

KARNATAKA MODEL

(Disclaimer - This is only a model drafted based on the design of VAT currently evolved in the country and is not and does not purport to be a copy or draft of any proposed rules that may be introduced in the State)

VALUE ADDED TAX RULES 2003

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PART I

1. **Title.**-These Rules may be cited as the Karnataka Value Added Tax Rules, 2002.
2. **Commencement.**- They shall come into force on the First day of April, 2003.
3. **Definitions.**-In these Rules, unless the context otherwise requires,
 - (i) **“The Act”** means the Karnataka Value Added Tax Act, 2002 and any reference to a Schedule to the Act includes a reference to a Schedule as amended from time to time;
 - (ii) **“Fees”** means any fee leviable under the provisions.;
 - (iii) **“Form”** means a Form appended to these Rules;
 - (iv) **“Government Treasury”** means, in relation to a dealer registered within the jurisdiction of the local VAT office or VAT sub-Office, the Treasury of the District or the Taluk where the dealer's principal place of business is situated;
 - (v) **“Local VAT office”** or **“VAT sub-Office”** means an office specified by the Commissioner to function so in respect of such dealer or class of dealers as may be specified;
 - (vi) **“Local VAT Officer”** means an Assistant Commissioner of Commercial Taxes in charge of a Local VAT Office;
 - (vii) **“Registering Authority”** means an officer in charge of a Local VAT office or VAT sub-office.
 - (viii) **“Section”** means a Section of the Act;
 - (ix) **“VAT Sub-officer”** means a Commercial Tax Officer in charge of a VAT Sub-office.

PART II

TURNOVER, REGISTRATION AND PAYMENT OF SECURITY

Determination of total and taxable turnover

- 4.(1) The total turnover of a dealer, for the purposes of the Act, shall be the aggregate of .-

(a) the total amount paid or payable by the dealer as the consideration for the purchase of any of the goods in respect of which tax is leviable under sub-section (2) of Section 3;

(b) the total amount paid or payable to the dealer as the consideration for the sale, supply or distribution of any goods where such sale, supply or distribution has taken place inside the State, whether by the dealer himself or through his agent;

(c) the total amount paid or payable to the dealer as the consideration for transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract including any amount paid as advance to the dealer as a part of such consideration;

(d) the total amount paid or payable to the dealer as the consideration for transfer of the right to use any goods for any purpose (whether or not for specified period);

(e) the total amount payable to the dealer as the consideration in respect of goods delivered on hire purchase or any system of payment by instalments;

(f) the aggregate of the sale prices received and receivable by the dealer in respect of sales of any goods in the course of inter-state trade or commerce and export out of the territory of India and sales in the course of import into the territory of India; and

(g) the value of all goods transferred or despatched outside the State otherwise than by way of sale.

(2) The taxable turnover shall be determined by allowing the following deductions from the total turnover.-

(a) The aggregate of the sale prices received and receivable by the dealer in respect of sales of any goods in the course of inter-state trade or commerce and export out of the territory of India and sales in the course of import into the territory of India.

(b) The value of all goods transferred or despatched outside the State otherwise than by way of sale.

(c) All amounts allowed as discount, provided that such discount is allowed in accordance with the regular practice of the dealer or is in accordance with the terms of any contract or agreement entered into in a particular case and provided

also that the accounts show that the purchaser has paid only the sum originally charged less discount.

(d) All amounts allowed to purchasers in respect of goods returned by them to the dealer, provided that the goods are returned within a period of six months from the date of delivery of the goods and the accounts show the date on which the goods were returned, the date on which the refund was made and the amount of such refund together with the details of credit notes issued as specified under subsection (1) of the Section 30.

(e) All amounts received from the seller in respect of goods returned to them by the dealer, when the goods are taxable under sub-section (2) of Section 3 provided that the goods are returned within period of six months from the date of delivery of the goods and the accounts show the date on which the goods were returned, the date on which the refund was made and the amount of such refund.

(f) All amounts for which goods exempt under Section 5 are sold.

(g) All amounts realized by the sale by a dealer of his business as a whole.

(h) All amounts collected by way of tax under the Act.

(i) The turnover in respect of which the dealer's agent has paid tax, and the dealer has furnished a certificate in Form VAT 140.

(j) All amounts separately collected in tax invoices as commission under the provisions of the Agricultural Produce Marketing (Regulations) Act, 1966, by a commission agent, provided that the tax is not separately charged for and collected in the tax invoices on such commission.

(k) All amounts received or receivable by way of interest on the unpaid amount payable in respect of goods delivered on hire purchase or on any system of payment by instalments, where such interest is specified and charged for by the dealer separately without including such amounts in the price of the goods delivered and does not exceed twenty percent per annum on the amount remaining unpaid.

(l) All amounts actually expended towards labour charges and other like charges for erection, installation, fixing, fitting out or commissioning of the goods used in the execution of a works contract.

(m) Such amounts calculated at the rate specified in column (3) of the Table below towards labour charges and other like charges for erection, installation, fixing, fitting out or commissioning of the goods used in the execution of a works contract when such charges are not ascertainable from the books of accounts maintained by a dealer.

TABLE

SL No.	Type of contract	Charges for erection, installation, fixing, fitting out or commissioning as a percentage of the value of the contract
(1)	(2)	(3)
1.	Installation of plant and machinery	Fifteen per cent
2.	Installation of air conditioners and air coolers	Ten per cent
3.	Installation of elevators (lifts) and escalators	Fifteen per cent
4.	Fixing of marble slabs, polished granite stones and tiles (other than mosaic tiles)	Twenty five per cent
5.	Civil works like construction of buildings, bridges roads etc.	Thirty per cent
6.	Construction of railway coaches on under carriages supplied by Railways	Thirty per cent
7.	Ship and boat building including construction of barges, ferries, tugs, trawlers and draggers	Twenty per cent
8.	Fixing of sanitary fittings for plumbing, drainage and the like	Fifteen per cent
(1)	(2)	(3)
9.	Painting and polishing	Twenty per cent
10.	Construction of bodies of motor vehicles and construction of trucks	Twenty per cent
11.	Laying of pipes	Twenty per cent
12.	Tyre re-treading	Forty per cent
13.	Dyeing and printing of textiles	Forty per cent
14.	Any other works contract	Twenty five per cent

Explanation – I: Where the turnover of a dealer claiming deduction under clause (m) in any tax period is not sufficient to cover the deduction, it shall be allowed to the extent of

the turnover of the dealer in that period, and the balance shall be carried forward to the following tax period.

Explanation – II: For the purpose of clause (m), “labour and other like charges” include charges for obtaining, on hire or otherwise, machinery and tools used in the execution of a works contract, charges for planning, designing and architects' fees, cost of consumables used in the execution of the works contract, cost of establishment to the extent relatable to supply of labour and services and other similar expenses relatable to supply of labour and services.

Explanation - III: For the purpose of clause (m), gross profit earned by a dealer shall be apportionable to the value of the goods and labour and other like charges involved in the execution of a works contract in the same ratio as in the total turnover.

Registration

5. Every dealer who is liable to be registered under Section 22 and any dealer who desires to register voluntarily under Section 23 shall.-

- (1) submit an application in Form VAT 1 for registration to the jurisdictional Registering Authority in whose area the principal place of business of the dealer is located, accompanied by a fee of five hundred rupees;
- (2) the application for registration shall be made, signed and verified as specified in the application and every person signing and verifying such application shall furnish two copies of his recent photograph in passport size along with the application and shall also furnish such photograph once in every five years;
- (3) if he is a casual trader or a non-resident dealer, submit the application in Form VAT 1 before commencement of his business; and
- (4) where the details in his Form VAT 1 change at any time, as specified under Section 28, submit an application in Form VAT 3, showing the amendments to such details within thirty days of the date such changes took effect.

6. If the registered dealer has more than one place of business, he shall submit a further application in Form VAT 5a to the jurisdictional Registering Authority, along with Form VAT 1 if the additional place of business exists at the time of submission of application for registration and in other cases within ten days from the opening of additional place of business.

7. If the registered dealer is a partnership firm or an association of persons, it shall submit a further application in Form VAT 5b to the jurisdictional Registering Authority.

8. The Registering Authority shall review each application for registration to ensure that it contains all the information required and acknowledge receipt of the application.

9. (1) Where the Registering Authority is not satisfied that the particulars contained in the application are correct and complete, he shall reject the application for reasons to be recorded in writing, after giving the dealer an opportunity of showing cause in writing against such rejection.

(2) The Registering Authority may demand a security as prescribed under Rule 24 before issuing a certificate of registration.

10. (1) The Registering Authority shall assign a registration number to the dealer and issue a certificate of registration in Form VAT NIF to him, and also certified copies of such certificate for any additional place of business.

(2) The Commissioner shall, authorized any Local VAT officer or VAT Sub-officer to issue a certificate of registration with an assigned registration number to the Central or any State Government, statutory or local authority specified under sub-section (4) of Section 25 for the purposes of the collection and payment of tax.

11. Where a certificate of registration is lost or destroyed, a certified copy of the registration certificate shall be issued by the jurisdictional Registering Authority on a written request by the registered dealer.

12. (1) Every dealer shall display his certificate of registration in a prominent location at his main place of business, and certified copies shall be displayed at any additional place of business.

(2) Every registered dealer who closes any of his additional places of business shall report such closure and surrender the certified copy of the certificate of registration issued to such additional place of business to the jurisdictional Registering Authority.

13. (1) Where a dealer liable to get registered under section 22, has failed to do so, the Registering Authority of the area shall proceed to register such dealer under section 24 after conducting such survey, inspection or inquiry as specified in sub-rules (2), (3) and (4).

(2) The Registering Authority may inspect the offices, shops, business premises, godown, vessels, receptacles or vehicles belonging to the dealer and may also conduct inquiry as he may consider necessary for the purposes of determining the taxable turnover of the month or year.

(3) The Registering Authority may visit the business premises of the dealer including any place or receptacle or vehicle where the dealer has stored his goods and obtain stock inventory of the goods held in stock and on that basis arrive at the approximate stock value of the goods taking into consideration of the prevailing market rates or the purchase invoices if any produced.

(4) The Registering Authority may also record the daily sales particulars as per the books of accounts maintained and produced and if the books of accounts are not produced or if the particulars recorded in the books of accounts, in the opinion of the Registering Authority are not true and correct, he may proceed to estimate the same on the basis of any other material which he considers relevant.

(5) The Registering Authority may proceed to estimate the taxable turnover in a month or year for the purpose of registration either on the basis of daily sales particulars or on the basis of stock value whichever he considers more relevant.

Cancellation of registration

14.(1) Every registered dealer, other than a dealer falling under sub-sections (7), (8) or (9) of Section 22, may submit a written request, together with a final return in Form VAT 115, to the Registering Authority to cancel his registration where in the previous twelve consecutive months his total or taxable turnover did not exceed the threshold as specified under Section 22, and such request shall be made within twenty days after the end of such period.

(2) Every registered dealer who either sells or discontinues his business shall submit a written request, together with a final return in Form VAT 115, to the Registering Authority to cancel his registration, and such request shall be made within fifteen days after such event.

15. Any dealer who was voluntarily registered may submit a written request to cancel his registration only after two years have passed from the effective date of the registration, and such request together with a final return in Form VAT 115, shall be made within twenty days after the end of such period.

16.(1) Where a registered dealer carrying on business as an individual enters into a partnership, he shall report the fact to the Registered Authority, together with a final return in Form VAT 115, within fifteen days of his entering into such partnership, requesting cancellation of his registration, and make an application for a new registration of the partnership under Rules 5 and 7.

(2) Where a registered dealer is a partnership, any change including dissolution, shall be reported to the Registered Authority, within fifteen days of such change, and in the case of dissolution, a request made for cancellation of the registration together with a final return in Form VAT 115.

(3) The heirs of a deceased registered dealer shall submit a written request, together with a final return in Form VAT 115, to cancel the registration within thirty days from the date of death.

17. Every dealer or any other person who requests cancellation of any registration issued shall surrender the certificate of registration together with any certified copies issued to the jurisdictional Registered Authority.

18.If the Registering Authority is satisfied that a dealer who submitted a request to cancel his registration is no longer obliged to be registered, or on the death of any registered dealer, he may cancel the dealer's registration, with effect from the day following the last day of the tax period in which he determined that the dealer was no longer obliged to be registered or any subsequent date to be determined by him or the day of death of the registered dealer and inform the dealer in Form VAT 11, together with a notice in Form VAT 210 demanding payment of any tax or interest due.

19.Subject to the provisions of Rules 20 and 21, the Registering Authority shall cancel the registration of any dealer.-

(1) whose total turnover does not exceed the threshold specified in Section 22, but excluding a dealer liable for registration under sub-sections (7), (8) and (9) of Section 22, whether a request for cancellation was made or not, with effect from the day following the last day of the tax period in which the taxable sales were discontinued or any subsequent date to be determined by him; and

(2) who issues tax invoices without effecting any taxable sales, from the date such dealer discontinued effecting taxable sales, even where his total turnover of exempt goods exceeds the threshold specified in Section 22.

20.The Registering Authority shall not cancel the registration of any dealer if he has reasonable grounds to believe that the dealer will engage in taxable sales within a period of twelve months following the date on which the dealer's taxable sales were discontinued and shall inform the dealer if any written request has been made for cancellation of registration.

21. A dealer, whose registration is cancelled in accordance with the above Rules, and where deductions were made for the tax paid on inputs on all the taxable goods in his possession, shall be treated as if he had sold such goods, and the sale of these taxable goods shall be deemed to have been completed on the effective date of the cancellation of the dealer's registration and in exchange for the equivalent of the prevailing market price of the goods on such date.

22. For purposes of the Rule 21, goods shall be considered to be in the possession of the dealer when they are available for sale or for any other use by the dealer.

23. The duties and obligations imposed by the Act and Rules on any registered dealer shall not be affected by the cancellation of his registration, to the extent that they are necessary to recover the tax due and obtain any information for which the dealer was responsible during the period of his registration.

