

Orissa Sales Tax, Tribunal Regulations, 1992

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Rule ORISSA-SALES-TAX-TRIBUNAL-REGULATIONS-1992 of 1992

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Orissa Sales Tax, Tribunal Regulations, 1992Published vide Notification Orissa Commercial Taxes Gazette/1-2-1994 Part-1, with the approval of Finance Department, through letter No. 49845-C.T.A.-84/92-F., dated 20.11.1992In pursuance of the powers conferred by Sub-section (2-c) of Section 3 of the Orissa Sales Tax Act, 1947 (Orissa Act 14 of 1947), the Orissa Sales Tax Tribunal with previous sanction of the State Government, do hereby make the following Regulations to regulate its procedure and disposal of its business, namely :

1. Short title and commencement.

(1)These regulations may be called the Orissa Sales Tax Tribunal Regulations, 1992.(2)They shall come into force on the date of their publication in the Official Gazette.

2. Definition.

(1)In these regulations, unless the context otherwise requires-(a)"Act" means the Orissa Sales Tax Act, 1947;(b)"Appeal" means a memorandum of appeal to the Tribunal filed under Sub-section (3) Section 23 of the Act;(c)"Application" means an application for reference made to the Tribunal under Sub-section (1) of Section 24 of the Act;(d)"Case" means an appeal or application made under the Act;(e)"Certified copy" shall have the same meaning in Section 76 of the Indian Evidence Act, 1872;(f)"Chairman" means the Chairman of the Tribunal;(g)"Commissioner" means the Commissioner of Sales Tax appointed as such under Sub-section (1) of Section 3 of the Act;(h)"Form" means a form appended to the rules;(i)"Member" means a member of the Tribunal;(j)"Registrar" means the person who is discharging the functions of the Registrar of the Tribunal;(k)"Rules" means the Orissa Sales Tax Rules, 1947;(l)"State Representative" means an officer or pleader appointed by the State Government to receive on their behalf notices issued by the Tribunal and generally to appear, act and plead on their behalf in all proceedings before the Tribunal and includes an Additional State Representative or any other officer or pleader appointed

to act and plead in his absence or along with him;(m)"Tribunal" means the Orissa Sales Tax Tribunal constituted under Sub-section (2) of Section 3 of the Act and includes bench of one or more members exercising and discharging the powers and functions of the Tribunal;(n)"Section" means a section of the Act;(2)Words and expressions used but not defined in these Regulations unless the context otherwise requires shall have the same meanings as respectively assigned to them in the Act and the Rules.

3. Head quarter.

- The Headquarters of the Tribunal shall be at Cuttack.

4. Sitting of Bench.

(1)Bench consisting of three members of the Tribunal shall hold its sittings at headquarters.(2)A bench consisting of one or two members shall hear and determine such case or cases and at such place or places as the Chairman may decide considering the pendency of cases in respect of that area.

5. Office hours.

- The office of the Tribunal shall observe the same office hours as the other offices of the State Government situated at Cuttack observe.

6. Language.

- Business in Tribunal shall be transacted in English (Appeals and applications).

7. Appeals and application.

- The Tribunal shall follow the provisions contained in Rules 52 to 57 of the Orissa Sales Tax Rules, 1947 in the matter of filing, registration and admission, etc. of appeals and applications.

8. Notice of hearing.

- After an application for reference has been admitted, a notice of the date fixed for hearing of the same shall be delivered through peon or sent by registered post with acknowledgment due in Form XXV, to both parties or their agents. In case service of notice is ordered to be affected on the agent, the name and address of the agent shall be transcribed at the bottom of the notice and the notice shall be sent to or served on him. The notices shall also state that if they do not appear before the Tribunal either in person or through an agent on the date and time specified in the notice or on any subsequent date to which hearing may be adjourned, the Tribunal shall hear and decide the appeal or application ex parte :Provided that in the case of an appeal, the date of hearing to be fixed in the notice in Form XXV shall not be earlier than thirty days of the date of receipt of the notice in Form

XXIV by the respondent.

