

# Kerala General Sales Tax Rules, 1963

KERALA

India

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### Rule KERALA-GENERAL-SALES-TAX-RULES-1963 of 1963

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Kerala General Sales Tax Rules, 1963 In exercise of the powers conferred by section 57 of the Kerala General Sales tax Act, 1963 (Kerala Act 15 of 1963) and in super session of the General Sales Tax Rules, 1950, the Government of Kerala hereby make the following Rules.

## Chapter I Preliminary

### 1. Short title.

- These Rules may be called "the Kerala General Sales Tax Rules, 1963."

### 2. Commencement.

- They shall come into force on the 1st April 1963.

### 3. Definitions.

- In these Rules, unless the context otherwise requires (a) "the Act" means the Kerala General Sales Tax Act, 1963; (b) "Assistant Sales Tax Officer" means any person appointed by the Government to exercise the powers of an Assistant Sales Tax Officer; (ba) "Audit officer" means an officer not below the rank of a commercial Tax Officer appointed under section 3 who has been authorised by the Commissioner to perform the functions of an Audit Officer under the Act and includes an officer designated under section 18 to conduct audit visit. (bb) "Awarder" means any person, Government or a department of the Government, a local authority, firm, company, corporation, association, body of individuals, Cooperative Bank or Society, trust or authority executing any works contract through a contractor. (bc) "Contractor" means any person, firm, company, corporation, association, body of individuals, Co-operative Bank or Society trust or authority who undertakes, any works contract for

execution, and includes a sub-contractor.(bd)"digital signature" means authentication of any electronic record by a subscriber by means of an electronic method or procedure in accordance with the provisions of section 3 of the Information Technology Act, 2000;(be)"digital signature certificate" means a digital signature certificate issued under sub-section (4) of section 35 of the Information Technology Act, 2000;(bf)"electronic record" means data, record or data generated, image or sound stored, received or sent in an electronic form or micro film or computer generated micro fiche(c)"Form" means a form appended to these Rules;(d)"Government Treasury" means a District Treasury or Sub-Treasury of the State Government;(e)"Importer" means any person who imports goods from outside the State;(ea)"key pair" in an asymmetric crypto system, means a private key and its mathematically related public key, which are so related that the public key can verify a digital signature created by the private key;(f)"Manufacturer" means any person who manufactures, produces, prepares or makes goods for the purpose of trade;(g)"Month" means a calendar month;(ga)"private key" means the key of a key pair used to create a digital signature;(gb)"public key" means the key of a key pair used to verify a digital signature and listed in the digital signature certificate;(gc)"Quarter" means a period of three months commencing on the first day of April or the first day of July or the first day of October or the first day of January in each year.(h)"Registering authority" means the Assessing Authority in whose area of jurisdiction the principal place of business of a dealer applying for registration under section 13 is situated.(ha)"Return period" means and includes a calendar month or any other period during an year for which a dealer is required to submit return under these rules;(i)"Schedule" means a schedule appended to the Act;(j)"Section" means a section of the Act;(k)"State Representative" means an Officer appointed by the Government to receive on their behalf notices and orders issued by the Appellate Tribunal and generally to appear, act, plead and file any petition before the Appellate Tribunal on behalf of the state and includes an officer appointed to act on his behalf in his absence.

## Chapter II

### Appellate Tribunal and Settlement Commission

#### 4. Appellate tribunal.

- Of the members of the Appellate Tribunal (other than its Chairman) appointed under section 4:  
 -(i)one member shall be a judicial officer not below the rank of a District Judge;(i-a) as nearly as possible, one half of the remaining shall be from Officers of the Commercial Tax Department of the Government not below the rank of Deputy Commissioner; and(ii)the others shall be Chartered Accountants as defined in the Chartered Accountants Act, 1949, or class I Officers of the Indian Audit and Accounts Service, having not less than three years service as such in revenue audit or officers not below the rank of Inspecting/Appellate Assistant Commissioner of Income Tax of the Indian Revenue Service.

#### **4A. Appointment of Chairman.**

(1)The appointment of the Chairman, Appellate Tribunal shall be made,-(a)by transfer from persons in service who are or who have been Judicial officers not below the rank of a District Judge, or(b)by direct recruitment from among persons qualified to be appointed as judicial officers not below the rank of District Judge, or(c)by re-employment of a person who has been a Judicial officer not below the rank of a District Judge.(2)The appointment of the Chairman shall be made by the Governor of Kerala.Provided that appointment by transfer shall be made from a panel of three names prepared in consultation with the High Court.

#### **4B. Qualification for Chairman.**

- A Candidate for appointment as Chairman, Appellate Tribunal by direct recruitment shall satisfy the following general conditions, namely: -(a)(i)he shall be the citizen of the Indian Union, or(ii)he shall be a person to whom a certificate of eligibility has been granted by the Ministry of Home Affairs, Government of India;(b)he shall not have completed 47 years of age on the first day of July of the year in which applications are invited;(c)he shall be of good character;(d)he shall be sound health and active habits and free from any bodily defect or infirmity which renders him unfit for such appointment;(e)he shall not have more than one wife living unless exempted by Government on special grounds;(f)he shall be a practicing Advocate of the High Court of the State or a Pleader of the District Court in the State and should have so practiced for a period of not less than 7 years.Note: - In computing the period of practice of a person who is an Advocate of the High Court of the State for the purpose of the rule, his previous practice, if any as an advocate of the High Court of Travancore- Cochin, or the High Court of the Madras or as Vakil or Advocate of the Chief Court or High Court of Cochin or Travancore shall be take in to account.

#### **4C. Probation for Chairman.**

- Every person appointed as Chairman, Appellate Tribunal shall from the date on which he joins duty be on probation for a period of 2 years on duty within a continuous period of 3 years:Provided that (i) when a District Judge or Additional District Judge or a person who has been a Judicial Officer not below the rank of a District Judge who has successfully completed probation as District Judge or Additional District Judge, as the case may be, is appointed as Chairman, no probation shall be necessary.(ii)When a probationary District Judge or Additional District Judge or a person who has been a Judicial Officer not below the rank of a District Judge as the case may be is appointed as the Chairman, the period of probation undergone by him in the cadre of District Judges shall be counted for the purpose of probation for the post of Chairman.

#### **4D. Pay, Allowances and other conditions of services of Chairman.**

- Rules relating to pay, allowances and other conditions of service applicable to Government servants or retired Government servants, as the case may be, in general, not inconsistent with these rules, shall unless specific provisions are made in these rules, apply to persons appointed as

Chairman, Appellate Tribunal.

#### **4E. Settlement Commission.**

- The settlement commission to be appointed under section 4A of the Act, shall consist of the chairman and two other members of whom one shall be an officer of the Commercial Tax Department not below the rank of commissioner and the other shall be a Chartered Account as defined in the Chartered Accounts Act, 1949 (Central Act 38 of 1949).

### **Chapter III**

## **Registration and Permit**

### **5. Application for registration.**

(1) Every dealer carrying on business before the commencement of the Act, whose total turnover during the previous year is not less than seven thousand five hundred rupees shall submit to the registering authority of the area in which his principal place of business is situated an application for registration within thirty days from the date on which these rules come into force. (2) Every dealer carrying on business before the commencement of the Act, but not liable to apply for registration under sub-rule (1) and every dealer commencing business after the commencement of the Act, who is liable to take out a registration in accordance with the provisions of section 13 during any year shall submit to the assessing authority of the area in which his principal place of business is situated an application for registration within thirty days of his total turnover reaching one lakh rupees. (3) Notwithstanding the provisions in sub-rule (1) or (2), every dealer whose total turnover is not less than one lakh rupees in a year shall submit to the registering authority, concerned an application for registration within thirty days of his total turnover reaching one lakh rupees. (4) Notwithstanding the provisions in sub-rules (1), (2) or (3), every casual trader, every dealer registered under subsection (3) of the Section 7 of the Central Sales Tax Act (Central Act 74 of 1956), every dealer residing outside the State but carrying on business in the State, every agent of a non-resident dealer and every commission agent, broker, del credere agent, auctioneer or any other mercantile agent, by whatever name called, shall, irrespective of the quantum of his total turnover, submit to the registering authority of the area in which his principal place of business is situated, an application for registration within thirty days from the date on which these rules come into force, if he was carrying on business on the date of the commencement of the Act or within thirty days of the commencement of his business. If he commences business after the commencement of the Act. (5) Any dealer who is not bound to submit an application for registration under sub-rules (1) to (4), may also, if he so desires, apply for registration under Section 13 to the registering authority of the area in which his principal place of business is situated. (6) Where a dealer who resides outside the State and has no fixed place of business in the State, sells, supplies or distributes goods through an agent or employee he shall submit the application for registration to the Board of Revenue or any Officer authorized by the Board of Revenue in this behalf. (7) Every application for registration under sub-rules (1) to (6) shall be made, in Form 1, and shall specify the full address of the place or places of business the godown or godowns and the place or places in which the goods relating to the

business are stored and the details of goods to be bought or sold. Such applications whether by an individual or a partnership firm shall be accompanied by a passport size photograph of such individual or of all the partners as the case may be, duly attested by a responsible person and shall be signed and verified in the manner provided in the said form in the case of a business carried on by: (a) an individual, by the proprietor or by a person having due authority to act on behalf of such proprietor; (b) a firm, by a partner thereof; (c) a joint family by the Kartha or an adult member thereof; (d) a company or an association or body of persons whether incorporated or not or an artificial juridical person by a Director, Manager, Secretary or the Principal Officer, thereof; or by a person duly authorised to act on its behalf; (8) (a) Every Partnership Firm shall, at the time of submitting the application for registration under Section 14, file a copy of the partnership deed and a declaration in Form 2 signed by all the partners stating the names and addresses of all the partners and their respective shares in the business and addresses of all the partners and their respective shares in the business along with the application for registration. Every company or association of persons or body of individuals shall, at the time of submitting the application for registration under Section 14, file a copy of the Memorandum of Association and Articles of Association along with the application for registration. (b) if a partner retires without the partnership being dissolved thereby he shall send to the registering authority a declaration in Form 3 within 30 days of his retirement, along with a copy of the deed of retirement. (c) Every dealer, including a joint family entering into or forming a partnership in regard to his business shall, within 30 days of such event happening, send to the registering authority of the area in which his principal place of business is situated, fresh application for registration in Form 1 as provided in sub-rule (7) along with copies of the partnership deed and declaration in form 2 as provided in clause (a). (d) If any Partnership Firm is dissolved and the business is taken over by an individual, he shall apply for fresh registration as provided for in sub-rule (7). (9) The person signing and verifying an application for registration shall specify the capacity in which he does so and shall give particulars of the authority vested in him for signing and verifying the application. (10) In the case of a business carried on by an individual, joint family or other association or body of persons whether incorporated or not the name and permanent residential address of such individual each of the members of the family or as the case may be, members of the managing committee of the association and of persons having any interest in the business etc., shall be stated in the application for registration. (11) Every application for registration shall state, in general terms, the class or classes of goods in which the applicant deals. (12) Every application for registration shall be accompanied by a receipt from a Government Treasury or a crossed cheque or crossed demand draft in favour of the registering authority for the fee specified in sub-section (1) of Section 14. (13) The registering authority receiving the application, after making such enquiries as it may consider necessary and after satisfying itself that the prescribed fee has been paid, that the application is in order, that the particulars furnished therein are correct and complete, and that the security, if any, demanded has been paid, register the dealer and grant him a certificate of registration in Form No. 4. (14) If the said authority finds that, the application is not in order or that the particulars contained in the application are incorrect and incomplete or that the security demanded has not been paid, it shall refuse the application: Provided that such refusal shall not be made before giving the applicant an opportunity of being heard: Provided further that no application shall be refused merely on technical grounds without giving the applicant an opportunity to correct mistakes. (15) Where a dealer has more than one place of business (other than a place used merely for the storage of goods) the registration certificate shall cover all such places of

business. The registering authority, on application by the dealer and on payment of the fee specified in sub-section (3) of section 14 for each copy, shall issue copies of the registration certificate to the dealer for exhibition at each of his place of business.(16)Every registered dealer shall until his registration is cancelled, pay the fee of specified in sub-rule (12) for every year subsequent to that in which he applied for registration on or before the first day of May of the year for which the registration has to be renewed and in addition a further fee of the amount specified in sub-section (3) of section (14) in respect of each of his places of business other than the principal place of business. Such dealer shall also file an application for renewal of the registration in Form No.IB. The registration fee shall be paid on the basis of the annual turnover for the immediate preceding year. If at the end of the year the turnover increases, the additional registration fee due on the basis of the enhanced turnover shall be paid before 31st March of the year. If, on the other hand, the turnover falls, the excess registration fee paid may be adjusted against the registration fee to be paid for the succeeding year. In the case of a dealer who discontinues business, the excess registration fee paid shall be refunded. Any registered dealer may, at his option, pay the registration fee for three years at a time.(17)Where a certificate of registration is cancelled, the said cancellation shall not affect the liability of the dealer to pay the tax (including any penalty or other amounts) due for any period prior to the date of cancellation whether such tax (including any penalty or other amounts) is assessed before the date of cancellation but remains unpaid, or is assessed thereafter.(18)Where a certificate of registration issued is lost or destroyed, a duplicate of the certificate may be issued by the registering authority on application and on payment of a fee of rupee one.(19)Every registration certificate granted under sub-rule (13) shall be deemed to have been granted personally to the dealer specified therein. No registration certificate issued or renewed shall be sold or transferred.(20)Where a dealer transfers his business to another dealer, the transferee shall within 30 days of such transfer apply for and obtain fresh certificate of registration, with copy for each of the places of business, if any, on payment of the fees prescribed in sub-rules (12) and (15).(21)Every registered dealer shall exhibit the certificate of registration or the copy of it, as the case may be, in a conspicuous part of each of his places of business. When a registered dealer changes any place of business, he shall intimate the fact to the registering authority within thirty days of such change and get his certificate of registration amended accordingly.(22)Where a dealer desires the certificate of registration granted to him to be amended, he shall submit an application for this purpose to the assessing authority setting out the specific matters in respect of which he desires such amendment and the reasons therefor, together with the certificate of registration and the copies thereof, if any, granted to him, and such authority may, if satisfied, make, such amendments, as it thinks necessary, in the certificate of registration and the copies thereof, if any, granted to him, provided that the amendment so made shall not be inconsistent with the provisions of the Act or these Rules.(23)Omitted.(24)Every registered dealer who discontinues or transfers his business or otherwise gets his registration certificate cancelled shall forthwith surrender to the registering authority the certificate of registration and the copies thereof, if any, granted to him.(25)No registered dealer shall keep his goods in any place or godown not mentioned in the registration certificate.(26)A registered dealer may collect amounts by way of tax or taxes under the Act subject to the following conditions:(i)He shall show separately in each bill or cash memorandum the tax or taxes if any, collected by him.(ii)He shall not collect any amount or amounts by way of tax or taxes under the Act at a rate or rates exceeding the rate or rates specified in section 5 or the Notification issued under section 10.(iii)He shall pay in full the amount or amounts collected by him by way of tax or taxes to

the Government or before the 20th day of the month succeeding that in which such collection is made, either by remitting in the Government Treasury and producing the receipt thereof or by presenting a crossed cheque or demand draft for the full amount, before the assessing authority. (iv) Omitted (v) Omitted. (vi) If any dealer discontinues his business during the course of a year he shall pay in full the amount or amounts collected by him by way of tax or taxes to the Government in the manner aforesaid. (27) The assessing authority may call for and examine the accounts of any dealer for the purpose of satisfying itself that the dealer has paid in full the amount or amounts collected by him by way of tax or taxes as required by conditions (iii) to (vi) of sub-rule (26); Provided that this power shall not be exercised after the expiry of four years next succeeding that in which the collections were made. (28) If the assessing authority is satisfied that any amount or amounts collected by the dealer by way of tax or taxes have not been paid by him to the Government in any year as required by conditions (iii) to (vi) of sub-rule (26), the assessing authority shall issue a notice to the dealer in Form 5 specifying therein the total sum so withheld by the dealer and the dealer shall pay such sum within the time and in the manner specified in the notice. (29) (i) Every dealer conducting exhibitions, exchange melas or any price scheme for sales promotion, shall file an application in Form No. 1C before the assessing authorities in whose jurisdiction the dealer has registered under the Act; (ii) Separate application shall be filed for conducting exhibition, exchange mela or any price scheme conducted at different places on the same period. Every such application shall be accompanied by a receipt from a Government treasury or as crossed cheque or crossed Demand Draft in favour of the assessing authority for the fee specified in subsection 3A of Section 14. (iii) The assessing authority, receiving the application may after satisfying that the prescribed fee has been paid and that the application is otherwise in order, issue a certificate in Form No. 4B. The certificate shall be exhibited at the place where the exhibition, exchange mela or any price scheme conducted. The validity of the certificate issued under sub-section 3A of Section 14 shall expire on determination of the exhibition, exchange mela or any price scheme as the case may be.

