

Andhra Pradesh Value Added Tax Appellate Tribunal Regulations, 2005

ANDHRA PRADESH

India

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Rule

ANDHRA-PRADESH-VALUE-ADDED-TAX-APPELLATE-TRIBUNAL-REGULATIONS, 2005

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Andhra Pradesh Value Added Tax Appellate Tribunal Regulations, 2005Published vide Notification No. Rc. No. STAT - A2/381/06Last Updated 11th September, 2019No. Rc. No. STAT - A2/381/06. - In exercise of the powers conferred by sub-section (5) of Section 3 of the Andhra Pradesh Value Added Tax Act, 2005 (A.P. Act No. 5 of 2005) the Appellate Tribunal, Andhra Pradesh, with the previous sanction of the State Govt, hereby makes the following Regulations, for regulating its procedure and disposal of its business.

Chapter I

General

1. Short title.

- These regulations may be called the Andhra Pradesh Value Added Tax Appellate Tribunal Regulations, 2005.

2. Definitions.

- In these regulations, unless there is anything repugnant in the subject or context:-(i)'Act' means the Andhra Pradesh Value Added Tax Act, 2005.(ii)'Appeal' means a memorandum of appeal to the Appellate Tribunal filed under Section 33 of the Act;(iii)'Chairman' means the Chairman of the Tribunal;(iv)'Form' means a form annexed to these regulations;(v)'Gazette' means the Andhra

Pradesh gazette:(vi)'Legal Representative' means a person who in law represents the estate of a deceased person, and includes a universal donee or legatee or a part of an estate and any person decided by the Tribunal to represent the deceased person in the proceedings pending before it unless and until a competent Court has decided otherwise:(vii)'Party' means the appellant or applicant and includes his pleader or authorized agent;(viii)'Pleader' means a pleader as defined in sub-section (15) of Section 2 of the Code of Civil Procedure, 1908.(ix)'Rules' means the Andhra Pradesh Value Added Tax Rules, 2005;(x)'Secretary' means the person who is for the time being discharging the functions of the Secretary to the Tribunal;(xi)'Section' means a section of the Act;(xii)'State Representative' means an officer appointed by the State Government to receive on their behalf notices issued by the Tribunal and generally to appear, act and plead on their behalf in all proceedings before the Tribunal and includes an officer appointed to act on his behalf in his absence;(xiii)'Tribunal' means the Appellate Tribunal;(xiv)Words and expressions used but not defined in these regulations shall have the meaning assigned to them in the Act and the Rules.

Chapter - II Headquarters, Sittings and Office Hours

3. Headquarters.

(1)The Tribunal shall sit at Hyderabad & Visakhapatnam.(2)Place of hearing. - All appeals shall ordinarily be heard at Hyderabad & Visakhapatnam.Provided that the Chairman may decide that any appeal may be heard at any other place in the respective jurisdictions.

4. Office Hours.

- The Appellate Tribunal shall hold its sittings during the same hours as the other offices of the State Government.

5. Language.

- The language of the Tribunal shall be English.

Chapter - III Appeals

6. Presentation of appeals.

(1)An appeal shall be presented to the Secretary concerned either by the party in person or by sending it through registered post.(2)When an appeal is presented by a pleader or an authorized agent, it shall be accompanied by a letter of authority appointing him as such.(3)Every such appeal shall be made in accordance with the provisions of the Act, the rules and these regulations and shall be accompanied by a Government Treasury challan in support of the payment of the fee prescribed by Sub-rule (1) (c) of Rule 44.(4)An appeal preferred by any dealer shall specify the State of Andhra Pradesh as the respondent; it shall also furnish the name and the address of the party to whom notice may be sent.

