

# Gujarat Value Added Tax Rules, 2006

GUJARAT

India

## Gujarat Value Added Tax Rules, 2006

### Rule GUJARAT-VALUE-ADDED-TAX-RULES-2006 of 2006

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Gujarat Value Added Tax Rules, 2006 Published vide Notification No. (GHN-11) VAR-2006 (1) /Th, dated 22.3.2006 Last Updated 6th November, 2019 No. (GHN-11) VAR-2006 (1) /Th. - Whereas the Government of Gujarat is satisfied that circumstances exist which render it necessary to take immediate action to make the rules and to dispense with the previous publication thereof under the proviso to sub-section (4) of section 98 of the Gujarat Value Added Tax Act, 2003 (Gujarat 1 of 2005): Now, therefore, in exercise of the powers conferred by section 98 of the Gujarat Value Added Tax Act, 2003 (Gujarat 1 of 2005), the Government of Gujarat hereby makes the following rules, namely:-

## Chapter I Preliminary

### 1. Short title and commencement.

(1) These rules may be called the Gujarat Value Added Tax Rules, 2006. (2) They shall come into force from the 1st April, 2006.

### 2. Definitions.

- In these rules, unless the context otherwise requires, -(a) "Act" means the Gujarat Value Added Tax Act, 2003 (Gujarat 1 of 2005); (b) "authorized person" means a person authorized under section 81 to appear on behalf of a dealer or a person who is required to attend before any authority under the Act; (c) "chief place of business" means in relation to a dealer in any area within the jurisdiction of a Commercial Tax Officer, the place of business mentioned as his chief place of business in the certificate of registration granted under section 21 or 22 or deemed to have been granted under section 23; (d) "earlier rules" means the Gujarat Sales Tax Rules, 1970, the Bombay Sales of Motor Spirit Taxation Rules, 1958 or the Gujarat Purchase Tax on Sugarcane Rules, 1999; (e) "form" means

form appended to these rules;(f)"Government Treasury" means,(ff)[ "provisional registration number" means the registration number given under Rule 5 or Rule 6-A as provisional registration number for a period up to the issuance of the registration certificate;] [Inserted by Notification No. (GHN-41) VAR-2011(32)/Th, dated 1.12.2011 (w.e.f. 22.3.2006).](i)in relation to a dealer registered within the jurisdiction of a Commercial Tax Officer, the District Treasury or, as the case may be, the Sub-Treasury where chief place of the business of the dealer is situated, or(ii)in relation to a dealer, who carries on the business of buying or selling goods in the State of Gujarat but who has no fixed or regular place of business in the State of Gujarat, the District Treasury of Ahmedabad;(g)"tax period" in respect of a registered dealer, -(i)other than referred to in sub-clause (ii), shall be a period of calendar month,(ii)who has been granted permission to pay lump sum tax under section 14, shall be periods of quarter ending on 30th June, 30th September, 31st December and 31st March of any year;(h)"Registering authority means",- (i)in respect of a dealer not being the dealer referred to in sub-clause (ii), the Commercial Tax Officer having jurisdiction over the local area in which chief place of business of the dealer is situated, and(ii)in respect of a dealer who has no fixed or regular place of business in the State, the Commercial Tax Officer (Non-localized dealers);(i)"Schedule" means the Schedule appended to the Act;(j)"section" means the section of the Act;(k)"website" means the website as notified by the Commissioner.

## Chapter II

## Commercial Tax Authorities and Tribunal

### 3. Subordination of officers.

- For the purpose of sub-section (8) of section 16, the subordination of the officers and persons shall be as follows, namely:-(a)a Joint Commissioner shall be subordinate to an Additional Commissioner and a Special Commissioner.(b)a Deputy Commissioner shall be subordinate to a Joint Commissioner, an Additional Commissioner and a Special Commissioner.(c)an Assistant Commissioner shall be subordinate to a Deputy Commissioner, a Joint Commissioner, an Additional Commissioner and a Special Commissioner,(d)a Commercial Tax Officer shall be subordinate to an Assistant Commissioner, a Deputy Commissioner, a Joint Commissioner, an Additional Commissioner and a Special Commissioner, and(e)any officer or a person appointed under clause (e) of sub-section (2) of section 16 shall be subordinate to a Commercial Tax Officer and an Assistant Commissioner, within whose jurisdiction he performs his functions.

### 4. Qualification of members of Tribunal and terms of office.

(1)Every member of the Tribunal either shall be a person who -(a)has been a High Court Judge, or(b)has been a District Judge, or(c)is qualified for appointment as a High Court Judge or a District Judge and has held judicial office for not less than ten years, or(d)is a Chartered Accountant and has practiced as such for not less than ten years, or(e)has been in practice as an advocate for not less than ten years, or(f)has served in the Sales Tax Department in the rank not lower than that of a Joint Commissioner for a period not less than three years, or(g)has experience of taxation matters and having held position not below the rank of Joint Secretary to the Government:Provided that

where a member who has been High Court Judge, he shall be the President of the Tribunal.(2)A member of the Tribunal shall hold office until he attains the age of sixty-five years:Provided that where member of the Tribunal is of a rank of High Court Judge, the Government may extend the age limit by a maximum of two years for such member.(3)A member of the Tribunal may on the expiry of his term of his office, be eligible for re-appointment.(4)A member of the Tribunal may at any time in writing addressed to the State Government resign his office and his resignation shall take effect from the date on which it is accepted.

## Chapter III

### Registration

#### 5. Application for registration.

- [(1) Every dealer who is required by sub-section (1) of Section 21 to possess a certificate of registration or any dealer who intends to apply under sub-section (1) of Section 22 for a certificate of registration, shall make an application in Form 101 along with the Forms appended to Form 101, to the registering authority along with the attested copies of the following documents:-(a)any one of the following documents for identification possessed by the proprietor, anyone of the directors of company, anyone of the partners of the partnership firm or anyone of the members of HUF and others,-(i)PAN Card(ii)Passport(iii)Identity card issued by the Election Commission of India(iv)Driving License(v)Unique Identification Card(b)any one of the following documents for residential proof possessed by the proprietor, anyone of the directors of company, anyone of the partners of the partnership firm or anyone of the members of HUF and others,-(i)Passport(ii)Identity card issued by the Election Commission of India(iii)Driving License(iv)Unique Identification Card(v)Last paid Electricity bill (in the name of applicant or his parents or spouse,(vi)Last paid Telephone bill (in the name of applicant or his parents or spouse,(c)any one of the following documents for proof of place of business in the name of applicant, his parents or spouse,:-(i)property card or property tax bill of last year,(ii)copy of index-2 issued by the Sub-Registrar of stamp duties,(iii)agreement or lease deed duly executed in case of the rented premises,(iv)certificate issued by the local authority in respect of shops and establishment,(d)following documents :-(i)certificate issued by the registrar of companies and Articles of Association in case of a company;(ii)Partnership deed in case of partnership firm or HUF.(e)copies of Challan for the payment towards' amount of security.](2)A dealer who becomes liable to pay tax under section 3 shall submit an application for registration within thirty days of the relevant date of effect applicable to him as per sub-section (3) of section 3:Provided that a dealer registered under any of the earlier laws who is deemed to have been registered under section 23 shall not be required to submit an application under this sub-rule.(3)A dealer having -(a)one place of business shall make an application for registration to the registering authority within whose jurisdiction his place of business is situated;(b)more than one place of business shall make an application to the registering authority in whose jurisdiction his chief place of business is situated.(4)An application for registration shall be made, verified and signed in the case of a business carried on by -(a)an individual, by the proprietor,(b)a firm, by a partner thereof,(c)a Hindu Undivided Family, by the karta,(d)a body corporate (including a company, co-operative society,

corporation or the local authority) by director, manager, secretary or the principal officer thereof, (e) a Government Department, by a person duly authorized to act on its behalf, (f) an association of individuals to which clause (b), (c) or (d) does not apply, by the person managing the business of such association. (5) In the case of a firm, every partner thereof shall furnish the declaration as provided in Form 101. (6) The person verifying and signing an application for registration shall specify in the application, the capacity in which he does so and shall give particulars of the authority vested in him for verifying and signing the application. (7) In the case of a business carried on by an individual, a firm, a Hindu Undivided Family or an unincorporated association of individuals, the name and permanent residential address of such individual, each of the partners of the firm, members of the Hindu Undivided Family or, as the case may be, members of the managing committee of the association, and of persons having any interest in the business, shall be stated in the application for registration. (8) The application for registration shall be accompanied by two copies of recent passport size photograph, as follows, duly attested by a Sales-tax Practitioner whose name has been registered in the list maintained by the Commissioner or by a Gazetted Officer or an advocate: - (i) in respect of an individual, the photograph of the proprietor, (ii) in respect of a Hindu Undivided Family, the photograph of the karta, (iii) in respect of a partnership firm, the photographs of all the partners. (iv) in respect of a private limited company or a limited company, photographs of all members of board of directors: Provided that in the case of a State or Central Government organization, it will not be required to furnish photograph of a person who is appointed as a nominee of Government. (9) When a new person joins as a partner in the partnership firm or when a new director joins as a director of private limited company or a limited company which has already been given registration number, he shall furnish two passport size copies of his recent photographs in the manner prescribed in sub-rule (8), with an intimation of joining as partner or a director to the registering authority within thirty days from the date of his joining in the partnership firm. (10) The application for registration shall be accompanied by details of property held by the dealer including the property held by the partner, Director, Trustee or, as the case may be, karta of Hindu Undivided Family: Provided that in case of a person who is appointed as a nominee of Government, either State or Central Government or a financial Institution, it shall not be necessary to furnish the details as provided in this sub-rule. (11) [ A dealer applying for registration under this rule shall deposit, an amount of rupees ten thousand in the Government treasury for each registration under the State Act, towards security in accordance with the provisions of sub-section (1) of Section 28 or under the Central Sales Tax Act, 1956, as the case may be. (12) The amount so deposited towards security shall not be adjusted by the dealer against his liability to pay tax, penalty or interest under the Act, or under the Central Act. Such amount may be refunded on an application made by a dealer after two years from the date of registration if it is not required further for the purpose of realization of tax, interest or penalty or at the time of cancellation of registration, or at the time of rejection of application for registration, whichever is earlier: Provided that the amount of tax, penalty, interest or any other dues under the Act, or under the Central Act, due from and payable by the dealer on the date of such refund, shall be first deducted from such refund. (13) If an application for registration is in order and the registering authority is satisfied with regard to the above requirements, a provisional registration number shall be given within three working days from the date of receipt of application. (14) After giving the provisional registration number to such dealer, the procedure of post verification shall be carried out and if the registering authority is satisfied, a certificate of registration converting the provisional

registration number into permanent registration shall be issued within thirty days from the date of receipt of application.(15)During the procedure of post verification, if the registering authority is not satisfied with any detail furnished by the dealer, the provisional registration number given earlier shall be cancelled with effect from its date of effect.(16)The provisional registration number shall be deemed to have been converted into permanent registration if the procedure of post verification is not carried out within thirty days from the date of receipt of application and the registering authority shall issue a certificate of registration converting the provisional registration number into permanent registration.(17)The dealer may apply for obtaining only Form 402, Form 403 and Form 404 until the date of issue of certificate of registration.] [Inserted by Notification No. (GHN-41) VAR-2011(32)/Th, dated 1.12.2011 (w.e.f. 22.3.2006).]