## **5A. Registration of Industrial Units.**

(1) The application for registration under section 13A shall be in Form No. 1A and shall be accompanied by a fee of rupees two thousand. (2) The certificate referred to in sub-section (2) of Section 13A shall be obtained by the applicant from the Director of Industries and Commerce or the Kerala State Industrial Development Corporation Limited or the Kerala Financial Corporation in the space provided therefore in Form No. 1A and the application shall be submitted to the assessing authority having jurisdiction over the area in which the industrial unit is proposed to be established. The certificate shall be signed by such officers as may be specifically authorized in this behalf by the Director of Industries and Commerce, or the Kerala State Industrial Development Corporation or the Kerala Financial Corporation as the case may be. (3) On receipt of the application, the assessing authority shall scrutinize the same and if the application is in order, issue a provisional certificate in Form No. 4A. (4) The provisional certificate shall be renewed every year on payment of the fee prescribed under sub-rule (1) above. (5) Subject to the provisions of sub-rule (4), the provisional registration certificate issued, under sub-rule (3) shall be valid until it is cancelled or till commercial production is started in the industrial unit, whichever is earlier. (6) The assessing authority may for good and sufficient reasons cancel the provisional registration certificate. (7) On starting commercial production in the industrial unit, the holder of the provisional certificate of registration shall apply

for registration in accordance with the procedure prescribed under rule 5.

## **6. Security to be furnished by certain dealers.**

(1)Where the assessing authority is of the opinion that a dealer who has applied for registration or has been registered or has applied for renewal of registration should furnish security or additional security for the proper payment of the tax payable by him, the said authority, may direct him in writing to furnish, within such time as may be fixed by the said authority security for an amount, not exceeding one half of the tax payable on the turnover of the dealer for the year as estimated by it or three months compounded amount in the case of dealers who have opted to pay tax under Section 7. In making such estimate the said authority shall take into account the taxable turnover of the dealer, if any, during the preceding year, the trend of business at the time the estimate is made, the nature of the goods dealt in by him and such other factors as may, in the opinion of the said authority, assist it in making a proper estimate.(2)Such security may be furnished by the dealer in any of the following ways namely:- (a)by depositing as security in the Government Treasury the amount fixed by the said authority; or (b)by depositing with the said authority Government securities for the amount fixed by the said authority; or (c)by depositing security amount in the Post Office Savings Bank and pledging the pass book to & depositing it with the said authority; or (d)by furnishing to the said authority a guarantee from a Bank approved in this behalf by the said authority, agreeing to pay to the State Government, on demand, the amount of security fixed by the said authority; or (e)by furnishing two sureties acceptable to the said authority by executing a security bond for such amount in Form 6. (f)by a bond prescribed under rule 42 for the amount fixed by the said authority in Form No.39 duly registered along with title, possession and valuation certificates obtained from the Tahsildar concerned and the value of property shall not be lower than the amount, shown in the bond. Explanation. - In the case of security furnished in Form No.6 surety must be solvent enough for the amount assured.(3)The security furnished shall be maintained in full so long as the registration certificate continues to be in force and may in the event of default of payment of any tax be liable to adjustment towards such tax after due intimation.

## **6A. Suspension of Registration.**

(1)The Deputy Commissioner who passes an order under Section 14A suspending the registration of a dealer shall state therein the reasons for such suspension and communicate such order to the dealer.(2)Any registered dealer whose registration is suspended shall, from the date of communication of the order shall be considered to be a dealer having no registration till the expiry of the period of suspension.

## **7. Issue of permit.**

- Every registered dealer who transacts business at places other than his registered place of business or employs a traveling Salesman or Representative to transact business as aforesaid shall apply for a permit authorising himself or as the case may be, the Traveling Salesman or Representative so to do.(2)Every application for a permit shall be Form No. 6A and shall be submitted so as to reach the registering authority not later than the first day of May of the year for which permit is applied for or



within thirty days from the date on which the registered dealer began to transact business at a place of business or within thirty days from the date on which he employed a traveling salesman or representative to transact the business aforesaid, as the case may be: Provided that in the case of a business which is commenced in the course of a financial year, the application shall be submitted to the said authority so as to reach it not later than thirty days from the date of commencement of the business: Provided further that for the period commencing from the date of commencement of the Act the application shall be submitted to the said authority within thirty days from the date of coming into force of these Rules. (3) Every such application shall specify the name and address of the registered dealer, the number and date of his registration certificate, and the numbers of permits required. (4) Every permit granted under this Rule shall expire on the thirty first day of March of the year in respect of which it is granted and may be renewed for periods not exceeding one year at a time on receipt of an application from the registered dealer in accordance with the provision contained in this rule. (5) Every application for renewal of a permit shall be submitted so as to reach the registering authority not later than the first day of May of the year for which the renewal is required. (6) The fee for the grant or renewal of a permit shall be rupees fifty. (7) Every application for the grant or renewal of a permit shall be accompanied by the receipt from a Government Treasury, crossed cheques, or crossed demand draft in favour of the assessing authority for the said fee. (8) The registering authority receiving the application may, after satisfying itself that the prescribed fee has been paid and that the application is otherwise in order, issue a permit in Form 7. (8A) The authorization referred to in sub-section (1) of Section 16 shall be in Form 7A. (9) The entire turnover of the business carried on under the permit shall be included and accounted for by the registered dealer in his accounts and returns and shall be dealt with as if it were the turnover of business done by the registered dealer himself at the registered place of his business. (10) Every dealer to whom the permit is issued or his traveling salesman/ representative, duly authorized by him, shall carry the permit with him and shall produce it on demand by any officer not below the rank of an Assistant Sales Tax Officer. He shall maintain and produce on demand by any such officer a stock book showing the quantities of goods entrusted to him, by the registered dealer, the purchases effected by him, the quantities disposed of from day to day by sales or otherwise, and the balance on hand at the end of each day. The stock book, purchase bills and/or sale bills, shall, before making any entries therein, be duly authenticated by the assessing authority by affixing its seal thereon. The stock book shall be maintained continuously for the whole period covered by the permit. (11) A permit issued under this rule shall be cancelled by the assessing authority on requisition made to it in writing from the registered dealer. (12) A permit shall be cancelled by the assessing authority when the registration certificate is cancelled. Such Officer may also cancel after giving the registered dealer a reasonable opportunity of being heard, any permit, if the permit-holder has contravened any of the terms or conditions of the permit or any of the provisions of the Act or these Rules or any terms or conditions of the registration certificate granted to the dealer. (13) This Rule shall not, however, be applicable to the transaction of the registered dealer at his regular branches of business. (14) Where a permit granted or renewed under this rule is lost or is destroyed duplicate of the permit may be issued by the registering authority on application and on payment of a fee of rupee one.

## Chapter IV

# Incidence and Levy of Tax, Assessment, Collection and Penalty

### 8. Determination of total turnover.

(1) Save as provided in sub-rules (2) and (3) total turnover of a dealer for the purposes of these rules shall be the amount for which the goods are sold by the dealer. (2) In the case of goods which are taxable at the point of purchase, the total turnover for the purpose of these rules shall be the amount for which the goods are bought by the dealer. (3) In the case of goods, the purchase of which is liable to tax under section 5A of the Act, the total turnover of a dealer for the purpose of these rules shall be the amount for which such goods are purchased by the dealer. (4) For the purpose of Sub-rule (1), the amount for which goods are sold by a dealer shall, (a) in relation to a works contract in which the transfer of property takes place in the form of goods, the whole amount payable to the dealer for carrying out such contract; (b) in relation to a works contract in which the transfer of property takes place not as goods but in some other form in which the dealer transfers all the goods involved in the execution of such contract, the whole amount payable to the dealer for carrying out such contract less the labour charges \*not incurred in relation to the goods involved in the execution of the works contract, as established and proved by the contractor; (c) in relation to a works contract in which the transfer of property takes place not as goods but in some other form in which the goods supplied by the awarder are partly involved, the proportionate amount of the whole contract amount less labour charges as explained in (b) above worked out in the proportion of the cost of goods supplied by such awarder and the cost of goods supplied by the contractor or other person, be deemed to be turnover of such contractor; Provided that the amount payable for a contract for earth work alone or a contract which does not involve any transfer of goods whether in the form of goods or in some other form, shall not be deemed to be turnover for the purpose of this rule: Provided further that when a works contract extends to more than one year for its completion the turnover for each year shall be:-(i) When a system of progressive billing is stipulated for the payment of the contract amount for that much of works completed in a year; then the amount received or receivable on such bills for the year; and (ii) in the other cases the portion of work completed during that year; (iii) in the case of on-going contract on the date of commencement of these rules, the turnover for the purpose of these rules shall be the turnover of work remains to be completed which shall be computed in accordance with these rules. (5) For the purpose of determining the turnover on-works contract in accordance with sub-rule (4) above, the assessing authority may accept the accounts of the dealer if the dealer has maintained proper accounts and if no accounts are "maintained or if the accounts maintained by the dealer are found to be unacceptable or in the opinion of the assessing authority, the turnover, cannot be properly deducted from such accounts in accordance with these rules, the assessing authority may determine such turnover to the best of its judgement.

### 9. Determination of taxable turnover.

- In determining the taxable turnover, the amounts specified in the following clauses shall subject to the conditions specified therein, be deducted from the total turnover of the dealer: -(a) All amounts allowed as discount, provided that such discount is allowed in accordance with the regular practice

in the trade and provided also that the accounts show that the purchaser has paid only the sum originally charged less the discount.(b)(i)all amounts allowed to purchasers in respect of goods returned by them within a period of 3 months from the date delivery of the goods, to the dealer when the goods are taxable on the amount for which they have been sold provided that the accounts show the date on which the goods were returned and the date on which and the amount for which refund was made or credit was allowed to the purchaser;(ii)all amounts received from the sellers in respect of goods returned to them within a period of 3 months from the date of delivery of goods by the dealer, when the goods are taxable on the amount for which they have been bought, provided that the accounts show the date on which the goods were returned and the date on which and the amount for which refund was received;(c)Omitted.(d)all amounts for which goods specified in the third Schedule to the Act are sold;(e)all amounts for which goods exempted by a notification under Section 10 are sold or purchased, as the case may be, provided that the terms and conditions, if any, for the exemption in the notification are complied with;(f)all amounts falling under the following two heads, when specified and charged for by the dealer separately, without including them in the price of goods sold;(i)freight;(ii)charges for delivery;(g)all amounts realized by a dealer by the sale of his business as a whole;(h)all amounts for which goods are sold or purchased where such sale or purchase takes place in the course of export of the goods out of the territory of India or in the course of import of the goods into the territory of India or in the course of inter State trade or commerce;(i)Omitted.(j)all amounts for which goods specified in the first and second Schedules to the Act are sold or purchased by a dealer when such sale or purchase is not at the point of levy prescribed in the said Schedules;(jj)(i)Turnover of sale of cardamom in auction in respect of which tax has been paid on the first sales or first purchase within the State(ii)Turnover of purchase of cardamom in respect of which tax has been paid by the auctioneer.(k)(i)The turnover of sales or purchases made by a dealer through his agent In respect of which tax has been paid by the agent.(ii)the turnover of sales or purchases made by an agent for and on behalf of any principal in respect of which tax has been paid by the principal.(l)all amounts of sales-tax collected by the dealer, if shown separately in the bills.(m)(i)the turnover of works contract which is given as a sub contract by the contractor and on which tax has been paid by the sub-contractor.(ii)the turnover of works contract executed by a subcontractor on which tax has been paid by the contractor.(n)(1) The taxable turnover of dealer in respect of the transfer of property involved in the execution of works contract shall be arrived at after deducting the following amount from the total amount received or receivable by the dealer for the execution of the contract.(a)all amounts relating to the sale of any goods involved in the execution of a works contract which are specifically exempted from the tax under any of the provisions of the Act;(b)all amounts paid to the sub-contractors as consideration for execution of works contract whether wholly or partly.Provided that no such deduction shall be allowed unless the dealer claiming deduction, produces proof that the subcontractor is a registered dealer liable to pay tax under the Act and the turnover of such amounts is included in the return filed by such sub contractor; and(c)all amounts towards labour charges and other service charges such as:-(i)Charges for planning and designing and the architects fee;(ii)charges for obtaining on hire or otherwise, machinery and tools used for the execution of the works contract;(iii)Cost of consumables used;(iv)Cost of establishment of the dealer to the extent it is relatable to the supply of labour and services;(v)Profit earned by the dealer to the extent it is relatable to supply of labour and services.(2)Every works contractor shall file along with the first monthly return after the commencement of the works contract, copy of the works schedule, the statement of purchase of

goods which are intended to be appropriated to the works contract effected during every month and pay the monthly tax on the basis of the purchases made during the month assuming the turnover as 115% of the purchase price.(3)Where a contractor chooses to pay tax on the actual turnover, he shall produce evidence in support of the claim namely evidence to prove the state of the work at the beginning of the month and at the end of the month with particulars of materials appropriated to the contract during the month. If the purchase details of goods transferred in the execution of the contract are not ascertainable, the turnover has to be arrived at after deducting labour charges as specified in the table annexed to section 5C of the Act.(4)the taxable turnover of a dealer of lottery ticket who is liable to pay tax under sub-section(1) of section 5 shall be that part of the turnover to the extent it involves the right to participate in a draw and it shall be calculated at sixty percent of the retail price of the tickets sold or the total of the retail price of the tickets sold in a draw minus the prize money actually paid in respect of such draw within the state, whichever is higher.

## **10. Returns to be submitted by the Head office.**

(1)in the case of dealers having more than one place of business, all returns prescribed by these rules shall be submitted by the Head Office In the State and shall Included the total turnover of all branches of the business in the State.(2)Each branch shall also-(a)submit to the concerned assessing authority of the area in which it is situated on or before the first day of May in every year a return of the turnover of the branch in 62Form No.9 on or before the twenty-fifth day of every month a return of the turnover of the branch in Form 9,and(b)intimate to such authority, the fact that the return of turnover of its business is included in the return submitted by its head office and specify the name and address of such Head Office.(3)for the purposes of determining whether a dealer is liable to pay the tax under Section 5, the total turnover of all his places of business in the State shall be taken into consideration.

## **11. Submission of annual return.**

- Every dealer liable to pay tax under the Act, who before the commencement of the Act had been doing business shall, within thirty days of the commencement of the Act, submit to the concerned assessing authority a return in Form No.9 showing the total turnover and taxable turnover of his business separately in goods liable to different rates of tax, in the financial year immediately preceding the commencement of the Act. He shall also submit a return in Form 10 showing his estimated total turnover and taxable turnover for the first twelve months of his business.

### **11A. Submission of return in case of price variation.**

(1)The return under clause (a) of sub-section (1) of Section 19 A shall be in Form 8A.(2)Every return referred to in sub-rule (1) shall be accompanied by a Treasury chalan in support of payment of the full amount of the tax payable on the amount received by him on account of price variation, or a crossed cheques or crossed demand draft in favour of the assessing authority, for such amount:Provided that a dealer may instead of submitting a Treasury chalan in support of payment of the tax, specify in the return the name of the Treasury and the number and date of the Treasury chalan and produce the Treasury chalan before the assessing authority whenever demanded by such

authority.

## **11B. Assessment of sales shown in accounts at low prices.**

(1) In making an assessment under Section 19B, the assessing authority shall take into account such of the following factors as may be relevant to the determination of the fair market price of the goods, namely:-(i) the price charged by other dealers at the relevant stage of sale of similar goods during the relevant period; (ii) the difference between the price charged by the dealer on his sale and the price charged by the buyer on the subsequent sale of the same goods; (iii) the difference between the price paid by a dealer towards the purchase of the goods from the earlier seller and the price charged for the sale of the same goods; and (iv) the differential price charged on sales against bulk orders and small orders in respect of the same goods. (2) If difference in prices exclusive of the sales-tax element is more than fifteen percent, the assessing authority shall examine the reasons for the variation taking into account the relationship between the parties to the transactions, the charge for after sale services, packaging, transport and other expenses incurred by subsequent sellers which added to the cost of the goods at each stage of sale by successive dealers. The assessing authority shall also examine whether there is such difference in price charged on sales of the same goods to different customers and whether the goods are made available to all distributors or other customers in unlimited quantities and at the same price. After making due allowance towards the variation in price and normal profit margin, the assessing authority shall arrive at the market price that should have been charged by the dealer and levy tax on the taxable value so arrived at.

## **12. to 16.**

Omitted.