Payment of security

24.(1) The Registering Authority may, subject to sub-rule (2), demand from any dealer a security as specified under Section 26 in a sum not exceeding the limits prescribed in Rule 25, after giving the dealer the opportunity of showing cause in writing against such demand.

(2) The Government or Commissioner may, by notification, fix the amount of security in the case of specified categories of dealers.

25. Where a dealer is required to pay a security, the amount payable shall not exceed.-

(1) if he has opted to pay tax by way of composition under Section 15, an amount equivalent to the tax anticipated to be payable by him in a three months period, and

(2) in other cases, an amount equivalent to the tax anticipated to be payable by him in a six months period.

26. A security may be furnished by the dealer.-

(1) by depositing with the Registering Authority, Government securities for the amount fixed by the said authority; or

(2) by furnishing to the said authority a guarantee from a Scheduled Bank as defined in the Reserve Bank of India Act, 1934, agreeing to pay the State Government on demand, the amount of security fixed by the said authority; or

(3) by furnishing any other form of security as may be notified by the Commissioner.

27. The security paid under Rule 24 shall be maintained in full until it is dispensed with by the jurisdictional Registering Authority on being satisfied that the reasons for its demand no longer exist, or until the registration certificate is cancelled, whichever is earlier.

PART III

ACCOUNTS AND DOCUMENTS

Obligation to issue a tax invoice

28. Every registered dealer shall issue a tax invoice when he sells taxable goods or exempt goods along with any taxable goods, as specified in Section 29.

29.(1) A tax invoice shall be issued, even where generated by any mechanical device, with the original, marked "original-buyer's copy", delivered to the buyer and the copy, marked "seller's copy" retained by the registered dealer.

(2) On demand, another copy of the tax invoice, marked "transporter's copy", shall be issued to the buyer.

30. A tax invoice shall contain the following details.-

- (a) A consecutive serial number;
- (b) The time of sale;
- (c) The date of its issue;
- (d) The name, address and registration number of the selling dealer;
- (e) The name and address of the buyer;
- (f) A full description of the goods;
- (g) The quantity of the goods;
- (h) The value of the goods;
- (i) The rate and amount of tax charged in respect of taxable goods;
- (j) The total value; and
- (k) Signature of the selling dealer.

Bills of sale

31.(1) A bill of sale as specified in Section 29, issued by a registered dealer where the value of the goods sold is in excess of one hundred rupees, or a registered dealer selling non-taxable goods or a registered dealer selling goods in the course of inter-state trade or commerce or in the course of export out of the territory of India or import into the territory of India, shall contain the following details.-

- (a) A consecutive serial number with date of sale;
- (b) The name, address and registration number of the selling dealer; and
- (c) A description of the goods with its value.

(2) A bill of sale shall, on demand, be issued in duplicate, even where generated by any electronic or mechanical device, with the original, marked "original", delivered to the buyer and the copy retained by the registered dealer.

(3) Every registered dealer who buys goods from a person other than a registered dealer shall raise a bill recording such transaction containing the following details.-

- (a) A consecutive serial number with date of purchase;

- (b) The name and address of the seller; and
- (c) A description of the goods with its value.

Credit and Debit Notes

32. 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 if 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 30, give to the buying dealer a credit or debit note containing the following details. -

- (1) The nature of the document issued;
- (2) A consecutive serial number;
- (3) The date of the issue of the document;
- (4) The name, address and registration number of the selling dealer;
- (5) The name and address of the buyer, together with buyer's registration number, if registered;
- (6) The number and date of the relevant tax invoice;
- (7) The value of the goods and the amount of the tax credited or debited to the buyer; and
- (8) Signature of the selling dealer.

33.(1) A credit or debit note shall be issued in duplicate, even where it is generated by any mechanical device, with the original, marked "original", delivered to the buyer and the copy retained by the registered dealer.

(2) A registered dealer shall not give more than one credit note or debit note in respect of the same adjustment, and may provide a duplicate, where the original of the debit note or the credit note is lost or destroyed, with the declaration that it is a duplicate of such credit or debit note.

Keeping of accounts and records

34.(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 daily transactions showing the goods

produced, manufactured, bought and sold by him and the value thereof separately together with invoices and bills.

(2) Every such dealer or person shall keep separate purchase, sale and disposal accounts in respect of each commodity, whether taxable or not, dealt with by him.

(3) Every dealer shall maintain a VAT account containing details of input and output tax, together with credit and debit notes issued during any period.

(4) Every such dealer or person shall keep current books of accounts at the place or places of business entered on his certificate of registration, and every purchase and sale shall be brought to account as soon as the purchase or sale is made.

(5) The registers, accounts and documents maintained shall be sequentially numbered, and where the registers and other documents are maintained by means of a computer or any other similar mechanical device, the dealer shall maintain copies in paper of such registers and other documents printed on a monthly basis.

(6) Any entry in such registers, accounts and documents shall not be erased, effaced or overwritten, and all incorrect entries shall be scored out under attestation and correct entry recorded and where the registers, accounts and documents are maintained by means of a computer or any other similar mechanical device, the dealer shall also maintain a record of correction or change of any entry.

(7) For the purpose of sub-rule (4), current books of accounts shall include computer hardware and software used in connection with business activities of the dealer or person.

(8) The accounts maintained by dealers together with all invoices, bills, declarations, way bills and delivery notes relating to stocks, deliveries, purchases, output and sales shall be preserved by them for the time specified under Section 32 or for any further period as may be notified by the Commissioner and shall be kept at the place of business, mentioned in the registration certificate.

(9) Every commission agent, broker, *del credere* agent, auctioneer or any other mercantile agent shall maintain accounts showing:-

(a) Particulars of authorization received by him from each principal to purchase or sell goods on behalf of each 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 each day;

(d) Details of accounts furnished to each principal each day; and

(e) The tax paid on purchases or on sales effected on behalf of each principal and the challan number and date of remittance of the tax into the Government Treasury.

(10) Every purchasing agent shall keep particulars of the names and addresses of the dealers or persons from whom he purchased the goods, and every selling agent shall keep the particulars of the names and addresses of the dealers or persons to whom he sold the goods.

(11) Every wholesale dealer, importer, exporter and manufacturer shall 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.

(12) Every manufacturer of goods shall maintain monthly production of accounts, showing quantitative details of the various raw materials used in the manufacture and the quantitative details of the goods so manufactured.

(13) Every dealer who is required to maintain stock accounts shall maintain subsidiary accounts for each godown if there is more than one godown for keeping his stocks.

(14) Every dealer or person executing works contract shall keep separate accounts showing.-

(a) The particulars of the names and address of the persons for whom and on whose behalf he carried on the execution of works contract in respect of each works contract;

(b) The particulars of goods procured by way of purchase or otherwise for the execution or works contract;

(c) The particulars of goods to be utilized in execution of each works contract; and

(d) The details of payment received in respect of each works contract.

(15) Every dealer or person engaged in the transfer of a right to use any goods shall keep.-

(a) Particulars of the names and addresses of the persons to whom he 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.

(16) Every dealer claiming exemption on his turnover under sub-section (2) of Section 8 shall retain for every tax period a declaration in Form VAT 140 obtained from the registered dealer who sold the taxable goods relating to such turnover on his behalf and

the selling agent shall issue the declaration to his principal within ten days from the end of the month in which such goods were sold.

(17) Every dealer claiming deduction of input tax on goods purchased on his behalf by any other registered dealer shall retain for every tax period a declaration in Form VAT 145 obtained from the registered dealer who purchased the taxable goods on his behalf and also the tax invoices in original relating to such purchases, and the purchasing agent shall issue the declaration and furnish the tax invoices to his principal within ten days from the end of the month in which such goods were purchased.

(18) Any officer authorized by the Joint Commissioner to make an assessment under Section 38 or by the Commissioner to exercise powers under sub-section (1) of Section 52, shall exercise powers under sub-section (2) of Section 31.

35.(1) Every registered dealer who is, not a company defined under the Companies Act, 1956 (Central Act 1 of 1956) or a company incorporated outside India and required to have his accounts audited under sub-section (4) of Section 31 shall have his accounts audited by a Tax Practitioner enrolled under Rule 163 for a period of not less than five years or under Section 36 of the Karnataka Sales Tax Act, 1957 (Karnataka Act 25 of 1957) for a period of not less than five years on the date of such audit.

(2) Every other registered dealer who is required to have his accounts audited under sub-section (5) of Section 31 shall have his accounts audited by a Chartered Accountant.

(3) The audited statement of accounts shall be submitted in Form VAT 240 to the jurisdictional Local VAT officer or VAT sub-officer within six months after the end of the relevant year.

36. Any Officer requiring any dealer to produce before him the accounts and other documents or to furnish any information relating to his business under subsection (1) of Section 52 shall serve upon the dealer a notice in Form VAT 275.

PART IV

RETURNS, ASSESSMENTS, PAYMENT AND RECOVERY

Furnishing returns

37 .For the purposes of this Part of the Rules, “net value” shall mean.-

(1) with respect to sales within the State, the aggregate of amounts mentioned in clauses (a) to (e) of sub-rule (1) of Rule 4, less deductions specified in sub-rule (2) of Rule 4, excluding that mentioned in clause (d);

(2) with respect to sales in the course of inter-state trade or commerce, the turnover as determined under the provisions of the Central Sales Tax Act 1956 (Central Act No. 74 of 1956) ;

(3) with respect to goods transferred or despatched outside the State, otherwise than by way of sale, their value less any cost of freight, insurance and similar charges, accounted for by the dealer in the document of transfer;

(4) with respect to sales of goods in the course of export out of the territory of India, or imported into the territory of India, their value less any cost of freight, insurance and similar charges, accounted for by the dealer in the bill of sale; and

(5) with respect to purchases or receipts of goods other than by way of purchase, their value on which tax is charged by the seller or their value less any cost of freight, insurance and similar charges, mentioned on the document of transfer.

38. The tax period for every registered dealer, other than those dealers opting for payment of composition of tax, shall be one calendar month or such period as specified by the Registering Authority under Section 35.

39. (1) Every registered dealer shall submit a monthly return, containing particulars of net values of sales, purchases and other transactions, including input and output tax claimed or collected and net tax, and accompanied by proof of full payment of any tax due, to the jurisdictional Local VAT officer or VAT sub-officer in Form VAT 100 within twenty days after the end of the relevant tax period.

(2) Every department of Government, statutory or local authority shall submit a monthly return, as prescribed in sub-rule (1), to the jurisdictional Local VAT officer or VAT sub-officer or to such Local VAT officer or VAT sub-officer as may be notified by the Commissioner where such body is located in areas falling under more than one Local VAT officer or VAT sub-officer.

(3) The tax indicated in the return shall be due on the twenty first day after the end of the relevant tax period.

(4) As long as any dealer remains registered, he shall submit such monthly return, whether or not any tax is due for any tax period.

(5) The State Government or the Commissioner may notify any Bank in respect of any class of dealers as responsible for receipt of returns along with payment of tax or any other amount due under the Act, subject to such conditions as may be specified.

(6) Any registered dealer furnishing a revised return under sub-section (4) of Section 35 shall do so in Form VAT 110.

40.(1) Where any return submitted is apparently incomplete or incorrect, the jurisdictional Local VAT officer or VAT sub-officer shall issue a notice in Form VAT 150 requiring the dealer to submit a complete or correct return within ten days of issue of the notice.

(2) Any dealer not submitting a complete or correct return within the time specified under sub-rule (1), shall be liable to a penalty under Section 72 and any interest due.

41. Where any return is not accompanied by proof of full payment of the tax due in accordance with Rule 42, the jurisdictional Local VAT officer or VAT Sub-officer may issue a notice in Form VAT 210 informing the dealer to pay the outstanding tax due, together with interest payable under Section 36.

42. Where any dealer submits a return after the due date, and also where a dealer submits a revised return in Form VAT 110, such return shall be accompanied by proof of payment of the interest due under Section 36.

43. Any dealer required to furnish a final return as specified under sub-section (4) of Section 27 shall do so in Form VAT 115.

44. (1) Every casual trader shall submit to the jurisdictional Local Vat Officer or VAT Sub-officer, a monthly return in Form VAT 100 along with proof of full payment of tax due, within ten days after the end of any month.

(2) Where a casual trader stops his occasional transactions during the course of a month he shall submit to the jurisdictional Local VAT Officer or VAT Sub-officer, a monthly return in Form VAT 100 along with proof of full payment of tax due, within seven days of the completion of the last transaction.

(3) Where a casual trader conducts occasional transaction or transactions of a business nature in the area under the jurisdiction of Local VAT Officer or VAT Sub-officer and leaves such jurisdiction, he shall before leaving and immediately following the closure of the said transaction submit to the Local VAT Officer or VAT Sub-officer concerned a final return in Form VAT 115 along with proof of full payment of tax due.

45. (1) Every Department of a Government, statutory body or a local authority, when they collect tax under the provisions of Section 9, shall submit a monthly return in Form VAT 100 to the jurisdictional Local VAT officer or VAT Sub-officer, together with proof of full payment of the tax due in accordance with Rule 53, within twenty days after the end of the relevant month.

(2) Where any return is not accompanied by proof of full payment of the tax due in accordance with Rule 53, the jurisdictional Local VAT officer or VAT Sub-officer may issue a notice in Form VAT 210 informing the concern to pay the outstanding tax due, together with interest payable under Section 36.

Assessments

46. Any assessment issued by the officer authorized by the Joint Commissioner in this behalf under the provisions of sub-sections (1) and (2) of Section 38 shall be in Form VAT 222.

47. Any assessment issued by the officer authorized by the Joint Commissioner in this behalf under sub-section (5) of Section 38 shall be in Form VAT 312.

48. Any re-assessment issued by the officer authorized by the Joint Commissioner in this behalf under Section 39 shall be notified in Form VAT 312.

49. Where a Department of a Government, statutory body or a local authority furnishes a return, the officer authorized by the Joint Commissioner in this behalf may inspect the accounts of the Department, statutory body or local authority to verify the correctness of the return and if the return is found incorrect, he shall notify the Department, statutory body or the local authority concerned, to rectify the mistake.