## **6. Grant of certificate of registration.**

(1)If an application for registration is in order and the registering authority is satisfied that the goods of the applicant stored are reasonably identifiable in case of godown or warehouse shared with one or more dealers, the registering authority shall issue a certificate of registration in Form 102.(2)Where a dealer applying for registration is a firm, a Hindu Undivided Family, body corporate, or an association of individuals or the Department of the Government, the certificate of registration shall be issued in the name of such firm, Hindu Undivided Family, body corporate, association or, as the case may be, the Department of the Government.(3)Where a certificate of registration is issued under section 21 to a dealer on an application made therefor, then,-(a)if such application was made within the period specified in sub-rule (2) of rule 5, it shall take effect from the date when he becomes liable to pay tax under sub-section (3) of section 3, or(b)if such application was made after the expiry of the period specified under section 21 or, as the case may be, under sub-section (5) of section 57, it shall take effect from the date on which the application was made.(4)Where a certificate of registration is issued under section 22 on an application made under rule 5, it shall take effect from the date on which the application was made.(5)When the dealer has two or more places of business within the jurisdiction of the same registering authority, the registering authority shall issue to the dealer one additional copy of the certificate of registration free of charge, for each additional place of business specified in the application for registration.(6)Where a dealer having more than one place of business within the jurisdiction of different registering authorities and has been granted a single certificate of registration, the registering authority of chief place of business shall issue to such dealer additional copy of the certificate of the registration free of charge, for each additional place of business specified in the application for registration and a copy of such certificate shall be forwarded to each Commercial Tax Officer within whose jurisdiction such additional place of business is situated.(7)When a registered dealer opens a new place of business in addition to the place or places which were in existence at the time of his registration, the authority issuing a certificate of registration shall issue an additional copy of the certificate of registration free of charge, for such new place on application by such dealer for the same.(8)A registered dealer may obtain a duplicate copy of a certificate of registration or of an additional copy thereof issued to him in the event when the certificate of registration or additional copy thereof is lost, destroyed or defaced. A fee of rupees one hundred shall be payable on an application for a duplicate copy of a certificate of registration or of an additional copy thereof under this sub-rule. The fee shall be paid in court fee stamps.

## **7. Exhibition of certificate of registration and other details.**

- Every registered dealer shall display conspicuously at each place of his business including branches and godown, the certificate of registration or a copy thereof and also exhibit at the entrance of his place of business including branches and godown a board showing the nature of the trade with full address and registration number of the certificates issued to him under the Act and under the Central Act.

## **8. Amendment in the certificate of registration.**

(1)When,-(a)a registered dealer changes his place of business which is situated within the jurisdiction of his registering authority,(b)any of the contingency or events mentioned in clauses (a) to (d) of sub- section (1) of section 26 occurs or,(c)any other change in respect of the business occurs such dealer shall give intimation of such change in writing within thirty days from the date of change to the registering authority .(2)On receipt of such intimation under sub-rule(1) and subject to sub-rule (1) of rule 6, the necessary amendment shall be made by the registering authority in the certificate of registration and shall return the certificate of registration to the dealer within thirty days from the date of receipt of application for the amendment. Where such amendment is made in the certificate of registration, such certificate of registration shall be valid for all purposes and shall be deemed to be a certificate of registration granted under rule 6.

## **9. Certificate of Registration to be produced before the registering authority.**

(1)The registering authority may by notice in writing require a registered dealer to produce before it his certificate of registration and all copies thereof for the purpose of carrying out any amendment therein or for any other purpose under the Act.(2)Every such dealer shall, within fifteen days from the date of service on him of a notice under sub-rule (1), produce the certificate of registration and copies thereof to the registering authority.

## **10. Cancellation or suspension of certificate of registration.**

(1)An application for cancellation of registration under sub-section (7) or sub-section (7A) of section 21 or sub-section (2) of section 27 shall be made to the registering authority in Form-103 within thirty days of contingency or event, which necessitates the cancellation of registration.(2)If the registering authority is satisfied that the application submitted under sub-rule (1) is in order, it shall by order in writing, cancel the registration with effect from the date, which may be fixed in accordance with the provision of sub-section (4) of section 27.(3)When the Commissioner intends to cancel or suspend the registration under sub-section (5) or (5A) of section 27, he shall give a notice to the dealer in Form-104.

## 11. Publication of details of suspension or cancellation of certificate of registration.

(1)The Commissioner shall publish the following details with regard to the suspension or cancellation of registration of dealers as well as the cases falling under sub-section (4) of section 27, namely:-(a)name of the dealer whose registration is suspended or cancelled,(b)registration number of the certificate,(c)date from which certificate of registration is suspended or cancelled.(2)The details referred to in sub-rule (1) shall be published in any of the following manners, namely :-(i)by a public circular issued by the Commissioner, or(ii)by publishing the details on the website, or(iii)by any other media as may be specified by the Commissioner.(3)The details regarding suspension or cancellation of registration shall be published within ten days of the suspension or cancellation of registration.

## 12. Furnishing of security.

- [\*\*\*] [[Deleted '(1) A dealer applying for registration under the Act shall furnish along with the application for registration a security in the manner referred to in clauses (ii) and (iii) of sub-rule (2), not exceeding rupees fifty thousand :Provided that the amount of the security shall not exceed rupees ten thousand in case the person provides any three of the following documents, namely:-<p class=subpara1>(a) last paid electricity bill in his name or his parent's name or his spouse's name,<p class=subpara1>(b) last paid telephone bill in his name or his parent's name or his spouse's name,<p class=subpara1>(c) the Permanent Account Number (PAN) issued under the Income-tax Act, 1961,<p class=subpara1>(d) any document as proof of ownership of principal place of business in his name or his parent's name or his spouse's name,<p class=subpara1>(e) any document as proof of ownership of residential property or any immovable property in his name or parent's name or his spouse's name,<p class=subpara1>(f) notarized photocopy of the passport of proprietor or managing partner or managing director,<p class=subpara1>(g) certificate obtained from a local authority in respect of shop and establishment, or;<p class=subpara1>(h) registration certificate obtained from Custom and Central Excise Authority:Provided that the authority who receives such application of registration shall first verify the application in accordance with the provision of sub-section (1) of section 28 and pass such an order of demanding security as provided under this rule after giving the dealer a reasonable opportunity of being heard.' by Notification No. No. (GHN-41) VAR-2011(32)/Th, dated 1.12.2011 (w.e.f. 22.3.2006).]](2)Where a dealer is required to furnish security or additional security under section 28 or, as the case may be, a person or a dealer required to furnish security under proviso to sub-section (4) of section 73 or under the second proviso to sub-rule (5) of rule 45, shall,-(i)furnish a bond executed by himself in Form 105 with one surety acceptable to the authority who passes the order under the provisions referred to above for such sum as the authority may specify in the order, or(ii)deposit the cash in the Government Treasury, Government securities in the form of stock certificates or Government Promissory Notes of a market value of not less than the sum as may be specified in the order or National Savings Certificate or Treasury Savings Certificate of the face value of not less than the said sum, duly endorsed in favour of the Commissioner, or(iii)furnish the guarantee of a Bank approved by the Commissioner in this behalf, agreeing to pay to the Commissioner on demand, such sum not exceeding the amount as may be specified in the order:Provided that for the purpose of furnishing

security other than the security under sub-section (4) of section 73, dealer may furnish security in any of the mode prescribed in clause (ii) or (iii):(3)Where, by reason of an order made under sub-section (6) of section 28, the security furnished by any dealer is rendered insufficient, he shall make up the deficiency by furnishing security or, as the case may be, additional security in the manner specified in sub-rule (2), within thirty days from the date of such order.(4)Where the bank guarantee furnished by the dealer is for a specified period, the dealer shall furnish a fresh bank guarantee or any other security specified in sub-rule (2) before the expiry of the said bank guarantee.

### **13. Declaration under section 65.**

(1)A declaration in respect of name of the manager or managers of business under section 65 shall be made in Form 106 and shall be sent to the registering authority where such declaration is to be made for the first time, it shall be made alongwith an application for registration:Provided that a dealer who is deemed to have been registered under section 23 shall not be required to furnish declaration under this rule if he has already furnished the declaration earlier.(2)Where any such declaration is to be revised on account of change of manager, it shall be made in Form 106 and to be sent to the registering authority within thirty days from the date of such change.

### **14. Declaration in respect of commodities and additional information of business under sections 66 and 66A.**

(1)In case of a dealer applying for registration,-(a)declaration under section 66 shall be furnished in the manner specified in paragraph 09 of Form 101,(b)information under section 66A shall be furnished in Form 101C,(c)additional information of business shall be furnished in form 101E.(2)A dealer who is deemed to have been registered under section 23 shall also furnish the declaration and information referred to in clauses (a) and (b) of sub-rule (1) within thirty days in Form 107 and Form 101C respectively and the additional information referred to in clause (c) of sub-rule (1) within three months in Form 101E from the date of coming into force of these rules.(3)If any change occurs in the particulars of the declaration or information furnished earlier, a revised declaration or information shall be made in Form 107 or, as the case may be, in Form 101C and shall be sent to the registering authority within fifteen days from the date on which such changes are effected.(4)Information in respect of commodities dealt in or manufactured by a dealer shall be furnished in the following manner, namely:- (a)as per item 07 of Form 101 by a person making an application for registration,(b)a dealer who is deemed to have been registered under section 23 shall furnish the above information in writing within thirty days from the date of coming into force of these rules,(c)if any change occurs with regards to the information furnished in clause (a) or (b), a revised information shall be furnished to the registering authority within thirty days from the date of such change.(5)The dealer shall furnish separate declaration and information under this rule in respect of each place of his business.



## Chapter IV

### Calculation of Tax and Tax Credit

#### 15. Calculation of tax credit under section 11.

(1) A registered dealer shall maintain the registers of purchases of goods and mention therein the name and place of the selling dealer, his registration number, serial number and date of tax invoice, description of goods alongwith HSN, quantity of goods, value of goods and the tax charged. (2) A registered dealer shall claim tax credit under section 11 in a tax period in which he records, in his books of accounts, the tax invoice in respect of his purchases of taxable goods. (3) A registered dealer shall calculate tax credit as per Form-201 and such calculation shall be made separately for each tax period. (4) The amount involved in purchases specified in sub-section (5) of section 11 shall be excluded from the calculation of tax credit. (5) The amount of tax paid under sub-section (1) or (2) of section 9 of the Act and the amount of tax paid under the Gujarat Tax on Entry of Specified Goods into Local Areas Act, 2001 shall be claimed in the tax period in which such amount has been paid. (6) Where the tax credit (other than tax credit on capital goods) admissible in the year remains unadjusted against the output tax as per section 11, such amount shall be refunded not later than expiry of two years from the end of the year in which such tax credit had become admissible: Provided that the dealer claiming such refund shall have to prove to the satisfaction of the assessing authority that the purchases of the goods on which such tax credit had been calculated have been disposed off in the manner referred to in sub-section (3) of section 11 within the period by which refund under this sub-rule becomes admissible. (7) In case of sales made in the course of export outside the territory of India and the amount of carried forward tax credit admissible under items (iv) and (v) of clause (a) of sub-section (3) of section 11 remains unadjusted, such amount of tax credit shall be refunded within the period of three months next following the end of the month in which such purchases were made. (8) The refund under this rule shall not be admissible unless the dealer furnishes the copies of tax invoices of the purchases for which tax credit and refund thereof is claimed: Provided that the assessing authority granting the refund is satisfied that the selling dealer has shown such transactions in his return and accounted for in his books of accounts as taxable sales for which tax credit and refund under this rule is claimed. (9) A registered dealer may claim such net tax credit in the returns to be furnished under sub-rule (1) of rule 19.