## **17. Submission of return by casual traders.**

(1) Every casual trader referred to in clause (vii) of Section 2 shall within twenty four hours of his arrival in the jurisdiction of the assessing authority concerned, intimate to such assessing authority, his name, address and residence in the State, if he is a resident of the State or his name and address in the State as well as his address outside the State, if he is a non-resident the nature of the goods in which he intends to deal and the period within which he intends to leave the jurisdiction of the said authority. (2) The casual trader shall submit to the assessing authority concerned on or before the tenth of every month a return in Form 12 showing the total turnover and taxable turnover for the preceding month, the amount or amounts actually collected by way of tax or taxes during that month and the amounts of tax due on the taxable turnover during that month. Along with the return he shall submit a receipt from a Government Treasury (or at least note in the return the name of the Treasury and the number and date of the receipt in which case he shall produce the receipt before the assessing authority whenever required to do so); crossed cheques or crossed demand draft in favour of the assessing authority for the full amount of the tax or taxes payable on the taxable turnover for the month to which the return relates. The casual trader may if he so desires pay to the assessing authority in cash the tax due, and obtain a receipt there for. (3) (i) Where a casual trader stops his occasional transactions during the course of a month he shall submit to the assessing

authority concerned a return in Form 12 showing the total turnover and taxable turnover upto the stoppage of such transaction within the jurisdiction of the said authority within twenty four hours of the completion of the last transaction. Along with the return he shall produce proof before the said authority of having paid the tax due, in the manner specified in sub-rule (2).(ii)Where a casual trader conducts occasional transaction or transactions of a business nature in the jurisdiction, of an assessing authority and leaves such jurisdiction, he shall before leaving and immediately following the closure of the said transaction submit to the assessing authority concerned a return in Form 12 in the manner prescribed in sub-rule (2).(4)(i)If on receipt of the return under this rule, the assessing authority is satisfied that the return submitted is correct and complete, the said authority shall assess the casual A- trader on the basis of the return and determine the tax or taxes payable by him. It shall then issue a notice of demand in Form 13 for the payment of the tax if any payable by him in addition to the amount already paid. The casual trader shall thereupon pay the amount within the time and in the manner specified therein.(ii)If no return is submitted or if the return submitted appears to the assessing authority to be incorrect or incomplete, he shall assess the casual trader to the best of his judgement after giving him an opportunity of being heard and also to prove the correctness or completeness of the return submitted by him and issue a notice of demand in Form 13 for payment of the tax, if any, payable by him. The casual trader shall pay the amount specified in the notice within the time and in the manner specified therein.(5)If it is found at the time of final assessment that the casual trader has paid the tax in excess of the amount due, the assessing authority concerned shall either refund or adjust the excess amount as laid down in section 44.

## **18. Annual return and final assessment.**

(1)Every dealer liable to pay tax under the Act, irrespective of the quantum of his total turnover every registered dealer and every dealer liable to get himself registered under the Act shall, on or before the first day of May in every year, submit to the assessing- authority of the area in which his principal place of business is situated, a return in Form No.9 showing the total turnover and taxable turnover for the preceding year, the amounts by way of tax or taxes due on the taxable turnover during the year.(2)Every dealer who discontinues his business during the course of a year shall submit to the assessing authority concerned a return in Form No.9 for the period up to and inclusive of the date of discontinuance of the business within thirty days from the date of such discontinuance.(2A)Any dealer who subsequently finds that any mistake has crept in the return filed under sub-rule (1), may file a revised return in Form No.9, within six months from the date fixed for filing return under sub-rule (1) or along with the certificate of audit and statement required to be filed under sub-rule (14B) of rule 32, as the case may be.(2B)Any dealer, the assessment in respect of whom is treated as completed in accordance with the provisions of Section 18 may, if he finds that any mistake has crept in the return filed for any of the years to which the said section applies, file a revised return in Form No. 9 on or before the 30th June, 1998, and pay tax in the manner specified in sub-rule (3).(3)Every dealer liable to submit a return in 69b Form No.9 under sub-rules (1) or (2) and any dealer filing a revised return under sub-rule (2A) or (2B) shall submit along with the return a receipt from a Government Treasury (or at least note in the return the name of the Treasury and the number and the date of the receipt, in which case he shall produce the receipt before the assessing authority whenever required to do so), crossed cheques or crossed demand draft in favour

of the assessing authority for the full amount of tax or taxes due for the year on the basis of the return or for the full amount of tax or taxes actually collected by him, whichever is higher and in the case of a revised return under sub-rules (2A) or (2B) in addition to the tax or taxes so payable, the interest payable under sub-section (3) of Section 23 after deducting there from the provisional tax if any, paid already for the year, failing which the assessing authority shall serve upon the dealer a demand notice in Form 14 and the dealer shall pay the sum demanded within the time and in the manner specified therein.(4)On the receipt of a return in Form No. 9 the assessing authority shall, if it is satisfied after such scrutiny of the accounts and such enquiry as it considers necessary that the return is correct and complete, finally assess on the basis of the return the tax or taxes payable under Section 5 or notified under Section 10 for the year to which the return relates.(5)If no return is submitted or if the return submitted appears to the assessing authority to be incorrect or incomplete, the assessing authority may, after making such enquiry as it may consider necessary and after taking into account all relevant materials gathered by it and after issuing a notice to the dealer calling upon him to produce his accounts to prove the correctness or completeness of his return at a time and place to be specified in the notice and after scrutiny of the accounts, if any, produced by the dealer finally assess the tax or taxes at the rates specified in section 5 or notified under section 10 according to the best of his judgement after giving the dealer a reasonable opportunity of being heard and also prove the correctness or completeness of the return submitted by him.Provided that no assessment under sub-rules (4) or sub-rule (5) shall be made where the returns filed under Rule 21 are deemed to have been accepted under section 17A and the assessments are deemed to have been completed under Rule 21A.

### **18A. Dealers entitled to assessment under Section 17 (4) or Section 17 (4A) claiming exemption etc. from tax to furnish certain documents.**

(1)A dealer entitled to assessment under sub-section (4) or sub-section (4A) of Section 17 shall, if he claims any exemption from, or reduction in the rate of tax or rebate or refund of tax, file along with the return the following documents for the purpose of verifying the genuineness of the claim for such exemption, rebate, reduction or refund, as the case may be namely:-(a)particulars of purchases made during the year within the State, of goods subject to tax at the point of first sale or last purchase in the State in the following form, separately for each class of such goods namely:-

Sl.No	Bill No & Date	Name and address of the dealer from whom purchased with R.C.No	Name of goods	Amount
(1)	(2)	(3)	(4)	(5)

(b)opening stock and closing stock of the year in respect of the goods falling under the First and Second Schedules to the Act;(c)total value of each class of goods completely exempted from tax under the Third Schedule to the Act under Notifications under Section 10, purchased during the year;(d)a statement of the total Sales Tax collected at different rates during the year;(e)declarations in Form 25 obtained during the year along with a list thereof;(f)a statement of sales made through agents during the year in the following form along with the declaration obtained from the agent to the effect that such agent has included the sales in his turnover and that tax has been paid by him, in

respect of agents within the State:-

SL. No. Name and Address of the Agent Sale Value of goods

(1) (2) (3)

(g) declaration in Form 18, if reduction is claimed under Section 5 (3). (h) a list in the following form in respect of inter-state sales made during the year, namely:-

SL. No Bill No. & Date Name & Address of the dealer to whom sold Amount C Form No. & Date

(1) (2) (3) (4) (5)

(i) a list in the following form for sales return, namely:-

SL. No Date of sale with Bill & Date Amount Date of return, with credit note No. if any

(j) amount claimed as discount, if any; (k) a list in the following form in respect of accommodation sales, namely:-

SL. No.	Bill No. & Date of goods purchased	Name & Address of dealer from whom purchased	Amount	Bill No. & Date of goods sold	Amount
(1)	(2)	(3)	(4)	(5)	(6)

(l) amount in respect of branch transfer effected during the year with name and address of each branch; and (m) such other documents on which the dealer relies in support of his claim for exemption, reduction, rebate or refund, as the case may be. (n) counterfoils of the 'C' Forms and the extract of Account in Form VI. (o) copies of the Delivery Notes issued. Provided that where the dealer had submitted any of the above documents along with the monthly or quarterly return, no such documents need be submitted along with the annual return. (IA) Every dealer who is entitled to the assessment under sub-section (4) of section 17 shall furnish the annual return in Form 9 along with statement in Form 21 C on or before the first day of May of the year succeeding to which it relates with proof of payment of the full amount of tax due or the tax collected by him whichever is higher, along with the documents specified under this rule for the claim of exemption. The tax due or collected, whichever is higher, during any quarter of the year shall be paid by such dealer on or before 15th of the succeeding month to the first three quarters, and for the, fourth quarter, before the end of the quarter. (IB) Omitted. (IC) Omitted. (ID) On receipt of the return in Form 9 & the statement in Form No. 21 C the assessing authority shall issue the notice of assessment in that Form. (IE) The procedure prescribed under the above sub-rules are applicable to a dealer by whom no tax is payable under the Act other than a dealer dealing in goods taxable at the point of last purchase in the State, provided that his total turnover does not exceed the limit prescribed under sub-section (4) of section 17; (2) where the assessing authority is satisfied that the method of assessment specified in sub-section (4) of Section 17 is not applicable to any case, the assessing authority shall after affording an opportunity to the dealer of being heard, pass, an order to that effect and serve it on the dealer and shall proceed to assess him under sub-rule 5 of rule 18.



## **18B. Co-operative Society entitled to assessment under Section 17 (4A).**

(1) A Co-operative Society entitled to assessment under sub-section (4A) of Section 17 shall, in addition to the statements referred to in rule 18A file the two audit reports issued by the Registrar of Cooperative Societies for the co-operative years relevant to the assessment for the year 1980-81 and for every subsequent year. (2) If the assessing authority, after scrutiny of the statements, the return and audit reports is satisfied that the particulars furnished are correct and complete, finally assess on the basis of the return, the tax or taxes payable under Section 5 or notified under Section 10 for the year to which the return relates. (3) If, on scrutiny of the statements, the return and audit reports, it appears to the assessing authority that the particulars of turnover furnished in the return submitted is incorrect as to the rates of tax, the assessing authority shall, after verifying such accounts of the co-operative society as are necessary, finally assess the tax or taxes payable under Section 5 or notified under Section 10, re-fixing the turnover on the basis of such accounts after giving a reasonable opportunity to the society to prove the correctness of the return. (4) Where the assessing authority is satisfied that the method of assessment specified in sub-section (4A) of Section 17 is not applicable to any society being a society falling under the second or third proviso thereto the assessing authority shall, after affording an opportunity to the society of being heard, pass an order to that effect and serve it on the society and shall proceed to assess it under sub rule (5) of rule 18.

## **19.**

Omitted.

## **20. Adjustment after final assessment.**

- After making the final assessment under sub-rule (4) or (5) of Rule 18, the assessing authority shall examine whether any and if so, what amount is due from the dealer towards the final assessment after deducting any tax already paid on the provisional assessment, with reference to Rule 21 or at the time of submission of return in Form 8 with reference to sub-rule (3) of rule 18. If any amount is found to be due from the dealer towards the final assessment, the assessing authority shall serve upon the dealer a notice in Form No.13 and the dealer shall pay the sum demanded within the time and in the manner specified in the notice. If the tax due on the final assessment is lower than the tax already paid, the assessing authority shall refund to the dealer the excess tax if no other amount is due from him or adjust the excess tax towards the recovery of any amount due on the date of adjustment, from the dealer as recovery of any amount due on the date of adjustment, from the dealer as provided in Section 44 after giving due notice to the dealer. If the tax due on the final assessment is exactly equal to the tax already paid, the assessing authority shall inform the dealer that no further amount is due from him towards it.

## **20A. Notice of Demand in case of price variation.**

- After making the assessment under clause (b) or clause (c) or clause (d) of Section 19A, the

assessing authority shall serve upon the dealer a notice in Form No.13 and the dealer shall pay the sum demanded within the time and in the manner specified in the notice.

## **21. Submission of monthly returns.**

(1), (2), (3), (4), (5) and (6) Omitted. (7) Every dealer who is liable to pay tax under the Act and whose taxable turnover in a year is not less than ten thousand rupees, including those liable to be assessed under Section 7 and every dealer who is required so to do by the assessing authority by a notice, shall submit so as to reach the assessing authority within 25 days of the publication of the Kerala General Sales Tax (Amendment) Rules, 1983 in the Gazette or receipt of the notice, as the case may be, a return in Form 9 showing the total and taxable turnover preceding to the publication of the Kerala General Sales Tax (Amendment) Rules, 1983, in the Gazette, the amount or amounts actually collected by way of tax or taxes and the amount of tax due on the taxable turnover for each of the months preceding to the publication of the Kerala General Sales Tax (Amendment) Rules, 1983 in the Gazette beginning from April 1982. Along with the return or returns for the preceding month or months, he shall also submit a receipt from a Government Treasury (or at least note in the return, the name of the Treasury and the number and date of receipt, in which case he shall produce the receipt before the assessing authority whenever required to do so), a crossed cheque or a crossed demand draft in favour of the assessing authority drawn on any bank within the local area of jurisdiction for the full amount of the tax or taxes payable on the taxable turnover for the preceding month or months to which the return (s) relate (s). Thereafter, he shall submit so as to reach the assessing authority of a special circle on or before 10th days of every month and in other cases on or before the 15th day of every month, a return in Form 9 for the preceding month together with proof, in any of the modes mentioned above of payment of the full amount of the tax due for that month and not less than ninety percent of the tax payable on the taxable turnover for the month of March shall be paid on or before the end of that month either in cash to the assessing authority or by remittance into the Treasury by means of pay order to a bank or branch of a bank where Government business is transacted. (7A) Every dealer who is liable to pay tax under the Act and is eligible for assessment under Section 17(4) of the Act and every dealer whose total turnover in a year does not exceed fifteen lakh rupees, not being a dealer paying tax under section 7, other than those dealing only in goods completely exempted from tax either under Section 9 or by notification issued under Section 10 of the Act, shall submit a return in Form 9 showing the total and taxable turnover for the quarter ending the 30th June, 30th September, 31st December and 31st March along with the proof of payment of tax or taxes due on the taxable turnover for each such quarter to the assessing authority on or before the 15th of the month following the respective quarter. The tax or taxes due shall be paid in any of the modes prescribed under sub-rule (7) above. (7AA) Where a dealer, including a dealer liable for assessments under sub-section (4) of Section 17, claims in the return filed under sub-rule (7) or (7 A), that any part of his turnover is exempt from tax or is eligible for reduction in the rate of tax, the turnover in respect of which such exemption or reduction in rate of tax is claimed shall be shown separately under each head. Such dealer shall also file, within two months, from the due date for filing of the return the following documents relating to the month/quarter, for the purpose of verifying the genuineness of the claim for such exemption or reduction, as the case may be, namely:-(a) particulars of purchases, made during the year within the State, of goods subject to tax at the point of first sale in the State in the following form, separately for each

class of such goods, namely:-

SL.No	Bill No.& Date	Name & address of the dealer from whom purchased with R.C. No	Name of goods	Commodity code No.	Amount
(1)	(2)	(3)	(4)	(5)	(6)

(b)Omitted.(c)statement showing the details of sale exempted by notifications issued under section 10 along with certificate/declarations if any, required under each such notification(d)Omitted.(e)Omitted.(f)Omitted.(g)a statement of sales made through agents during the year in the following form along with the declaration obtained from the agent to the effect that such agent has included the sales in his turnover and that tax has been paid by him in respect of agents within the State, namely:-

SL.No.	Name & address of the Agent	Sale value of goods
(1)	(2)	(3)

(h)Omitted.(i)Omitted.(j)a list in the following form for sales return, namely:-

SL.No.	Date of sale with Bill No.& Date	Amount	Date of return with credit note No. if any
(1)	(2)	(3)	(4)

(k)amount in respect of branch transfer effected during the year with name and address of each such branch;(l)such other documents on which the dealer relies on in support of his claim for exemption, reduction, rebate or refund, as the case may be, and(m)Copies of the Delivery Notes issued during the period.(n)details of statutory forms including those prescribed under the CST(Registration and Turnover) Rules, 1957, issued in the following form, namely: -

SL.No.	Name of Form	Sl.No of FormsFrom	Sl.No of FormsTo
(1)	(2)	(3)	(4)