7. Registration of appeals.

(1) On receipt of an appeal, the Secretary concerned shall endorse on it the date of its receipt. The Secretary concerned shall thereafter, as soon as possible, examine:-(i) Whether the person representing it has the authority to do so; and (ii) Whether it conforms to the provisions of the Act, the rules and these regulations. If the Secretary concerned is satisfied on these points he shall cause it to be registered in a register to be kept for the purpose. (2) If the Secretary concerned finds that the appeal does not conform to the requirements of the Act, the rules and these regulations, he shall call upon the party by a notice in form 'A' to remedy the defect or defects within a reasonable period to be specified by him. The Secretary may, for sufficient cause, extend the said period, if the defect or defects are remedied within the period allowed, the Secretary shall cause the appeal to be registered. (3) If the defects are not remedied within the period allowed, the Secretary shall make a report to that effect to the Chairman of that jurisdiction who may reject the appeal or fix a date for hearing the matter and give due notice of such hearing to the party and State Representative of Form 'B'. (4) On the date so fixed, the Tribunal shall, after hearing the party and the State Representative, pass orders directing either the registration of the appeal or its rejection. Where the appeal is rejected the Tribunal shall record its reasons for doing so. (5) When an appeal is presented after the period prescribed under the Act, it shall be accompanied by a petition supported by an affidavit setting forth the facts on which the applicant relies to satisfy the Tribunal that he had sufficient cause for not preferring the appeal within such period. Such appeal shall not be admitted unless notice has been given to the respondent and his objections have been heard and the Tribunal is satisfied that the appellant had sufficient cause for not preferring the appeal in time. The notice under sub-regulation (5) shall invariably mention, among others, the date on which the appeal was presented to the Secretary under Regulation 6 and also the challan number and date on which the appeal fee was paid according to Rule 44 of the AP VAT Rules, 2005.

8. Procedure after registration of appeal.

(1) As soon as may be after the registration of the appeal, the Secretary shall fix a date for hearing in Form 'C'. A copy of the memorandum of appeal and of the order appealed from shall also be furnished to him. It shall be the duty of the State Representative to obtain the records of the case from the Commercial Tax Officer or the Deputy Commissioner, as the case may be, and transmit them to the Secretary concerned.

9. Notice of appeal.

(1) After the appeal has been registered, notice of the day fixed for hearing under Regulation 8 in Form 'C' shall be delivered or issued by registered post to the party. The notice shall state that if he does not appear on the day so fixed or on any other day to which the hearing may be adjourned, the appeal will be dismissed for default or disposed of on merits, *ex parte*. (2) Where an appeal, application or petition has been dismissed for default or disposed of *ex parte*, the appeal, applicant or petitioner may apply to the Tribunal for re-admission of the appeal, application or petition; and where it is shown to the satisfaction of the Tribunal that he was prevented by sufficient cause from appearing when the appeal, application, or petition was called on for hearing, the Tribunal may

re-admit the appeal, application or petition on such terms as it thinks fit.(3)An application for re-admission of an appeal, application or petition dismissed for default or disposed exparte, shall be made within thirty days from the date of communication of the order of dismissal.Chapter - IV
Hearing, Adjournment and Judgment

10. Procedure of the hearing.

- On the date fixed for hearing or on any other date to which the hearing may be adjourned, the party shall ordinarily be heard first in support of his appeal. The respondent or his pleader or his authorized agent, shall, if necessary, be heard next, and in such case, the party shall be entitled to reply.

11. Fresh evidence and witnesses.

(1)The party or the respondent shall not be entitled to produce additional evidence whether oral or documentary, before the Tribunal, but:-(a)if the authority from whose order the appeal is preferred has refused to admit evidence which ought to have been admitted, or(b)if the party or the respondent seeking to adduce additional evidence satisfies the Appellate Tribunal that such evidence, notwithstanding the exercise of due negligence, was not within his knowledge or could not be produced by him at or before the time when the order under appeal was passed, or(c)if the Tribunal requires any documents to be produced or any witnesses to be examined to enable it to pass orders, or(d)for any other sufficient reason the Tribunal may allow such evidence or documents to be produced or witnesses examined.Provided that the other party shall, in such cases, be entitled to produce rebutting evidence, if any.(2)if the Tribunal is of opinion that any witness should be examined in connection with any case before it, it may, instead of examining him before itself, issue a notice to any Commercial Tax Officer or Deputy Commissioner of Commercial T axes or an Advocate or such other suitable person as it may deem fit, in the circumstances of the case.

12. Adjournment.

- The Appellate Tribunal may, on such terms as it thinks, fit, and at any stage, adjourn the hearing of any appeal.An application for adjournment shall ordinarily be presented in person by the party before the Tribunal. In case such an application is sent by post or otherwise, the party shall make hiq, own arrangements for obtaining intimation of the date of adjournment at his own cost by: enclosing postage stamp or reply-paid telegram voucher. Notice of adjournment shall also be put up on the notice board of the Tribunal.