#### 16. Tax credit under section 12.

(1) The statement referred to in sub-section (1) of section 12 shall be furnished in Form 108. The calculation of tax credit under section 12 shall be made in the manner provided in Form 108. (2) The statement under sub-rule (1) shall be furnished by the dealer on or before the 30th April, 2006 to the Commercial Tax Officer under whose jurisdiction registered dealer is required to furnish return under rule 19. (3) The tax credit to be claimed under section 12 shall be subject to the fulfillment of the following conditions, namely:-(a) tax credit may be claimed in respect of the taxable goods, which were purchased from a dealer registered under the earlier law, (b) dealer shall have in his possession bills or invoices issued by the selling dealer indicating inter-alia, the registration number of the selling dealer, the price of goods and the amount of tax, if charged separately, (c) particulars of

goods for which tax credit is claimed have been entered in the books of accounts of the dealer,(d)dealer has furnished the returns for the period up to the 31st March 2006 in accordance with the provisions of the earlier law,(e)provisions of sections 11 and 12 are complied with:Provided that where the tax credit claimed under this rule has been determined after verification is less than the amount claimed by the dealer, such dealer shall be informed accordingly within ten days of the verification under this sub-rule.(4)Where the amount of tax on the goods purchased is not indicated separately in the bills or invoices issued by the selling registered dealer, the tax credit referred to in sub-section (5) of section 12 shall be calculated in the following manner, namely:-Formula:

## **9. $P/10$ multiplied by $R / 100+R$**

(where 'P' means the purchase price of the goods and 'R' means the rate of sales tax or of general sales tax (whichever has not been recovered separately), applicable to the respective taxable goods under the earlier law at the relevant time of purchases thereof).(5)A registered dealer may claim tax credit in respect of the amount of purchase tax paid by him under section 15A of the Gujarat Sales Tax Act, 1969 subject to the fulfillment of the following conditions, namely:-(a)registered dealer was holding recognition granted to him under section 32 of the Gujarat Sales Tax Act, 1969 at the time purchases were effected and on which purchase tax was paid,(b)registered dealer has in his possession the proof for payment of purchase tax so paid,(c)registered dealer has maintained the counter foils of Form 18C or Form 19 issued by him in the manner prescribed under the earlier rule.(6)Subject to the provisions of sections 11 and 12 and these rules, the tax credit admissible under section 12 shall be claimed by the registered dealer in his monthly return starting from tax period of July, 2006 to December,2006 in six equal installments:Provided that the commissioner may for the reasons to be recorded in writing, allow with conditions he thinks fit, any dealer or certain class of dealers to claim tax credit under section 12 before July, 2006.

## **17. Tax credit in respect of transactions between commission agent and principal and in case of transfer of business.**

(1)When a commission agent receives taxable goods from his principal for the sale on behalf of such principal, the principal shall issue tax invoice equivalent to the purchase price of the goods so transferred.(2)The principal shall indicate the amount of tax separately in the tax invoice referred to in sub-rule (1).(3)The tax to be indicated separately under sub-rule (2) shall be the amount which the selling dealer had charged on the goods purchased by the principal which is transferred to the commission agent.(4)The liability of the principal to pay tax on such transfer of goods to the agent shall be as if it is a sale, and provisions of section 11 and the rules made thereunder shall apply, mutatis mutandis.(5)The commission agent when selling the goods transferred to him by the principal, he shall be liable to pay tax under the Act on the sale price of such goods.(6)The commission agent shall be entitled to claim tax credit under section 11 and the rules made thereunder to the extent the amount of tax charged separately in the tax invoice referred to in sub-rule (2).(7)When the commission agent has sold the goods on behalf of the principal, the commission agent shall send to his principal a monthly statement showing the following particulars:-(i)value (showing separately the amount of tax charged) of goods transferred by the principal,(ii)sale price with amount of tax charged separately on the goods sold by the commission

agent,(iii)amount of the commission charged by the commission agent in respect of such goods sold by him on behalf of his principal.(8)On receipt of statement referred to in sub-rule (7), the principal may include in his total turnover of sale, the difference of the amount referred to in clauses (ii) and (i) of sub-rule (7) and may deduct the similar amount from his turnover liable to tax under section 7 of the Act.(9)When a commission agent purchases taxable goods on behalf of his principal, he shall issue to his principal a tax invoice indicating the value of the goods purchased and indicating separately the amount of tax charged in the original tax invoice of the goods so purchased and shall be liable to pay the tax under section 7 accordingly:Provided that the commission agent may claim tax credit of the amount of tax charged separately on such purchase by the selling dealer in his tax period in which a tax invoice under this sub-rule is issued by him to his principal.(10)The principal on receipt of the tax invoice referred to in sub-rule (9) shall show such purchases in his total turnover of purchases and section 11 of the Act and the rules made thereunder shall apply mutatis mutandis in respect of such purchases made by the commission agent.(11)Where a dealer liable to pay tax under the Act transfers his business in whole or part as provided in section 51, the transferee of the business may claim the tax credit in the manner as under:-(i)in case where business has been transferred in whole, then the amount of balance of tax credit on the day of such transfer shall be deemed to be transferred to the transferee subject to the provisions of section 11 and the rules made there under,(ii)in case where business has been transferred in part, then the balance of the tax credit as admissible under the rules on the day of transfer shall be deemed to be transferred to the transferee subject to the provisions of section 11 and the rules made there under:Provided that the transferor shall reduce such amount of tax credit transferred to the transferee under this clause in the tax period in which such transfer has taken place.

## **18. Calculation of tax.**

(1)The net amount of tax payable under section 13 by a registered dealer, other than the dealer who has been granted permission to pay lump sum tax under section 14, shall be determined in Form 201.(2)If the amount calculated as per sub-rule (1) has a negative value -(a)the same shall be adjusted against tax liability, if any, under the Central Sales Tax Act, 1956 (hereinafter called 'central sales tax liability') for the said tax period and the remaining amount of central sales tax shall be payable; or(b)if there is no central sales tax liability or if the central sales tax liability for the said tax period is less than the said negative amount, then no tax under the Act as well as under the Central Act will be payable and the net amount, after adjusting the central sales tax liability, shall be carried forward to the next tax period of the same year or, as the case may be, the subsequent year.(3)Net tax payable by a dealer liable to pay tax but not registered under the Act for a tax period shall be equal to tax payable for the said tax period and leviable under sections 7 and 9.

## **Chapter V**

### **Returns and Payment of Tax**

## 19. Submission of monthly and quarterly returns .

(1) Every registered dealer shall furnish returns duly signed by him or by a person authorized by him, to the Commercial Tax Officer within whose jurisdiction his chief place of business as mentioned in certificate of registration is situated. (2) (a) Every registered dealer, other than the dealer to whom sub-rule (3) applies, shall furnish monthly return in Form 201 within twenty-two days from the end of the month to which return relates. (b) Every registered dealer referred to in clause (a) shall also furnish information in respect of tax invoices of sales in Form 201A; tax invoices of purchases in Form 201B; and inventories in Form 201C appended to Form 201 as under:-(i) a registered dealer whose taxable turnover in the previous year or during the year does not exceed rupees one Crore shall furnish such information in Form 201A and Form 201B along with Form 201 and may also submit by way of uploading on the web site of the department duly authenticated by the dealer himself or by a person referred to in section 65, (ii) a registered dealer whose taxable turnover in the previous year or during the year has exceeded rupees one Crore shall furnish return in Form 201 along with the information referred to in sub-clause (i) above and shall also submit by way of uploading on the web site of the department duly authenticated by the dealer himself or by a person referred to in section 65, (iii) a registered dealer shall furnish information in Form 201C in respect of top ten commodities as per value as well as consolidated details of remaining commodities dealt in the tax period: Provided that the dealer shall file return from the succeeding tax period as and when the turnover specified in this rule exceeds in a tax period as provided under clause (ii). Provided further that a registered dealer, who is required to furnish return under clause (ii), shall be required to furnish in Form 201 and also submitting by way of uploading on the website of the department before the stipulated time as mentioned in this rule. (3) Every registered dealer to whom the Commissioner has granted permission under sub-section (1) of section 14 to pay lump sum tax shall furnish quarterly return in Form 202 with the list of purchase in Form 202A appended to it, within twenty-two days from the end of the quarter to which the return relates: Provided that if such a registered dealer becomes liable to pay tax in pursuance of clause (b) of sub-section (1) of section 14, he shall furnish monthly return in accordance with sub-rule (2) of this rule in respect of the month immediately succeeding the month during which on account of application of clause (b) of sub-section (1) of section 14, the permission granted under the said section ceases to be valid and he shall continue to file monthly returns for all subsequent months. (4) Every registered dealer who holds a certificate of exemption or certificate of deferment of tax under any of the incentive schemes, so long as he avails of the benefit of exemption or deferment of tax shall furnish, -(a) a monthly return under sub-rule (2), and (b) a monthly return of incentives of sales tax exemption availed in Form 203 and, of sales tax deferment availed in Form 204, in the manner provided in sub-rule (1). The monthly return shall be filed within twenty-two days from the end of the month to which the monthly return relates, (c) such a dealer shall be required to furnish return as per the provisions of sub-rule (2), on completion of the avaiement of exemption or deferment referred above. (5) Every registered dealer dealing in the commodities mentioned in the Schedule III to the Act, shall also furnish monthly returns in Form 212 along with Form 213 within twenty-two days from the end of the month to which the return relates. (6) Where any dealer who has no fixed or regular place of business in the State, but has been registered by the Commercial Tax Officer, Ahmedabad, and such dealer shall furnish such return to the Commercial Tax Officer, Ahmedabad: Provided that if a dealer fails to comply with the requirement of clause (ii) or (iii) of sub-rule (2) or sub-rule (3), then such

dealer shall be deemed to have not furnished the return as required by section 29.