Provided that where a dealer is prevented by sufficient cause from filing any of the documents mentioned above within the prescribed period, such dealer may file an application praying for further time to file any such documents and the assessing authority may allow the dealer further time, not exceeding two months from the last date prescribed for filing of such documents.(7B)Every dealer who deals only in goods completely exempted from tax under Section 9 or by notification issued under Section 10 of the Act shall file annual return in Form 9 relating to the year on or before the 1st day of May of the succeeding year.(7C)Omitted.(7CC)Omitted.(7D)Omitted.(8)The return(s) so submitted other than those to which the provision of section 17A applies shall subject to the provisions of sub-rule (9) be provisionally accepted.(9)If the return (s) submitted other than those to which the provisions of section 17A applies appear (s) to be incorrect or incomplete, or if no return is submitted by the dealer or where the return is submitted without the statements/ certificates/documents required to be filed as per sub-rule (7AA) or any other rules] the assessing authority shall, after following the procedure laid down in sub-rule (5) of rule 18, determine the turnover to the best of its judgement and provisionally assess the tax or taxes payable for the month

(s) and shall serve upon the dealer, a notice in Form 13 and the dealer shall pay the sums demanded within the time and in the manner specified in the notice.(10)If the return is submitted without a treasury receipt, crossed cheques or crossed demand draft for the full amount of the tax payable in favour of the assessing authority, the assessing authority shall serve upon the dealer a notice in Form 14D and the dealer shall pay the sum demanded within the time and in the manner specified therein.(11)After the close of the year in which the provisional assessment as laid down in sub-rule (8) or sub-rule (9) or sub-rule (10) has been made, the dealer shall, on or before the 1st day of May of the succeeding year submit to the assessing authority a return in Form 9 showing the total turnover and the taxable turnover for the preceding year, the amounts by way of tax or taxes actually collected during that year and the amounts by way of tax or taxes due on the taxable turnover during that year. The tax due, if any, as per the said return shall be paid in the manner prescribed in sub-rule (7) failing which the assessing authority shall serve upon the dealer a demand notice in Form 14 and the dealer shall pay the sum demanded within the time and in the manner specified therein.(12)Every dealer who follows the method of assessment under this rule and who discontinues his business during the course of the year shall also submit to the assessing authority a return in Form No.9 for the period up to and inclusive of the date of discontinuance of the business within 30 days from the date of such discontinuance, in the manner prescribed in sub-rule (7).(13)After the close of the year in which the provisional assessments as laid down in sub-rule (8) or sub-rule (9) or sub-rule (10) has been made or in the course of the year to which a return submitted under sub-rule (12) relates, the assessing authority, if after such scrutiny of the accounts and after such enquiry as it considers necessary, is satisfied that the returns filed are correct and complete, shall finally assess under a single order on the basis of the returns the tax or taxes payable under Section 5, or notified under Section 10 for the year to which the returns relate:Provided that if the returns filed appear to the assessing authority to be incorrect or incomplete the assessing authority shall, after following the procedure prescribed in rule 18 determine the turnover to the best of its judgement and finally assess under a single order the tax or taxes payable under Section 5 or notified under Section 10.(14)After making the final assessment under sub-rule (13) the assessing authority shall examine, whether any and, if so, what amount is due from the dealer towards it after deducting any tax already paid on the provisional assessment with reference to sub-rule (8) or sub-rule (9) or sub-rule (10) or the tax paid in accordance with rule 22A. If any amount is found to be due from the dealer towards the final assessment, the assessing authority shall serve upon the dealer a notice in Form No. 13 and the dealer shall pay the sum demanded at the time and in the manner specified in the notice. If the tax due on the final assessment is lower than the tax already paid on the provisional assessment, or in accordance with Rule 22A the assessing authority shall refund the excess tax to the dealer if no other amount is due from him or adjust the excess tax towards the recovery of any amount due on the date of adjustment from the dealer as provided in Section 44 after giving due notice to the dealer. If the tax due on the final assessment is exactly equal to the tax already paid on the provisional assessment, or in accordance with Rule 22A the assessing authority shall inform the dealer that no further amount is due from him.

## **21A.**

Where any dealer fails to pay any tax collected by him under sub-section (1) of section 22 to the Government the assessing authority shall, apart from serving notice on the dealer under sub-rule

(10) of rule 21, serve upon the person or persons mentioned in sub-section( 4) of section 22 a notice in Form 14E and such person shall pay the sum demanded within the time and in the manner specified therein.

## **21B. Self-assessment.**

(1)Where the return submitted under sub-section (1) of section 17 by any dealer to whom the provisions of section 17A applies is in the prescribed manner and accompanied by the documents prescribed under Rule, 21(7AA), the assessing authority shall, on or before the due date for filing of the return for the next return period, issue an acknowledgement-(a)where the return is submitted in person, by affixing his signature and seal in the copy of the return; and(b)in other cases, in Form No.10(2)Where the receipt of the return is acknowledged in the manner specified in sub-rule (1), the assessment relating to the return period shall, subject to the provisions of section 18,19, 19A, 19B and 19C be deemed to have been accepted under section 17A and the assessment for the return period shall be deemed to have been completed.(3)Where assessment is deemed to have been completed under sub-rule (2), the assessing authority shall not be required to give any further intimation to the dealer.

## **21C. Assessment in case of non-filing of return and filing of defective return.**

(1)Where the return submitted under sub-section (1) of section 17 by any dealer specified under Rule 21B is not in the prescribed manner or not accompanied by the prescribed documents or where the details furnished in the return are incorrect, the assessing authority shall, after recording its reasons, reject the return.(2)Where a return is rejected under sub-rule (1) the assessing authority shall issue a notice to the dealer in Form No. 11 on or before the due date for the filing of the return for the next return period.(3)A dealer whose return is rejected under sub-rule (1) may, file a fresh return, curing the defects, within ten days after the receipt of the notice specified in sub-rule (2) and accompanied by such documents as provided under sub-rule (1) of Rule 21B together with proof of payment of interest on the tax payable at the rates provided under sub-section (3) of section 23 for the period from the due date of filing of return till the date of filing of such fresh return. The assessing authority, shall acknowledge the receipt of the return in the manner specified under sub-rule (1) of Rule 21B. Thereupon, the return shall be deemed to have been accepted and the assessment for the return period shall, subject to the provisions of sections 18,19,19A, 19B and 19C be deemed to have been completed.(4)If any dealer fails to submit any return as provided under sub-section (1) of section 17 or files incorrect return and fails to file a fresh return as provided under sub-rule (3), the assessing authority shall estimate the turnover for the return period and complete the assessment to the best of its judgement.(5)No assessment under sub-rule (4) shall be completed without affording the dealer an opportunity of being heard.(6)On receipt of the notice under sub-rule (5), if the dealer files a return for the return period as provided under subsection (1) of section 17 and accompanied by proof of payment of tax payable and interest on this amount from the due date for filing of return till the date of filing of return at the rates specified in sub-section (3) of section 23 and double the amount of interest so due as penalty, the assessing authority shall drop the proposal for assessment under sub-section (3) the return shall, subject to the provisions of section 18,19,19A,19B and 19C, be deemed to have been accepted under section 17A and the

assessment for the return period shall be deemed to have been completed as and when the assessing authority acknowledges the receipt of the return in the manner specified under sub-rule (1) of Rule 21B.

## **21D. Visit to dealer's premises and audit of accounts and other records by audit officers.**

(1)The officer designated under sub-section (1) of section 18 may, by an order in writing, authorize not less than two audit officers to visit the place of business of any dealer and audit any returns, books of accounts, any other records, stock statements and goods relating to any return period.(2)The authorization shall be in Form No. 18 and the audit officer authorised shall issue a notice to the dealer concerned in Form No. 18A for conducting an audit visit on a date which shall not be within fifteen days from the date of the notice.(3)The audit officer authorized in this behalf may, with due intimation to the dealer, enter any place of business and require the dealer, his employee or any other person found there assisting the dealer in carrying on business to make available all or any of the books of accounts or other records relating to any return period for audit and require them to prove the correctness of the stock statement and goods and thereupon the dealer or his representative shall render necessary facilities to the audit officers to conduct the audit.(4)The audit officers may inspect and verify all or any of the books of accounts and other records relating to any return period and require the dealer to furnish any information or statement relating to the business, which he may deem necessary for checking the credibility or correctness of the returns.(5)On completion of the audit visit, the officer mentioned in sub-rule (1) shall issue a certificate of audit in form No.19 to the dealer.(6)Any audit visit under section 18 during a period of one year from the date on which this rule takes effect shall be done only under the directions of the Commissioner.(7)The Audit officer authorized under sub-rule (1) shall submit a report to the designated officer on the audit conducted at the business place of the dealer and the designated officer shall take appropriate decision whether to proceed under sub- section (2) of section 18.(8)Notwithstanding that a certificate has been issued under sub-rule (5), if the designated officer considers that any further information is required, he may direct the dealer to furnish the required information or direct the audit officers to obtain the required information.

## **21E. Audit Assessment.**

(1)Where on consideration of the report submitted by the Audit Officer under sub-rule (7) of Rule 21D the designated officer deems it necessary to proceed under sub-section (2), of section 18 he may authorise the audit officer or any other officer to proceed to reject the return submitted by the dealer and complete the assessment to the best of his judgement in accordance with these rules.(2)Where the officer authorised under sub-rule (1) considers it necessary that a further verification of the accounts or other records is necessary, he shall serve upon the dealer a summons in Form No 50 specifying therein the details of the records to be made available, the date on which and the time and place at which the dealer has to make available the books of accounts or other records.(3)On receipt of the summons in Form No. 50, the dealer or any other person assisting him in carrying on business, shall make available the books of accounts and other records, stock statements and goods as specified in the notice.(4)(i)Where in an audit, any irregularity as specified under sub-section (2)

of section 18 is detected and such irregularity relates to one return period only and does not disclose any pattern of suppression, the best judgement assessment shall be limited to the return period to which the irregularity relates.(ii)Where the irregularity detected is the failure to prove the claim of any exemption or reduction in rate of tax, the best judgement assessment shall be limited to the disallowance of the claim of such exemption or reduction, as the case may be. Where any such claim of exemption or reduction in rate of tax is disallowed, in addition to the tax that becomes additionally payable, interest under sub-section (3) of section 23 and twice the interest as penalty shall be demanded or levied.(iii)Where the irregularity relates to suppression of taxable turnover and a pattern of suppression is clearly made out, the best judgement assessment shall be in respect of all the return periods to which the pattern is applicable.(iv)Where the best judgement assessment is done after the expiry of the year in which the relevant return periods fall, and the best judgement relates to more than one return period, the assessment shall be made by a single order. However assessment relating to return periods falling under different years shall not be made by a single order.(v)The assessing authority making the best judgement assessment shall serve on the dealer a notice clearly specifying the irregularities or defects noticed and the manner in which the best judgement assessment is proposed to be completed. Where a pattern of suppression is detected, the pattern and the relation borne by such pattern of suppression to the estimate proposed shall be clearly made out in the notice.

## **22.**

The notice in writing referred to in Section 25 shall be in Form 16.

### **22A. Mode of submission of returns.**

(1)Where any return or statement is required to be filed under these rules, any person filing such return or statement may render or make available the same in the required form which may be written, typewritten, printed or in electronic form. Where such return or statement is rendered or made available in an electronic form it shall be accessible so as to be usable for a subsequent reference and shall be authenticated by the secure digital signature of the person signing the return or statement, as the case may be, and the public key is made available to the authority before whom the document is filed. Every dealer, other than a dealer to whom an electronic identity card is issued, who desires to file return through electronic means shall pay an annual fee of two hundred rupees which shall be paid to the assessing authority in the same manner as a registration fee payable under the Act is paid.(2)Any return under these rules may be submitted either in person, or by registered post with acknowledgement due, or by courier service, or through electronic means.(3)If the return is submitted in person, the officer receiving the return shall acknowledge the receipt of the same by affixing his dated signature with seal on the duplicate copy of such return. If the return is submitted through electronic means the officer receiving the return shall send an acknowledgement in Form No. 10J. If the return is submitted by any other means the acknowledgement shall be in Form No 10K.(4)If the return is submitted in electronic form, the officer receiving such return shall not acknowledge the receipt of the same unless he is satisfied that it contains all the required information and the same is not a read only copy and the details contained in it are transferable to another computer and is duly signed by the dealer.(5)Any

acknowledgement under sub-rule (3) or sub-rule (4) in relation to a return period shall be issued not later than the due date for the filing of the return for the subsequent return period.

### **23. Signing and verifying of returns.**

- All returns prescribed under these rules shall be signed and verified in the manner provided therein by any of the persons specified in sub-rule (7) of Rule 5.

### **24. Recording reasons when returns not accepted.**

- If, in any case, the assessing authority determines the turnover at a figure different from that shown in a return submitted under the provisions of these rules, it shall record its reasons briefly in writing and shall furnish the assessee with a copy of such record. Nothing contained in this rule shall affect the validity of any assessment duly made. If the dealer relies on any materials or evidence to prove the correctness or completeness of his return and the assessing authority does not find them to be acceptable, it shall specifically refer to such materials or evidences also in the assessment order and record its decision thereon with the reasons for arriving at such decision. Nothing contained in this rule shall affect the validity of any assessment duly made.

### **25. Calculation of turnover when goods are sold for consideration other than cash.**

- Every dealer who has brought or sold goods for valuable consideration other than money shall separately specify in the return of turnover which he is required to submit under these rules, the quantity of goods so bought or sold and the description in sufficient detail of the valuable consideration for which the goods were bought or sold. The assessing authority shall fix the value of such consideration in money for the purposes of determining the turnover and assessment of the tax payable under the Act and the value fixed by such authority shall, subject to the appeal and revision provided for in the Act and these rules, be final.

### **26. Issue of refund adjustment order.**

- Whenever any excess tax refundable to a dealer is adjusted towards any amount due from him under the Act the assessing authority shall issue a refund adjustment order in Form 17.

### **27. Return when goods are liable to tax at different rates.**

- Where a dealer deals in goods liable to tax at different rates under the Act, he shall specify in returns submitted under these rules the total turnover and taxable turnover in respect of goods taxable at each such rate separately.



**28.**

Omitted.

**28A. Declaration in respect of sales deemed to be in the course of export under Section 5(3) of the Central Sales Tax Act, 1956.**

(1)A dealer who purchases goods from another dealer in circumstances in which the sale to him is to be deemed to be in the course of export under sub-section (3) of Section 5 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956) shall furnish to the selling dealer the original and duplicate portions of the "declaration in form H prescribed under the Central Sales Tax (Registration and turnover) Rules, 1957, duly filled in and signed by him or by any responsible person duly authorized by him in this behalf and shall retain the counterfoil.(2)A dealer who claims that a sale is to be deemed to be in the course of export under sub-section (3) of Section 5 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956), shall attach to his return of turnover for the return period, in Form No. 10, the original portion of the declaration in Form H prescribed under the Central Sales Tax (Registration and turnover) Rules, 1957 received by him from the purchasing dealer. He shall produce the duplicate portion of it marked for inspection, if the assessing authority directs him to do so.(3)The supply, use, custody, maintenance of account and validity of the declaration in Form H shall be in accordance with the provisions of Rule 11D of the Central Sales Tax (Kerala) Rules, 1957.

**29. Refund in respect of declared goods.**

(1)Where any tax has been levied and collected under sub-section (1) of Section 5 in respect of the sale or purchase inside the State of any declared goods and such goods are subsequently sold in the course of inter-state trade or commerce, the tax so levied and collected shall be refunded in the manner and subject to the conditions prescribed in this rule, to the dealer who has made the inter-state sale and has paid tax under the Central Sales tax Act, 1956 (Central Act 74 of 1956) in respect of such sale.(2)Every dealer who claims a refund under this rule shall be submit a statement in Form 20 to the assessing authority concerned not later than three months from the date on which the dealer paid the Central Sales-tax due on the transaction in respect of which he claims refund of the said Sales-tax:Provided that the assessing authority may condone for reasons to be recorded in writing any delay in the filing of the statement aforesaid.(3)The burden of providing that a dealer is entitled to the refund under this rule shall be on the dealer who claims the refund.(4)(i)On receipt of the statement in Form 20 the assessing authority shall, if it is satisfied after such scrutiny of the accounts and after such enquiry as it considers necessary, that the claim for refund is admissible, pass an order refunding the tax.(ii)If the statement submitted by the dealer appears to the assessing authority to be incorrect or incomplete or otherwise not in order it shall, after making such enquiry as it considers necessary and after giving the dealer an opportunity of being heard pass such orders as it thinks fit, giving reasons in writing.(5)The assessing authority concerned may at the request of the dealer who claims refund under this rule, adjust the amount towards the tax if any payable by him.

