Registrar shall cause the appeal, or revision to be listed before the appropriate bench for hearing. In case appeal or revision is to be listed before the appropriate bench for admission, a notice shall be issued to the opposite parties; and(vi)If defects are not removed within the time allowed, after a notice has been issued to the appellant or applicant in this regard, the Registrar shall place the appeal or revision before the appropriate bench of the Tax Board for passing suitable orders.

## **6. Direction for calling record and proceedings.**

- Where the appeal or revision has been admitted and order has been passed for calling the record by the appropriate bench of the Tax Board, the Registrar shall send requisition to the appellate authority and the assessing authority or any other authority against whose order an appeal or revision has been filed to send the relevant record relating to the appeal or revision within such time, as may be fixed by the bench in this regard and in cases where no such time has been fixed by the bench, within such reasonable time as may be fixed by the Registrar.

## **Chapter III**

## **Hearing, Adjournment and Judgement**

## **7. Notice to the respondent for hearing in the case.**

- As soon as the appeal, cross objections or revision has been admitted, a notice shall be sent by the registered post to the respondent or non applicant as the case may be calling upon him to appear before the bench of the Tax Board or the Registrar, as the case may be, either in person or through his authorized representative, on the date and place specified in such notice. The mode of service of notice shall be as per rule 50 of the rules. The notice shall also state that on failure to appear on the specified date either in person or through his authorized representative, the Tax Board may hear and decide the case ex-parte.

## **8. Cross Objections.**

- A memorandum of cross objections filed under sub-section (4) of section 83 of the Act, shall be registered and numbered as an appeal and all the rules as prescribed under other enactments applicable to appeal, revision shall apply mutatis mutandis to such cross objections.

## **9. Daily. Cause List.**

- The Registrar shall, subject to such directions as the Chairperson may give to him, from time to

time, prepare cause list for each day for the each bench. Such cause list of cases shall be in two parts, one for admission and orders and second for hearing cases which may be heard by the different benches of the Tax Board. The list shall also state the place at which the bench shall hear the case. Copies of the cause list shall be supplied in advance, to the advocates or authorized representatives by ordinary post or email, or courier on the address given by them, on payment of charges as may be fixed by the Chairperson, from time to time. Daily cause list shall also be made available on notice board and website of the Tax Board. However, supplementary cause list shall be listed on the notice board and on web site of the Tax Board on the day before.

## **10. Adjournment of the hearing.**

(1)The Bench may at any stage and on such terms and conditions as deem fit adjourn the hearing of any appeal or revision,(2)Where the party or his authorized representative or advocate is not present before the bench on the date of hearing and an adjournment application is-received by post, courier or fax, no fresh notice shall be issued intimating the next date of hearing and the listing of case in daily cause list shall constitute due notice of the adjourned date of hearing.(3)If for any reason, the bench is adjourned the Registrar shall adjourn cases listed in cause list to the next date. which would be displayed on website and notice board.

## **11. Ex-parte hearing of appeal, cross objections or revision for default by the appellant.**

- Where on the day fixed for hearing or any other date to which the hearing may be adjourned, the appellant does not appear in person or through his authorized representative when the appeal, cross objections or revision, as the case may be, is called for hearing, the Tax Board may pass such orders as provided in rule 33 of the rules.

## **12. Ex-parte hearing of appeal, cross objections or revision for default by the respondent.**

- Where on the day fixed for hearing or any other date to which the hearing may be adjourned, the appellant or applicant appears but the respondent or non applicant does not appear in person or through his authorized representative when the appeal or revision is called for hearing, the appropriate bench may dispose of the appeal or revision on merits after hearing the appellant or applicant or pass such orders as it deems fit.

## **13. Production of additional evidence during hearing before the Tax Board.**

- The parties to the appeal, cross objections or revision, as the case may be, shall not be entitled to adduce additional evidence either oral or documentary before the Tax Board, but if the Tax Board itself requires any documents to be produced or any witness to be examined or any affidavit to be filed before it, so as to enable it to pass an order.

#### **14. Disposal of early hearing applications.**

- For disposal of early hearing application filed by the either parties to the appeal or revision before the Tax Board, the Registrar shall put up the application within a week before the Chairperson, who shall pass the appropriate orders in such matters.