50. (1) Where a driver or person-in-charge of a goods vehicle does not comply with sub-section (2) of Section 54, the owner of such vehicle shall be assessed to tax on the value of the goods carried at the rates applicable to such goods under the provisions of the Act and such assessment shall be issued in Form VAT 245.

(2) Before making an assessment under Section 54, the owner of the vehicle shall be given a reasonable opportunity of showing cause against such assessment.

(3) When making any assessment under Section 54, the owner of the vehicle may also be directed to pay, in addition to the tax assessed, the penalty levied under sub-section (5) of Section 54.

(4) The tax and penalty levied under Section 54 shall be, recovered upon service of a notice in Form VAT 340, and the owner of the vehicle shall pay the sum demanded within the time and the manner specified in the notice.

(5) The authority for the purpose of sub-section (4) of Section 54 and this Rule shall be, the officer in charge of the first check post or barrier, or any other officer empowered to issue the transit pass under sub-section (1) of Section 54.

Payment

51.(1) (a) The tax or any other amount under the Act or these Rules shall be paid by the dealer or any other person, in cash, by postal or money order, crossed cheque or crossed demand draft, in favour of the Registering Authority or the jurisdictional Local VAT officer or VAT sub-officer or any other authorized officer, or by remittance into the Government Treasury on a tax challan in Form VAT 152.

(b) Where any payment is made by cheque, such cheque shall be as prescribed under the Karnataka Financial Code.

(2) The tax, penalties, interest or other miscellaneous amounts payable under the Act or these Rules by a dealer doing business in liquor shall be paid.-

- (a) by crossed demand draft or payable order in favour of the relevant authority; or
- (b) by remittance into the Government Treasury on a tax challan in Form VAT 152.

(3) The State Government or the Commissioner may notify any Bank in respect of any class of dealers as responsible for receipt of payment of tax or any other amount due under the Act, subject to such conditions as may be specified.

52. If a cheque presented by a dealer towards payment of tax or other amount due under the Act or these Rules is dishonored for want of adequate financial cover, the dealer, after being given a reasonable opportunity to show cause against such action, shall not thereafter be permitted to make payment by means of a cheque for such time as the jurisdictional Local VAT officer or VAT sub-officer in its discretion specifies.

53.(1) Every payment made under the Act or under these Rules into a Government Treasury or the State Bank of India or the Reserve Bank of India or any other Scheduled Bank, as may be specified by the Commissioner, shall be accompanied by a tax challan in Form VAT 152 which may be obtained from any Government Treasury or at any Local VAT office or VAT sub-office.

(2) Challans shall be filled up in triplicate, and the copies marked 'original' and 'duplicate' shall be returned, duly receipted, to the dealer or any person as proof of payment, of which the copy marked 'duplicate' shall be attached by him to the return to be submitted to the relevant authority, and the third copy marked 'triplicate' shall be retained by the Treasury.

54.(1) Any dealer may apply in Form VAT 155 to the authority provided in sub-rule (2), and subject to the conditions specified in sub-rule (4), for permission to pay any amount due under the Act in instalments.

(2) The dealer may apply, within twenty one days from the date on which any tax or other amount becomes due, to:-

(a) the Commissioner, where the sum in relation to which instalments are sought is rupees twenty five lakh or less, or the period within which the sum is sought to be paid does not exceed twenty four months; and

(b) the Government in other cases.

(3) The authority empowered under sub-rule (2) may relax the specified time limit in cases where adequate justification is furnished by dealer in respect of the delay involved.

(4) The dealer shall be liable to pay interest on the tax or other amount due at the rate specified under Section 37 during such period of delay involved and during the period between the time limit specified in sub-rule (2) and the date of order permitting such amount to be paid in instalments, and the sum for which instalments are sought shall be deemed to include interest so payable.

(5) The conditions referred to in sub-rule (1) above shall be.-

- (a) the dealer is unable to pay the sum for which the instalment facility is sought for reasons beyond his control;
- (b) the dealer furnishes adequate security to the satisfaction of the jurisdictional Local VAT officer or VAT sub-officer for the recovery of the sums in relation to which instalments are sought; and
- (c) the dealer pays along with each instalment, and in addition to the sums permitted to be paid in instalments, interest at the rate of twenty-four per cent per annum on the sums remaining unpaid at such time.

(6) The authority to whom an application has been made under this Rule may, at its discretion and after making such enquiry as deemed necessary, by an order in writing, permit a dealer to pay the tax or other sums due for which the application under sub-rule (1) is made in such instalments, at such intervals and subject to such conditions as may be specified in its order.

(7) If any condition mentioned in sub-rule (5) is contravened or a default is made in making payments in accordance with any order passed under sub-rule (6), the whole of the sum remaining unpaid on the date of such default shall become recoverable at once in a lump sum together with interest in accordance with the provisions of the Act.

55. (1) Where the Government has permitted an eligible industrial unit for deferment of tax under Section 42, such deferment of tax shall be.-

- (a) given to that eligible industrial unit as certified by the Director of Industries and Commerce or his nominee;
- (b) restricted to the tax payable on the sale of goods manufactured by such industrial units; and
- (c) restricted to such amounts and such period as specified in the relevant Government Order.

(2) The officer authorized by the Joint Commissioner in this behalf may verify the validity of any certificate or claims relating to the tax concession.

(3) The tax referred to in sub-rule (1) shall include any tax payable according to any assessment, re-assessment, appeal or revision under the provisions of the Act.

(4) The jurisdictional Joint Commissioner of Commercial Taxes shall issue a 'Certificate of Entitlement' in Form VAT 160 regarding the deferment of any tax payable by an industrial unit.

(5) The amount of tax deferred shall be paid by the industrial unit after the expiry of the deferred period in such instalments as specified in the Certificate.

(6) The tax deferred under the provisions of this Rule shall be immediately recoverable at any time prior to the expiry of the period of deferment if the unit contravenes any of the provisions of the relevant Government Order or the conditions of the Certificate of Entitlement, or if the Certificate is cancelled or revoked by the issuing authority.

(7) The Government may permit, by an order, an industrial unit to pay deferred tax within the specified deferred period at a discounted rate as may be specified.

PART V

Recovery

56. In this Part, unless the context otherwise requires,

- (1) **'Certificate'** means a certificate received by the Tax Recovery Officer.
- (2) **'Defaulter'** means the dealer or any other person named in the certificate.
- (3) **'Execution'** in relation to a certificate, means recovery of arrears in pursuance of the certificate.
- (4) **'Movable property'** includes growing crops.
- (5) **'Share in a corporation'** includes stock, debentures or bonds.
- (6) **'Tax Recovery Officer'** means any officer authorized by the Commissioner to exercise powers under clause (b) of sub-section (9) of Section 42 in respect of such cases as prescribed in rule 55.

57.(1) Where a dealer or any other person is in default, or is deemed to be in default, in making a payment of tax or any other amount due under the Act, the authority concerned may forward to the jurisdictional Tax Recovery Officer a certificate in Form VAT 345 and such Tax Recovery Officer shall be,-

- (a) a Commercial Tax Officer where the amount due does not exceed fifty thousand rupees;
- (b) an Assistant Commissioner where the amount due exceeds fifty thousand rupees but does not exceed two lakh rupees; and
- (c) a Deputy Commissioner in all other cases.

(2) The authority concerned shall forward a certificate in Form VAT 345, in respect of any additional amount that becomes due in cases where a certificate in Form VAT 345 has already been issued and the amount due covered by such certificate is not recovered fully, to the Tax Recovery Officer to whom such certificate was forwarded earlier notwithstanding that the additional amount or total amount due exceeds the limit prescribed in sub-rule (1).

(3) The Tax Recovery Officer, on receipt of the certificate in Form VAT 345, shall proceed to recover from such defaulter the amount specified therein in accordance with the provisions in this Part.

(4) The authority concerned may issue a certificate under sub-rule (1) notwithstanding that, proceedings for recovery of the amount by any other mode has been taken.

58. When a certificate has been received by the Tax Recovery Officer, he shall cause to be served upon the defaulter a notice in Form VAT 350 requiring the defaulter to pay the amount specified in the certificate forthwith in the case where the amount has become due on an assessment made under sub-section (5) of Section 38, and in other cases within fifteen days from the date of service of the notice.

59. (1) The certificate shall not be executed until the period of fifteen days has elapsed since the date of the service of the notice, other than where the amount which has become due is on an assessment made under sub-section (5) of Section 38.

(2) Where the Tax Recovery Officer is satisfied that the defaulter is likely to conceal, remove or dispose of the whole or any part of such of his movable property as would be liable to attachment or distraint in execution of a decree of a Civil Court, and that the realization of the amount of the certificate would in consequence be delayed or obstructed, he may at any time, for reasons to be recorded in writing, attach to or distraint on the whole or any part of such property.

(3) If such defaulter furnishes security to the satisfaction of the Tax Recovery Officer, such attachment or distraint shall be cancelled from the date on which such security is accepted by the Tax Recovery Officer.

60. If the amount mentioned in the notice is not paid within the time specified therein, the Tax Recovery Officer shall proceed to realize the amount by.-

(1) attachment or distraint and sale of the defaulter's moveable property; and

(2) attachment and sale of the defaulter's immovable property.

61. There shall be recoverable in the proceedings in execution of every certificate.-

(1) Interest at the rate of six per cent per annum from the day commencing after the end of the end of fifteen days from the date of service of notice in Form VAT 350; and

(2) all charges incurred in respect of.-

(a) the service of notice upon the defaulter to pay the arrears, warrants and other processes, and

(b) all other proceedings taken for realizing the arrears.

62.(1) Where property is sold in execution of a certificate, there shall vest in the purchaser merely the right, title and interest of the defaulter at the time of the sale, even though the property itself is specified.

(2) Where immovable property is sold in execution of a certificate, and such sale has become absolute, the purchaser's right, title and interest shall be deemed to have vested in him when the property is sold, and not from the time when the sale becomes absolute.

63. No suit shall be maintained against any person claiming title under a purchase certified by the Tax Recovery Officer in the manner laid down in this Part on the ground that the purchase was made on behalf of the plaintiff or on behalf of some one through whom the plaintiff claims.

64.(1) Whenever assets are realized, by sale or otherwise in execution of a certificate, the amounts so realized shall.-

(a) first, cover the costs incurred by the authority concerned;

(b) next, be paid to the authority concerned for the amount due under the certificate in execution of which the assets were realized;

(c) next, be paid to the authority concerned for any other amount due under the Act or these Rules; and

(d) any balance, be paid to the defaulter.

(2) If the defaulter disputes any claim made by the authority concerned to receive any amount referred to in clause (c) above, the Tax Recovery Officer shall resolve the dispute.

65.(1) Except as otherwise expressly provided in the Act and these Rules, every question arising between the authority concerned and the defaulter or their representatives relating to the execution, discharge or satisfaction of a certificate, or relating to the confirmation or setting aside of a sale held in execution of such certificate, shall be resolved by the order of the Tax Recovery Officer before whom such question arises.

(2) A suit may be brought in a Civil Court in respect of any such question upon the ground of fraud.

66.(1) All such property as is by the Code of Civil Procedure, 1908 (5 of 1908), exempted from attachment and sale in execution of a decree of a Civil Court, shall be exempted from attachment or distraint and sale under this Part.

(2) The Tax Recovery Officer's decision as to what property is entitled to exemption shall be final.

67.(1) Where any claim is preferred, or any objection is made to the attachment, distraint or sale of any property in execution of a certificate, on the ground that such property is not liable to such attachment, distraint or sale, the Tax Recovery Officer shall proceed to investigate the claim or objection.

(2) The Tax Recovery Officer shall not investigate where he considers that the claim or objection was itself deliberately or unnecessarily delayed.

(3) Where the property to which the claim or objection applies has been advertised for sale, the Tax Recovery Officer ordering the sale may postpone it pending the investigation of the claim or objection, upon such terms, security or otherwise.

(4) The claimant or objector must adduce evidence to show that.-

(a) in the case of immovable property, on the date of the service of notice issued under this Part, to pay the arrears, or

(b) in the case of movable property, on the date of the distraint or attachment,

he had some interest in, or was in possession of, the property in question.

(5) Where, upon investigation, the Tax Recovery Officer is satisfied that, for the reason stated in the claim or objection, such property was not, on the said date, in the possession of the defaulter or of any other person on his behalf or that, being in the possession of the defaulter at the said date, it was in his possession, not on his own account or as his own property, but on account of or in trust for any other person, or partly on his own account and partly on account of some other person, the Tax Recovery Officer shall make an order releasing the property, wholly or to such extent as he thinks fit, from distraint or attachment or sale.

(6) Where the Tax Recovery Officer is satisfied that the property was, on the said date, in the possession of the defaulter as his own property and not on account of any other person, or was in the possession of some other person in trust for him, or in the occupancy of a tenant or other person paying rent to him, the Tax Recovery Officer shall disallow the claim.

(7) Where a claim or an objection is preferred, the party against whom an order is made may institute a suit in a Civil Court to establish the right which he claims to the property in dispute, but subject to the result of such suit, the order of the Tax Recovery Officer shall be final.

68. Where,

(1) the amount due with costs and all charges and expenses, resulting from the attachment to or distraint on any property, or incurred in order to hold a sale, are paid to the Tax Recovery Officer, or

(2) the certificate is cancelled,

the attachment or distraint shall be deemed to be withdrawn, and in the case of immovable property, the withdrawal shall, if the defaulter so desires, be proclaimed at his own expense, and a copy of the proclamation shall be affixed in the manner provided by this Part for a proclamation of sale of immovable property.

69.(1) Any deficiency of price which may happen on a resale, by reason of the purchaser's default, and all expenses resulting from such resale, shall be certified by the Tax Recovery Officer and shall, at the instance of either the authority concerned or the defaulter, be recoverable from the defaulting purchaser under the procedure provided under this Part.