### **30. Payment of tax at compounded rates.**

(1) Every dealer eligible to pay turnover tax at compounded rate under section 7, who desires to exercise the option provided for under the said section may apply to the assessing authority concerned for permission to pay turnover tax at the rates specified therein in Form No. 21 on or before the 30th day of April of the year to which the option relates or along with the application for registration under the Act, whichever is later. Provided that the assessing authority may admit an application filed after the prescribed date for good and sufficient reasons to be recorded in writing. Provided further that the application relating to the year 2005-06 shall be filed within fifteen days from the date on which the Kerala General Sales Tax (Amendment) Rules, 2005 is published. (2)(i) If the assessing authority is satisfied that the application filed is in order, it shall grant the permission in Form No. 22(ii) If the application filed is not in order, the assessing authority shall reject the application, for reasons to be recorded in writing, after giving the dealer an opportunity of being heard.(iii) The dealer to whom permission is granted under sub-rule (2) shall submit along with the monthly return in Form No. 9 a statement of purchases of liquor made during the month, showing invoice number and date, particulars of goods, quantity and value, along with photocopies of the purchase bill/invoices.

#### **30A.**

Omitted.

### **30B. Granting of installments by assessing authority.**

- An assessing authority who issue a notice of demand under these rules for the payment of any tax or other amount may, on request by the dealer, allow such amount to be paid in not more than six monthly installments. Interest under sub-section (3) of Section 23 shall however be payable on the amount remaining unpaid.

### **31. Mode of payment of Interest.**

(1) The interest payable under sub-section (3) of Section 23 shall be remitted into the Government Treasury or paid by means of crossed cheques or crossed demand draft in favour of the assessing authority concerned either separately or along with the tax.(2) The assessing authority concerned may calculate the interest payable under sub-section (3) of Section 23 from time to time and may issue a notice in Form 24. On receipt of the notice the dealer shall pay the interest due in the manner specified in sub-rule (1). Explanation: - The dealer or other person concerned shall however be liable to pay the interest under sub-section (3) of Section 23 whether he receives a notice under this sub-rule or not.(3) Any dealer who is eligible for reduction in interest under Section 23A shall be eligible for payment of the arrears of tax as on 1-4-1998 and the interest accrued under subsection (3) of Section 23 and Section 23A thereof in six installments on or before 31-12-1998. Such dealers who want to avail themselves of the installment facility shall file an application, on plain paper, before the assessing authority. The assessing authority shall fix up the installment and intimate the

dealers. Notwithstanding that payment in installments is permitted by the assessing authority, the interest under sub-section (3) of Section 23 read with Section 23A shall continue to accrue on the arrears outstanding till the last installment is paid.

### **31A. Payment of penalty.**

(1)The penalty payable under Section 45A Section 45AA or Section 46A shall be remitted into the Government Treasury or paid by means of crossed cheques or crossed demand draft in favour of the assessing authority concerned.(2)The assessing authority imposing the penalty under Section 45A, Section 45AA, or Section 46A shall serve a notice of demand on the dealer in Form 24. On receipt of the notice the dealer shall pay the penalty due in the manner specified in sub-rule (1) on or before the day specified in the notice of demand.

### **31B. Mode of recovery of tax and other amounts due by the Magistrate.**

- On receipt of an application from an assessing authority for realisation of tax or there amounts due under clause (b) of sub-section (2) of Section 23, the Magistrate shall issue a warrant in Form 24C to a Police Officer or any Officer subordinate to him authorising to recover such tax or other amount referred to in the application by attachment and sale of any movable property belonging to the defaulter.

### **31C. Payment of amount forfeited.**

(1)Any sum ordered to be forfeited to the Government by an order issued by the assessing authority under sub-section (1) of Section 46A shall be remitted into the Government Treasury or paid by means of crossed cheques or crossed demand draft in favour of the assessing authority concerned.(2)The assessing authority ordering forfeiture under subsection (1) of Section 46A shall serve a notice of demand on the dealer in Form 24D. On receipt of the notice, the dealer shall pay the amount due in the manner specified in sub-rule (1) on or before the day specified in the notice of demand.

### **31D. Reimbursement of forfeited amount.**

(1)Any person from whom the amount was collected in contravention of the provision in sub-section (2) or sub-section (3) shall be allowed reimbursement of any amount forfeited to Government under sub-section (1) of Section 46A subject to the following conditions, namely:-(a)he furnishes a statement in Form 40 duly filled up and certified by the dealer who realised the excess or illegal tax:(b)he furnishes along with the said statement in Form 40, the original of the bill or bills evidencing such collection;(c)the statement in Form 40 shall be submitted to the assessing authority which ordered forfeiture of the illegal or excess collection within a period of 3 years from the date on which the order of forfeiture was passed under sub-section (1) of Section 46A.(2)If the assessing authority which forfeited the amount is satisfied that the statement submitted is correct and complete, it shall refund the amount within 90 days of receipt of the statement in Form 40, as

provided in Rule 67.

### **31E. Refund of interest.**

- Where, as a result of any order under sub-section (4) or sub-section (5) or sub-section (6) of Section 23 the interest levied on any dealer or other person is cancelled or is reduced, the excess amount of interest, if any, collected, shall be refunded to the dealer or other person as provided in rule 67.

## **Chapter V**

## **Inspection of Business Places and Accounts and Establishment of Check Post**

### **32. Maintenance and preservation of accounts.**

(1) Every person registered under the Act, every dealer liable to get himself registered under the Act and every other dealer who is so required by an assessing authority by notice served in the prescribed manner, shall keep and maintain the following books of accounts disclosing true and complete accounts of his daily transactions in Malayalam, Tamil, Kannada Gujarathi or English showing the goods produced, manufactured, bought and sold by him and the value thereof separately together with the vouchers and bills:-(i) a daily cash book, that is to say, a record of all cash receipts and payment kept & maintained from day to day indicating the cash balance in hand at the end of each day; (ii) a journal, if the accounts are maintained according to mercantile System of accounting; (iii) a ledger. (2) Every dealer shall keep separate purchase and sales accounts for different goods liable to tax at different rates of tax. (3) Every registered dealer, every dealer liable to get himself registered under the Act and every other dealer who is required so to do by the assessing authority shall keep the current books of account at the place or places of business entered in the certificate of registration. Every purchase & every sale shall be brought to account then and there as soon as the purchase or sale is effected. (4) Every dealer in declared goods shall maintain separate accounts in respect of each of such class of goods. (4A) Every dealer liable to pay turnover tax shall maintain separate accounts for the goods liable to turnover tax; (5) Every dealer shall keep separate accounts in respect of sales or purchases in the course of export or import and in respect of inter-State sales or purchases. (6) Every commission agent, broker, del credere agent, auctioneer or any other mercantile agent shall maintain accounts showing:-(a) particulars of Authorisation received by him to purchase or sell goods on behalf of each principal separately and the date on which a copy of such Authorisation in each case was sent to the assessing authority. (b) particulars of goods purchased, or of goods received for sale on behalf of each principal each day; (c) details of purchases/sales effected on behalf of each principal each day; (d) details of account furnished to each principal each day; (e) the tax paid on purchases or on sales effected on behalf of each principal and the Chalan No. and date of remittance of the tax into Treasury. (7) Every dealer who sells goods to a purchasing agent shall keep particulars of the name & add: of the purchasing principal on whose behalf the agent buys. (8) Every purchasing agent shall keep particulars of the names and addresses

of dealers or persons from whom they purchase the goods and the selling agent shall keep particulars of the names and addresses of the dealers or persons to whom they sold the goods.(9)Every wholesale dealer, importer and manufacturer shall maintain day to day stock accounts of each class of goods dealt in by him. The stock account shall contain particulars of purchases / receipt sales / deliveries & balance stock.(9A)Omitted.(10)Every dealer liable to pay tax shall issue a bill or cash memorandum in respect of every sale involving an amount of Rupee ten or more and in all other cases on demand by the purchaser and where the sale is subjected to approval by the purchaser, such dealer shall issue bill or cash memorandum specifying therein that the sale is subject to approval in a stated period of time.(11)Every such bill or cash, memorandum shall bear the name and address of the seller, with his trade name, if any, his registration certificate number, quantity and value of goods sold, other charges realised being separately shown and in the case of sales exceeding Rs. 100 the full name and address of the purchaser and shall be signed and dated by the dealer or his authorised agent.(12)Every such bill or cash memorandum shall be prepared in duplicate serially machine-numbered, one copy of it shall be issued to the purchaser and the other copy shall be retained by the dealer. The serial numbers assigned to the bills or cash memoranda shall run consecutively for the whole year. Where a dealer maintains separate series of bills or cash memoranda for different classes of goods, such dealer may use different series with the alphabets, A, B, C, etc., prefixed to each series. The dealer shall intimate the series and the opening numbers of Bills of cash memoranda intended to be used by him in a year to the assessing authority during the month of April and the last number of bills or cash memoranda issued shall be noted in the annual return relating to the year.(12A)In case where the seller does not issue sale bill or cash memoranda in respect of sale effected by him, the purchasing dealer shall issue a purchase bill or bought note in respect of every such purchase. Every such purchase bill or bought note shall contain the name and address of the purchaser, his trade name, if any, registration number, name and address of the seller with his trade name and Registration Certificate number, if any, the quantity and value of the goods purchased and other charges, if any deducted, therefrom, dated signature of the purchaser or his authorised agent and counter signature of the seller or his authorised agent. It shall be prepared in duplicate and shall be serially machine numbered. One copy of the same shall be issued to the seller and the other copy shall be retained by the purchaser. The serial number shall run consecutively for the whole year. The dealer shall intimate the opening number of the purchase bill or bought note to the assessing authority during the month of April and the number of the last bill or bought note issued shall be furnished in the annual return of the year.(13)Every dealer in goods taxable at the point of first sale in the State shall, if he is not liable to tax on such goods by reason of his not being the first seller of the goods in the State, obtain a certificate written and signed underneath or on the other side of the bill or cash memorandum to be effect that the goods covered by the bill or cash memorandum had suffered tax at his (seller's) hands or at the hands of any other dealer mentioned in the certificate. The seller in such goods shall give such a certificate on every sale made by him.(13A)Omitted.(13B)Omitted.(13C)Omitted.(14)Omitted.(14A)Omitted.(14AA)Omitted.(14B)The Certificate required to be furnished under subsection (1) of section 27A shall be in Form No. 50A shall be furnished to the assessing authority in the case of a company on or before 31st December and in other cases on or before 31st October to the year succeeding to which it relates. Along with the certificate of audit in Form 50A signed by chartered accountant, the dealer shall file a statement in Form 50B.(14C)Omitted.(15)Every manufacturer of goods shall maintain daily production accounts, showing quantitative details of the various raw materials used for the manufacture and the

quantitative details of the goods so manufactured.(15A)Omitted.(16)Every dealer who is required to maintain stock accounts shall maintain subsidiary accounts for each godown if there is more than one godown for keeping his stocks.(17)Every wholesale dealer while delivering goods to a retail dealer in pursuance of sale where no sale bill is issued or every person who consigns goods by any vehicle or vessel or any other means in pursuance of a sale where a sale bill is not issued or consigns goods through the said means from one godown to another or from one of his shops to another for the purpose of storage or sale, shall issue a delivery note in Form 26. A blank book of Delivery Note of Form 26 shall be obtained from the assessing authority, on payment of a fee at the rate of ninety-five rupees per book of 50 forms.(18)Every such delivery note shall be prepared in triplicate, the duplicate and triplicate being carbon copies of the original serially machine numbered shall be kept in book form and shall be duly signed and dated by the consigning dealer or his manager or authorised agent and the original of it shall be furnished to the Assessing Authority concerned, and the duplicate shall be retained by the purchasing dealer or the person to whom the goods are delivered for transporting and the triplicate shall be retained by the consigning dealer.(19)Omitted.(19A)Every person who consigns goods by any vehicle or vessel which is not in pursuance of a sale shall issue a certificate of ownership in Form 27 A.(20)Purchase bills or vouchers of exempted goods and goods liable to tax at different rates shall be kept separately date-wise and shall be serially numbered so as to facilitate easy checking of accounts by the assessing authority concerned.(21)Accounts maintained by dealer together with all vouchers, bills, declarations, way bills, and delivery notes relating to stocks, deliveries, purchases, output and sales shall be preserved by them for a period of two years from the date of completion of the final assessment of the year to which they relate or from the date of disposal of the appeal or revision arising out of such assessment or from the date of completion of any other proceeding under the Act connected with such assessment or appeal or revision, whichever is later and shall be kept at the place of business mentioned in the certificate of registration.

### **33. Name boards etc. in front of godowns.**

- Every dealer possessing godown or godowns shall put up in front of such godown or godowns, name board (s) showing the Municipal/Corporation/Panchayat number of building, the name of the dealer, his Registration Certificate number and the number as well as the total number of the godown or godowns. The number of godown should be shown as the numerator and the total number of godowns as the denominator in the board exhibited.

### **33A. Safe custody and procedure on loss etc, of delivery note.**

(1)The delivery note in Form 26 obtained from the assessing authority by a dealer shall be kept in safe custody and he shall be personally responsible for the loss, destruction or theft of any such note or the loss of revenue to government, if any, resulting directly or indirectly from such theft, loss or destruction.(2)Every dealer to whom any delivery note is issued by an assessing authority shall maintain, in a register in Form 19B, a true and complete account of every such note if any such note is lost, destroyed or stolen, the dealer shall report the fact to the assessing authority immediately, make appropriate entries in the remarks column of the said register and take such other steps to issue public notice of the loss, destruction or theft as the assessing authority may direct.(3)Any

unused delivery note remaining in stock with a dealer shall be surrendered to the assessing authority on discontinuance of the business by the dealer or cancellation of his certificate of registration or on his ceasing to be an assessee.(4)No dealer to whom a delivery note is issued by the assessing authority shall, either directly or through any other person, transfer the same to another person except as provided in sub-rule (18) of rule 32.(5)A delivery note in respect of which a report has been received by the assessing authority under sub-rule (2) shall not be valid for the purpose of sub-rule (17) of rule 32.(6)The Deputy Commissioner shall from time to time publish in the Gazette, the particulars of the delivery note in respect of which a report has been received under sub-rule (2).(7)The Government may by notification in the Gazette declare that delivery note of a particular description shall be deemed to be obsolete and invalid with effect from such date as may be specified in the notification.(8)On the publication of the notification referred to in sub-rule (7), all dealers shall, on or before the date, with effect from which the forms are so declared to be obsolete and invalid, surrender to the assessing authority, all unused forms of the said description, as may be in their possession and obtain in exchange such new notes as may be substituted for delivery notes declared obsolete & invalid:Provided that new delivery notes shall not be issued to a dealer until he has rendered account of the old delivery notes already issued to him and returned the balance, if any, in his hand to the assessing authority.

### **34. Search and seizure of documents.**

(1)The authorisation under the proviso to sub-section (3) of Section 28 shall be in Form No.27.(2)The authorisation under clause (b) of sub-section (7) of Section 28 shall be in Form 27.(3)Every authorisation referred to in sub-rules (1) and (2) shall be in writing under the signature of the authority issuing it and shall bear the seal of such authority.(4)Any person in charge of any building, place, godown, vessel or vehicle or box or receptacle shall on demand by an authority not below the rank of an assessing authority, & any person in charge of, in any residential accommodation shall on demand by the authority authorised under subsection (3) of Section 28 and on production of authorisation allow such authority free ingress thereto and access to the contents of any box or receptacle and afford all reasonable facilities for a search therein.(5)If ingress to such building, place, godown, vehicle, vessel or residential accommodation or access to the contents of any box or receptacle cannot be so obtained it shall be lawful for such authority with such assistance of the police or other officers of the State Government as may be required, to enter such building, place, godown, vehicle or residential accommodation or to have access to the contents of any box or receptacle and search therein and in order to effect such entrance or access. to break open any box or receptacle or any outer or inner door or window of any building, place, vehicle or vessel or residential accommodation, whether that of the person to be searched or of any other person if after notification of his authority and purpose and demand of admittance duly made he cannot otherwise obtain admittance or access:Provided that if any such vehicle, vessel, building, place or residential accommodation is occupied by a woman who according to custom does not appear in public the Officer or authorised officer shall as the case may be before entering such vehicle, vessel, building place or residential accommodation give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing.(6)The Officer or the authorised officer as the case may be, may if the owner or any other person in occupation or in immediate possession or control of any box, or receptacle, godown, building or residential accommodation in which any

goods, accounts, registers, records or other documents are or reasonably believed to be kept leaves the premises or refuses to open the box or receptacle, godown, building, or residential accommodation or is not available and such officer considers it is not practicable to exercise the power of breaking open immediately, seal such box, receptacle, godown, building or residential accommodation and serve an order on the owner or the person who is in the immediate possession or control thereof that he shall not open, remove, part with or otherwise deal with such box, receptacle, godown, building or residential accommodation.(7)Where any person has got out of or is about to get into or is in, any place referred to in clause (a) or clause (b) of sub-section (3) of Section 28 or, any vehicle or any dealer and the officer has reason to suspect that records or other documents such person may be searched by such officer with such assistance as he may consider necessary. If such person is a woman the search shall be made by another woman with strict regard to decency.(8)Where any officer or authorised officer conducts a search of any person, office, shop, place of business, residential accommodation, godown, vessel, receptacle, vehicle or any premises or place where any books of accounts of a dealer may be, or are reasonably suspected to be kept, he shall as far as may be, follow the procedure prescribed in the Code of Criminal Procedure, 1973 (central Act 2 of 1974).(9)If on search, such officer finds any accounts, registers or other documents which he has reasons to suspect that the dealer is maintaining with a view to evading the payment of any tax or fee due from him under the Act, he shall, for reasons to be recorded in writing, seize such accounts, registers and documents of the dealer as may be necessary and shall give the dealer a receipt for the same. The accounts and registers so seized shall be returned to the dealer within thirty days and in cases where permission of the next higher authority under sub-section (6) of section 28 has been obtained within Sixty days from the date of seizure unless they are required for a prosecution.(10)When any accounts, registers or documents of a dealer seized by any officer empowered in this behalf have to be returned to the dealer, such return may be made after taking such extracts there from as may be considered necessary. The authority making the return shall affix its signature or official seal or both on such accounts, registers or documents and the dealer shall give a receipt in acknowledgement, which shall mention the details of the records returned and the number and particulars of the places where the signature or the seal, or both, have been affixed on the accounts, registers or documents returned to him.(11)When any accounts, registers or documents are inspected or examined by any authority empowered in this behalf, such authority shall affix his signature or official seal or both, at one or more places therein.(12)If any officer or authorised officer while inspecting or searching any place finds therein any goods not accounted for by the dealer in his accounts and other records such officer shall prepare a list of all such goods and get it signed by two respectable witnesses. One copy of such list shall be given or tendered to the dealer or the person in charge of the place.(13)The officer directing payment of penalty under subsection (8) of section 28 shall issue a notice of demand on the dealer in Form No.24. On receipt of the notice, the dealer shall remit the amount of penalty specified in the notice into a Government Treasury or pay the same by means of crossed cheques or crossed demand draft in favour of the assessing authority concerned and intimate the fact to the officer directing payment of penalty.