## **20. Submission of annual returns under section 33.**

(1) Every registered dealer shall furnish annual return by way of self assessment to the Commercial Tax Officer within whose jurisdiction his chief place of business as mentioned in certificate of registration is situated. The annual return duly signed by the registered dealer or a person authorized by him shall be furnished within three months from the end of the year to which the annual return relates. (2) Every registered dealer, except the registered dealer referred to in sub-rule (3) shall furnish annual return in Form 205 along with Form 205A. (3) Every registered dealer to whom the Commissioner has granted permission under sub-section (1) of section 14 to pay lump sum tax shall furnish annual return in Form 202. (4) The registered dealer referred to in sub-rule (4) of rule 19 shall also furnish annual return in Form 203 or Form 204, as the case may be. (5) The registered dealer, where total turnover exceeds rupees one crore, shall furnish the annual return by way of up-loading on the website within three months from the end of the year to which the annual return relates. (6) The registered dealer, where total turnover exceeds rupees one crore, shall furnish annual accounts containing Trading Account, Profit and Loss Account and the Balance Sheet to the Commercial Tax Officer within whose jurisdiction his chief place of business is situated along with uploading on the website within six months from the end of the year to which the annual return relates.

## **21. Special provisions for return in certain cases.**

(1) In case of a dealer who is deemed to have been registered under section 23, the first return to be furnished by such dealer shall be for a tax period commencing on the appointed day. (2) Where a dealer has been issued a certificate of registration under section 22 or if a dealer becomes liable to pay tax under section 3 subsequent to any day after the appointed day and if he has applied for registration within the period specified in rule 5, then first return to be furnished by such dealer shall be for the period commencing from the date of registration under section 21 or 22 and ending on the last day of the tax period applicable to such dealer and thereafter furnish the returns as per the provisions of rule 19. (3) Where a dealer has become liable to pay tax under section 3 or under sub-section (5) of section 57 and has not applied for registration within the period specified in rule 5, then, - (a) the first return to be furnished by such dealer shall be from the date he becomes liable to pay tax and ending on the date of effect of certificate of registration, (b) the return to be furnished thereafter shall be for the period from the date of effect of the registration to the end of the tax period applicable to the dealer and subsequent returns to be furnished thereafter shall be as per provisions of rule 19. (4) (a) Where the business carried on by a registered dealer is discontinued or transferred, then the last monthly or quarterly return or, as the case may be, annual return shall be for the period beginning with the last month or, as the case may be, the quarter or year and ending with the date of discontinuance or transfer of the business; and such returns shall be furnished within twenty-two days from the date of the discontinuance or transfer of the business. (b) Where the registration of any dealer is cancelled on the ground referred to in sub-section (5) of section 27, then the last monthly or, as the case may be, quarterly return shall be for the period beginning with the month or, as the case may be, quarter and ending with the date on which the cancellation of

registration takes effect; and such return shall be furnished within twenty-two days from the date of cancellation of registration or within twenty-two days from the end of the month or quarter to which such return relates, whichever is earlier.

## **22. Permission for furnishing separate returns.**

(1)A dealer who desires to furnish separate returns under clause (b) of sub-section (2) of section 29 shall make an application in Form 206 to the Commissioner for permission.(2)If the Commissioner is satisfied that the application made under sub-rule (1) is in order, he may grant the permission to such dealer to submit separate returns for such places of business and to such Commercial Tax Officer as may be specified by the Commissioner and there upon the dealer shall furnish separate return accordingly:Provided that the dealer to whom such permission is granted shall furnish annual return under rule 20 in a consolidated form in respect of all the places of business to the Commercial Tax Officer in whose jurisdiction the chief place of business is situated.

## **23. Accompaniment of chalan with return.**

- A dealer required to furnish a return under rule 19 shall furnish such return accompanied by the receipted chalan in Form 207.

## **24. Notice to be served under sub-section (3) of section 29.**

- Where the total turnover of any dealer is likely to exceed the thresholds of turnover specified in sub-section (1) of section 3, the Commissioner shall serve a notice under sub-section (3) of section 29 in Form 208.

## **25. Exemption from furnishing of returns.**

(1)An application for exemption from furnishing of returns under sub-section (2) of section 29 shall be made to the Commissioner in Form 209 and if the Commissioner is satisfied that the dealer is not likely to make any taxable sale or purchase during any year, he may grant exemption to such dealer for that year.(2)The exemption granted under sub-rule (1) shall be subject to the following conditions, namely;-(a)if the dealer makes during the period of exemption any sale or purchase which is taxable, he shall, within thirty days from the date of such sale or purchase, give information thereof to the concerned Commercial Tax Officer having jurisdiction;(b)the dealer shall furnish returns by the dates and in the manner prescribed by these rules beginning with the period commencing with the month during which the sale or purchase aforesaid takes place.(3)The Commissioner may, after giving the dealer reasonable opportunity of being heard and for the reasons to be recorded in writing, cancel the exemption.(4)The exemption granted by the Commissioner under sub-rule (1) shall be for a period of one year and may be exercised from year to year.

## 26. Payment of tax, etc.

(1)(a) Every dealer other than the dealer referred to in clause (b) of sub-rule (1) of this rule, required to furnish monthly return under sub-rule (2) of rule 19, shall within a period of twenty-two days immediately succeeding the month for which such return is required to be furnished, pay into the Government Treasury, the tax due and payable in such month along with the amount of interest if any payable by him under the provisions of the Act and shall submit to the Commercial Tax Officer one copy of the chalan receipt in Form 207 along with the return, (b) Every dealer dealing in commodities mentioned in Schedule III required to furnish monthly return under sub-rule (2) of rule 19 shall, within a period of twelve days immediately succeeding the month for which such return is required to be furnished, pay into the Government Treasury, the tax due and payable in such month along with the amount of interest if any payable by him under the provisions of the Act and shall submit to the Commercial Tax Officer one copy of the chalan receipt in Form 207 along with the return: Provided that the payment of tax, interest, penalty or any other amount due under the Act may be made either in cash or by means of crossed cheque or bank draft: Provided further that, if the payment is made by a cheque, then such cheque shall be drawn in favour of anyone of such banks which are authorized by the Government to receive such payments. (c) Notwithstanding anything contained in this rule, the Commissioner may, provide separate procedure for method of such payment in the electronic form. (2) Every dealer required to furnish quarterly return under sub-rule (3) of rule 19 shall within a period of twenty-two days immediately succeeding the quarter for which such return is required to be furnished, pay in to the Government Treasury the lump sum tax or as the case may be, tax due and payable in such quarter along with the amount of interest if any payable by him under the provisions of the Act and shall submit to the Commercial Tax Officer one copy of the receipted chalan in Form 207 along with the return required to be furnished under rule 19. (3) Where a revised return is furnished by a dealer in accordance with sub-section (4) of section 29 and if such revised return show that an amount of tax payable is higher than that already paid, then such dealer shall pay in the Government Treasury, the additional amount of tax due and payable in accordance with such revised return within the time prescribed for furnishing such revised return and such dealer shall within three days of such payment submit to the Commercial Tax Officer one copy of the receipted chalan in Form 207. (4) Subject to the provisions of sub-rules (1) and (2) where a Government department or the office is liable to pay tax under the Act, the officer authorized by the Government in respect of such department or the officer in charge of such office, shall as soon as may be convenient, pay the amount of the tax into the Government Treasury and one copy of the receipted chalan in Form 207 shall be submitted to the Commercial Tax Officer concerned on or before the date prescribed for submission of return. (5) Any sum determined by way of composition of an offence in accordance with section 89 shall be paid into the Government Treasury within the time specified in the order determining such composition and the person shall within three days of such payment, submit a copy of the receipted chalan in Form 207 to the officer determining the composition. (6) Every payment of tax, lump sum tax, tax deducted at source under section 59B, interest, penalty, composition money or cost awarded by the Tribunal shall be made by way of chalan in Form 207 obtained from a Government Treasury or the office of the Commercial Tax Officer. (7) Payment made into a Government Treasury shall be by way of chalan in quadruplicate. The copies marked "Original" and "Duplicate" shall be returned to the dealer duly receipted of which the copy marked "Duplicate" shall be submitted to the respective Commercial

Tax Officer, in accordance with the provisions of this rule.(8)Subject to the provisions of section 44, no payment of tax, interest, penalty, composition money or cost awarded by the Tribunal shall be made in cash to any officer or authority appointed by or under the Act.(9)In case of payment made otherwise than in cash under this rule, the date of realization of payment in the Government Treasury shall be the date of payment.

## **27. Notice for payment of tax.**

- The amount assessed under sections 32, 33, 34, 35, 73, 75 or, as the case may be, 79 shall be raised in Form 305 and be paid within thirty days from the date of service of such notice.

## **28. Application and permission for payment of lump sum tax.**

(1)An application for permission to pay lump sum tax under section 14 shall be submitted in Form 210 by the registered dealer to the Commercial Tax Officer in whose jurisdiction he is required to furnish return under rule 19.(2)An application under sub-rule (1) shall be submitted,- (i) on or before 15th May of 2006 in respect of the permission for the year 2006-2007;(ii)on or before 30th April for any year subsequent to the year 2006-2007 in respect of which permission is sought.(3)The dealer registered after 1st April, 2006, may apply for the permission referred to under this rule not later than thirty days from the effect of such registration.(4)The Commissioner shall communicate his decision regarding the permission or rejection thereof to the applicant dealer within fifteen working days from the date of receipt of application.(5)The Commissioner may, after making such inquiry as he thinks fit, ensure compliance of the provisions of the Act and the rules, grant permission under sub-section (1) of section 14 in Form 211.(6)If the registered dealer to whom such permission was granted contravenes the provisions of the Act or the rules, such permission shall be liable to be cancelled forthwith from the date of the event concerning such contravention. Such dealer shall be liable to pay tax from the month immediately succeeding the month during which the event for such contravention has occurred. No order for cancellation of permission under this sub-rule shall be made unless such dealer has been given reasonable opportunity of being heard.(7)If the registered dealer to whom such permission was granted elects not to have such permission, such dealer shall intimate accordingly to the authority with whom he files the returns and the authority shall cancel the permission. Such dealer shall be liable to pay tax under the Act from the month immediately succeeding the month during which permission to pay lump sum has been cancelled on basis of his application.(8)(a)The Commissioner may on application by any dealer in Form 214 who has under section 14A has opted to pay a lump sum tax by way of composition of tax in lieu of the amount of tax leviable from him under sections 7 and 9 on the turnover of sales of goods (whether as goods or in any other form) involved in the execution of works contract, permit such dealer, subject to the conditions specified in clause (b) to pay a lump sum tax by way of composition in respect of the contracts for which such permission is granted.(b)The Commissioner shall after making such inquiry as he thinks fit, grant the permission subject to the provisions of the Act, these rules and the conditions specified as follows, namely:-(i)such permission shall be granted in Form 215 in respect of the contracts for which option to pay composition money is exercised and such permission is effective from the date of the beginning of the contract and till its conclusion,(ii)an application made under this rule shall be in respect of those contracts, which begin



during the period for which the dealer hold valid registration certificate under the Act,(iii)such an application shall be made within thirty days from the beginning of the contract,(iv)in respect of dealers in whose case the tax already paid along with the respective returns for any period prior to the date of application is less than the amount of composition payable for the particular period for which the return is filed, such a dealer shall pay the amount of difference between the composition due for that period and the amount already paid along with the interest on the unpaid amount at the rate of one and one half per month from the date by which the amount due for the said return was required to be paid under the provisions of rule 26 till the date of actual payment. Such amount shall be paid in the Government treasury before making an application,(v)such permission shall be granted in respect of contracts for which no tax credit is claimed or allowed in the returns or assessment,(vi)such permission shall be granted only on the production of the proof that no amount has been collected by the applicant by way of tax in respect of the contract for which option is exercised,(vii)the dealer applying for permission should not have contravened any provisions of the Act or rules made there under.(c)The composition money shall be payable by the dealer on the full amount received by him at any time in respect of those contracts for which permission for composition has been granted.(d)The composition money shall be paid in the manner in which the tax is payable under rule 26.(e)The amount shall be considered to have been received as under:-(i)from the date on which it becomes due as per the schedule of payment in respect of contracts which provided for a schedule of payment,(ii)the date on which the bill is prepared or the amount is received whichever is earlier in respect of contracts, which do not provide for schedule of payment.(f)(i)the dealer shall be required to file the returns in accordance with the provisions of section 29 of the Act.(ii)the dealer shall be required to file a statement in Form 216 for every quarter within twenty-two days from the end of the quarter to which it pertains.(g)The Commissioner may cancel the permission, if any, where,-(i)the dealer fails to pay the full amount of composition money or to furnish a statement in Form 216 within the time prescribed,(ii)the dealer contravenes any provisions of the Act or rules made there under.(h)Any dealer who is covered by sub section (3) of section 14A desires to obtain permission under this Act, shall apply as per the provisions of this rule. All the provisions shall mutatis mutandis apply to such dealer.(i)The option exercised under this rule shall be final and is irrevocable.