(2) An application filed after fifteen days from the date of resale shall not be entertained.

70.(1) The Tax Recovery Officer may, in his discretion, adjourn any sale hereunder to a specified day and hour.

(2) Where a sale of immovable property is adjourned under sub-rule (1) for a longer period than one calendar month, a fresh proclamation of the sale under this Part shall be made, unless the defaulter consents to waive it.

(3) Every sale shall be stopped if, before the lot is knocked down, the arrears and costs, including the costs of the sale, are paid to the Tax Recovery Officer.

71.(1) Where a notice has been served on a defaulter under Rule 57, the defaulter or his representative in interest shall not be competent to mortgage, charge, lease or otherwise deal with any property belonging to him, except with the permission of the Tax Recovery Officer, nor shall any Civil Court issue any process against such property in execution of a decree for the payment of money.

(2) Where an attachment has been made under this Part, any private transfer or delivery of the property attached or of any interest therein and any payment to the defaulter of any debt, dividend or other monies contrary to such attachment, shall be void as against all claims enforceable under the attachment.

72. Any officer or other person having any duty to perform in connection with any sale under this Part shall not, either directly or indirectly, bid for, acquire or attempt to acquire any interest in the property sold.

73. A sale under this Part shall not take place on a Sunday or other general holidays recognized by the State Government or any day which has been notified by the State Government to be a local holiday for the area in which the sale is to take place.

74. The Tax Recovery Officer may apply to the officer-in-charge of the nearest police station for such assistance as may be necessary in the discharge of his duties, and the authority to whom such application is made shall depute a sufficient number of police officers for furnishing such assistance.

Attachment or distraint and sale of movable property

75. The Tax Recovery Officer, attaching to or distraining on any movable property, shall prepare a warrant in Form VAT 355 specifying the name of the defaulter, and the amount to be realized and cause a copy of the warrant to be served on the defaulter.

76.If, after service of the copy of the warrant, the amount is not paid forthwith, the Tax Recovery Officer shall proceed to attach to or distrain on the movable property of the defaulter.

77.(1) Where any movable property, other than agricultural produce, proceeded against is in the possession of the defaulter, it shall be seized, and the Tax Recovery Officer shall keep the property in his own custody or the custody of one of his subordinates or arrange for its safe custody, and shall be responsible for due custody thereof.

(2) Where the property seized is subject to speedy and natural decay, or where the expense of keeping it in custody is likely to exceed its value, the Tax Recovery Officer may sell it forthwith.

78.Where the property proceeded against is agricultural produce, it shall be attached by affixing a copy of the warrant.-

(1) on the land on which such crop has grown, if such produce is a growing crop; or

(2) on the threshing floor, the place for treading out grain or the like, or fodder-stack, on or in which it is deposited, if such produce has been cut or gathered,

and another copy on the outer door or on some other conspicuous part of the house in which the defaulter ordinarily resides, or on the outer door or on some other conspicuous part of the house in which he carries on business or personally works for gain, or in which he is known to have last resided or carried on business or personally worked for gain, and the produce shall thereupon be deemed to have passed into the possession of the Tax Recovery Officer.

79.(1)Where agricultural produce is distrained, the Tax Recovery Officer shall make such arrangements for the custody, watching, tending, cutting and gathering thereof, and the authority concerned shall bear such amount as the Tax Recovery Officer shall require in order to defray the cost of such arrangements.

(2) Subject to such conditions as may be imposed by the ax Recovery Officer in this behalf, either in the order of attachment or in any subsequent order, the defaulter may tend, cut, gather and store the produce and do any other act necessary for maturing or preserving it and, if the defaulter fails to do all or any of such acts, any person appointed by the Tax Recovery Officer in this behalf may, subject to the like conditions, do all or any of such acts, and the costs incurred by such person shall be recoverable from the defaulter as if they were included in the certificate.

(3) Agricultural produce attached as a growing crop shall not be deemed to have ceased to be under attachment or to require re-attachment merely because it has been severed from the soil.

(4) Where an order for the attachment of a growing crop has been made at a considerable time before the crop is likely to be fit to be cut or gathered, the Tax Recovery Officer may suspend the execution of the order for such time as he thinks fit, and may, in his

discretion, make a further order prohibiting the removal of the crop pending execution of the order of attachment.

(5) A growing crop which is not fit for storing shall not be attached under this Rule within twenty days before the time at which it is likely to be fit to be cut or gathered.

80.(1) A debt not secured by a negotiable instrument, a share in a corporation, or other movable property not in the possession of the defaulter except for property deposited in, or in the custody of, any Court, shall be attached, and the attachment shall be made by a written order in Form VAT 360 prohibiting.-

(a) in the case of a debit, the creditor from recovering the debt and the debtor from making payment thereof until receipt of a further order from the Tax Recovery Officer;

(b) in the case of a share, the person in whose name the share may be standing from transferring the same or receiving any dividend thereon;

(c) in the case of any other movable property, the person in possession of the same from giving it to the defaulter.

(2) A copy of such order shall be affixed on some conspicuous part of the office of the Tax Recovery Officer, and another copy shall be sent, in the case of debt, to the debtor, and in the case of shares, to the proper officer of the corporation and in the case of other movable property, to the person in possession of the same.

(3) A debtor, prohibited under clause (a) of sub-rule (1), may pay the amount of his debt to the Tax Recovery Officer, and such payment shall be deemed as paid to the defaulter.

81.(1) Where the property proceeded against is a decree of a Civil Court for the payment of money or for sale in enforcement of a mortgage or charge, it shall be attached, and attachment shall be made by the issue of a notice in Form VAT 365 to the Civil Court requesting the Civil Court to stay the execution of the decree unless and until.-

(a) the Tax Recovery Officer cancels the notice; or

(b) the authority concerned or the defaulter applies to the Court receiving such notice to execute the decree.

(2) Where a Civil Court receives an application under clause (b) of sub-rule (1), it shall, on the application of the authority concerned or the defaulter, and subject to the provisions of the Code of Civil Procedure, 1908 (5 of 1908), proceed to execute the attached decree, and apply the net proceeds in satisfaction of the certificate.

(3) The authority concerned shall be deemed to be the representative of the holder of the attached decree and to be entitled to execute such attached decree in any manner lawful for the holder thereof.

82. Where the property proceeded against consists of the share or interest of the defaulter in movable property belonging to him and another as co-owner, it shall be attached and

the attachment shall be made by a notice in Form VAT 370 to the defaulter prohibiting him from transferring the share or interest or charging it in any way.

83. Where the property is a negotiable instrument not deposited in a Court or in the custody of a public officer, it shall be distrained by the Tax Recovery Officer.

84.(1) Where the property proceeded against is in the custody of any Court or public officer, it shall be attached and the attachment shall be made by a Tax Recovery Officer by a notice in Form VAT 375 to such Court or officer, requesting that such property, and any interest or dividend becoming payable thereon, should be held subject to his further orders.

(2) Where such property is in the custody of a Court and a question of title or priority arising between the authority concerned and any other person not being the defaulter, claiming to be interested in such property by virtue of any assignment, attachment or otherwise, shall be determined by such Court.

85.(1) Where the property proceeded against consists of an interest of the defaulter being a partner in the partnership property, the Tax Recovery Officer may make an order charging the share of such partner in the partnership property and profits with such payment of the amount due under the certificate, and may, by the same or subsequent order, appoint a receiver of the share of such partner in the profits, whether already declared or accruing, and of any other money which may become due to him in respect of the partnership, direct accounts and enquiries and make an order for the sale of such interest or such other order as the circumstances of the case may require.

(2) The other partners shall be at liberty at any time to redeem the interest charged or, in the case of a sale being directed, to purchase the same.

86. In the case of distraint, the property seized shall be, as far as possible, proportionate to the amount specified in the warrant.

87. In the case of distraint of movable property by actual seizure, the Tax Recovery Officer shall, after seizing the property, prepare an inventory of all the property attached, specifying in it the place where it is lodged or kept, and a copy of the inventory shall be delivered to the defaulter.

88. Attachment by seizure shall be made after sunrise and before sunset and not otherwise.

89. The Tax Recovery Officer may break open any inner or outer-door of any building and enter any building in order to seize any movable property, if he has reasonable grounds to believe that such building contains movable property liable to seizure under the warrant and he has notified his authority and intention of breaking open if admission is not given, and he shall give all reasonable opportunity to women to withdraw.

90. The Tax Recovery Officer may direct that any movable property attached or distrained under this Part, or such portion thereof as may seem necessary to satisfy the certificate, shall be sold.

91. When any sale of movable property is ordered by the Tax Recovery Officer, he shall issue a proclamation in Form VAT 380 in the language of the District of the intended sale, specifying the time and place of sale and whether the sale is subject to confirmation or not.

92.(1) A proclamation under Rule 91 shall be made public by the beat of a drum or other customary mode.-

(a) in the case of property distrained.-

(i) in the village in which the property was seized or, if the property was seized in a town or city, in the locality in which it was seized; and

(ii) at such other places as the Tax Recovery Officer may direct; and

(b) in the case of property attached other than by distraint, in such places as the Tax Recovery Officer may direct.

(2) A copy of the proclamation shall also be affixed in a conspicuous part of the office of the Tax Recovery Officer.

93. Except where the property is subject to speedy and natural decay or when the expense of keeping it in custody is likely to exceed its value, no sale of movable property under this Part shall, without the consent in writing of the defaulter, take place until after the expiry of at least fifteen days from the date on which a copy of the sale proclamation was affixed in the office of the Tax Recovery Officer.

94.(1) When the property to be sold is agricultural produce, the sale shall be held.-

(a) if such produce is a growing crop, on or near the land on which such crop has grown; or

(b) if such produce has been cut or gathered, at or near the threshing floor or place of treading out grain or the like, or fodder-stack on or in which it is deposited; or

(c) the Tax Recovery Officer may direct that the sale to be held at the nearest place of public resort, if he is of opinion that the produce is thereby likely to sell to greater advantage.

(2) Where, on the produce being put up for sale.-

(a) a fair price in the estimation of the Tax Recovery Officer is not offered for it; and

(b) the owner of the produce, or a person authorized to act on his behalf, applies to have the sale postponed till the next day or, if a market is held at the place of sale, the next market day;

(c) the sale shall be postponed accordingly, and shall be then completed, whatever price may be offered for the produce.

95.(1) Where the property to be sold is a growing crop and such crop is fit for storing but is not stored, the day of sale shall be so fixed as to make the crop ready for storing before the arrival of such day, and the sale shall not be held until the crop has been cut or gathered and is ready for storing.

(2) Where the crop is not fit for storing or can be sold to a greater advantage in an unripe state, it may be sold before it is cut and gathered, and the purchaser shall be entitled to enter on the land, and to do all that is necessary for the purpose of tending or cutting or gathering the crop.

96. The property shall be sold by public auction in one or more lots as the Tax Recovery Officer may consider advisable and, if the amount to be realized by sale is satisfied by the sale of a portion of the property, the sale shall be immediately stopped with respect to the remainder of the lots.

97. (1) Where movable property is sold by public auction, the price of each lot shall be paid at the time of sale or as soon after as the Tax Recovery Officer directs and, in default of payment, the property shall forthwith be re-sold.

(2) On payment of the purchase money, the Tax Recovery Officer shall grant a certificate specifying the property purchased, the price paid and the name of the purchaser and the sale shall become absolute.

(3) Where the movable property to be sold is a share in goods belonging to the defaulter and a co-owner, and two or more persons, of whom one is such co-owner respectively, bid the same sum for such property or for any lot, the bidding shall be deemed to be the bidding of the co-owner.

98. Any irregularity in publishing or conducting the sale of movable property shall not vitiate the sale, but any person sustaining substantial injury by reason of such irregularity at the hands of any other person may institute a suit in a Civil Court against him, for compensation, or if such other person is the purchaser, for the recovery of the specific property and for compensation in default of such recovery.

99. Notwithstanding anything contained in this Part, where the property to be sold is a negotiable instrument or a share in a corporation, the Tax Recovery Officer may, instead of selling it by public auction, sell such instrument or share through a broker.

100. Where the property attached to or distrained on is current coins or currency notes, the Tax Recovery Officer may, at any time during the continuance of the attachment or distraint, direct that such coins or notes, or a part thereof sufficient to satisfy the certificate, be paid over to the authority concerned.

Attachment and sale of immovable property

101. Attachment of the immovable property of the defaulter shall be made by an order in Form VAT 385 prohibiting the defaulter from transferring or charging the property in any

way and prohibiting all persons from taking any benefit under such transfer or charge, and a copy of the order of attachment shall be served on the defaulter.

102. The order of attachment shall be proclaimed at some place on or adjacent to the property attached by beat of drum or other customary mode, and a copy of the order shall be affixed on a conspicuous part of the property and on the notice board of the office of the Tax Recovery Officer.

103. Where any immovable property is attached under this Part, the attachment shall relate back to, and take effect from, the date on which the notice to pay the arrears, issued under this Part, was served upon the defaulter.

104. (1) The Tax Recovery Officer may direct that any immovable property which has been attached or such portion thereof as may seem necessary to satisfy the certificate, shall be sold.

(2) Where any immovable property is ordered to be sold, the Tax Recovery Officer shall cause a proclamation, in Form VAT 390 of the intended sale, to be made in the language of the district.

105. A proclamation of sale of immovable property shall be made after notice to the defaulter, and shall state the time and place of sale and shall specify, as fairly and accurately as possible,-

(1) the property to be sold;

(2) the revenue, assessed upon the property or any part thereof;

(3) the amount for recovery of which the sale is ordered; and

(4) any other thing which the Tax Recovery Officer considers is material for a purchaser to know, in order to judge the nature and value of property.

106.(1) Every proclamation for the sale of immovable property shall be made at some place on or near such property by beat of drum or other customary mode, and a copy of the proclamation shall be affixed on a conspicuous part of the property and also on a notice-board at the office of the Tax Recovery Officer.

(2) Where the Tax Recovery Officer so directs, such proclamation shall also be published in the Official Gazette or in a local newspaper, or in both, and the cost of such publication shall be deemed to be part of the costs of the sale.