9. Procedure at the Hearing.

(1) On the date fixed or any other date to which the hearing may be adjourned, the appellant or applicants or his agent shall ordinarily be heard first in support of this appeal or application for reference. The respondent or the opponent or his agent shall, if necessary be heard next and in such case the former shall be entitled to get a reply. (2) The hearing of appeal or application shall generally be on the entire case. However, the Bench may direct the parties to address arguments in regard to maintainability or such other ground when it considers that the matter can be disposed of on such grounds only. (3) The appellant or applicants shall not, except by leave of the Tribunal, urge or be heard in support of any ground of objection in appeal or application, not set forth in the memorandum of appeal or application, but the Tribunal in deciding a matter before it, shall not be confined to the grounds of objection set forth in the memorandum of appeal or application or taken by leave of Court under these Regulations : Provided that the Tribunal shall not restrict decision on any other, ground of fact unless the party who may be affected thereby had sufficient opportunity of contesting the same on that ground.

10. Hearing in absence of parties.

- If on the date fixed for hearing or any other date to which the hearing has been adjourned any party does not appear either in person or through his agent, when the appeal or application is called on for hearing, the Tribunal may decide the case on merit after hearing the opponent or his agent, if present.

11. Analogous hearing of case.

- All cases, at the instance of a dealer or State for different periods involving different disputed amounts in each case, may be taken up for analogous hearing by the highest competent Bench. This provision will also be applicable to appeal filed by a dealer and at the same time by the State for the same period where all such appeals by both parties should be taken up for analogous hearing. Explanation - For this purpose appeal includes under the Orissa Sales Tax Act, 1947 and under the Orissa Additional Sales Tax Act, 1975.

12. Inspection of property or other thing.

- The Tribunal may with due notice to the parties at any stage of the proceedings, inspect any property or thing concerning which any question may arise, and where the Tribunal inspects any property or thing. It shall, as soon as may be practicable, make a memorandum of relevant facts observed at such inspection and such memorandum shall form part of the record.

13. Unanimous or majority order.

- Where the order is unanimous, it shall be signed and dated by all the Members of the Bench, hearing the appeal or application. Where it is order of the majority, it shall be similarly signed and dated by the members forming the majority. The dissenting members, shall also write his order and record his opinion on the point or points on which he dissents.

14. Reference to Full Bench.

- When a Bench consisting of members differ on some point or points reference shall be made to the Full Bench of the Tribunal consisting of three members. The Full Bench shall hear the case and render its opinion to the Bench which made the reference and thereupon the Bench shall dispose of the case in conformity with such opinion.

15. Filing of copies of document.

- In an appeal the Tribunal may, if considered necessary call upon either party at any stage to file such numbers of authenticated copies of documents referred to in the impugned order in their possession, as it may decide.

16. Forms of Notice.

- Forms XIX, XX, XXIII, XXIV and XXV appended to the Rules with suitable modifications wherever necessary shall be used for the purpose of the notices to be issued by the Tribunal.

17. Service of notice on Government.

- A notice required to be served on the State shall be served on the State Representative. It shall be the duty of the State Representative to obtain the records of the case from the concerned Sales Tax Officer or the Assistant Commissioner, as the case may be, and unless otherwise directed by the Tribunal, to produce the same before the Bench hearing the case on the date fixed for hearing.

18. Service of notice in genera.

(1)The notice issued to the parties under these Regulations, shall be served by personal delivery to the addressee or to his agent after taking his signature on the original by any of acknowledgement, or by registered post with acknowledgement due. An acknowledgement containing the signature of the addressee of the agent or any endorsement by the postal authorities to the effect that the notice was refused by the addressee shall, unless the contrary is proved, be deemed to be sufficient to hold that the notice was duly served.(2)Where the Tribunal is satisfied that the addressee is evading service or that it is not possible to serve the notice in the ordinary way, it may direct that copy of the notice shall be affixed on the notice board and another copy on the outer door or some other conspicuous part of the addressee's office or place of business of last known place of his residence or

by publication of notice in a newspaper which has circulation in that locality.