## Chapter VI

### Assessment of Tax and Related Procedure

#### 29. Provisional assessment under section 32.

(1)The notice required to be served under sub-sections (2) and (4) of section 32 shall be in Form 301 and the date fixed for compliance with the notice shall not be earlier than fifteen days from the date of service thereof:Provided that a date earlier than aforesaid may be fixed, if the dealer or his agent agrees thereto in writing.(1)The order of provisional assessment to be made under section 32 shall be in Form 304.

### **30. Particulars and supporting documents under section 33.**

(1) Every registered dealer, other than a dealer who has been granted permission to pay lump sum tax under section 14, shall furnish, - (a) Form 201 along with the Forms 201A, 201B and 201C appended to Form 201. (b) the forms on the strength on which he has availed exemption from or concession of tax under any provision of the Act or the Central Act along with the annual return in Form 205. (c) Form 212 and Form 213 in case of a dealer dealing in the commodities mentioned in Schedule III to the Act. (2) Notice required to be given under clause (c) of sub-section (3) of section 33 shall be in Form 302 and such notice shall be served on such dealer not later than two year from the date of closure of the year in respect of which the tax is assessable.

### **31. Audit assessment under section 34.**

(1) The notice required to be given under sub-section (2) of section 34 shall be in Form 302 and the date fixed for compliance with the notice shall not be earlier than fifteen days from the date of service thereof: Provided that the date earlier than aforesaid may be fixed, if the dealer or his agent agrees thereto in writing. (2) The order of assessment under section 34 shall be in Form 304. (3) The Commissioner may make the detailed scrutiny in the following cases for audit assessment under clause (b) of sub-section (2) of section 34, namely: - (a) annual total turnover exceeds rupees ten crores, (b) the annual tax payable exceeds rupees twenty- five lakhs, (c) total turnover or taxable turnover or tax payable compared to the previous year falls to the extent of ten per cent, (d) a dealer whose books of accounts or other documents or any inventory of goods have been seized under sub-section (4) of section 67, (e) a dealer in whose case input tax credit claimed compared to the previous year exceeds ten percent, (f) a dealer in whose case at the end of the year, the amount of input tax credit carried forward exceeds twenty per cent of the output tax shown payable in that year. (g) a dealer who has been granted certificate of exemption under the sales tax incentive scheme declared by the Government from time to time and a dealer situated in Special Economic Zone or hundred percent Export Oriented Unit, and (h) cases of any particular trade or dealers or nature of transactions which the commissioner may select or the cases selected by way of random sampling method by the Commissioner.

### **32. Re-assessment under section 35.**

(1) The notice required to be given under sub-section (1) of section 35 shall be in Form 303 and the date fixed for compliance with the notice shall not be earlier than fifteen days from the date of service thereof: Provided that the date earlier than aforesaid may be fixed, if the dealer or his agent agrees thereto in writing. (2) The order of re-assessment under section 35 shall be in Form 304.

### **33. Supply of copy of order of assessment.**

(1) A certified copy of the order of provisional assessment, audit assessment and re-assessment shall be furnished free of charge to the assessee or to his authorized person along with the notice issued in accordance with sub-section (1) of section 42. (2) An assessee or a person to whom section 34 applies

and who requires an additional certified copy or copies of such order shall be supplied with the same on his making an application in this behalf, bearing a court fees stamp of fifty rupees, for each copy.

### **34. Assessment case record.**

- All papers relevant to the making of an assessment in respect of a dealer shall be kept together and shall form an assessment case record and such records shall be preserved for eight years.

### **35. Remission of tax in case of loss due to natural calamities, etc.**

(1) Subject to the provisions of sub-rule (2), the Commissioner may for sufficient reasons, remit the whole or any part of the tax payable in respect of any period by registered dealer if such dealer has suffered financially on account of natural calamity or extraordinary circumstances beyond his control. (2) No remission of tax shall be made under this rule—(a) except on application made in this behalf to the Commissioner by the registered dealer setting forth,—(i) the details regarding extraordinary circumstances or, as the case may be, the natural calamity, (ii) the exact amount of loss sustained by him, (iii) the extent of relief prayed for and the reasons therefore, and (iv) the details regarding realization of any claim prepared under any insurance or on receipt of any grant-in-aid, (b) if the loss has been substantially mitigated by the realization of any claim preferred under any insurance or on receipt of any grant-in-aid. (3) If the amount to be remitted under this rule exceeds fifty thousand rupees, the remission of excess shall not be made without the previous sanction of the Government.

### **36. Order sanctioning refund.**

- When the Commissioner is satisfied that a refund is due to any person, he shall record an order showing the amount of refund and shall communicate the same to the person concerned.

### **37. Provisional refund under section 37.**

(1) Where a dealer has become entitled to provisional refund under section 37, he shall make an application in Form 306 to the Commercial Tax Officer to whom he has furnished such returns. (2) Any dealer required to furnish the security other than Bank Guarantee under sub-section (2) of section 37 shall deposit Government Securities in the form of Stock Certificates or Government Promissory Notes of a market value not less than the sum determined by the Commissioner or National Savings Certificates, or Treasury Savings Deposit Certificates of a face value not less than the said sum, duly endorsed in favour of the Commissioner. (3) Where a dealer is required to furnish a Bank Guarantee, such a dealer shall furnish the guarantee of a bank approved by the Commissioner, agreeing to pay the Commissioner on demand, a sum not exceeding the amount determined by the Commissioner.

**38. Refund payment Order.**

- When an order for refund has been made under rule 37, the Commissioner shall issue such Refund Payment Order in Form 307 by forwarding the same to the Bank declared by the dealer in his application for registration under section 29,30 and 30A of the earlier Act or under section 21 or 22 of the Act or to the bank which the dealer has intimated to the registering authority.

**39. Refund Adjustment Order.**

(1)Where any person becomes entitled to refund under the Act, the Commissioner shall first adjust the amount of refund towards the liability of tax, penalty or interest from such person.(2)If the applicant desires the payment by adjustment against any amount payable by him, the Commissioner shall make out a Refund Adjustment Order in Form 308 authorizing the applicant to adjust the sum to be refunded against any amount payable by him in respect of the period for which a return is to be furnished under rule19 during which the refund is sanctioned or any subsequent period or tax payable on account of any notice under section 42.(3)When the Refund Adjustment Order under rule 40 is furnished with the return, the Commissioner shall cancel his own copy as well as the copy of the person to whom the refund was granted.

**40. Order sanctioning interest on delayed refunds.**

(1)Where upon an application by any person claiming interest on any refund or otherwise, the Commissioner is satisfied that such interest is due and payable to the applicant or any person under section 38, the Commissioner shall record an order specifying therein the amount of refund the payment of which is delayed, the period of delay for which interest is payable and the amount of interest payable therefor, and shall communicate the same to the applicant or person concerned.(2)When an order for interest on refund has been made, the Commissioner shall issue Interest Payment Order in Form 307 by forwarding the same to the bank declared by him in his application for registration under section 29, 30 and 30A of the earlier law or under section 21 or 22 of the Act or to the bank which the dealer has intimated to the registering authority.

**41. Provisional attachment under section 45.**

(1)Where the Commissioner decides to attach the property under section 45, he shall pass an order to that effect mentioning therein the details of property which is attached.(2)If the property attached is of immovable nature, the Commissioner shall simultaneously send intimation to the revenue authority requiring them to endorse the charge on such property.(3)If the property attached is of perishable nature, and if the dealer pays the amount equivalent to the market price of such property, then such property shall be forthwith released on proof of payment.(4)If dealer fails to pay the amount referred to in sub-rule (3), the Commissioner may dispose of such property and the amount realized thereby shall be adjusted against the tax liability of the dealer.

## Chapter VII

### Invoices and Maintenance of Accounts

#### 42. Invoices under section 60.

(1) Every registered dealer who is required to issue tax invoice under sub-section (1) of section 60 shall prepare a tax invoice when he sells taxable goods to another registered dealer duly signed by the person whose specimen signature has been furnished to the registering authority under section 66A of the Act. (2) A selling registered dealer shall issue serially and mechanically numbered tax invoice in triplicate. The copies of the invoice marked "original" and "duplicate" be delivered to the buyer and the copy marked "triplicate" shall be retained by the registered dealer. (3) A tax invoice shall contain the following particulars, namely:-(a) consecutive serial number of tax invoice and serial number of tax invoice book if any, (b) the date of the issue of tax invoice, (c) name, address and registration number of the seller issuing tax invoice including registration number of Central Sales Tax Act, 1956, if any, (d) name, address and registration number of the purchaser including registration number of Central Sales Tax Act, 1956, if any, (e) full description of goods including HSN code, (f) quantity of goods sold, (g) price of goods excluding tax, (h) rates of tax and the amount of tax charged in respect of goods, and (i) gross value of goods including the amount of tax. (4) (A) A registered dealer to whom sub-rule (1) does not apply shall issue serially and mechanically numbered retail invoice in duplicate if the sales price exceeds rupees one hundred: Provided that when a sale is effected in the course of inter-state trade and commerce, or export out of the territory of India a retail invoice shall be signed by the person whose specimen signature has been furnished to the registering authority under section 66A of the Act. (B) The retail invoice shall contain the following particulars, namely:-(a) consecutive serial number of retail invoice and serial number of retail invoice book, if any, (b) the date of the issue of retail invoice, (c) name, address and registration number of seller issuing retail invoice including registration number of Central Sales Tax Act, 1956, if any, (d) full description of goods, (e) quantity of goods sold, (f) price of goods excluding tax, (g) rates of tax and the amount of tax charged under the Act or the Central Sales Tax Act, 1956, (h) gross value of goods including the amount of tax, (i) name, address and registration number under Central Sales Tax Act, 1956 of the purchaser for the sale in the course of Inter-State sale or export: Provided that the registered dealer, who has been granted permission to pay lump sum tax, shall not, -(i) issue tax invoice; (ii) collect from his purchaser any sum by way of tax on the sales of goods, and (iii) charge the amount of tax in his retail invoice. (5) In case of transfer of goods within the State or outside the State, the dealer shall account such transfer by issuing stock transfer note or consignment note and all the details as mentioned in clauses (a) to (i), in sub-rule (4) or whichever is applicable shall be invariably described in the stock transfer note or consignment note. The stock transfer note or consignment note shall be signed by the person whose specimen signature has been furnished to the registering authority under section 66A. (6) The tax invoice and retail invoice shall bear a phrase, namely, 'Tax Invoice' or, as the case may be, 'Retail Invoice' conspicuously on top of it. (7) Where a dealer issues delivery chalan in respect of sale, transfer or consignment of goods, the provisions of this rule shall mutatis mutandis, apply. (8) If the signature of the dealer or authorized person in tax invoice, retail invoice, delivery chalan, stock transfer note or consignment note submitted by the dealer, does not match with the specimen signature available with the Commissioner, then the