### **34A. Mode of disposal of seized properties.**

(1)An Officer seizing the goods under sub-section (8A) of Section 28 or under sub section (14) of section 29A shall cause to be published in the notice board of his office, a notice under his signature



specifying the details of goods seized and intended for sale, the place and the day and hour at which the seized goods will be sold and shall display copies of such list and notice in more than one public place in or around the place in which the goods were found.(2)No sale shall take place before the expiry of a period of fifteen days from the date on which the notice is affixed.(3)The Officer who seized the goods shall conduct the auction in person and the goods shall be made available at the place of sale.(4)At the appointed time the goods shall be put in one or more lots as the officer conducting the sale may consider advisable and shall be knocked down in favour of the highest bidder subject to confirmation of sale by the Inspecting Assistant Commissioner where the value of the goods auctioned does not exceed five thousand rupees and by the Deputy Commissioner in other cases.(5)The auction purchaser shall pay the sale value of the goods including sales tax applicable, in cash immediately after the sale and he shall not be permitted to carry away the goods unless the amounts are paid in full.(6)Where the purchaser fails to pay the sale value of the goods in cash, the goods shall be resold at once and the defaulting purchaser shall be liable for any loss arising there from as well as the expenses incurred on the resale.(7)Notwithstanding anything contained in the foregoing sub-rules, if the goods seized are of a perishable nature or subject to speedy and natural decay or when the expenses of keeping them in custody are likely to exceed their value, the goods, shall be sold by the Officer seizing them immediately after such seizure.(8)Where the appellate or revisional authority orders any refund of the sale proceeds of the goods seized and sold in auction, the same shall be made after deducting any tax to be collected and remitted to Government in accordance with section 22 of the Act and any charges incurred in connection with the auction sale.

### **34B. Procedure for the purchase of goods to prevent under valuation.**

- No order under sub-section (1) of section 28A shall be passed without giving the person from whom such goods are purchased or the owner or driver or other agent or representative a reasonable opportunity of being heard.

### **34C. Filing of appeal under Section 28A.**

(1)The appeal under sub-section (2) of section 28A, shall be in Form No. 31B, verified in the manner specified therein and shall be accompanied by a fee of rupees one hundred.(2)On receipt of the appeal, the Deputy Commissioner shall scrutinise the same and admit it if it is in order.

### **35. Establishment of Check Posts and inspection of goods in transit.**

(1)when a check post is set upon a thorough fare or road under section 29, barriers may be erected, across the road or thorough fare, in the form of a contrivance to enable vehicle or vessel being intercepted, detained and searched.(2)No person shall transport within the State across or beyond the notified area any consignment of goods if the value thereof exceeds twenty five rupees by any vehicle or vessel unless he is in possession of:(a)either a bill of a sale or delivery note or way bill or certificate of ownership;(b)a declaration also when the vehicle enters or leaves the State limits.(2A)No person shall transport within the State across or beyond the notified area or within two kilometers from the border area, goods of the description given in sub- section (2A) of section 29 not exceeding two kilograms by weight unless he is in possession of the records and documents

prescribed in sub-rule (2) above.(3)At any place within the area notified by Government under Sub-section (1) of section 29 the driver or any other person in charge of any vehicle or vessel and any person referred to in sub-section (2A) of Section 29 shall remain stationery or as the case may be keep the animal stationery as long as may be required by the Officer in charge of the notified area or any other Officer of the Sales Tax Department not lower in rank than an assessing authority and allow and enable the officer to inspect the goods under transport and to examine the records specified in sub-rule (2).(4)When the officer in charge of the Check Post or barrier within the notified area is not at the Check Post or barrier, the driver or any other person in charge of a vehicle or vessel and any person referred to in sub-section (2A) of Section 29 shall remain stationery or as the case may be keep the animal stationery at the Check Post or barrier when required by the Peon on duty at the Check Post or barrier for a period not exceeding 10 minutes in order to enable the Officer in charge of the Check Post or the barrier or the other Officer specified in sub-rule (3) to come and examine the goods and the records connected with the goods under transport;(5)If on such examination any such officer finds that any consignment of goods (the value thereof exceeds rupees five) or the entire goods are not covered by proper documents or that the documents carried by the driver or any other person in charge of the vehicle or vessel are defective or suspects that the documents are bogus or false, the said officer shall immediately issue a notice to the said person to show cause why further steps should not be taken against him under section 29. If the Officer is satisfied as to the reason or reasons for the omission or the defects as the case may be, he may allow the goods to pass through the notified area after recording his findings there for. If he is not satisfied with the reasons, he shall proceed to unload, seize and confiscate the goods after following the procedure laid down in sub-rules (6) to (8).(6)The said officer may order the unloading of the goods which are not allowed to pass through the notified area under sub-rule (5) and upon such order the person in charge of the vehicle or vessel or the owner of the goods, if present, shall arrange to unload the goods. The Officer shall thereupon proceed to seize and confiscate the goods. The Officer who seizes the good for confiscation, shall issue a notice to the driver or any other person in charge of the vehicle or vessel or the owner if present, specifying therein the reasons for the seizure of the goods. He shall obtain from the said person the name and address of the owner of the vehicle or vessel and the name and address of the owner of the goods if he is not present in the vehicle or vessel.(7)Where any officer orders unloading of the goods and seizes them, he shall issue to the driver or other person in charge of the vehicle or vessel or the owner if present, a receipt giving the description and quantity of the goods unloaded and delivered to him by the driver or other person in charge of the vehicle or vessel or the owner of the goods and obtain his acknowledgement.(8)Any such officer shall, before ordering confiscation of the goods, give the person in charge of the goods and the owner if present the vehicle or vessel an opportunity of being heard. If the owner is not present in the vehicle or vessel, and if his name and address are not ascertainable from the driver or other person in charge of the vehicle or vessel, the Officer shall make such enquiry as he deems fit, ascertain the name and address of such person and if his name and address are ascertainable, give him an opportunity of being heard before ordering confiscation. In case his name and address are not ascertainable after enquiry the Officer shall straight away proceed to confiscate the goods.(9)The goods confiscated shall be sold in public auction.(i)A copy of the order of confiscation shall be served goods if ascertainable.(ii)The Officer in charge of the check post shall cause to be published in the Notice Board of his office a list of the goods confiscated and intended for sale with a notice under his signature specifying the place where and the day and hour at which the confiscated goods

will be sold and shall display copies of such list and notice in more than one public place near the check post as the officer may consider necessary to give wide publicity to the sale. If the value of the goods exceeds Rs. 1,000 copies of the list & notice shall be published in the office of the Inspecting Assistant Commissioner also. No sale shall take place until after the expiration of a period of fifteen days from the date on which the notice is affixed. Provided that in the case of perishable goods, the sale may be conducted at any time after the affixing of the notice even if an appeal has been filed against the order of confiscation. (iii) The Officer in charge of the Check Post shall conduct the sale in person. (iv) At the appointed time, the goods shall be put up in one or more lots as the officer conducting the auction sale may consider advisable and shall be knocked down in favour of the highest bidder subject to the confirmation of the sale by the Inspecting Assistant Commissioner where the value of the goods auctioned does not exceed Rs. 1,000 and by the Deputy Commissioner in other cases. Where the amount fetched in auction is more than the amount of the penal tax due from the owner of the goods, the surplus after deducting the expenses, if any, incurred by the department in this behalf shall be paid to the owner of the goods. (v) The auction purchaser shall pay the sale value of the goods in ready cash immediately after the sale and he will not be permitted to carry away any part of the property until he has paid for the same in full. Where the purchaser fails to pay the purchase money, the property will be re-sold at once and the defaulting purchaser will be liable for any loss arising from as well as the expenses incurred on the re-sale. (i) The sale proceeds shall be remitted into the Government Treasury under the Departmental head of account. (10) Omitted. (11) If any order directing confiscation is reversed in appeal the goods confiscated, if they have not been sold before such reversal comes to the knowledge of the officer conducting the sale, shall be released or if they have been sold, the proceeds thereof shall be paid to the owner of the goods or his agent on payment of or after deducting the charges incurred by the State after obtaining receipt for the same. (12) Where a confiscation was ordered for the reason that the owner was not ascertainable and the goods have not been disposed of in auction the owner or any person on his behalf may appear before the officer ordering the confiscation and satisfy him with relevant records regarding the bonafides of the transport of goods in question. If the Officer is satisfied that there has been no evasion of tax, he may, for reasons to be recorded in writing order the release of the confiscated goods. The Officer shall specify in his order the amount due, to be paid towards the charges, if any, incurred by the State for the safe custody of the goods and other incidental charges and on payment of such charges the Officer shall release the goods. If the Officer is not so satisfied, he may after recording the reasons there for, order that the sale under sub-rule (9) be proceeded with. (13) (a) The bill of sale referred to in sub-rule (2) shall contain the particulars specified in sub-rule (11) of rule 32. (b) The delivery note and the certificate of ownership referred to in sub-section (2) of section 29 shall be in Forms 26 and 27 A respectively. The delivery note shall be deemed to be a way bill for the purposes of sub-rule (2), sub-section (2) of section 29, and clause (i) of section 31; Provided that when rubber is transported across the State frontiers, a declaration in Form No.1 or Form No.2 or Form No.3 or Form No.4 prescribed under rule 43B of the Rubber Rules, 1955 and when coffee is transported the certificate in Form TP3 prescribed under Rule 31 and 32 of the Central Excise Rules, 1944 shall also accompany the transport. (bb) Where goods are transported interstate in either by lorry or on vessel under the cover of certificate of ownership by agriculturists, as owners of such goods produced by them, such certificate shall be got countersigned by the Sales Tax Officer/ Agricultural Income Tax Officer, as the case may be. (c) The declaration referred to in clause (b) of subsection (2) of Section 29 of the Act shall be in Form 27B. (14) (i) When

the vehicle or vessel enters or leaves the State limits the driver or other person in charge of the vehicle or vessel shall carry with him three copies of the declaration referred to in sub-rule (2) duly filled in and signed by the consignor and shall file the same along with a copy of the sale bill or delivery note in respect of the consignment before the person in charge of the Check Post or barrier within the notified area. (ii) The Officer in charge of the Check Post or barrier shall on receipt of the three copies of the declaration enter therein the serial number according to the register maintained in the Check Post for the purpose, shall affix the seal of the Check Post, shall note the time and date of Check with his initials and shall return the third copy to the person from whom it was received: Provided that the separate declaration shall be filed in respect of the consignments relating to each consignee when the goods are being imported into Kerala and of each consignor when the goods are sent outside the State. Provided further that no declaration in relation to goods to be delivered in Kerala shall be accepted as valid if the consignee in Kerala is shown or described as "self" unless the full particulars and address of the person who will take delivery of the goods at the destination in Kerala are furnished. (15) Whenever confiscation is authorised by these Rules, the Officer adjudging it shall give the owner, if ascertainable, or the person in charge of the goods, an option to pay, in lieu of confiscation, a penalty not exceeding double the amount of tax calculated at the rate or rates applicable to the goods confiscated and release the goods on payment of the said penalty: - Provided that the officer may release the goods on cash security being furnished by the person concerned to the extent of the penalty leviable, if in his opinion further time is required to arrive at a correct finding as to whether a penalty is to be imposed or not and that the security so furnished shall be adjusted towards the penalty in case it is payable or returned to the person concerned, if otherwise

### **35A. Procedure for inspection of goods in transit through notified areas.**

(1) if, on examination of goods and the records connected with the goods under transport, the officer in charge of the notified area / the officer empowered by Government under sub-section (1) of section 20A, as the case may be has reason to suspect that the goods under transport are not covered by proper and genuine documents (in cases where such documents are necessary) or that the person transporting the goods is attempting to evade payment of the tax due under the Act, he may pass an order for the unloading and detention of the goods and thereupon the owner of the goods or his representative or the driver or other person in charge of the vehicle or vessel shall unload the goods: Provided that no order shall be passed under this sub-rule without giving such person an opportunity of being heard. (2) The security referred to in sub-section (2) of section 29A shall be furnished in any of the ways specified in clauses (a) to (d) of sub-rule (2) of Rule 6 or by depositing the amount with the officer referred to in sub-rule (1). (3) The Officer accepting the security shall, after giving a proper cash receipt where security is furnished by deposit of cash or an acknowledgement where security is furnished in any other form, pass an order in writing releasing the goods and allowing the same to be transported. (4) (a) If the officer to whom proceedings are submitted under sub-section (3) of section 29A is satisfied after inquiry that there has been no attempt to evade the tax due under the Act on the transaction in pursuance of which the goods are transported, he shall, for reasons to be recorded in writing; (i) order the release of the goods detained or seized, on the owner of the goods paying the expenses, if any incurred by the officer concerned for the safe custody of the goods and incidental charges including charges for the service and

publication, of the notice under subsections (4) and (8) of section 29A and the order under clause (d) of this sub-rule (which shall be specified in the order). (ii) release the security (including any bond) furnished by the owner of the goods or any other person. (b) If after conducting the enquiry the officer, finds that there has been an attempt to evade payment of tax due under the Act on the transaction in pursuance of which the goods are transported, he shall pass an order in writing imposing on the owner of the goods a penalty not exceeding twice the amount of tax attempted to be evaded as estimated by him. (c) In an order under clause (b) the officer shall also specify, in cases where goods have been seized, that the goods are liable to be sold in public auction as provided in sub-sections (6) and (9) of section 29A without any further notice in case the penalty is not paid within thirty days from the date of the order. (d) an order under clause (a) or clause (b) shall be communicated to the owner of the goods in the same manner as a notice under sub-section (4) of section 29A is to be served and also on the person who was in charge of the vehicle or vessel at the time of detaining the goods. (5) Where an order imposing penalty has been passed and the owner of the goods or his representative or the driver or other person in charge of the vehicle or vessel has paid the amount of penalty together with the expenses and other incidental charges for keeping the goods seized in custody and for the service and publication of the notice under sub-sections (4) and (8) of Section 29A and the order under clause (d) of sub-rule (4) of this rule to the Officer imposing the penalty, such officer shall pass an order directing the release of the goods seized or of the security or bond furnished as the case may be. (6) Where the penalty is not paid as provided in sub-rule (5) within the time specified in sub-section (6). (a) if cash security has been furnished or when the goods seized have been sold under sub-section (10) of Section 29A and the amount deposited in Government Treasury, the officer authorised under sub-section (3) of section 29A shall adjust the amount towards the penalty imposed and the expenses and incidental charges to be recovered and refund the excess if any; (b) if any other security or a bond has been furnished, the officer shall take steps to realise the amount penalty imposed from the security or the surety and adjust the same towards the penalty and expenses and incidental charges. (7) (a) when the goods seized are to be sold in public auction as provided in sub-sections (6) and (9) section 29A the officer who imposed the penalty shall cause to be published in 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 and the day and hour at which the seized goods will be sold and shall display copies of such list and notice in more than one public place in the notified area or in or around the place in which the goods were detained as the officer may consider necessary to give wide publicity to the sale. (b) if the value of the goods exceeds one thousand rupees, copies of the list and notice shall be published in the office of the Inspecting Assistant Commissioner concerned also. (c) No sale shall take place until after the expiration of a period of fifteen days from the date on which the notice is affixed. (d) The officer who imposed the penalty shall conduct the sale in person and the goods seized shall be made available at the place of sale: Provided that the sale of goods referred to in subsection (10) of section 29(A) may be conducted by the officer in charge of the notified area. (e) At the appointed time, the goods shall be put up in one or more lots as the officer conducting the sale may consider advisable and shall be knocked down in favour of the highest bidder subject to the confirmation of the sale by the Inspecting Assistant Commissioner where the value of the goods auctioned does not exceed one thousand rupees and by the Deputy Commissioner in other cases. (f) Where the amount fetched in auction is more than the amount of the penalty due from the owner of the goods, the surplus after realising the penalty imposed, the charges for the service and publication, if any, of the notice under

sub-sections (4) and (8) of Section 29 A and the order under clause (d) of sub-rule (4) of this rule the expenses for the conduct of the sale and the expenses and other incidental charges referred to in sub-section (12) of section 29A, shall be refunded.(g)The auction purchaser shall pay the sale value of the goods, in ready cash immediately after the sale and he will not be permitted to carry away any part of the goods until he has paid for the same in full.(h)Where the purchaser fails to pay the sale value of the goods in ready cash the goods shall be re-sold at once and the defaulting purchaser shall be liable for any loss arising there from as well as the expenses incurred on the re-sale.(i)Where on re-sale, the property is sold on a higher price than at the first sale, the difference shall be the property of the owner of goods.(8)Notwithstanding anything contained in sub-rule (7), if the goods seized are of a perishable nature or subject to speedy and natural decay, or when the expenses of keeping them in custody are likely to exceed their value, the goods shall be sold immediately after the seizure by the officer who imposed the penalty or the officer in charge of the notified area and the provisions of clause (a), (b) and (d) to (h) (both inclusive) of sub-rule (7) shall so far as may be apply to such sale.