#### **15. Time period for passing orders after hearing.**

- The case reserved for decision shall be disposed of within a period of three months from the date on which it was reserved for decision.

#### **16. Order to be signed and dated.**

- The order of the bench shall be passed in writing and shall be signed and dated by the member or members who pronounced or delivered it.

#### **17. Reference from single bench to division bench or division bench to larger bench.**

(1) In addition to the provisions of sub-rule (4) of rule 31 of the rules, the Chairperson may suo motu or on the application of the party to the appeal or on a reference by the single bench or division bench hearing the appeal may constitute a division bench or larger bench, as the case may be, to decide the case or any question of law referred to it by the bench hearing the case. The decision of such bench on the questions so referred shall be returned to the bench hearing the case and that bench shall follow its decision on such question or questions and dispose of the case after deciding the remaining questions if any, arising thereof. (2) Where a single bench hearing a particular case is of the opinion that the earlier judgment of a single bench in some other case brought before it suffers from patent illegality or is no longer a good law, or requires reconsideration, it may refer the case to the Chairperson and the Chairperson may constitute a division bench of which the Chairperson also may be a member, for hearing that particular case and the order passed by the division bench shall be binding on all the single benches. (3) Where a division bench hearing a particular case is of the opinion that the earlier judgment of a co-ordinate bench in some other case brought before the bench suffers from patent illegality or is no longer a good law it may refer the case to the Chairperson and the Chairperson may constitute a larger bench, of which the Chairperson also shall be a member, for hearing that particular case and the order passed by the larger bench as per the majority view shall be binding on all the division benches as well as the single benches; and (4) Where there is a difference of opinion on the issues involved in the case under consideration between the members comprising the division bench, both the members comprising the division bench shall write their independent judgments and thereafter make a reference to the Chairperson who shall appoint a third member to consider the case and the case shall be decided as per the majority view.

## **Chapter IV**

### **Filing and Disposal of the Injunction Applications**

#### **18. Filing of the application.**

- Every application for stay of recovery of demand raised on account of tax, interest, penalty or any other on shall be filed electronically to the Registrar of the Tax Board, Ajmer, duly completed by the appellant, applicant in person, or by his duly authorized person and shall be entered chronologically in the receipt register maintained date wise in the registry of the Tax Board at Ajmer.

#### **19. Particulars required to be filled in application.**

- Every application seeking stay of demand shall set forth concisely the following: -(i) facts in brief and grounds regarding the demand of tax, interest, penalty or any other sum, recovery of which is sought to be stayed; (ii) the result of the appeal filed before the appellate authority or any other authority if any; (iii) the date of filing of appeal, application before the Tax Board (iv) reasons in brief for seeking stay; (v) prayer to be mentioned clearly and concisely stating exact amount of the tax, interest, penalty or any other demand sought to be stayed; and (vi) the contents of the stay applications supported by an affidavit sworn in by the appellant, applicant or his duly authorized representative.

#### **20. Disposal of applications with defects.**

- The application which does not conform to the requirements of regulation (19), shall be put up with details of defects before the appropriate bench for taking decision in the matter.

#### **21. Listing of applications.**

- The application for stay shall be listed for hearing in chronological manner as per details of the date wise acknowledgement in the register by the registry of the Tax Board before the appropriate bench having jurisdiction to hear the appeal, after giving notice of minimum two days to the respondent or the government advocate or the officer authorized by the commissioner, commercial taxes, Rajasthan to appear before the Tax Board: Provided that the appropriate bench, if satisfied, as regards urgency of the matter for reasons to be recorded in writing, may take up the stay application for hearing such cases on the same day.

#### **22. Disposal of applications.**

- The bench before which the application for stay of demand is listed, may, after hearing the aggrieved party or parties, pass such orders as it deems proper to be effective till the next date or such time as it deems appropriate in the cases under consideration.