Commissioner may, - (a) reject such document, and (b) question the ownership of the goods where such goods are attributable to such document: Provided that before rejecting such document or before questioning the ownership of goods, the Commissioner shall provide a reasonable opportunity to the dealer, who has submitted such document, to get the signature authenticated by the dealer who has issued it. (9) Where a tax invoice is lost, whether such loss occurs while it is in the custody of the purchasing dealer or in transit by the selling dealer, the purchasing dealer shall furnish in respect of every such invoice so lost an indemnity bond to the authority before whom such tax invoice is to be submitted, for amount of tax credit, the authority may, having regard to the circumstances of the case, fix. Such indemnity bond shall be furnished by the selling dealer to the authority before whom such tax invoice is to be submitted if a tax invoice is lost from his custody: Provided that where more than one tax invoice are lost, the purchasing dealer or the selling dealer, as the case may be, may furnish one such indemnity bond to cover all the tax invoices so lost. (10) Where a purchasing dealer loses the original tax invoice, the selling dealer shall provide a copy of such tax invoice clearly marked "copy in lieu of lost tax invoice" containing the following certificate. "I hereby declare that this is the duplicate of the tax invoice bearing No \_\_\_\_\_ date \_\_\_\_\_ issued to M/s. \_\_\_\_\_ bearing TIN \_\_\_\_\_"

Date: Signature of authorized person

### **43. Credit and Debit notes under section 61.**

(1) Where a registered dealer has given a tax invoice in respect of a sale of goods, and thereafter, the goods or any part thereof are returned to the seller on account of the sale is cancelled or for any other reason, or the value of the sale is altered, whether due to a discount or otherwise, he shall, subject to the provisions of section 61, give to the purchaser a credit-note or, as the case may be, a debit-note which shall contain following particulars, namely: - (a) mechanically printed consecutive number of credit note or debit note; (b) date of the issue; (c) name, address and registration number of the seller; (d) name, address and registration number of the purchaser; (e) serial number of relevant tax invoice and date of transaction to which the credit note or the debit-note relates to; (f) value of the goods and the amount of the tax credited or debited to the purchaser; (g) signature of the dealer or person duly authorized. (2) (a) The relevant period for the event as mentioned in clause (b) of sub-section (1) of section 8 shall be one year. (b) The relevant period for the event as mentioned in clause (c) of sub-section (1) of section 8 shall be six months from the date of such sale. (3) (a) The credit notes and the debit notes in respect of any annual discounts and any price adjustments shall be issued as and when the accounts are settled between the seller and the buyer provided the settlement is made within three months from the end of the year and the discounts or price adjustment are supported by proper documentary evidences. (b) The credit notes and debit notes in respect of goods returned after sales or purchases shall be issued only when the goods have been returned within a period of six months from the date of such sale. (4) A credit note or debit note shall be issued in triplicate, with the 'original' to be delivered to the purchaser, 'duplicate' to be enclosed with the return to be furnished under rule 19 and the 'triplicate' to be retained by the registered dealer.

#### **44. Audit report under section 63.**

(1)The report of audit under section 63 to be furnished by the specified authority (as defined in the explanation to sub-section (1) of section 63) shall contain following particulars, namely:- (a) verification of accounts and documents as mentioned in rule 45, (b) certificate containing a report as to - (i) correctness of the tax credits claimed by the dealer during the period under report, and (ii) whether the dealer has employed fair and reasonable method as required under sub-section (11) of section 11 of the Act; (c) whether the dealer has made the true and proper calculation and payment of tax as required under the Act. (2) Every registered dealer who is required to obtain the audit report under section 63 shall within a period of thirty days from the date of obtaining such report, submit true copy of such report to the Commercial Tax Officer having jurisdiction upon him.

#### **45. Maintenance and preservation of accounts and records.**

(1) Every registered dealer and every person liable to be registered under the Act shall keep and maintain a true and correct account of his all transactions showing the goods produced, manufactured, bought, transferred, purchased or procured, imported, supplied and sold by him and the value thereof separately, together with delivery chalangans, invoices and bills. Every such dealer or person shall maintain accounts relating to purchase, sale and disposal in respect of each commodity, whether taxable or not, dealt with by him. (2) Every dealer shall maintain records of collection and payment of tax and the claim of tax credit during any period. Every dealer shall maintain a register of delivery chalan, tax invoice, credit note and debit note issued by him and he shall enter therein the details of tax invoices, credit notes and debit notes as prescribed in rules 42 and 43. (3) (a) Every dealer who is liable to pay tax under the Act, shall, except the dealer who has been granted permission to pay lump sum tax under section 14, maintain monthly stock accounts in respect of each commodity dealt with by him, and such stock account shall contain particulars of purchases or receipts, sales, deliveries and balance of stock. Every dealer who is required to maintain stock account shall maintain subsidiary accounts for each place of his business, godown and warehouse. (b) Every dealer dealing in commodities mentioned in Schedule III shall keep and maintain daily accounts separately over and above monthly account under clause (a) in Form 213. (4) Every manufacturer of goods shall maintain monthly production of accounts showing quantitative details of various raw materials used in the manufacture and the quantitative details of the goods so manufactured. (5) Every purchasing dealer shall keep particulars of names and addresses of dealers or persons from whom he has purchased the goods and particulars of names and addresses of the dealers to whom he has sold the goods as also the complete address of the premises wherein goods transacted during the tax period are kept or stored by the dealer: Provided that in case such goods are found either kept or stored at any place otherwise than the place referred to above, after giving an opportunity of being heard to such person under whose possession such goods are found, it shall be presumed that tax payable under the Act on such goods is attempted to evade and the assessing authority shall seize such goods and give receipt thereof to the person from whose possession or control such goods are seized: Provided further that the assessing authority may release the goods on furnishing security in the manner referred to in rule 12 of the amount equivalent to fair market price of such goods seized. (6) Every dealer shall keep the records and particulars of the goods which are disposed of without any consideration. (7) Every commission

agent, broker, del credere agent, auctioneer or any mercantile agent shall maintain accounts showing, - (a) particulars of authorization given to him by each principal to purchase or sell goods on behalf of such principal separately; (b) particulars of goods purchased or goods received for sale on behalf of each principal each day; (c) particulars of purchases or sales effected on behalf of each principal; (d) details of accounts furnished to each principal; (e) details of transactions referred to in rule 17; (f) tax paid on purchases or on sales effected on behalf of each principal and the chalan number and date of remittance of the tax into the Government Treasury. (8) Every dealer or person executing works contract shall keep separate account showing, - (a) the particulars of names and addresses of the persons for whom and on whose behalf he carried on the execution of works contract; (b) the particulars of goods procured by way of purchases or otherwise for the execution of works contract; (c) the particulars of goods to be utilized in execution of each works contract; (d) the details of payment received in respect of each works contract, and (e) the particulars of charges towards labour service and other like charges which are deductible under sub-clause (c) of clause (30) of section 2: Provided that such amount shall be reasonable with regards to the nature of the respective works contract. (9) Every dealer or person engaged in the transfer of right to use any goods shall keep - (a) particulars of names and addresses of the persons to whom he has delivered the goods for use; (b) details of amounts received in respect of each transaction, and (c) monthly stock accounts in respect of each commodity dealt with by him and such stock account shall contain particulars of purchases or receipts, deliveries and balance of stock. (10) Every dealer or person liable under the Act shall keep books of accounts at the place or places of business mentioned in the certificate of registration and every purchase and sale shall be brought to account as soon as possible the purchase or sale is effected. (11) All the registers, accounts and documents maintained by such dealer or person shall be sequentially numbered, and where the registers and other documents are maintained by means of a computer or any other device, the dealer shall maintain hard copies of such registers and other documents on a monthly basis. (12) Any entry in such registers, accounts and documents shall not be erased, effected or overwritten, and all incorrect entries shall be scored out under attestation and correct entry be recorded. Where the registers, accounts and documents are maintained by means of computer or any other device, the dealer shall also maintain hard copies of correction or change of any entry. (13) Accounts maintained by dealers together with all invoices, bills, declarations, waybills and delivery notes relating to stocks, deliveries, purchase and sales shall be preserved for the period of eight years from the end of the year to which such accounts and records relate and shall be kept at the place of business mentioned in the certificate of registration. (14) Any person either in capacity as carrier or clearing forwarding agent holds in custody for delivery or dispatch any goods on behalf of any dealer shall maintain true, complete and correct records in respect of the goods handled by him on behalf of the dealer and shall produce or cause to be produced the details thereof as required by the Commissioner.

## **46. Payment of penalty.**

(1) A notice for penalty under this Act or rules shall be in Form 309. (2) A dealer required to pay penalty under the Act shall pay such amount within thirty days of receipt of the order imposing the penalty.



## **47. Auction of goods under sections 68 and 70A.**

(1)Where the Commissioner decides to auction the goods under sub-section (7) of section 68 or sub-section (8) of section 70A, the auction shall be made in the following manner, namely:-(a)where the purchase bills relating to goods are not available, the sale price of such goods shall be determined on basis of the fair market price of the like goods at a relevant time;(b)the Commissioner shall inform the date and place of auction to the person from whose possession the goods have been acquired.(2)When the Commissioner decides to auction the goods, he shall issue a proclamation for public auction for sale of such goods for cash on delivery fixing a date, not earlier than one week from the date of issue of such proclamation for sale, and in such proclamation, the time and place of sale and description of the goods for sale shall be mentioned.(3)The proclamation for public auction referred to in sub-rule (2) shall be published in two local leading newspapers, and a copy of such proclamation shall be,-(a)displayed for public view at the place where the sale in auction is to take place; and(b)forwarded to the dealer or person from whom such goods have been seized under section 68 or 70A or owner of such goods if his address is available, or to the person who subsequently claims ownership of authority of possession, where his address is available in the seizure records.(4)The proceeds of sales of the seized goods shall, within three working days from the date of sale in auction be deposited into the appropriate Government Treasury situated within the jurisdiction of the authority who has seized the goods.(5)Where any owner of the goods, sold in public auction or the person from whom such goods have been seized, claims the balance of the proceeds of sale made in such auction, he shall, within two working days from the date of auction, shall make an application to the Commissioner for the payment of such balance of the proceeds of sale. The Commissioner shall hold an inquiry with respect to such application and may decide to pay the remaining proceeds to the applicant. The Commissioner, while holding an inquiry in this respect shall consider and record all the aspects of the case and pass an order as he deems fit:Provided that if a dealer or a person or the owner of the goods so seized appears before the Commissioner on any day not later the day of auction and pay total amount so demanded including tax, interest and penalty, the Commissioner may release the goods so seized after recovering all the expenses including other incidental expenses such as storage charges etc. incurred for auction of sale of goods.