13. Procedure in case of death of appellant.

- If the appellant dies while the appeal is pending and it cannot be proceeded with, unless his legal representative is brought on record, the Tribunal shall adjourn further proceedings to enable his legal representative to appeal and apply for being made a party. If the legal representative fails to do so within ninety days from the date of death of the appellant, the appeal shall abate as regards such

deceased appellant.

14. No abatement by reason of death after hearing.

- Notwithstanding anything contained in Regulation 13, there shall be no abatement by reason of the death of any party between the conclusion of the hearing and the passing of the order but the order may, in such case, be passed notwithstanding the death and shall have the same force and effect as if it has been passed before the death took place.

15. Determination of legal representative.

- If a question arises in any appeal whether a person is the legal representative of a deceased appellant, such question may be determined by the Tribunal in a summary way, if necessary, after taking evidence.

16. Procedure in case of assignment.

- If during the tendency of an appeal before the Tribunal, the business of any dealer who is a party thereto is assigned to or devolves upon some other person either wholly or in part, the Tribunal may after considering the applications of any persons claiming to be so entitled, add such person as party to the appeal as it may consider to be so entitled in law.

17. Procedure in case of Insolvency.

- If a dealer, who is a party to an appeal becomes insolvent and his estate becomes vested in the Official Assignee or Official Receiver, the latter may by leave of the Tribunal, be made a party to the appeal.

18. Setting aside of abatement or dismissal.

(a) Whenever an order of abatement or dismissal had been passed, in a case where the appellant has died, his legal representative, in a case where the representative has died, the appellant and, in a case where the appellant and, in a case where the appellant has become insolvent and his estate vested in the Official Assignee or Official receiver such Assignee or Receiver, may, within sixty days from the date of such order, apply to the Tribunal for setting aside the abatement or dismissal and the Tribunal shall, on sufficient cause being shown to its satisfaction, set aside such abatement or dismissal and proceeded with the appeal. (b) Where an application under Clause (a) has been filed after more than 60 days from the date of the order, the Tribunal may condone the delay on a separate application when the delay is properly explained.

19. Order.

- Every order of the Tribunal shall be in writing.

20. Unanimous or majority order.

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

21. Communication of the order.

- The Tribunal shall communicate the order to the party, the State Representative, the authority against whose order the appeal was preferred, the concerned Deputy Commissioner and the Commissioner of Commercial Taxes.

22. Return of exhibits.

(a) The parties or respondents, other than the State Representative, shall apply for the return of the documents filed by them within three months from the date of communication of the Tribunal's orders, failing which the Tribunal shall not be responsible for any loss or damage to the documents. The application shall contain an undertaking to the effect that such documents shall be produced before the tribunal whenever required by it. (b) The records of the case and such other documents as may be produced by the State Representative shall, after the disposal of the case, be returned to him along with the order on the case and acknowledgement obtained. (c) Unified documents:- Other documents which have been produced by parties (as additional evidence before the Tribunal under Regulation 11) but have either not been tendered in evidence or having been tendered in evidence have been rejected shall be taken back immediately after the disposal of the case, by the party producing them after signing thereof, if they are not so taken, the tribunal shall not be responsible for any loss of or damage to the said documents.

23. Appoint of temporary copyists.

- It shall be competent to the Chairman to appoint without the previous sanction of the Government, one or more temporary copyists according to necessity for preparing the copies to be granted under Regulation 24. such temporary copyists shall be paid out of the contingent provision, a remuneration at one rupee for every 175 words or a fraction of 175 words copied by him or at such other rate as may be fixed by the Chairman.

24. Copies of documents on payment of fees.

(1) Any party or respondent in an appeal before the Tribunal may apply to the Secretary for the inspection of any documents or for a certified copy of any document including the order in the appeal. (2) Application for copies shall be in form 'E' and shall set out the name and address of the applicant in full, the date and description of the document of which a copy is required and the purpose for which it is required, any application which is not in the proper form shall be returned for amendment. Note. - "A Court Fee label of the value of Rupees two shall be affixed to every such application". (3) Application for copies shall be accompanied by copy stamp papers to cover the cost of preparing copies according to the following scale, namely:-(a) For the first 200 words or less - Two Rupees. (b) For every additional 100 words or fraction thereof - One Rupee. (4) If the Secretary feels any doubt about the propriety of granting a copy of any such document, he shall place the application before the Chairman, and act in accordance with his orders. Search

25. Application for search.

- Every person requiring a search to be made among the records of the Tribunal for the purpose either of inspecting a document or of obtaining copy thereof shall apply to the Secretary in Form F. Note. - "A Court Fee label of the value of Rupees two shall be affixed to the application" and "A single application shall be sufficient for inspection any number of documents in a single appeal record".