(3) Where the property is divided into lots for the purpose of being sold separately, it shall not be necessary to make a separate proclamation for each lot, unless proper notice of the sale cannot, in the opinion of the Tax Recovery Officer, otherwise be given.

107. A sale of immovable property under Rule 104 shall not, without the consent in writing of the defaulter, take place until after the expiration of at least thirty days

calculated from the date on which a copy of the proclamation of the sale has been affixed on the property or in the office of the Tax Recovery Officer, whichever is later.

108. The sale shall be by public auction to the highest bidder and shall be subject to confirmation by the Tax Recovery Officer.

109. (1) On every sale of immovable property, the person declared to be the purchaser shall pay, immediately after such declaration, a deposit of twenty five per cent of the amount of his purchase money, to the Tax Recovery Officer, and in default of such deposit, the property shall forthwith be resold.

(2) The full amount of purchase money payable shall be paid by the purchaser to the Tax Recovery Officer on or before the fifteenth day from the date of the sale of the property.

110. In default of payment within the period mentioned in sub-rule (2) of Rule 109, the deposit shall, after defraying the expenses of the sale, be forfeited to the Government by the Tax Recovery Officer, and the property shall be resold, and the defaulting purchaser shall forfeit all claims to the property or to any part of the sum for which it may subsequently be sold.

111. All persons bidding at the sale shall be required to declare if they are bidding on their own behalf or on behalf of their principals, and in the latter case, they shall be file their authority, and in default, their bids shall be rejected.

112.(1) Where immovable property has been sold in execution of a certificate, the defaulter, or any person whose interests are affected by the sale, may at any time within thirty days from the date of the sale, apply to the Tax Recovery Officer to set aside the sale, on his depositing,-

(a) for payment to the authority concerned, the amount specified in the proclamation of sale for the recovery of which the sale was ordered, with interest thereon at the rate of six percent per annum calculated from the date of the proclamation of sale to the date when the deposit made; and

(b) for payment to the purchaser, as penalty, a sum equal to five per cent of the purchase money .

(2) Where a person makes an application under Rule 113 for setting aside the sale of his immovable property, he shall not, unless he withdraws the application, be entitled to make or pursue an application under this Rule.

113. (1) Where immovable property has been sold in execution of a certificate, the authority concerned, the defaulter or any person whose interests are affected by the sale, may, at any time within thirty days from the date of sale, apply to the Tax Recovery Officer to set aside the sale of the immovable property on the ground that notice was not served on the defaulter to pay the arrears as required by this Part or on the ground of a material irregularity in publishing or conducting the sale.

(2) A sale shall be set aside on any such ground, if the Tax Recovery Officer is satisfied that the applicant has sustained substantial injury by reason of the non-service or irregularity.

(3) An application made by a defaulter without depositing the amount recoverable from him in execution of the certificate shall be disallowed.

114. At any time within thirty days of the sale, the purchaser may apply to the Tax Recovery Officer to set aside the sale on the ground that the defaulter had no saleable interest in the property sold.

115.(1) Where no application is made for setting aside the sale under the foregoing Rules, or where such an application is made and disallowed by the Tax Recovery Officer, the Tax recovery Officer shall, if the full amount of the purchase money has been paid, make an order confirming the sale, and thereupon the sale shall become absolute.

(2) Where such application is made and allowed and where, in the case of an application made to set aside the sale on deposit of the amount and penalty and charges, the deposit is made within thirty days from the date of the sale, the Tax Recovery Officer shall make an order setting aside the sale.

(3) An order shall be made under sub-rule (2), after a notice of the application has been given to the persons affected thereby.

116. When a sale of immovable property is set aside, any money paid or deposited by the purchaser on account of the purchase, together with any penalty, deposited for payment to the purchaser, and such interest as the Tax Recovery Officer may determine, shall be paid to the purchaser.

117.(1) Where a sale of immovable property has become absolute, the Tax Recovery Officer shall grant a certificate in Form VAT 395 specifying the property sold, and the name of the person who, at the time of sale, is declared to be the purchaser.

(2) Such certificate shall state the date on which the sale became absolute.

118.(1) Where an order for the sale of immovable property has been made, if the defaulter can satisfy the Tax Recovery Officer that there is a reason to believe that the amount of the certificate may be raised by the mortgage or lease or private sale of such property, or some part thereof, or of any other immovable property of the defaulter, the Tax Recovery Officer may, on the defaulter's request in writing, postpone the sale of the property comprised in the order for sale, on such terms and for such period as he thinks proper, to enable him to raise the amount.

(2) In such a case,-

(a) the Tax Recovery Officer shall grant a certificate to the defaulter, authorizing him, within a period to be mentioned therein, and notwithstanding anything contained in this Part, to make the proposed mortgage, lease or sale;

(b) all monies payable under such mortgage, lease or sale shall be paid, to the Tax Recovery Officer; and

(c) a mortgage, lease or sale under this Rule shall become absolute after it is confirmed by the Tax Recovery Officer.

119. Every resale of immovable property, in default of payment of the purchase money within the period allowed for such payment, shall be made after the issue of a fresh proclamation in the manner and for the period herein before provided for the sale.

120. Where the property sold is a share of undivided immovable property, belonging to the defaulter and a co-sharer, and two or more persons, of whom one is such co-sharer, respectively bid the same sum for such property or for any lot, the bid shall be deemed to be the bid of the co-sharer.

121. Every Tax Recovery Officer, or others acting under this Part, shall have the powers of a Civil Court while trying a suit, for the purpose of receiving evidence administering oaths, enforcing the attendance of witness and compelling the production of documents.

122.(1) An appeal from any original order passed by the Tax Recovery officer under this Part not being an order which is final, shall lie to the jurisdictional Joint Commissioner authorized by the Commissioner in this behalf.

(2) Every appeal under this Rule must be made within thirty days from the date of the order appealed against.

(3) Pending the decision of any appeal, execution of the certificate may be stayed if the appellate authority so directs.

123. Any order passed under this Part may, after notice to all persons interested, be reviewed by the officer who made the order, or by his successor-in-office, on account of any mistake apparent from the record.

124. Where any person has, under this Part, become surety for the amount due by the defaulter, he may be proceeded against under this Part as if he were the defaulter.

125. Nothing in this Part shall affect any provision of the Act under which the tax is a first charge upon any asset.

126.(1) The provisions of the Act and these Rules relating to recovery of tax, penalty and any other amount due under the Act, including the provisions of Section 36, shall apply to payment and recovery of tax assessed and penalty levied under Section 54.

(2) Where the tax assessed and penalty levied under Section 54 is not paid within the time specified in Form VAT 340, the officer in charge of any check post shall, without prejudice to other modes of recovery, detain any goods vehicle belonging to such defaulter upon its entry into the State.

(3) The Officer-in-charge of the check post shall release the vehicle detained, upon production of proof of payment of the tax or penalty or both, due by the defaulter.

(4) Where the tax or the penalty or both, are not paid by such defaulter within ten days from the date of detention of the vehicle, the officer in charge of the check post may, after giving a notice on of not less than fifteen days to the defaulter, dispose of the vehicle in public auction and adjust the sale proceeds towards the tax and penalty, the excess amount shall, after deduction of the charges incurred for the sale, be refunded to the defaulter.

127. Any officer authorized under the Act to levy tax and penalty and demand any fee shall have the power to recover such tax, penalty and fee due together with any interest payable by exercising powers under Section 45.

Adjustments and refunds

128. (1) Where any dealer, in whose case the input tax deductible relating to goods exported outside the territory of India exceeds the output tax payable by him as specified under sub-section (5) of Section 10 on the basis of the return submitted for any month during a year or where any dealer, in whose case the input tax deductible exceeds the output tax payable by him on the basis of any final return submitted under sub-section (4) of Section 27, seeks adjustment of such amount or any other such amount during the year, towards tax payable by him, or where he is found to be in arrear of tax for any tax period under this Act, the Karnataka Sales Tax Act, 1957, Central Sales Tax Act, 1956 or Karnataka Tax on Entry of Goods Act, 1979, the jurisdictional Local VAT officer or VAT sub-officer shall make the adjustment sought, if found correct, or shall make its own adjustment towards the arrear of any tax found and shall issue a notice in FORM VAT 250, showing details of any adjustment made.

(2) Where in the case of any dealer other than a dealer claiming deduction of input tax relating to goods exported outside the territory of India during any month in a year, the input tax deductible, exceeds the output tax payable by him as specified under sub-section (5) of Section 10 on the basis of the return submitted for any month in a year, the jurisdictional Local VAT officer or VAT sub-officer shall adjust, such amount towards the arrear of any tax for any tax period under this Act, the Karnataka Sales Tax Act, 1957, Central Sales Tax Act, 1956 or Karnataka Tax on Entry of Goods Act, 1979, and shall issue a notice in FORM VAT 250, showing details of any adjustment made.

129. (1) Where a dealer is eligible for refund of tax under sub-section (5) of Section 10 on the basis of the return submitted for any month during a year in respect of any goods exported outside the territory of India after adjustment under sub-rule (1) of Rule 128 or a dealer is eligible for refund on the basis of any final return submitted under sub-section (4) of Section 27, the officer authorized by the Joint Commissioner in this behalf shall proceed to issue to such dealer a refund payment order in Form VAT 255 sanctioning refund of such amount within thirty five days after the end of the month for which a return is furnished within the time specified under Section 35 or within fifteen days from

the date of receipt of such return if it is filed after the time specified for that month and any other subsequent month for that year in which the dealer is eligible for refund of tax on the basis of the return filed or within thirty five days from the date of receipt of such final return.

(2) In the case of any other dealer eligible for refund of tax under sub-section (5) of Section 10 on the basis of the return submitted for the last month of any year, after adjustment under Rule 128, the officer authorized by the Joint Commissioner in this behalf shall proceed to issue to such dealer a refund payment order in Form VAT 255 sanctioning refund of any amount refundable, within thirty five days after the end of the last month of the year for which a return is furnished, within the time specified under Section 35 or within fifteen days from the date of receipt of such return if it is filed after the time specified, declaring such amount as refundable after any adjustment.

(3) The Local VAT officer or VAT sub-officer may reject, within the time specified in sub-rule (1) or (2), any claim for refund if the claim filed appears to involve any mistake apparent on the record or appears to be incorrect or incomplete, based on any information available on the record, after giving the dealer the opportunity to show cause in writing against such rejection.

(4) In computing the period of thirty five days in sub-rule (1) or (2), there shall be left out of account the following periods under sub-section (3) of Section 50.-

(a) any delay attributable to the conduct of the person to whom the refund is payable;

(b) the time during which any reasonable inquiry relating to the return or claim was initiated and completed; and

(c) the time taken for adjustment under sub-section (2) of Section 50 by the refunding authority of any tax, interest or other amount due.

(5) Where any amount refundable under sub-rule (1) is not refunded to the dealer within the period specified, the refund payment order in Form VAT 255 shall include the interest specified under Section 50 covering the period following the end of the said period to the day of refund.

(6) The Local VAT officer or VAT sub-officer shall, if he is satisfied that any other refund is due to any person under the Act, by virtue of any order or proceeding, issue to such dealer a refund payment order in Form VAT 255 sanctioning refund of such amount together with payment of interest as provided under Section 50.

(7) Where a refund payment order is issued, the officer shall simultaneously send a copy of such order to the Treasury Officer concerned or, where the cash transactions of the Government are handled by the Reserve Bank or any of its agency Banks, to the officer in charge of such Bank where the payment of the refund is to be made.

130.(1) The application to be submitted under Section 47 shall be in Form VAT 260.

(2) The person claiming refund shall enclose with the application copies of tax invoices duly certified by the dealer in respect of whom the order of forfeiture under Section 47 is passed, and a certified copy of the order of forfeiture so passed.

(3) If the claim for refund relates to collection of tax by more than one dealer, separate application in respect of each of such dealer shall be made.

(4) On receipt of the application, if the Commissioner is satisfied, after holding such inquiry as he considers necessary, that the claim for refund is valid and admissible, he shall pass orders for such refund of the amount or any part thereof by the jurisdictional Local VAT Officer or VAT sub-officer.

131. (1) Any person claiming reimbursement of tax under Section 21 shall make an application in Form VAT 165, to the Commissioner within sixty days from the date of purchase, together with copies of invoices.

(2) On receipt of the application, if the Commissioner is satisfied, that the claim for reimbursement is valid and admissible, he shall pass orders for such reimbursement of the amount or any part thereof by the jurisdictional Local VAT Officer or VAT sub-officer.

PART VI

PARTIAL EXEMPTION, CAPITAL GOODS AND SPECIAL ACCOUNTING SCHEMES

Apportionment

132. Apportionment of input tax in the case of a dealer falling under Section 17 shall be calculated as follows.-

(1) All input tax directly relating to sale of goods exempt under Section 5 other than such goods sold in the course of export out of the territory of India, is non-deductible.

(2) All input tax directly relating to taxable sales may be deducted, subject to the provisions of Section 11.

(3) Any input tax relating to both sale of taxable goods and exempt goods, including inputs used for non-taxable transactions, that is, the non-identifiable input tax, may be deducted, based on the following formula.-

$$\frac{\text{Sales of taxable goods} \times \text{non-identifiable input tax}}{\text{Total sales}} = \text{deductible element of input tax.}$$

(including non-taxable transactions)

(4) For the purpose of clause (3),

(a) 'Sale of taxable goods' would be the aggregate of the amounts specified in clauses (b), (c), (d), (e) and (f) of sub-rule (1) of Rule 4 relating to sale of goods other than those exempt under Section 5 which are not sold in the course of export out of the territory of India; and

(b) "total sales" means total turnover less.-

(i) the amount specified in clause (a) of sub-rule (1) of Rule 4, and

(ii) the deductions specified in clause (e) of sub-rule (2) of Rule 4.

(5) Where in the case of any dealer, the Commissioner is of the opinion that the application of the formula prescribed under clause (3) does not give the correct amount of deductible input tax, he may direct the dealer to adopt a special formula as he may specify.