## **48. Notice for production of accounts, documents, etc.**

- Where the Commissioner requires any dealer to produce any accounts or documents or to furnish any information under section 67, 70 or 70A, he shall issue a notice thereof, in Form 401.

## **49. Notice of Inspection.**

- Unless to make surprise visit, the Commissioner shall give a notice in writing to the dealer of his intention to inspect the accounts, registers, documents or stocks of goods and in specifying therein the date, time and place for the purpose he shall, as far as possible, have due regard to the convenience of the dealer.

## **50. Retention of books of accounts registers and documents seized.**

- If the Commissioner or the officer who has been delegated the powers of the Commissioner under section 67 or 70A, seizes any books of accounts, registers or documents or any material of any dealer under section 67 or 70A, he shall not retain them for more than twenty-one days without recording his reasons in writing for doing so: Provided that where an officer below the rank of Joint Commissioner seizes any books, registers or documents or any material by virtue of delegation of powers of the Commissioner under section 67 or 70A, he shall not retain them or cause them to be retained for a period exceeding six months unless an officer not below the rank of a Joint Commissioner having jurisdiction over the local area in which the place of business of the dealer is situated, has, for reasons to be recorded in writing, authorized the retention of the books, registers, documents or any material so seized, for a longer period.

## **Chapter VIII**

### **Administration of Check-Post, Etc.**

## **51. Declaration and procedure under sub-section (3) of section 68.**

(1)(a) Every movement of goods going outside the State shall be accompanied by Form 402. (b) In the case of movement of goods going out side the State for the goods specified by the Commissioner, Form 402 in a book of twenty-five leaves shall be obtained from the registering authority duly authenticated by a payment of a fee of rupees twenty-five in court fees stamp. (2)(a) Every movement within the State for the goods specified by the Commissioner shall be accompanied by Form 402. (b) In the case of movement of goods within the State for the goods specified by the Commissioner, Form 402 in a book of twenty- five leaves shall be obtained from the registering authority duly authenticated by a payment of a fee of rupees twenty-five in court fees stamp. (3) The authority issuing such forms may require the person applying for the forms to furnish the accounts of the forms issued earlier and also to satisfy the authority of the tax payable on the transactions relating to the forms used. (4)(a) Form 402 shall be duly filled in triplicate by the consignor; (b) 'Triplicate' copy of Form 402 shall be retained by the consignor and 'Original' and 'Duplicate' copies shall be carried along with the vehicle in which the goods are moving; (c) During the movement of the goods if any of the designated check-post or barrier is encountered, the 'Original' and 'Duplicate' of the Form 402 shall be got endorsed by the Officer-in-charge of such check-post or barrier and 'original' shall be deposited with such officer: Provided that during such movement, no check-post or barrier is encountered, the 'Original' form shall be handed over to the person to whom delivery of the goods is to be made; (d) The 'Duplicate' of the Form 402 shall be kept by the carrier of the vehicle throughout its journey in the State. (5) The carrier of the goods while entering into the State shall carry Form 403 as provided in sub-rule(6). (6)(a) The carrier of the goods, other than the goods specified by the Commissioner from time to time by a public circular, on his entry into the State, shall carry Form 403 in triplicate; (b) In case of movement of such goods as specified by the Commissioner by a public circular, the movement shall be accompanied by Form 403 obtained in triplicate duly authenticated from the registering authority in whose jurisdiction the dealer is registered or by the person or a dealer importing such goods or as the case may be, such

goods being dispatched to him from outside the State.(c)The Form 403 shall be duly and completely filled by the carrier and original of Form 403 along with copies of documents referred to in sub-section (3) of section 68 shall be deposited with such Officer-in-charge of the check-post or barrier and receipt thereto shall be obtained on the 'Duplicate' and 'Triplicate' copies of the Form 403.(d)During the movement till the vehicle reaches its destination, if any check-post or barrier intervenes, 'Duplicate' and 'Triplicate' of Form 403 held by the carrier shall be got endorsed by the in-charge of each of such check-posts or barriers.(e)The 'Duplicate' of Form 403 shall be forwarded to the consignee of the goods and 'Triplicate' of Form 403 shall be retained by the carrier.

## **52. Procedure for transit pass.**

(1)The driver or the person in-charge of the goods vehicle shall, in order to obtain a transit pass under sub-section (1) of section 69, submit an application in triplicate, in Form 404 to the officer-in-charge of the check-post or barrier, if any, established near the point of entry into the State or on the first check-post or barrier, after his entry into the State (hereinafter referred to as the 'entry check-post') or to any other officer empowered by the Commissioner in this behalf.(2)The officer-in-charge of the entry check-post or such officer empowered shall, after examining the document and making such inquiries and after inspecting consignments and goods as he may deem necessary, issue a transit pass in triplicate, in Form 405. The duplicate and triplicate copies of the transit-pass shall be delivered to the applicant and the original shall be kept by the officer receiving such application. The transit pass shall specify the check-post or the barrier (hereinafter referred to as "the exit check-post") of the State to be crossed by the vehicle, the route to be followed and the date and time up to which it would be so crossed.(3)(a)If for any reason, the vehicle after its entry into the State is not able to move out of the State within the stipulated time, the driver or the person-in-charge of the goods being transported in the vehicle shall, seek extension of time from:-(i)the officer who has issued the transit pass; or(ii)any other officer empowered to issue the transit pass in respect of the concerned entry check-post; or(iii)an Officer of the area specified by the Commissioner through a public circular where the vehicle is stationed at the time of seeking extension of time.(b)The officer specified in clause (a) shall, after examining the reasons for delay and after such inquiry as he deems fit, extend the time of exit by suitably amending the transit pass.(4)The driver or the person-in-charge of the goods vehicle shall surrender the duplicate copy of transit pass at the specified exit check-post and allow the officer-in-charge of the check-post to inspect the documents, consignments and goods in order to ensure that the goods being taken out of the State are the same for which transit pass had been issued. The officer-in-charge of the exit check-post shall issue a receipt on the triplicate copy of the transit pass for the duplicate copy surrendered by the driver or the person-in-charge of the goods vehicle.(5)The officer-in-charge of the exit check-post may, for the purpose of sub-rule (4), detain, unload and search the contents of the vehicle.(6)The driver or the person in charge of such vehicle, boat or animal shall carry with him such transit pass throughout the State and if he fails to carry with him such transit pass throughout the State he shall be liable to pay penalty as referred to in sub-section (1A) of section 69.

### **53. Security for release of goods, vehicle or documents.**

- A dealer required to furnish the security under sub-clause (b) of sub-section (5) of section 68 shall deposit Government Securities in the form of Stock Certificates or Government Promissory Notes of a market value not less than the sum determined by the Commissioner or National Savings Certificates, National Plan Certificates, National Plan Saving Certificates, Bank guarantee as acceptable to the Commissioner or Treasury Savings Deposit Certificates of a face value not less than the said sum, duly endorsed in favour of the Commissioner or furnish to the Commissioner the guarantee of a bank approved by the Government, agreeing to pay the Commissioner on demand not less than the sum determined by the Commissioner.

## **Chapter IX**

### **Appeal and Revision**

### **54. Submission of appeal or application for revision.**

(1) Every first appeal or second appeal and every application for revision shall, -(a) be in writing; (b) specify the name and address of the appellant or applicant along with the registration certificate number; (c) specify the date of the order against which it is made; (d) specify reasons if appeal or application for revision is not made within the time allowed; (e) specify the date and the amount of payment of tax, interest and penalty, if the subject matter of the appeal or revision is assessment, re-assessment or levy of penalty or interest; (f) contain a clear statement of facts; (g) state precisely and in brief the relief prayed for; and (h) be signed and verified by the appellant or the applicant or by a legal practitioner engaged by him or by an agent duly authorized by him in writing in that behalf, in the following form, namely :- "I, the legal practitioner engaged by / the agent appointed by / the appellant / the applicant / the named in the above memorandum of appeal/application for revision, do hereby declare that what is stated herein is true to the best of my knowledge and belief. Signature \_\_\_\_\_ (2) The memorandum of appeal or the application for revision shall be accompanied by either the order in original against which it is made or a duly authenticated copy thereof, unless the omission to produce such order or copy is explained at the time of the presentation of the appeal or application for revision, to the satisfaction of the appellate, or revising authority. (3) An appeal against an order of assessment or a second appeal against such order passed in appeal, shall as far as possible be in accordance with Form 501. (4) An application for revision against any order shall as far as possible be in accordance with Form 502. (5) The memorandum of an appeal or the application for revision shall either be presented by the appellant or applicant or his agent or his legal practitioner to the appellate or revising authority or be sent to the said authority by registered post.

### **55. Summary rejections.**

(1) If the memorandum of appeal or the application for revision omits to state any of the particulars required under sub-rule (1) of rule 54 or not accompanied by the original order against which it is made or a duly authenticated copy thereof, as laid down in sub-rule (2) of rule 54, such appeal or the

application for revision may be rejected summarily: Provided that no appeal or application for revision shall be summarily rejected under this sub-rule unless the appellant or the applicant is given reasonable opportunity to amend the memorandum of appeal. (2) Where the appellate authority decides to entertain appeal on the condition of payment of the amount so considered reasonable under proviso to sub-section (4) of section 73 and the dealer does not pay the amount so determined within the time specified by the appellate authority, the appeal shall be rejected summarily.

## **56. Hearing.**

(1)(a) If the appellate or revising authority does not summarily reject the appeal or the application for revision, it shall fix the date for hearing. The date so fixed shall not be earlier than ten days from the date on which intimation thereof is given to the appellant or the applicant or to his agent or to legal practitioner engaged by the appellant or the applicant: Provided that the date earlier than aforesaid may be fixed for hearing if the appellant or the applicant or his agent or the legal practitioner engaged by him agrees thereto in writing, with the concurrence of the other side, if any. (b) The authority aforesaid may for sufficient reasons to be recorded in writing, adjourn at any stage the hearing of an appeal or application for revision to a different time on the same day or to any other day. (2) If on the date and at the time fixed for hearing or on any other date or at any other time to which the hearing may be adjourned, the appellant or the applicant does not appear before the said authority either in person or through an agent, the said authority may dismiss the appeal or reject the application or may decide it ex-parte, as it may think fit.