## **23. Extension of injunction.**

- If the bench for any reasons is not sitting or not constituted on the date fixed for hearing and the case is adjourned for the next date, the ad-interim stay granted earlier shall stand extended till the next date fixed for hearing of the case. Chapter-V Powers and Functions of the Registrar -

## **24. Powers of the Registrar.**

- Subject to any general or special order of the Chairperson, the Registrar shall have the following powers, including: - (i) to receive all appeals, revisions and applications for stay, rectification, restoration and miscellaneous cases including applications for early hearing as well as other documents including applications for transfer of appeals, applications for adjournment and applications for issue of certified copies of the judgments, orders and documents, etc; (ii) to endorse on such appeals, revisions and applications the date of electronic filing for the purpose of calculating limitation and the amount of court fee applicable, if any; (iii) to scrutinize all appeals, revisions and applications so received to find out whether they are in conformity with the provisions of the law; (iv) to point out defects in appeals, revisions or applications as the case may be, to the parties requiring them to cure the defects by affording reasonable opportunity and, if within the time so allowed defects are not cured, to place the such appeal, revision and application before the appropriate bench for passing suitable orders thereon; (v) to check whether the appeal, revision or application is barred by limitation and, if so, intimate the party and place the matter before the appropriate Bench for orders; (vi) to send the memo of appeal, revision and application along with enclosures to the respondents within a reasonable time not exceeding thirty days from its institution by the appellant and for receiving cross objections on the appeal filed by the appellant and to carry out similar functions with regard to the powers as delineated in sub-regulation (ii) to (v) above; and (vii) subject to the directions or orders of the Chairperson and member(s) of the Tax Board sitting in the bench, to fix the date of hearing of the appeal, revision and application and ensure issuance of notices in such cases as assigned by them.

## **25. Functions of the Registrar.**

- Subject to any general or special order of the Chairperson, the Registrar shall have the following functions, including: - (i) to ensure that sufficient number of cases in order of priority as may be scheduled for hearing by the Chairperson, from time to time are fixed before the Bench or Benches for hearing; (ii) to verify the service of notice other processes and to ensure that the notice issued to the parties are properly served upon them and to effect substituted mode of service, as may be ordered by the Tax Board. (iii) to requisition records relating to the cases from custody of any authority; (iv) to allow inspection of records of the Tax Board by the appellants or respondents. (v) to return the records files sent by any authority in compliance of orders of the bench or after disposal of the appeal, cross objections, application; etc. (vi) to consolidate the appeals relating to the common issue or for any reason on the direction of the Chairperson and members; (vii) to fix cases initially district wise and to fix the cases out of turn date wise or area wise on the specific directions of the Chairperson; (viii) to certify and issue copies of the judgments or orders of the Tax Board to the parties in accordance with the guidelines issued by the Chairperson, from time to time; (ix) to issue

certified copies of the orders of the Tax Board for publication in accordance with the directions of the Chairperson;(x)to segregate cases to be heard by the single bench or division bench, as the case may be, in accordance with law and fix them for hearing accordingly; and(xi)to maintain library as per the directions and guidelines issued by the Chairperson, from time to time.

## **26. Custody of records.**

- The Registrar shall have the custody of records of the Tax Board and exercise such powers in this regard including weeding out of the old records as may be assigned to him by the Chairperson of the Tax Board, from time to time.

## **Chapter VI**

### **Filing and Disposal of the Rectification Application**

#### **27. Filing of the rectification application.**

- The rectification application against order passed in a appeal or revision by the Tax Board shall be filed electronically but in cases under any other law in which no provision for electronic filing shall be filed in triplicate manually duly signed by the aggrieved party.

#### **28. Procedure for hearing rectification application.**

- The rectification application shall be heard by the same bench as heard the appeal or revision and whose order gave rise to such application unless otherwise directed by the Chairperson. However, the rectification application in a case the member whose judgment has been sought to be rectified has since retired or ceased to be a member of the Tax Board, it would be heard and disposed of by the bench of the Tax Board before which it is listed for hearing.

#### **29. Hearing of rectification application in case of vacation of office by chairman or member.**

- If the judgment of a division bench or larger bench is sought to be rectified, in case any or more members of the bench has or have since retired, it may be heard and disposed of by member of the Tax Board who sat in the bench that delivered judgment along with any other member of the Tax Board, except in case of the larger bench other member or members, as the case may be, shall be nominated by the Chairperson.

## **Chapter VII**

### **Miscellaneous**



### **30. Subscription of the journals.**

- The Chairperson in consultation with other members may approve reputed law journals publishing taxation matters to be subscribed for benefit of the Tax Board.

### **31. Supply of copies of reportable judgments to law journals.**

- The approved law journals shall be supplied with copies of reportable judgments of the Board on payment of such fee as may be fixed by the Chairperson, from time to time.