133.(1) Any dealer claiming input tax deduction under Rule 132, shall complete his return on a provisional basis each month, and the true apportionment for the year shall be made in the returns to be furnished for the sixth and final months of the year after calculating the apportionment under clause (3) or (5) of Rule 132 for the part period and the whole year.

(2) Where, under sub-rule (1), in any period of one month the total input tax due on a dealer's non-taxable transactions does not exceed five hundred rupees, all such input tax in that period shall be treated as input tax on taxable sales.

Capital goods scheme

134. (1) A dealer claiming input tax under Section 12, in respect of capital goods, as notified under clause (7) of Section 2, shall, apply in Form VAT 170 to the jurisdictional local VAT officer or VAT Sub-officer within thirty days of commencement of commercial production or sale of taxable goods.

(2) The jurisdictional local VAT officer or VAT Sub-officer shall review such application to ensure that it contains all the information required and notify the dealer within one month of the date of receipt of the application that it was received within the prescribed time, and where it is not satisfied that the particulars contained in the application are correct and complete, and after giving the dealer a reasonable opportunity of being heard, it shall reject the application for reasons to be recorded in writing.

(3) The jurisdictional local VAT officer or VAT Sub-officer shall inform a dealer eligible for input tax rebate in Form VAT 175 within thirty days of receipt of an application which is correct and complete.

(4) Deduction of input tax under Section 12 shall be subject to the following conditions.-

(a) In the case of a dealer selling goods in the course of export out of the territory of India and the capital goods are used for the sale of such goods, wholly or partially, the deduction shall be allowed in the month in which such sales are first made.

(b) In other cases the deduction shall be apportioned in equal monthly instalments over a period of three years from the date indicated in Form VAT 170 during which period the capital goods are used for the business of taxable goods, wholly or partially.

(c) Where there is a change in use of the capital goods from sale of exempt goods or non-taxable transactions to sale of taxable goods wholly or partially, the value of capital goods eligible for rebate shall be calculated on the basis of a formula to be notified by the Commissioner.

(d) The deduction shall be claimed by the dealer in his monthly return.

(e) No deduction of input tax shall be allowed where the use of capital goods relates wholly to the sale of exempt goods, other than when such goods are sold in the course of export out of the territory of India.

(f) Where the use of capital goods relates to both the sale of goods in the course of export out of the territory of India or sale of taxable and exempt goods and also to taxable goods that are disposed otherwise than by way of sale or non-taxable transactions, the deductible element of input tax shall be calculated on the basis of the formula specified under Rules 130 and 131.

(5)(a) Where there is a change in use of the capital goods, after the claim for input tax rebate has been allowed, and the dealer is no longer eligible for such input tax rebate, the dealer shall inform the jurisdictional local VAT officer or VAT sub-officer within ten days of such change in use.

(b) The jurisdictional local VAT officer or VAT sub-officer shall notify the dealer in Form VAT 180 that he is no longer eligible for the input tax rebate under the scheme with effect from the end of the month preceding the month in which such change of use occurred.

(6) Where the capital goods are sold within a period of three years from the date of the commencement of commercial production or sale of taxable goods or sale of any goods in the course of export out of the territory of India,-

(a) the purchasing dealer may claim the full input tax in his next return where the sale price falls below the notified value, or claim input tax under the provisions of this Rule; and

(b) the selling dealer shall pay full tax on such sale.

(7) Where the capital goods are disposed of otherwise than by way of sale within a period of three years from the date of the commencement of commercial production or sale of taxable goods or sale of any goods in the course of export out of the territory of India the dealer shall pay tax calculated on the prevailing market value of such goods at the time of such disposal.

Special accounting schemes

135.(1) The Commissioner may, under Section 16, permit the taxable turnover of sales by a registered dealer to be determined by a method agreed with that dealer or by any method described in a notice issued by him for the purposes of this Rule.

(2) A registered dealer who makes sales of goods by retail directly to the consumer may calculate tax on those sales by one of the methods specified under this Rule.

(3) Such registered dealer who has a taxable turnover relating to goods taxable at different rates shall.-

(a) record the daily total sales of goods taxable at different rates, including exempt sales, at the end of the day; and

(b) at the end of the month, based on daily taxable sales, calculate the tax content using the tax fraction or fractions for the rate or rates of tax in force and include the amount in the return for that period.

(4) Such registered dealer, who has a taxable turnover relating to goods which are taxable at different rates and cannot be identified separately, shall.-

(a) record daily total sales at the end of the day;

(b) at the end of the month, calculate daily total sales for that month;

(c) apportion those total sales into taxable sales in the same proportion as the value of purchases of taxable goods made in the month out of the value of total purchases in that month; and

(d) from the apportioned taxable sales, calculate the tax for the month using the tax fraction or fractions for the rate or rates of tax in force and include the amount in the return for the month.

(5) For the purposes of sub-rules (3) and (4), “tax fraction” means the fraction calculated in accordance with the following formula.-

$$\frac{\text{tax rate}}{\text{tax rate} + 100}$$

(6) A registered dealer using the method of calculation under sub-rule (4) shall, at the end of each year.-

- (a) re-calculate his output tax in respect of sales made during that year, based on the purchases made in that year in the manner specified above; and
- (b) in his next return, adjust any difference in output tax previously attributed to taxable sales during that year.

(7) A registered dealer, using the method of calculation under sub-rule (4), where there has been.-

- (a) a cancellation of his registration;
- (b) a change in the rate of tax;
- (b) a change in the liability for tax that affects the business; or
- (c) a cessation of the use of the chosen method of calculating output tax,

shall re-calculate the output tax in respect of the period commencing at the beginning of the year and ending on the date of the occurrence of any of the aforesaid events based on the purchases made in that period in the manner specified above, and within thirty days after the date of that event, include any adjustment to the output tax previously attributed to taxable sales during that period in his return for the next month.

(8) A registered dealer shall keep a record of all payments received each day, including any till rolls or electronic points of sale prints, where a dealer uses an electronic system.

(9) A registered dealer may choose to use one of the two methods described in sub-rules (3) and (4), and the method chosen shall continue to be used in any return submitted, so long as the dealer remains a taxable dealer, for a period of not less than twelve months from the date of adoption of that method by him.

(10) In the event of a change in the rate of tax or liability to tax during a year, the calculation in sub-rules (3) or (4) of this Rule shall be made at the end of the day on the date of change and also at the end of the day on the last date of the month, using the rate of tax and the liability to tax in force on each respective day.

(11) The local VAT officer or VAT sub-officer may refuse to permit the value of taxable sales to be determined in accordance with a method if it appears.-

- (a) that the use of any particular scheme does not produce a fair and reasonable taxable turnover during any period; or

(b) that it is necessary to do so for the protection of the revenue.

PART VII

COMPOSITION OF TAX

Option to pay, returns and payment

136. A dealer opting to pay tax by way of composition under Section 15, shall satisfy the following conditions.-

(1) He shall be a dealer registered under the Act or a dealer who has made an application for registration under the Act.

(2) He shall not have any goods in stock any goods brought from outside the State on the date he opts to pay tax by way of composition and shall not sell any goods brought from outside the State after such date.

(3) He shall not be a dealer who has claimed tax rebate on stock in hand under Section 18 as at the date of commencement of the Act.

(4) He shall not be a dealer selling liquor.

(5) He shall not be a dealer selling goods in the course of inter-State trade or commerce or in the course of export out of the territory of India.

(6) He shall not be a dealer who has withdrawn his option to pay tax by way of composition and.-

(a) has paid tax under Section 3 for a period of less than twelve months; or

(b) was not registered under the Act during the preceding period of twelve months.

(7) He shall not be a casual dealer or a dealer who is voluntarily registered under Section 23.

137. A dealer opting to pay tax by way of composition under Section 15, shall .-

(1) report his option, if not already registered, not later than the date on which his registration comes into effect under Section 25 and, if already registered, on the first day of any month after the date of registration;

(2) report his option in Form VAT 1 to the jurisdictional Local VAT officer or VAT Sub-officer; and

(3) furnish a return on Form VAT 100 and pay tax at the rate or rates specified in Section 4 on his taxable turnover for any month within twenty days of the following month, until he receives a certificate in Form VAT NIC from the jurisdictional Local VAT officer or VAT sub-officer.

138. The jurisdictional Local VAT officer or VAT sub-officer shall.-

(1) if it considers that the Form VAT 1 submitted under Rule 137 is incorrect or incomplete or the dealer is ineligible for any other reason, after giving him the opportunity of showing cause in writing against rejection, issue a notice in Form VAT 10 informing the dealer that the Form VAT 1 is rejected and, where appropriate, demand any tax due;

(2) if he is satisfied that the Form VAT 1 submitted under Rule 137 is correct and complete and within the time prescribed, issue a certificate in Form VAT NIC to the dealer; and

(3) issue a further certified copy of the certificate where a certificate issued under clause (2) is lost or destroyed.

139. Every dealer, other than a dealer executing works contracts and a dealer who is a hotelier or restaurateur or caterer, opting to pay tax by way of composition under Section 15, shall.-

(1) display his certificate in a prominent location at his main place of business;

(2) pay tax, by way of composition, at a rate notified by the Government;

(3) not collect tax on his sales;

(4) submit a quarterly return to the jurisdictional Local VAT officer or VAT sub-officer, indicating the tax due on his sales of goods in Form VAT 120, together with proof of full payment of the tax due, in accordance with Rule 53, by the fifteenth day of the month following the relevant quarter;

(5) as long as he remains registered, submit such quarterly return, whether or not any tax is due for any quarter;

(6) where he needs to make any amendments to his quarterly return, submit a revised return in Form VAT 130, together with proof of full payment of any further tax due, to the jurisdictional Local VAT officer or VAT sub-officer; and

(7) where he submits a return after the due date, and also where he submits a revised return, furnish proof of payment of the interest due under Section 36.

140. Every dealer executing a works contract and every dealer who is a hotelier or restaurateur or caterer, opting to pay tax by way of composition under Section 15, shall.-

- (1) display his certificate of registration in a prominent location at his main place of business;
- (2) pay tax, by way of composition, at a rate notified by the Government;
- (3) not collect tax on his sales;
- (4) submit a monthly return to the jurisdictional Local VAT officer or VAT sub-officer, indicating the tax due in Form VAT 120, together with proof of full payment of the tax due, in accordance with Rule 53, within fifteen days after the end of the relevant month;
- (5) as long as he remains registered, submit such monthly return, whether or not any tax is due for any month;
- (6) where he needs to make any amendments to his monthly return, submit a revised return in Form VAT 130, together with proof of full payment of any further tax due, to the jurisdictional Local VAT officer or VAT sub-officer; and
- (7) where he submits a return after the due date, and also where a he submits a revised return, such return shall be accompanied by proof of payment of the interest due under Section 36.

141. Where a return is not accompanied by proof of full payment of the tax in accordance with Rule 53, the jurisdictional Local VAT officer or VAT sub-officer shall issue a demand notice in Form VAT 115 requiring payment of the outstanding tax due, together with interest payable under Section 36.

Withdrawal from scheme and cancellation of certificate

142. Every dealer, other than a dealer executing works contracts and a dealer who is a hotelier or restaurateur or caterer, who has opted to pay tax by way of composition and whose total turnover within a period of four consecutive quarters exceeds the threshold provided for under Section 15, shall.-

- (1) report to the jurisdictional Local VAT officer or VAT sub-officer by furnishing a final return in Form VAT 135, accompanied by proof of full payment of the tax in accordance with Rule 53, within ten days of the end of the relevant quarter;
- (2) surrender his certificate in Form VAT NIC; and

(3) be liable to pay tax under Section 3 for the period starting from the first day of the month succeeding the month in which he exceeded the threshold.

143. Any dealer executing works contracts or a dealer who is a hotelier or restaurateur or caterer, who has opted to pay tax by way of composition and has submitted returns for twelve consecutive months or any other dealer who has opted to pay tax by way of composition and has submitted returns for four consecutive quarters or may withdraw his option and shall.-

(1) report to the jurisdictional Local VAT officer or VAT sub-officer by furnishing a final return in Form VAT 135 for the previous tax period accompanied by proof of full payment of the tax in accordance with Rule 53 on the first day of the following month;

(2) surrender his certificate in Form VAT NIC; and

(3) be liable to pay tax under Section 3 for the period starting from the first day of the month succeeding the month in which he withdrew his option.

144.(1) Every dealer, who after opting to pay tax by way of composition purchases or obtains goods from outside the State or from outside the territory of India shall be ineligible for such benefit and liable to pay tax under Section 3 from the first day of the month in which such purchase or procurement was made.

(2) Every such dealer falling under sub-rule (1) shall,-

(a) report to the jurisdictional Local VAT officer or VAT sub-officer by furnishing a final return in Form VAT 135 for the previous tax period accompanied by proof of full payment of the tax in accordance with Rule 53 on the first day of the following month; and

(2) surrender his certificate in Form VAT NIC.

145. The jurisdictional Local VAT officer or VAT sub-officer shall, on receipt of a final return filed by the dealer under Rule 143 and in the case of a dealer falling under Rule 142 or 144 on receipt of the dealer's final return or on his own motion, cancel such dealer's certificate in Form VAT 395 and inform the dealer in Form VAT 15.

146. Every dealer whose certificate Form VAT NIC has been cancelled shall be entitled to deduction of input tax allowed subject to the restrictions imposed by Section 11, in respect of tax charged to him by a seller on taxable sale of goods made to him for the purpose of the business within three months prior to the effective date of cancellation of his certificate in Form VAT NIC provided that the goods are in stock at such date.

147. The duties and obligations imposed by the Act and Rules on any dealer shall not be affected by the cancellation of his certificate in Form VAT NIC, to the extent that they are necessary to obtain the tax due and any information for which the dealer was responsible during the period of his certificate.

PART VIII

APPEALS AND REVISIONS

148.(1) An appeal under Section 62 against any order or proceedings of an officer below the rank of a Joint Commissioner shall be preferred to the Joint Commissioner authorized by the Commissioner in this behalf.