## **57. Notice to person likely to be affected adversely.**

(1) Before an appellate or revising authority passes an order in appeal or revision which is likely to affect the appellant or applicant or any other person adversely, it shall serve on him a notice in Form 503 and shall give him a reasonable opportunity of being heard. (2) Before the Commissioner including an officer below the rank of Commissioner who has been delegated the powers of the Commissioner under section 16, passes any order under clause (a) of sub-section (1) of section 75, which is likely to affect adversely to any person who is a party to such proceeding, he shall serve on such person a notice in Form 503 and shall give him a reasonable opportunity of being heard. (3) The notice required to be given under proviso to sub-section (1) of section 79 of the Act shall be in Form 504.

## **58. Fees.**

(1) The fees for appeal or revision shall be paid as under:- (a) On a memorandum of appeal against an order of assessment, re-assessment or rectification. Rs. 50 (b) On memorandum of appeal against an order other than an order specified in (a) above Rs. 50 (c) On a second appeal or revision to the Tribunal Rs. 200 (d) On an application for determination of question under section 80. Rs. 200 per question (2) All fees payable under this rule shall be paid in court fees stamp.

## Chapter X

### Tax Practitioners and Agents

#### 59. Qualifications of tax practitioners.

(1) A tax practitioner shall be eligible for having his name entered in the list of tax practitioners maintained under section 81, if he has - (a) passed any accountancy examination recognized by the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924 (Act 4 of 1924), for the purpose of clause (v) of sub-section (2) of section 288 of the Income Tax Act, 1961 (Act 43 of 1961) and under rule 50 of the Income Tax Rules, 1962; or (b) acquired such educational qualification as prescribed by the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924 (Act 4 of 1924), for the purpose of clause (vi) of sub-section (2) of section 288 of the Income Tax Act 1961 (Act 43 of 1961) and under rule 51 of the Income Tax Rules, 1962; or (c) held any office for a period not less than five years not below the rank of a Commercial Tax Officer in the Sales Tax Department of the Government of Gujarat and is retired or has resigned from such office: Provided that for the first two years immediately after his retirement or resignation from the Sales Tax Department the person referred to in clause (c) shall not be qualified to practice before any tax authority except the Tribunal: Provided further that a member of the Tribunal constituted under the earlier law or this Act shall not, for a period of five years after retirement or otherwise ceasing to be the member of the Tribunal, practice before any sales tax authority or the Tribunal. Explanation. - A person who has been removed or dismissed from Government Service shall not be eligible for the purposes of clause (a), (b) or (c) of this sub-rule. (2) A tax practitioner who is eligible to appear in a proceeding under the Act before any authority appointed under section 16 shall on application made in writing to the Commissioner in Form 601 be entitled to have his name entered into the list referred to in sub-rule (3). (3) The Commissioner shall maintain a list of all tax practitioners in Form 602 who are entitled to attend in a proceeding before an authority appointed under section 16 and shall, up date the list from time to time. (4) The tax practitioner entitled to have his name entered in the list maintained under section 81 and whose name stands entered immediately before the appointed day, in the list which was maintained by the Commissioner under rule 71 of the Gujarat Sales Tax Rules, 1970, shall be deemed to have his name duly entered on the appointed day, in the list maintained under this rule.

#### 60. Forms of authorization under section 81.

(1) The authorization to attend by a person being a relative or an employee under clause (a) of sub-section (1) of section 81 shall be in Form 604. (2) The authorization to attend by legal practitioner, chartered account, cost accountant or tax practitioner under clause (b) or (c) of sub-section (1) of section 81 shall be in Form 603. (3) An authority given to an agent under the earlier rule shall continue to be valid for the purpose of appearance in proceedings in an appeal against, or an application of revision, of an order passed in the proceeding in respect of which such authority was given or in an application for reference arising out of such appeal or application for revision: Provided that a separate authority shall be furnished for appearance in each of the proceedings under different provisions of the Act, the rules, or the notification issued by or under

the Act or the earlier Law.

## Chapter XI

### Service of Notice

#### 61. Notices.

(1) The notices under the Act or under these rules shall be served by any one of the following methods, namely: -(a) Delivery by hand of a copy of the notice to the addressee or to a person declared by him in Form 106, or to any other agent duly authorized or an Advocate or a tax practitioner holding authority to appear in the proceeding on behalf of the dealer or to a person regularly employed by him in connection with the business in respect of which he is registered as a dealer, or to any adult member of family residing with the dealer, or (b) by post, or (c) by courier: Provided that if upon an attempt having been made to serve any such notice by the aforesaid method, the Commercial Tax Authority concerned has reasonable grounds to believe that the addressee is evading the service of notice or that for any other reason which in the opinion of such authority is sufficient, the notice cannot be served by any of the aforesaid methods, the authority shall, after recording the reasons therefore cause the notice to be served by affixing a copy thereof -(i) if the addressee is a dealer, on some conspicuous part of the building in which the dealer's office is located, or upon some conspicuous part of the place the dealer's business or residence as last known to the said authority, or (ii) If the addressee is not a dealer, on some conspicuous part of his residence or office of the building in which his residence or office is located and such service shall be deemed to be as effected as if it had been made on addressee personally: Provided further that when a person furnishing return referred to in rule 19, 20, 21 or 22 or the chalan referred to in rule 23 or the return and chalan both mentioned above, to the registering authority and any notice served to such person, it shall be deemed to have been served a valid notice for the purpose of this rule. (2) (a) When the officer serving a notice delivers or tenders a copy of the notice to the dealer or addressee personally or to his agent or to any of the persons referred to in clause (a) of sub-rule (1), he shall obtain the signature of the person to whom the copy is so delivered or tendered as an acknowledgement of service of the original notice. (b) When the notice is served by affixing a copy thereof in accordance with the proviso to sub-rule (1), the officer serving it shall return the original to the tax authority which has issued the notice with a report endorsed thereon or annexed thereto, stating the circumstances under which he did so. The officer shall also record the name and address of the person, if any, whom the addressee's office or residence or the building in which his office or residence is located or his place of business was identified, and in whose presence, if any, the copy was affixed. The said officer shall also obtain the signature or thumb impression of the person, if any, identifying the addressee's residence or office or building or place of business. (c) When service is made by post, the service shall be deemed to be effected by properly addressing or preparing the notice and posting it by registered post with acknowledgement due, and unless the contrary is proved, the service shall be deemed to have been effected at the time at which the notice would be delivered in the ordinary course of post.

## **Chapter XII**

### **Copies of Documents, Statements and Orders**

#### **62. Application for copies of documents.**

(1) Any person who is a party to a proceeding under the Act or under these rules may apply to the appropriate authority having jurisdiction in respect of such proceeding or having the custody of the records pertaining thereto, for a certified copy of a document or statement produced or filed in such proceeding or of an order passed by such authority. (2) An application made under sub-rule (1) shall be accompanied by a fee of fifty rupees in court fees stamp.

## **Chapter XIII**

### **Offence and Composition**

#### **63. Order accepting composition.**

(1) Where the Commissioner accepts from any person, a sum by way of composition of an offence under section 89, he shall communicate in writing in that behalf in Form 310 specifying therein, (a) the sum determined by way of composition; (b) the date on or before which the sum shall be paid into the Government Treasury; (c) the authority before whom and the date on or before which a receipted chalan shall be produced in proof of such payment; and (d) the date on or before which the person shall report the fact to the Commissioner. (2) The Commissioner shall send a copy of such order to the person from whom the said sum is accepted by way of composition and also to the authority referred to in clause (c) of sub-rule (1).

#### **64. Publication of particulars and other matters relating to dealers under section 27 or 97.**

(1) Where a dealer - (i) has been found indulging into issuing tax invoice, credit-note or debit-note without entering into the transaction of sale or purchase of the goods, (ii) has been found indulging into over invoicing or under invoicing of the transaction, or (iii) whose registration certificate has been cancelled or suspended under Section 27 of the Act the Commissioner shall hold an inquiry and after giving an opportunity of being heard, if he comes to the conclusion that on account of any of the conducts of a dealer referred to above the revenue of the Government by way of granting tax credit to the purchaser of such dealer is adversely affected, he shall publish the name of such selling dealer on the official website. (2) A dealer whose name has been published under sub-rule (1) shall be referred to as the 'listed dealer' for the purpose of this rule. (3) From the date of publication of name as referred to in sub-rule (1), tax credit claimed under section 11 shall not be admissible on the transactions made from the listed dealer. (4) The contingencies referred to in clauses (i) to (iii) of sub-rule (1), as applicable to the dealer, in the opinion of the Commissioner does not exist either on account of the conduct of such dealer or due to the judgment, decree of any court or an order in appeal in favour of such dealer, the Commissioner shall publish such particular of the dealer in the



manner referred to in sub-rule (1) and such dealer shall be referred to as 'delisted'.(5)The Commissioner shall also specify the date of delisting such dealer and thereafter the transaction made by such dealer shall be eligible for tax credit subject to provisions of section 11 and rules made there under.

## **Chapter XIV**

### **Tax Deducted at Source**

#### **65. Form for tax deduction at source under section 59B.**

(1)Any person deducting the amount as tax in accordance with the provisions of section 59B of the Act, pay such amount within twenty-two days in Form 207 into a Government Treasury.(2)A certificate under clause (b) of sub-section (5) of section 59B to be given by the Commissioner shall be in Form 701.(3)Statement under clause(c) of sub-section (3) of section 59B to be furnished by the contractor or as a case may be, sub-contractor to the person responsible for paying specified sale price shall be in Form 702.(4)A certificate under sub-section (8) of section 59B to be given by a person deducting the amount as tax shall be in Form 703.(5)Subject to the provision of sections 59A and 59B, any person responsible for paying specified sale price to a contractor for carrying out any work in pursuance of a specified work contract, deducting tax on specified sales, shall furnish yearly declaration in Form 704 on or before 30th June after the end of every financial year duly signed by him or by a person authorized by him, to the Commercial Tax Officer within whose jurisdiction his place or places of business is situated.(6)Every payment of tax deducted at source under section 59B shall be accompanied by a chalan in Form 207.(7)The provisions of rules 19 and 26 shall mutatis mutandis apply to the payment and the declaration made under this rule.

## **Chapter XV**

### **Offence and Penalty**

#### **66. Offence and penalty for breach of rules.**

- A breach of any of these rules by a dealer or person shall be an offence under this rule and the same shall be punishable with fine which may extend to one thousand rupees and, when the offence is continuing one, with a daily fine not exceeding fifty rupees during the continuance of the offence.

## **Chapter XVI**

### **Miscellaneous**

#### **67. Obtaining the forms from website or private publication.**

- Save as otherwise provided in these rules, any of the forms prescribed under these rules required to be submitted or furnished by the dealer or a person, may be downloaded from the website or may

be obtained from private publication if such form is in conformity with the form prescribed under these rules.[Substituted by Notification No. (GHN-41) VAR-2011(32)/Th, dated 1.12.2011 (w.e.f. 22.3.2006).]