### **35B. Issue of transit pass.**

- Every transit pass issued under Section 30B shall be in Form 27C.

### **36. Inspection of goods in transit at any place other than the notified area.**

(1)At any place other than the notified area the driver or any other person in charge of the vehicle or vessel shall stop on demand by an officer of the Sales Tax Department of not lower in rank than an assessing authority and keep it stationary as long as may be required and allow examination of the goods in the vehicle or vessel and inspection of all the records connected with the goods in the vehicle or vessel.(2)If on such inspection by such officer it is found that any of the goods is not covered by the record specified in sub-rule (2) of rule 35 or the records produced are defective or bogus or false such Officer shall immediately issue a notice as specified in sub-rule (5) of rule 35. He shall follow the procedure laid down in rule 35 with regard to unloading, seizure, confiscation, release and disposal of the goods in this case.

### **36A. Safe custody of vehicle detained.**

- The officer detaining the vehicle under sub-section (2) of section 45 B shall keep the same in safe custody at the nearest police station or check post or office of the commercial taxes department.

### **37. Regulation of Transport of notified goods.**

- No person shall transport from or to any railway station, steamer station or any other place of similar nature notified in this behalf by the Government under sub-section (1) of Section 30, any consignment of such goods notified by Government under the said sub-section exceeding the value of two hundred rupees except in accordance with the following conditions:(1)If any such consignment is to be transported by a person from or to any notified place aforesaid, he shall make

an application in Form 28 duly filled in by him in duplicate to the assessing authority or in his absence to any other officer authorised by him in writing in this behalf of the area in which his principal place of business or his branch is situated in case he has a place of business or branch within the State, and in case he has no such place of business or branch within the State, to any of the assessing authorities or in their absence to any other officers authorised by them in writing in this behalf, having jurisdiction over the area where the goods intended for transport are stored, for the grant of a permit in Form 29 to enable him to transport the consignment. He shall also produce before the said authority along with the said application either a bill of sale or delivery note or way bill or a certificate of ownership for verification of the particulars furnished in the application in case the aforesaid consignments are to be transported to the notified place. If such goods are to be transported from any of the notified places, he shall also produce along with the application the railway receipt, bill of lading or other documents required for the purpose of obtaining delivery of the consignment from the place notified in this behalf. The said authority, on being satisfied about the correctness of the particulars furnished in the application and after making such enquiry as may be deemed necessary shall countersign all the two copies of the application, and the other records produced therewith, shall also date and seal the same with its official seal and prepare a permit in duplicate in Form 29. Both copies of the application shall be endorsed with the number of the railway receipt, bill of lading or sale bill or other documents produced. One copy of the permit together with one copy of the countersigned application and the other documents shall be made over to the applicant, the second copy of both shall be retained by the said authority and the consignment may thereafter be transported.

(1A) Where any person, intends to transport any consignment through any clearing or forwarding agent or any other mercantile agent, the application may be made in this behalf by clearing or forwarding agent or any other mercantile agent authorised by him in writing in this behalf, to the assessing authority in whose jurisdiction the place of business or branch of such agent is situated, or in his absence any other officer authorised by him in writing in this behalf and the permit shall then be issued to such agent. The agent may be authorised to apply for permits for any particular consignment or consignments or all the consignments in a particular period, provided that the period of authorisation shall not be valid beyond the financial year in which the authorisation is made.

(2) The person to whom the permit is granted under clause (1) or other person who transports the consignment on behalf of the former shall carry with him along with the goods to be transported the said documents and shall allow it to be examined by the Officer exercising jurisdiction over the notified place concerned or the other Officers authorised by Government in this behalf.

(3) The assessing authority within whose jurisdiction the notified area is located or the authority authorised by Government in this behalf shall have the power to intercept and search any vehicle or vessel for the purpose of verifying whether any goods are being transported in contravention of sub-section (1) of Section 30 and to seize and confiscate any goods which he has reason to believe are being transported in contravention of the said sub-section.

(4) The said authority shall not intercept or search the luggage of persons who enter or leave the notified area.

(5) The said authority shall not cause undue delay while exercising the powers under sub-section (2) of Section 30.

(6) The provisions laid down in Rule 35 relating to imposition of penalty, release of the goods, seizure, confiscation and disposal of the goods shall apply to the goods transported in contravention of the provisions of this rule.

(7) The provisions of this rule shall not apply to persons other than dealers.

### **37A. Procedure for transport of notified goods.**

(1) If an examination of the goods and the records connected with the goods under transport, the Officer authorised by the Government under sub-section (1) of section 30A of the Act has reason to suspect that the goods are being transported in contravention of sub-section (1) of section 30, he may pass an order for the unloading and detention of the goods and thereupon the owner of the goods or his representative or the driver or other person in charge of the vehicle or vessel shall unload the goods: Provided that no order shall be passed under this sub-rule unless such person has been given an opportunity of being heard. (2) The procedure prescribed under sub-rules (2) to (8) of rule 35A shall apply to any proceedings taken by an Officer under sub-section (2) of section 30A in the same manner as they apply to the proceedings under section 29A of the Act.

### **37B. Procedure for confiscation of goods and vehicles under Section 30C.**

(1) The officer authorised under subsection (2) of Section 30C shall issue a notice as required by sub-section (3)(a) of the said section not later than 5 days from the date of production of the goods and or vehicle before him by the officer seizing them. (2) The officer authorised to release the goods and the vehicle or the vessel under the proviso to sub-section (2) of section 30C may estimate the value of the goods on the basis of the market value of the goods on the day of confiscation and the value of the vehicle or vessel on the basis of a valuation certificate issued by an engineer of any department of Government not below the rank of an Assistant Executive Engineer qualified to assess the value of vehicle or vessel. For this purpose the authorised officer may give a request in writing to such Engineer who shall issue the valuation certificate not later than five days from the date of receipt of such request.

### **37C. Filing of appeal under Section 30C(5).**

(1) Every appeal under sub-section (5) of Section 30C shall be in Form No. 31B shall be verified in the manner specified therein and be accompanied by a fee of rupees one hundred. (2) On receipt of the appeal, the Deputy Commissioner shall scrutinise the same and admit it if it is in order. (3) The appeal shall be disposed of within sixty days from the date of admission of the appeal and the order passed thereon shall be sent to the appellant in the address given in the appeal.

### **37D. Filing of application before the Board of Revenue.**

(1) Every application under sub-section (6) of Section 30C shall be in Form 31 shall be verified in the manner specified therein and be accompanied by a fee of rupees two hundred and fifty. (2) On receipt of the application, the Board of Revenue, shall scrutinise the same and admit it if it is in order. (3) The application shall be disposed of within sixty days from the date of its admission and the order passed thereon shall be sent to the applicant in the address given in the application by registered post.



### **37E. Procedure for disposal of goods and vehicles confiscated.**

(1)Where an order of confiscation under Section 30C has become final, the authorised officer, shall sell the goods and/or the vehicle confiscated in public auction and the procedure prescribed in sub-rules (1) to (6) of rule 34A shall, so far as may be apply to such sale.(2)The sale under this rule shall be subject to confirmation by the Deputy Commissioner.

## **Chapter VI**

### **Appeals, Revisions and Refunds**

#### **38. Filing of appeal to the Appellate Assistant Commissioner.**

(1)Subject to the provisions of section 34, any person aggrieved by any original order of an appropriate authority may appeal to the Appellate Assistant Commissioner concerned.(2)Every such appeal shall be in Form 30 and shall be verified in the manner specified therein.(2A)It shall be in duplicate and shall be accompanied by the original or by a certified copy of the order appealed against and the original of the demand notice.Provided that the Appellate Authority may admit an appeal not accompanied by the order or copy of the order appealed against, if the omission to produce such order or copy is explained to the satisfaction of the Appellate Authority.(3)The appeal may be sent to the Appellate Authority by post or may be presented to that authority by the appellant or his authorised agent or a legal practitioner.(4)If the appellate authority feels that for the proper disposal of the appeal, any records, documents or other evidences produced before it requires further verification, the appellate authority may direct the authority, whose order is challenged in appeal, to verify such records, documents or other evidence and give a report within such time as may be specified by it.(5)The appellate authority shall after giving the appellant a responsible opportunity of being heard and, after taking into account the report mentioned in sub-rule (4), pass such order on the appeal as it think fit, subject to the provisions of sub-section (3) of section 34.

#### **39. Filing of application under Section 36 or 38.**

- Every application under Section 36 or Section 38 shall be in Form 31 and shall be verified in the manner specified therein.

#### **39A. Filing of application under Section 45A.**

- Every application under sub-section (3) or sub-section (5) of section 45A shall be in Form 31 A and shall be verified in the manner specified therein.

### **39B. Procedure in case of death of appellant or revision petitioner pending proceedings.**

(1) If any person, who having filed an appeal before the Appellate Assistant Commissioner or a revision petition before the authority specified in section 36 or 38 dies before the conclusion of the final hearing of the same, the Appellate Assistant Commissioner or revisional authority, as the case may be shall adjourn further proceedings to enable the impleading of the legal representatives of the deceased. If the application for the impleading is not made within 90 days of the date of death of the party, the proceedings shall abate as regards the deceased. The application for impleading may be either by the party interested in getting final orders passed on the proceedings or by any legal representative of the deceased even though not so interested. (2) The proceedings referred to in sub-rule (1) shall not abate by reason of the death of any party between the conclusion of the final hearing, and the passing of the order, but the order may in such case be passed notwithstanding the death of the party and shall have the same force and effect as if it had been passed before the death took place. (3) If a question arises in any such proceedings as to whether a person is or is not the legal representative of a deceased party the Appellate Assistant Commissioner or revisional authority, as the case may be, may determine the question summarily after taking such evidence as it deems necessary or direct the person asserting to be the legal representative, to produce an order of a competent court to establish his assertion and adjourn the proceedings for the purpose. (4) Where a pending proceedings referred in sub-rule (1) abates, no fresh proceedings shall be started on the same cause of action. (5) (i) Any person bound to apply for impleading legal representatives of a deceased party in any proceedings referred to in sub-rule (1) may apply. Within 60 days from the date of abatement, for an order to set aside the abatement, and if it is proved that he was prevented by sufficient cause from continuing the proceedings the Appellate Assistant Commissioner or revisional authority, as the case may be, may set aside the abatement. (ii) The provisions of section 5 of the Limitation Act, 1963 shall apply to an application made under clause (i). (6) If during the pendency of any proceedings referred to in sub-rule (1) before the Appellate Assistant Commissioner or Revisional Authority, the business of any party thereto is assigned to or devolves Appellate Assistant Commissioner or revisional authority may, on the application of such assignee or other person, add him as a party to the proceedings. (7) If a party to a proceeding referred to in sub-rule (1) becomes insolvent and his estate becomes vested in a Receiver the latter may, at the instance of the assessing authority he made by leave of the Appellate Assistant Commissioner or Revisional Authority a party to the proceedings.

### **39C. Payment of fees on interlocutory application.**

(1) fees at the rates mentioned in section 42A shall be paid on the following interlocutory applications. (a) application for staying the collection of any tax or other amount which is disputed in appeal, revision or other proceedings, as the case may be. (b) application for advancing the hearing of the appeal, revision or other, proceedings, as the case may be. (c) application for condonation of any delay in the filing of any appeal, revision or application as the case may be. (2) The interlocutory applications mentioned in sub-rule (1) shall be in Form 31 C, in cases where no form has been separately prescribed. (3) Any application filed in accordance with sub-rule (1) shall be deposited within two weeks from the date of filing of the application.

### **39D. Filling of application under section 59A.**

(1) Every application under section 59A shall be in Form 31D and shall be verified in the manner specified therein. (2) The application shall be accompanied, - (a) Where clarification in respect of rate of tax on any commodity is sought, by any literature giving details of the process of manufacture, ingredients, classification under Central Excise Tariff or other relevant material which will aid in arriving at a decision; (b) where clarification in respect of the nature of any transaction is sought, by copies of any document with reference to which the clarification is sought; (c) where clarification whether a particular person is a dealer is sought, by the details of the activities undertaken by the person; and (d) in other cases by such details as would help in arriving at a decision on the issue.

### **40. Filing of appeal to the Sales Tax Appellate Tribunal.**

- (1) (a) Every appeal under section 39 (1) to the Appellate Tribunal shall be in Form 22 and shall be verified in the manner specified therein. (b) It shall be in quadruplicate and accompanied by four copies (one of which shall be the original or authenticated copy) of the order appealed against and also three copies of the order of the assessing authority. (c) In the case of an appeal against any order referred to in the first proviso to sub-section (1) of section 34, it shall also be accompanied by original of the demand notice. (2) (a) Every application for review under Section 39(7) (b) to the Appellate Tribunal shall be preferred in Form 33 and shall be verified in the manner specified therein. (b) It shall be in quadruplicate and shall be accompanied by four copies of the order of the Appellate Tribunal. (3) If an appeal or an application for review filed by an assessee under Section 39 is allowed by the Appellate Tribunal, or if such appeal or application is disposed of by the Appellate Tribunal without going into the merits, or if such appeal or application is rejected under the Sales-tax Appellate Tribunal Regulations the Appellate Tribunal may in its discretion, by order, refund either wholly or partly, the fee paid by the assessee under sub-section (3) or subsection (7) (b) of Section 39. (4) The memorandum of cross-objections referred to in Section 39 (3) shall be in Form 34 and shall be verified in the manner specified therein. (5) When in any case the Officer empowered by Government under Section 39 or the other person referred to in Section 39, as the case may be, fails to file a memorandum of cross objections within the time provided for in Section 39(2) the appeal shall be disposed of on its merits by the Sales-tax Appellate Tribunal. (6) The notice referred to in sub-section (2) of section 39 shall be in Form No. 34A. (7) After the final hearing of the appeal, cross objection or application for review, the Appellate Tribunal shall notify a date, which shall not be later than thirty days from the date of such final hearing, for the pronouncement of the orders in such appeal, cross objection or review and on such notified date the Appellate Tribunal shall pronounce the order. (8) The order in appeal, cross objection or review shall be communicated to the appellant and respondents 5c within sixty days of the pronouncement of such order.

### **41. Filing of Appeal, Petition etc., to the High court.**

(1) (a) Every appeal under Section 40 (I) shall be in Form 35 and every petition under Section 41 (1) shall be in Form 36 and shall be verified in the manner specified therein. (b) The appeal or petition shall be accompanied by a certified copy of the order of the Board of Revenue or the Appellate Tribunal, as the case may be. (2) (a) Every application for review under section 40 (7) (a) and section

41 (7) to the High Court shall be in Form No.37 and shall be verified in the manner specified therein.(b)It shall be preferred within one year from the date on which a copy of the order to which the application relates was served on the applicant.