(2) The Commissioner may, either *suo motu* or on application, for reasons to be recorded in writing, transfer an appeal pending before an appellate authority to another appellate authority.

(3) The order of transfer shall be communicated to the appellant, to every other party affected by the order, to the authority against whose order the appeal was preferred and to the appellate authorities concerned.

(4) Where the appeal is filed after the expiry of the period of limitation, it shall be accompanied by an application for condonation of delay supported by a sworn affidavit as to the cause of the delay.

149.(1) Every appeal shall be made in Form VAT 430 and shall be accompanied by .-

(a) two copies, one of which shall be the original or an authenticated copy, of the order or proceedings in respect of which appeal has been preferred;

(b) an application for condonation of delay or stay of the payment of tax or other amount disputed in the appeal accompanied by a sworn affidavit as to the cause of the delay.

(2) The appeal may be sent to the appellate authority by registered post or may be presented to that authority or to such officer as the appellate authority may appoint in this behalf, by the appellant or his authorized agent or a legal practitioner or an accountant or a tax practitioner duly authorized by the appellant in writing.

(3) If the court fee payable has not been paid, or proof of payment of the tax not disputed in the appeal, has not been produced or the papers presented are not in conformity with the provisions of the Act and these Rules, the appellate authority shall issue a notice in Form VAT 435 requiring rectification of the defects, and the appellant or his agent or pleader shall rectify the defects within a period of thirty days from the date of issue of the notice.

(4) If the defects are not rectified within the time specified, the appellate authority, after giving the appellant or his representative the opportunity to show cause in writing against

the Notice of requiring rectification, shall pass an order directing the appeal to be registered or rejected.

(5) Where the appellate authority is satisfied that the appellant was prevented from presenting the appeal for sufficient cause within the time specified, he may condone the delay and admit the appeal.

(6) Where the appellate authority is not satisfied with the cause shown by the appellant for the delay, he may, after recording reasons, reject the appeal.

(7) The appellate authority may dispose of any stay application as it deems fit, after giving the appellant or his representative the opportunity to show cause in writing against such disposal.

150.(1)(a) Every appeal under Section 63 to the Appellate Tribunal shall be in Form VAT 440 shall be verified in the manner specified.

(b) The appeal form shall be in quadruplicate and accompanied by four copies, one of which shall be the original or an authenticated copy of the order appealed against, and also four copies of the order giving rise to the first appeal.

(c) In the case of an appeal preferred by any person other than an Officer empowered by the State Government under sub-section (1) of Section 63, the appeal memorandum in Form VAT 440 shall be affixed by a court-fee stamp or shall be accompanied by a treasury receipt in support of having paid the fee calculated at the rate of two percent of the amount of assessment objected to subject to a minimum of two hundred rupees and a maximum of on thousand rupees.

(d) Every memorandum of cross-objection under Section 63 shall be in Form VAT 445 and shall be verified in the manner specified therein.

(2)(a) Every application for review under sub-section (8) of Section 63 to Appellate Tribunal shall be preferred in Form VAT 450 and shall be verified in the manner specified therein.

(b) The application for review shall be in quadruplicate and accompanied by four copies of the original order of the Appellate Tribunal.

(c) The application for review shall also, where it is preferred by the appellant other than the State Government be affixed by a court- fee stamp or shall be accompanied by a treasury receipt in support of having paid the fee calculated at the rate of two per cent of the amount of the assessment objected to, subject to a minimum of two hundred rupees and a maximum of one thousand rupees.

(3) If the Appellate Tribunal allows an appeal or application for review preferred by the appellant other than the State Government under Section 63, it may, in its discretion by order, refund either wholly or partly the fee paid by such appellant under sub-section (4) or clause (c) of sub-section (6) of Section 63.

151.(1) If an appellant or an applicant dies while the appeal or application is pending and it cannot be proceeded with unless his legal representative is brought on record, the Appellate Authority or the Appellate Tribunal shall adjourn further proceedings to enable his legal representative to appear and apply for being made a party and, if the legal representative fails to do so within ninety days from the date on which the appellant or applicant died, the appeal or the application shall abate as regards the deceased.

(2) If a respondent dies while an application for review by the Appellate Tribunal is pending and it cannot be proceeded with unless his legal representative is brought on record, the applicant shall apply to the Appellate Tribunal for making the legal representative of such respondent a party to the application for review within ninety days from the date on which the respondent died and, if the applicant fails to do so, the application shall abate as regards the deceased.

(3) Notwithstanding anything contained in sub-rules (1) and (2), there shall be no abatement by reason of the death of any party between the conclusion of the hearing and 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 had been passed before the death took place.

(4) If a question arises in any appeal, revision or review, whether a person is or is not the legal representative of a deceased appellant, applicant or respondent, such question may be determined by the Appellate Authority or the Appellate Tribunal as the case may be, in a summary way, if necessary, after taking evidence.

152.(1) Where, under clauses (c) of sub-section (4) of Section 62 and (b) of sub-section (7) of Section 63, it is provided that an appellant or an applicant in revision proceedings shall furnish security with regard to the payment of tax or fee or other amount, the appellant or applicant or any person on his behalf shall furnish security or bank guarantee as the authority before which the appeal or application is preferred may in its discretion direct.

(2) The security bond shall be in Form VAT 455.

153.(1)(a) Every petition under sub-section (1) of Section 65 to the High Court shall be in Form VAT 460 and shall be verified in the manner specified therein.

(b) The petition shall be accompanied by a certified copy of the order of the Appellate Tribunal.

(2)(a) Every application for review under sub-section (10) of Section 65 and any application for review under Section 66 to the High Court shall be in Form VAT 465 and Form VAT 470 respectively, and shall be verified in the manner specified therein.

(b) An application for review under clause (a) above shall be preferred within ninety days from the date of communication of the order sought to be reviewed.

(3) Every appeal under Section 66 to the High Court shall be in Form VAT 475 and verified in the manner specified therein and shall be accompanied by the original order or a certified copy of the order of the Additional Commissioner or Commissioner appealed against.

154. Where the tax as determined by the initial authority assessing such tax appears to the Appellate Authority under Section 62 or Revisional Authority under Section 64 to be less than the correct amount of the tax payable by the dealer, the Appellate or Revisional Authority shall, before passing orders, determine the correct amount of tax payable by the dealer, after issuing a notice to the dealer in Form VAT 480 and after making such enquiry as such Appellate or Revisional Authority considers necessary.

155.(1) Every order of an Appellate or Revisional Authority under Sections 62 or 63 shall be communicated to the appellant and to every other party affected by the order, to the prescribed authority against whose order the appeal or revision was filed and to any other authority concerned.

(2) The order passed on appeal or revision shall be given effect to by the prescribed authority who shall refund without interest any excess tax found to have been collected and shall also collect any additional tax which is found to be due in the same manner as any tax assessed.

156. Every order passed by the Appellate Tribunal or the High Court shall, on authorization by the Appellate Tribunal or the High Court, be given effect to by the prescribed authority, which shall refund without interest any excess tax found to have been collected and shall also collect any additional tax which is found to be due in the same manner as tax assessed.

PART IX

INSPECTION OF GOODS IN TRANSIT

157.(1) The document referred to in sub-section (2) of Section 53 shall be,-

(a) a tax invoice or a bill of sale and a delivery note in Form VAT 505 or 515, issued by the owner or the consignor of goods, in respect of goods carried which are sold or purchased by a dealer or class of dealers as may be notified by the Commissioner subject to conditions as he may specify;

(b) a tax invoice or a bill of sale where the goods are carried as a result of sale and are not covered by clause (a); and

(c) a delivery note in Form VAT 515, issued by the owner or the consignor of goods, where the goods are carried are not covered by clause (a).

(2) (a) The delivery note in Form VAT 505 shall be obtained by a dealer from the Local VAT officer or VAT sub-officer on payment of fifty rupees per book of twenty five Forms or two rupees per Form.

(b) Every Form VAT 505 so obtained by the dealer shall be kept by him in safe custody, and the dealer shall be personally responsible for the loss, destruction or theft of any such Form or the loss of revenue to the State Government resulting directly or indirectly from such loss, destruction or theft.

(c) Every dealer shall maintain in a register in Form VAT 510 true and complete account of every such Form obtained by him and where any Form is lost, destroyed or stolen, the dealer shall report the fact to the jurisdictional Local VAT officer or VAT sub-officer within a week of such loss, destruction or theft, shall make appropriate entries in the remarks column of the said register and take such other steps to issue public notice of the loss, destruction or theft, as such officer may direct.

(d) Any unused delivery note in Form VAT 505 remaining in stock with a dealer shall be surrendered to the jurisdictional Local VAT officer or VAT sub-officer within thirty days of the discontinuance of the business by the dealer or cancellation of his certificate of registration.

(e) No dealer who has obtained such Form shall, either directly or through any other person, transfer the same to another person.

(f) A delivery note in respect of which a report has been received by the jurisdictional tax officer under clause (c) shall not be valid for the purpose of sub-section (2) of Section 53.

(g) The Joint Commissioner shall from time to time publish in the Official Gazette, the particulars of the delivery notes in Form VAT 505 in respect of which a report has been received under clause (c).

(3)(a) Every dealer issuing a delivery note in Form VAT 515 shall notify in advance the commencement of issue of such delivery notes to the jurisdictional Local VAT officer or VAT sub-officer and thereafter the said dealer shall be deemed to be permitted to issue Form VAT 515.

(b) Every delivery note in Form VAT 515 issued under clause (a), shall be printed in triplicate in black ink on white paper measuring 210 by 297 m.m. and serially machine numbered, and the dealer shall maintain an account in respect of such delivery notes issued in a register in Form VAT 520.

(c) If any dealer fails to maintain a true and correct account as required under clause (b) or is found to have transported any goods in contravention of the provisions of sub-section (2) of Section 53, the jurisdictional Local VAT officer or VAT sub-officer shall, after giving such dealer a reasonable opportunity of being heard pass an order disentitling such dealer from issuing any delivery note in Form VAT 515 and directing such dealer to obtain delivery note in Form VAT 505.

(d) The Local VAT officer or VAT sub-officer may, subject to payment of security that he may demand for proper use of delivery note in Form VAT 515, in his discretion,

permit a dealer in respect of whom an order has been passed under clause (c), to issue the Form VAT 515 afresh and to make use of the same for transport of goods.

158. The declaration under clause (d) of sub-section (2) of Section 53 shall be in Form VAT 525.

159. (1) The driver or any other person-in-charge of a goods vehicle or boat, shall stop the vehicle or boat at a check post or a barrier and keep it stationary for as long as it is required by the officer in-charge of the check post or barrier and allow examination of the goods in the vehicle or the boat and inspection of all the records connected with the goods in the vehicle or boat.

(2) When the officer-in-charge of the check post or barrier is not at the check post or barrier, the driver or any other person-in-charge of a goods vehicle or boat shall keep it stationary at the check post or barrier, when required by any officer assisting the officer-in-charge of the check post or barrier, for a period not exceeding ten minutes in order to enable the officer-in-charge of the check post or barrier to come and examine the goods.

(3) When such officer examines the goods, the owner or other person-in-charge of the goods vehicle shall deliver to such officer copies of the goods vehicle record, trip sheet or log book and also the tax invoice, bill of sale or delivery note which accompanies the goods vehicle.

(4) If on such inspection by any such officer it is found that in respect of goods being transported in the goods vehicle or boat.-

(a) there is any contravention of or non-compliance with the provisions of subsection (2) or subsection (3) of Section 53; or

(b) the declaration made under subsection (2) of Section 53 is false in respect of the materials furnished therein; or

(c) the particulars furnished in the records do not tally with the goods actually being transported or do not relate to such goods,

such officer may, after giving the owner or person-in-charge of the goods vehicle or boat a reasonable opportunity of being heard, by order, levy penalty a not exceeding the limits specified in sub-section (12) of section 53.

(5) The officer disposing of goods in public auction under clause (c) of sub-section (14) of Section 53, shall make remittance of the sale proceeds into the Government Treasury and, after adjusting the sale proceeds towards penalty and charges incurred by the State, shall inform and refund the balance amount, by issuing a refund payment order as specified under Rule 129 to the owner or person in charge of goods vehicle or boat or to a dealer registered under the Act or carrier or bailee, who applies for a refund of the amount in person or through his authorized agent within sixty days from the date of receipt of such information.

160.(1) At any place other than a check post or barrier, the driver or any other person-in-charge of a goods vehicle or boat, shall stop on demand by an officer of the Department, authorized in this behalf, and keep it stationery as long as it is required and allow examination of the goods in the vehicle or boat and inspection of all records connected with the goods in the vehicle or boat.

(2) The provisions of sub-rules (3) and (4) of Rule 159 shall apply *mutatis mutandis* to the inspection made under this Rule as if such inspection had been made at a check post or barrier.

161. (1) The driver or the person-in-charge of a goods vehicle shall, in order to obtain a pass under Section 54, submit an application, in triplicate, in Form VAT 530 to the officer-in-charge of the check post or barrier established near the point of entry into the State or 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 in this behalf.

(2) The officer-in-charge of the entry check post or such officer empowered shall, after examining the document and after making such enquiries as he deems necessary, issue a pass on the duplicate and triplicate copies of the application, retaining the original himself.

(3) The 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 should so cross.

(4) 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 person in charge of goods vehicle shall seek extension of time from.-

(a) the officer who issued the transit pass; or

(b) any officer empowered to issue the transit pass; or

(c) the jurisdictional Local VAT officer or VAT sub-officer where the vehicle is stationed at the time of seeking extension of time.

(5) The officer specified in this sub-rule shall, after examining the reasons for delay and after such enquiry as he deems fit, extend the time of exit by suitably amending the transit pass.

(6) The driver or the person-in-charge of the goods vehicle shall surrender the duplicate copy of the 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 pass had been obtained, and the officer-in-charge of such check post shall issue a receipt on the triplicate copy of the pass

for the duplicate copy surrendered by the driver or the person-in-charge of the goods vehicle.