19. Officers of the Tribunal.

- Such of the powers and authority which, under the rules or the practice of the Tribunal, are exercisable by the Registrar may be exercised by the Senior Section Officer of the office of the Tribunal.

20. Functions of the Registrar.

(1)The Registrar shall maintain all registers and perform all functions as are assigned to him by the rules and these regulations.(2)All notices issued by the Tribunal, certified copies granted by it and copies of orders delivered by it, shall be signed by the Registrar with the date, month and year and shall be stamped with the seal of the Tribunal.(3)The official seal and the records of the Tribunal shall remain in the custody of the Registrar.(4)The Registrar shall exercise overall supervision of the staff, act as drawing and disbursing officer for the Tribunal and carry out such other work as may be assigned to him by the Chairman.

21. Consignment of records to the Record Room.

- All case records after their disposal shall be sent to the Record Room of the Tribunal within three months next succeeding the month in which the cases were disposed of.

22. Preservation records.

- The disposed of records shall be preserved for a period of twenty-five years,

23. Destruction of record.

- In the last fortnight of every quarter, disposed of records whose period of preservation expired shall be destroyed.

24. Appointment of temporary typist.

- The Chairman may appoint, without previous sanction of the State Government, one or more temporary typists according to the necessity for preparing typed copies of the orders to be forwarded under Regulation 26. Such temporary typists shall be paid out of the office expenses a remuneration @ Rs. 0.25 Paise for 175 words or a fraction of 175 words typed by him or at such other rate as may be fixed by the Chairman from time to time.

25. Delegation of powers by Chairman.

- The Chairman may in writing, delegate any of his powers and functions under these regulations to one of the members during his absence on leave or otherwise.

26. Return of exhibits and record.

(1)The parties other than the State Government may apply for the return of the documents filed by them within three months from the date of the communication of the order of the Tribunal under Section 23 or Section 24, as the case may be, and if no such application is made within such period, the Tribunal shall not be responsible for any loss or damage of the documents.(2)The records of the case and such other documents as may be produced by the State Representative shall, after the disposal of the case, be returned to him alongwith the order of the Tribunal on the case and the acknowledgement of the State Representative shall be obtained after such return of the documents.

27. Certified copies of document.

(1)Any party to the appeal or application for reference before the Tribunal or his agent may apply to the Registrar for a certified copy of any document (including the order) in the record of the appeal or application to which he is a party.(2)The application shall be accompanied by deposit of an amount to cover the cost of preparing copies according to the scale laid down in Rule 87 of the Rules.(3)In case of any doubt the priority of granting a copy of any document the Registrar shall place the application before the Tribunal and act in accordance with the orders of Tribunal.

28. Inspection of Record.

- The Inspection of the records and registers shall be made in presence of an officer of the Tribunal at his table between hours fixed by the Tribunal.

29. Fee for Inspection of the record.

- All applications by the dealer for inspection of records shall bear Court-fee stamp of Rs. 2 only".

30.

The copies of the decisions of the Tribunal shall not be given for publication in the law journal without a certificate duly signed by the members of the concerned Bench to the effect that such decision is fit for reporting.

31. Grant of refund.

- If an order passed by the Tribunal, results in reduction of tax of penalty, the Sales Tax Officer shall allow, refund of the excess amount, if any, paid by the dealer, on an application made to him in this

behalf.

32. Decision of larger Bench.

- When larger Bench has decided same question or questions of law in a particular way until revision of the some smaller Bench will decide such question accordingly.

33. Rectification of mistake.

- The Tribunal may at any time correct any arithmetical or clerical mistake in an order passed by it.