#### **41A. Filing of application for settlement of cases.**

(1)An application for settlement of a case under sub-section (1) of section 39a shall be made, in duplicate in Form No.52 and shall be verified in the manner specified therein.(2)The application referred to, in sub-rule (1) the verification statement appended thereto, the Annexure to the said application and the statements and documents accompanying the Annexure shall be signed by the person specified in clauses (a), (b), (c) and (d) to sub-rule (7) of Rule 5.(3)every application in connection with the settlement of a case shall be accompanied by a fee of Rs.500 (rupees five hundred only).

#### **41AA. Disclosure of information in the application for settlement cases.**

(1)The settlement commission may, while calling for a report from the Deputy Commissioner under sub-section (4) of section 39A, also forward a copy of the application filed in form No.52. (other than the annexure and the statements and other documents accompanying such Annexure).(2)Where an order under sub-section (4) of section 39A allowing the application to be proceeded with is made by the settlement commission, the information contained in the Annexure to the application in Form No.52. and in the statement and other documents accompanying such Annexure shall be send to the Deputy Commissioner along with a copy of the said order.(3)The settlement commission shall maintain necessary registers to records the details of applications for settlement of cases coming before it.

#### **42. Furnishing of Security.**

- Where it is provided in the Act that an appellant (or an applicant in revision proceedings) shall furnish security in regard to the payment of tax or fee or other amount, the appellant (or applicant) or any person on his behalf shall furnish security in any of the ways specified in sub-rule (2) of rule 6 or furnish personal property security as the authority before which the appeal or application is preferred may in its discretion direct. The security bond shall be in Form 39, with suitable modification wherever necessary.

#### **43. Communication of order, etc.**

(1)Every order of an appellate or revising authority under Section 34 or 36 or 38, as the case may be, shall be communicated to the appellant or petitioner, to every other party affected by the order, to the assessing authority against whose order the appeal was filed and also to any other authority concerned 6b[6cwithin sixty days] of the date of final hearing.(2)Where an order passed by the assessing authority is modified in appeal or revision, the assessing authority shall give effect to the order in such appeal or revision and communicate the modified order to the dealer within ninety

days from the last date fixed for filing of any further appeal or revision against such order.(3)Where as a result of such modified order any refund is due to the dealer the assessing authority shall either refund or adjust such amounts as provided in Section 44 and an order thereof shall be issued along within the modified order.(4)If such modification ordered by the appellate or revisional authority results in any enhancement of tax or other amount payable by the dealer, the assessing authority shall collect such additional tax or other amount in the same manner as a tax assessed by itself.

#### **44. Orders to be given effect to.**

- Every order passed by the Appellate Tribunal or the High Court shall, on authorisation by the Appellate Tribunal or the High Court, as the case may be, be given effect to by the assessing authority, who shall either refund or adjust within ninety days of the receipt of the authorisation as provided in Section 44, any excess tax found to have been collected and shall also collect any additional tax which is found to be due in the same manner as a tax assessed by himself.

#### **45. Interest payable by Government.**

(1)The Government shall pay simple interest at the rate of six per cent, per annum on the amount of refund due to a dealer, if the refund is not made within ninety days of the date of final assessment or as the Case may be, within ninety days of the date of receipt of the order in appeal or revision where appeal or revision has been filed or the date of expiry of the time for preferring appeal or revision.(2) Where a refund is made after the expiry of the period within which it is to be made under section 44, the interest payable under sub-rule (1) shall be calculated from the date following the expiry of the said period only up to the date on which the refund order was despatched to the person concerned.

## **Chapter VII**

### **Miscellaneous**

#### **46. Burden of proof.**

- The burden of proving that any transaction of a dealer is not liable to tax under the Act shall be on such dealer. Such dealer claiming exemption shall produce on demand by the assessing authority concerned such documents and other particulars as may be required by it.

#### **47.**

Omitted.

#### **48. Sending of report in case of death of a dealer.**

- When a dealer dies his executor, administrator or other legal representative shall, within thirty days of the death of the dealer or within thirty days of his taking charge as such executor,

administrator or other legal representative whichever is later shall send a report of his having done so to the registering authority concerned and shall apply for registration as provided in sub-rule (7) of rule 5.

#### **49. Assessment of legal representatives.**

- When a dealer dies without having furnished the return or returns prescribed under the provisions of the Act or the rules or after having furnished the returns but before assessment, the assessing authority may proceed to make an assessment and determine the tax or fee or other amount payable by the deceased, and for this purpose he may require the executor, administrator or other legal representative as the case may be, of the deceased person, to perform all or any of the obligations which he might under the provisions of the Act have required the deceased to perform. The tax or other amount thus determined shall be payable by the executor, administrator or other legal representative of the deceased to the extent of the assets of the deceased in his hands.

#### **50. Report of dissolution of partnerships.**

- If a partnership is dissolved, every person who was a partner shall send within thirty days of such dissolution a report of the dissolution to the registering authority concerned along with a copy of the deed of dissolution.

#### **51. Sending of report in certain cases.**

- If, at any time a dealer (a) discontinues or sell or otherwise disposes of, the whole or any part of any business carried on by him, or (b) acquires any business or part of any business whether by purchase or otherwise, (c) changes his place of business or any of his place of business or (d) effects any other change in the ownership or constitution of the business or (e) opens a new place of business or (f) changes the name, style or nature of his business or effects any change in the class or description of goods which he sell or (g) starts a new business singly or jointly with other persons, he shall notify the fact to the registering authority within thirty days thereafter.

#### **52. Liability of guardian, trustee, etc.**

- In the case of any guardian, trustee, or agent of any minor or other incapacitated person carrying on business on behalf of and for the benefit of such minor or other incapacitated person, the tax shall be levied upon and recoverable from such guardian, trustee or agent, as the case may be, in like manner and to the same extent as it would be leviable upon and recoverable from any such minor or other incapacitated person, if he were of full age or sound mind and if he were conducting the business himself, and all the provisions of the Act and the Rules made there under shall apply accordingly.

### **53. Dealer to declare the name of manager of his business.**

- Every dealer liable for registration under Section 13, shall, send at the time of submitting the application for registration, to the registering authority concerned, a declaration in Form 41 stating the name of the person who shall be deemed to be the manager of such dealer's business for the purpose of the Act. All returns signed and statements so made by such manager shall be binding on the dealer. Such declaration may be revised from time to time.

### **54. Liability of Court of Wards, Official Trustee etc.**

- In the case of business, owned by a dealer whose estate or any portion of whose estate is under the control of Court of Wards, the Administrator General, the official trustee or any Receiver or manager (including any person whatever be his designation, who in fact manages the business on behalf of the dealer) appointed by, or, under any order of a Court, the tax shall be levied upon and recoverable from such Court of Wards, Administrator General, Official Trustee, Receiver or Manager in like manner and on the same terms as it would be leviable upon and recoverable from the dealer if he were conducting the business himself, and all the provisions of the Act and Rules made there under shall apply accordingly.

### **55. Payment of travelling allowance and batta.**

- A person other than the assessee or his agent or representative appearing before an assessing authority or before an appellate or revising authority to give evidence in an enquiry under the Act or the rules made there under shall be paid travelling allowance and batta at such rates as may be fixed by the State Government from time to time.

### **56. Production of authorisation.**

- The person specified in clauses (a), (c) and (d) of Section 55 of the Act appearing on behalf of a dealer or other person in any proceedings before any Sales Tax authority other than the High Court shall produce before such authority an authorisation given by the dealer or such person in Form 42 and such authorisation shall bear court fee stamp worth Rs 25. (rupees twenty five only).

### **57. Submission of records by owners of vehicles and vessels etc.**

- Owners of vehicles /vessels shall Submit to the assessing authority having jurisdiction over the area in which the goods are delivered copies of bill of sale, delivery note, way bill or certificate of ownership as the case may be with a certificate written on the back of such copies of bill of sale, delivery note, way bill or certificate of ownership by the person to whom the goods were delivered to the effect that the goods as per description given were actually delivered to him and taken delivery of by him and duly signed by the purchaser/ consignee or his duly authorised agent as the case may be mentioned in such bill of sale, delivery note, way bill or certificate of ownership. Such copies of bill of sale, delivery note, way bill or certificate of ownership along with a return in Form No. 44

shall be submitted so as to reach the assessing authority on or before the 15th day of the month following that to which they relate.

### **58. Submission of returns by forwarding agency, clearing house, etc.**

(1) Every clearing or forwarding house or agency, transporting agency, shipping agency, Shipping out agency, and or steamer agency in the State shall submit to the assessing authority of the area a return of all goods cleared, forwarded, transported or shipped by it during the preceding month. (2) The return shall be in Form 45 and shall be submitted as to reach the assessing authority of the area on or before the 15th day of the month following that to which it relates.

### **59. Banks to submit returns.**

- (1) Every Bank, including any Branch of a Bank or any Banking institution in the State shall submit every month to the assessing authority of the area a return of Bills relating to goods, discounted, cleared or negotiated by or through it during the preceding month. (2) The return shall be in Form 46 and shall be submitted so as to reach the assessing authority of the area on or before the 15th day of the month following that to which it relates. Provided that Banks which do not have transactions in, bills as described in sub-rule (1) shall submit in every month nil returns on or before the said date. (3) Bills relating to sale of shares and stocks need not be included in the returns. (4) Every such Bank shall if so required by an Officer not below the rank of an assessing authority, furnish any such particulars as he may require in respect of the transactions of a dealer with such Bank which do not find a place in the return submitted under sub-rule (1).

### **59A.**

Omitted.

### **60. Chartered Accountant and Sales Tax Practitioners.**

(1) The Chartered Accountant referred to in clause (c) of Section 55 shall be a Chartered Accountant as defined in Chartered Accountants Act, 1949 (Central Act 38 of 1949). (2) A person shall not be eligible to appear as a Sales Tax Practitioner under clause (d) of Section 55 of the Act unless his name has been included in the list in Form 47 in the manner provided in sub-rule (4) and unless he is a person, (a) who has passed the accountancy examination recognised by the Central Board of Direct Taxes under Rule 50 of the Income Tax Rules 1962, for the purpose (clause (v) of sub-section (2) of section 288 of the Income Tax Act, 1961 (Central Act 4 of 1961,) or (b) who has acquired such educational qualifications as are prescribed by the Central Board of Direct Taxes in Rule 51 of the Income Tax Rules, 1962, for the purpose of clause (VI) of sub-section (2) of section 288 of the Income-tax Act, 196 (Central Act 43 of 1961), or (c) who has practiced as Sales Tax Practitioner before any assessing or revising or appellate authority in the State at any time during the period of two years immediate preceding the date on which the Act comes into force, or (d) who:- (i) has retired from the Agricultural Income Tax and Sales Tax Department of the Government of Kerala and a



period of two year has elapsed since his retirement; and(ii)during his service under the Government, had worked in a post not lower in rank than that of an assessing authority for a period of not less than three years;Provided that a person shall not be disqualified for appearance before the Board of Revenue or the Appellate Tribunal merely on the ground that two years have not elapsed since his retirement:Provided further that in exceptional cases of retired officers of till Agricultural Income tax and Sales-tax Department of the State, till Government may relax the conditions specified in clauses (i) and (ii for reasons to be recorded.(e)who has passed the Post Graduate Diploma in Taxation awarded by the Centre for Taxation Studies.(3)If any Sales-tax Practitioner is found guilty of misconduct in connection with any Sales Tax Proceedings by the Deputy Commissioner of Sales-tax, having jurisdiction or by the Sales Tax Appellate Tribunal, the Deputy Commissioner of Sales-tax or Sales-tax Appellate Tribunal may direct that he shall be thence forward disqualified to represent any person under Section 55 of the Act:Provided that:-(a)no such direction shall be made in respect of any Sales-tax Practitioner unless he is given a reasonable opportunity of being heard;(b)any Sales-tax Practitioner against whom such direction is made by the Deputy Commissioner of Sales tax, may within one month of the receipt of the orders containing such direction, appeal to the Board of Revenue to have the directions cancelled;(c)any Sales-tax Practitioner against whom such a direction is made by the Sales-tax Appellate Tribunal, may, "within one month of the receipt of the orders containing such direction, appeal to the High Court to have the direction cancelled.(4)The Deputy Commissioner of Sales Tax shall maintain a list in Form 47 containing the names of all the Sales Tax Practitioners who possess any of the qualifications prescribed in sub-rule (2) and every Sales Tax Practitioner possessing any such qualifications shall be entitled to have his name entered in the said list on an application in Form 48 made by him in that behalf to the Deputy Commissioner of Sales Tax having jurisdiction. The name of any such Practitioner against whom a direction is made under sub-rule (3), shall be removed from the list, provided that the Deputy -Commissioner of Sales Tax shall re-enter his name in the list if on an appeal made by him to the Board of Revenue or to the High Court under proviso (b) or (c) to the said sub-rule, as the case may be, such direction is cancelled.

## 61.

The Deputy Commissioner of Sales Tax shall also upon any information received or otherwise effect such amendments in the list as may be necessary from time to time by reason of any change of address or death of any practitioner whose name is entered therein or any other cause, and if such practitioner requests for the omission of his name from the list, the Deputy Commissioner of Sales Tax shall delete the relevant entry in the list accordingly.

## 62. Authorisation to continue to be valid.

- An authorisation given under Rule 56 by a dealer or other person to appear on his behalf in any proceedings before any Sales Tax Authority, other than the High Court, shall continue to be valid for the purpose of appearance in an appeal against, or application for revision of, any order passed by such authority:Provided that a separate authorisation shall be furnished for appearance in proceedings relating to each period for which a separate order of assessment is required to be made or has been made under the Act.

### **63. Service of summons, etc.**

- The service on a dealer of any summons or order under the Act or these rules may be effected in any of the following ways, namely:-(a)by giving or tendering it to such dealer or manager or agent;(b)if such dealer or his manager or agent is not found, by leaving it at his last known place of business or residence or by giving or tendering it to any adult member of his family; or(c)if the address of such dealer is known to the assessing authority by sending it to him by registered post or,(d)If none of the modes aforesaid is practicable by affixing it in some conspicuous place at his last known place of business or residence or by publication in a newspaper.

### **64. Payment by cheque or demand draft.**

- Where any payment by cheque or demand draft is permitted by these rules the cheque or demand draft shall be of a bank or branch of a bank situated within the jurisdiction of the assessing authority, crossed and drawn in favour of the assessing authority and shall be such as may be received by the treasury concerned.

### **65. Use of forms.**

- Where a form has been prescribed by these Rules, only the appropriate form printed under the authority of the State Government shall be used for the purpose. Provided that the Government may for sufficient reasons by notification in the Gazette exempt any form from the operating of this rule generally or for any specified period.

### **66. Use of forms with variation.**

- The forms prescribed in these Rules may be used with such variation in matters of details as may be directed by the Board of Revenue from time to time.

### **67. Refund payment order.**

- Where a refund is made, the assessing authority shall issue a refund order in Form 49 to the party concerned and simultaneously give due intimation to the Treasury Officer concerned regarding the issue of refund.

### **68.**

Omitted.

### **69. Transfer of appeal.**

- The Board of Revenue may either suo motu or on application, for reasons to be recorded in writing, transfer an appeal pending before an Appellate Assistant Commissioner of Sales tax to another

Appellate Assistant Commissioner of Sales tax. The order of transfer shall be communicated to the appellant, to every other party affected by the order, to the assessing authority against whose order the appeal was preferred and to the Appellate Assistant Commissioner of Sales tax concerned.

## **70. Transfer of revision petition.**

- The Board of Revenue, may, either suo motu or on application for reasons to be recorded in writing transfer a revision petition pending before a Deputy Commissioner of Sales tax to another Deputy Commissioner of Sales Tax. The order of transfer shall be communicated to the petitioner, to every other party affected by the order and to the Deputy Commissioner of Sales tax concerned.

## **71. Disposal of the appeal or revision petition irrespective of jurisdiction.**

- The authority to whom the appeal or revision petition is transferred under Rule 69 or 70 as the case may be, shall proceed to dispose of it irrespective of the local limits of jurisdiction.

## **72. Issue of notice or summons for the production of accounts.**

- An assessing authority shall issue a notice in Form 50 for production of accounts or a summons in Form 51 for appearance of any person with certain documents required by it.

## **73. Submission of returns under repealed Rules.**

- Notwithstanding anything contained in these Rules and the repeal of the General Sales Tax Rules, 1950 a dealer liable to pay tax, fee, or other amount due under the General Sales Tax Act, XI of 1125 for the period prior to first April 1963, shall submit the returns due for that period, in accordance with the provisions of the General Sales Tax Rules, 1950.