26. Scale of search fees.

- When the document applied for belong to a year, previous to the current calendar year, a search fee in court-fee stamps, shall be affixed to the application, according to the following scale:-(a) Fee payable for the first document or entry applied for or, if only one document or entry is applied for, for that document or entry - Five Rupees. (b) Fee payable for every document or entry other than the first included in the same application and connected with the same subject - Two Rupees.

27. Notice.

- Forms A' to 'D' with suitable modifications wherever necessary, shall be used for the purpose of the notice to be issued by the tribunal.

28. Service of notice on Government.

(1) The notices required to be issued under the Act or the Rules or these Regulations, shall be served in the manner prescribed in Rule 64 of the Andhra Pradesh Value Added Tax Rules, 2005. An Acknowledgment containing the signature of the addressee undelivered or any member of his family or his pleader or his authorized agent or an endorsement by the Postal Authorities to the effect that the notice was refused by the addressee shall unless the contrary is proved, be deemed to be sufficient to hold that the notice was duly served. (2) Where the Tribunal is satisfied that the

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

Form -A(See Regulation 7(2))

Before the Value Added Tax Appellate Tribunal, Andhra Pradesh, Hyderabad.

You have filed an appeal against the Order of the Commercial Tax Officer/Deputy Commissioner in his Appeal No.....dated..... it does not comply with provisions of the Andhra Pradesh Value Added Tax Act, 2005 and the rules and regulations made thereunder in the following aspects.

Please take notice that the appeal filed by you against the order of the Commercial Tax Officer/Deputy Commissioner in his Appeal Nodated..... has been placed before the Appellate Tribunal for orders regarding its admission as it is defective as already intimated to you by notice, dated.....The Appellate Tribunal will hear the matter on If you want to be heard, you should be present at the time of the hearing in person or through your pleader

Seal:

Appeal No.

Of

V.

..Respondent

To

Your appeal before the Appellate Tribunal against the orders of the in his Appeal No.....dated..... stands posted for hearing onat 10.30 a.m. at the Office of the Tribunal at Hyderabad.Please take notice that if you do not appear on the above date or any other day to which the hearing may be adjourned either in person or by pleader or by authorized agent in support of your appeal, it will be dismissed for default or disposed of on merits, ex-parte.Given under my hand and the seal of the Appellate Tribunal.(By order)

Seal:

Copy of the State Representative with copies of Appeal Memorandum and the order appealed from. Note. - 1. All accounts (Day book, ledger, railway receipts, Bill of lading, invoices, vouchers, connected correspondence, if any, statements, returns, agreements. contracts etc.,) maintained for the assessment year(s) to which the appeal relates should be produced at the time of hearing.

2. If any person other than the appellant appears before the Appellate Tribunal, he should produce a letter of authority (duly stamped Vakalat or Power of Attorney, as the case may be).

Appeal No.

Of

.. Appellant

V.

..Respondent

To

Please take notice that Given under my hand and the seal of the Appellate Tribunal. (By order)

Seal:

Form - E(See Regulation 24 (2))Form of application for copy of public recordsToThe

Secretary, Value Added Tax Appellate Tribunal, Andhra Pradesh, Hyderabad. (Rupees two Court-fee Stamp)

- 1. Name and address of the Applicant in full:**
- 2. Description of records required (as far as possible)**
- 3. Purpose for which copy is required.**

Date: Signature of Applicant

Form - F (See Regulation 25) Form of Application for search of public records To The Secretary, Value Added Tax Appellate Tribunal, Andhra Pradesh, Hyderabad. (Rupees two Court-fee Stamp)

- 1. Name and address of the Applicant in full:**
- 2. Description of records required (as far as possible)**
- 3. Purpose for which copy is required.**

Date: Signature of Applicant