(7) The officer-in-charge of the exit check post may for the purpose mentioned in sub-rule (6) detain, unload and search the contents of the vehicle.

(8) Where for any reason the pass issued does not specify the exit check post of the State to be crossed and if for sufficient reason the driver or the person-in-charge of the goods vehicle is unable to surrender the duplicate copy of such pass before exit from the State, the driver or the person-in-charge of the goods vehicle shall cause to surrender the copy to the officer-in-charge of the entry check post either in person or by Registered Post Acknowledgement Due within seven days from the date of crossing the State limits.

(9) The officer-in-charge of the entry check-post or any other officer empowered under Section 54 may also demand such amounts not exceeding the amount specified in subsection (7) of the said Section as security from the owner of the vehicle in the circumstances specified in that Section.

162. The notice of penalty levied under sub-section (12) of Section 53 shall be issued in Form VAT 535.

PART X

CLARIFICATION OF RATE OF TAX AND ADVANCE RULINGS

163. **Fee for Commissioner's clarification on rate of tax:**(1) The fee payable for seeking clarification under sub-section (4) of Section 59 shall be five hundred rupees.

(2) The fee specified in sub-rule (1) shall be paid by way of crossed demand draft in favour of the Commissioner of Commercial Taxes in Karnataka, Bangalore.

164. Definitions.- In this part, unless the context otherwise requires.-

(a) **“Advance Ruling”** means a determination by the Authority in relation to a transaction which has been undertaken or is proposed to be undertaken by a dealer registered under the Act;

(b) **“Applicant”** means any dealer who is registered under the Act;

(c) **“Application”** means an application made to the Authority under sub-section (2) of Section 60;

(d) **“Authorised representative”**.-

(i) in relation to an applicant shall have the meaning assigned to it under Section 86;

(ii) in relation to the Commissioner, means any officer authorized by the Commissioner in writing to appear, plead and act for the Commissioner in any proceedings before the Authority;

(e) **“Authority”** means the Authority for Clarification and Advance Rulings constituted under Section 60;

(f) **“Case”** means any proceedings under Section 60 in respect of an applicant;

(g) **“Chairman”** means the Chairman of the Authority;

(h) **“Member”** means a member of the authority and includes the Chairman;

(i) **“Order”** includes any order, direction or ruling of the authority;

(j) **“Secretary”** means any officer designated as the Secretary of the authority;

(k) Words and expressions used and not defined herein but defined in the Act, shall have the meanings respectively assigned to them in the Act.

165.(1) An application under sub-section (2) of Section 60 shall be made in Form VAT 540 and shall be verified in the manner indicated therein, and every such application shall be accompanied by a fee of one thousand rupees.

(2) The fees specified in sub-rule (1) above shall be paid by way of crossed demand draft in favour of the Commissioner of Commercial Taxes in Karnataka, Bangalore.

(3) An applicant may withdraw an application made under sub-section (1) of Section 60 within thirty days from the date of application.

(4) On receipt of an application, the Authority shall cause a copy thereof to be forwarded to the authority concerned and call for production of any information or records.

(5) The Authority may, after examining the application and any records called for, by order, either, allow or reject the application.

(6) The Authority shall not allow the application where the question raised in the application,

(a) is already pending before any officer or authority of the Department or Appellate Tribunal or any Court in any proceeding before them; or

(b) relates to a transaction or issue which is designed apparently for the avoidance of tax.

(7) No application shall be rejected under sub-rule (5) unless an opportunity has been given to the applicant to show cause in writing against such rejection, and where the application is rejected, reasons for such rejections shall be given in the order.

(8) The Authority shall hear and determine an application made under sub-section (2) of Section 60 and such other applications, petitions and representations of an interlocutory, incidental or ancillary nature as may be necessary for a complete and effective disposal of the application, as the Chairman may by general or special order direct.

(9) Where an application is allowed under sub-rule (5), the Authority shall, after examining such further material as may be placed before it by the Applicant or obtained by the Authority, pass such order as deemed fit on the questions specified in the application, after giving an opportunity to the applicant of being heard, if he so desires.

(10) The authority shall pass an order within three months of the receipt of any application, and a copy of every order made under Section 60 shall be sent to the applicant and the officer concerned.

(11) The Commissioner may constitute the Authority consisting of three Additional Commissioners as members and authorize the most senior member to act as Chairman.

(12) The Commissioner may authorize any officer to act as the Secretary of the Authority.

(13) The Authority shall hold its sittings at its head quarters at Bangalore at least twice in a month, and the date and place of hearing shall be notified in such manner as the Chairman may by general or special order direct.

(14) The Secretary shall have the custody of the records of the Authority and shall exercise such other functions as are assigned to him under these rules or by the Chairman by separate order.

(15) The official seal of the Authority shall be kept in custody of the Secretary.

(16) The Secretary shall also have the following powers and duties namely.-

(a) to receive all applications filed before the Authority;

(b) to scrutinize the applications to find out whether they are in conformity with the Act, the rules and the procedure;

(c) to point out defects in such application to the parties and grant time to remove the defects and where, within the time granted, the defects are not removed, to obtain necessary orders of the Authority;

(d) to fix the date of hearing for the applications in consultation with the Chairman and direct the issue of notices there for;

(e) to issue notices or other processes and to ensure that the parties are properly served;

(f) to requisition records from the custody of any person including any authority;

(g) to allow inspection of records of the Authority;

(h) to direct any formal amendment of the records of the Authority;

(i) to grant certified copies of the orders of the Authority to the parties; and

(j) to grant certified copies of documents filed in the proceedings to the parties in accordance with the rules.

(17) (a) Any requisition, direction, letter, authorization or written notice to be issued by the Authority shall be signed by the Secretary or by an officer authorized by him.

(b) Nothing in clause (a) shall apply to any requisition or direction which the Authority may, in the course of the hearing, issue to an applicant or any authority or an authorized representative.

(18)(a) The Authority may at its discretion permit or require the applicant to submit such additional facts as may be necessary to enable it to pronounce its clarification or advance ruling.

(b) Where in the course of the proceedings before the Authority a fact is alleged which cannot be borne out by, or is contrary to, the record, it shall be stated clearly and concisely and supported by a duly sworn affidavit.

(19) The applicant shall not, except by leave of the Authority be heard in support of any additional question not set-forth in the application, but in deciding the application, the Authority shall at its discretion consider all aspects of the questions set-forth as may be necessary to pronounce a ruling on the substance of the questions posed for its consideration.

(20) An authorized representative appearing for the applicant at the hearing shall file, before the commencement of the hearing, a document authorizing him to appear for the applicant and, if he is a relative of the applicant, the document shall state the nature of his relationship with the applicant or, if he is a person regularly employed by the applicant, the capacity in which he is at the time employed.

(21) Where the applicant dies or is wound up or dissolved or disrupted or amalgamated or succeeded to by any other person or otherwise comes to an end, the application shall not abate and may be permitted by the Authority, where it considers that the circumstances justify it, to be continued by the executor, administrator or other legal representative of the applicant or by the liquidator, receiver or assignee, as the case may be, on an application made in this behalf.

(22)(a) Where, on the date fixed for hearing or any other day to which the hearing may be adjourned, the applicant or the officer concerned does not appear in person or through an authorized representative when called on for hearing, the Authority may dispose of the application ex-parte on merits.

(b) Where an application has been disposed of under clause (a) above and the applicant or the officer concerned applies within fifteen days of receipt of the order and satisfies the Authority that there was sufficient cause for his non-appearance when the application was called upon for hearing, the Authority may, after allowing the opposite party a reasonable opportunity of being heard, make an order setting aside the ex-parte order and restore the application for fresh hearing.

(23) Where the Authority finds on its own motion or on a representation made to it by the applicant or the officer concerned, but before the clarification or ruling pronounced by the Authority has been given effect to by the officer concerned, that there is a change in law or facts on the basis of which the clarification or ruling was pronounced, it may by order modify such ruling in such respects as it considers appropriate, after allowing the applicant and the officer a reasonable opportunity of being heard.

(24)(a) The Authority may, with a view to rectifying any mistake apparent from the record, amend any order passed by it before the clarification or ruling order pronounced by the Authority has been given effect to by the officer concerned.

(b) An amendment under clause (a) may be made on the Authority's own motion or when the mistake is brought to its notice by the applicant or the officer concerned, but only after allowing the applicant and the officer reasonable opportunities of being heard.

(25) If at any stage of the proceedings before the Authority it appears that there is any factual or material error in the records, the same shall be amended after hearing the applicant and the officer concerned.

(26)(a) The applicant or the officer concerned or an authorized representative may be allowed to inspect the records of the case on making an application in writing to the Secretary, provided that only those documents shall be allowed to be inspected which have been relied upon in the proceedings before the Authority.

(b) The inspection shall be allowed only in the presence of an officer of the Authority and the applicant may be permitted to make notes of inspection but not to take copies of any document.

(c) Fees for inspecting records of the Authority shall be charged from the applicant as follows.-

(i) One hundred rupees for the first hour or part thereof, and

(ii) Fifty rupees or every additional hour or part thereof.

(d) Fees for inspection shall be paid in advance in cash.

(27) Proceedings before the Authority shall be open to the public.

(28) Such of the orders of the Authority, as the Chairman deems fit for publication in any authoritative report or the Press, may be released for such publication on such terms and conditions as the Chairman may specify.

(29) (a) Every order of the Authority under Section 60 shall be duly signed by the members and bear the official seal of the Authority.

(b) One certified copy of such order of the Authority shall be communicated to the applicant and the officer concerned under the signature of the Secretary or any other officer of the Authority authorized by him in this behalf and bear the official seal of the Authority.

(30)(a) When one, or both, of the members of the Authority other than the Chairman is unable to discharge his functions owing to absence, illness or any other cause or in the event of occurrence of any vacancy or vacancies in the office of the members and the case cannot be adjourned for any reason, the Chairman alone or the Chairman and the remaining member may function as the Authority.

(b) Subject to the provisions of sub-rule (3), in case there is difference of opinion among the members hearing an application, the opinion of the majority of members shall prevail and orders of the Authority shall be expressed in terms of the views of the majority but any member dissenting from the majority view may record his reasons separately.

(c) Where the Chairman and one other member hear a case under clause (a) and are divided in their opinion, the opinion of the Chairman shall prevail.

(31) The provisions contained in these rules for the hearing and disposal of an application under sub-section (2) of Section 60 shall apply *mutatis mutandis* to the hearing and disposal of all other applications, petitions and representations before the Authority.

PART XI

MISCELLANEOUS

166. Transitional relief on stock in hand.(1) At the date of commencement of the Act, any registered dealer shall be entitled under Section 18 to relief on the goods taxable under the Act held in stock which were taxable under the Karnataka Sales Tax Act (Karnataka Act No.25 of 1957)(hereinafter referred to as the said Act) and were purchased during the preceding twelve months within the State from other dealers registered under the said Act for manufacture and resale, at an amount equivalent to,-

- (a) the tax paid under Section 5 or 5A of the said Act, or
- (b) the tax payable under Section 4 of the Act,

whichever is lower.

(2) The amount of tax paid or payable for the purpose of sub-rule (1) shall be amount charged and collected by the selling dealer in the bill of sale issued or calculated on the value of the goods at which the selling has charged tax.

(3) If the selling dealer has not charged tax in the bill of sale for the reason of him not being the first or the earliest of the successive dealers liable to tax under the said Act or for any other reason but excluding when goods are sold in the course of inter-State trade or commerce or in the course of import or export out of the territory of India, the amount of tax deemed as paid or payable shall be calculated on the value of goods that would be liable to tax under the said Act as shown in the bill of sale less ten per cent.

(4) Every registered dealer claiming relief under sub-rule (1) shall make an application in Form VAT 265 to the jurisdictional Local VAT officer or VAT sub-officer within thirty days of the commencement of the Act

(5) The jurisdictional Local VAT officer or VAT sub-VAT officer shall review such application and issue a certificate in Form VAT 270, indicating the amount to which the dealer is entitled as relief.

(6) Such relief under sub-rule (5) may be refunded or adjusted in the manner prescribed under sub-rules (1) of Rules 128 and 129 in equal monthly instalments over a period of six months from the end of three months after the commencement of the Act.

167. Compounding of offences: The Authorities as may be authorized by the Joint Commissioner shall exercise the powers specified in Section 82.

168. Provisions relating to an Accountant or Tax Practitioner: (1) An Accountant competent to appear before any authority under clause (c) of Section 86 shall be a person possessing the qualification of an auditor of a Company in the State of Karnataka referred to in Section 226 of the Companies Act, 1956 (Central Act 1 of 1956).

(2) An Application in Form VAT 545 along with a treasury receipt in support of having paid an enrolment fee of one thousand rupees, may be made to the Commissioner of Commercial Taxes for enrolment as Tax Practitioner by any person who satisfies any of the conditions specified below, namely:

- (a) that, before the commencement of this Act, he had appeared before any authority under the Karnataka Sales Tax Act, 1957, (Karnataka Act No. 25 of 1957) for not less than two years on behalf of any dealer, otherwise than in the

capacity of an employee or relative of such dealer, in proceedings under the said Act; or

(b) that he is a retired officer of the Commercial Tax Department of the Government of Karnataka or any other State Government who, during his service under the Government, had worked in a post not lower in rank than that of a VAT sub-officer for a period of not less than two years; or

(c) that he has passed.-

(i) a degree examination in Commerce, Law Banking including Higher Auditing, Corporate Secretaryship or Business Administration or Business Management of any Indian University established by any law for the time being in force; or

(ii) a degree examination of any Foreign University recognized by any Indian University as equivalent of the degree examination mentioned in clause (i); or

(iii) any other examination notified by Government for this purpose; or

(iv) any degree examination of an Indian University or of any Foreign University recognized by any Indian University as equivalent of the degree examination and has also passed any of the following examinations, namely.-

(a) final examination of the Institute of Cost and Works Accountants of India, constituted under the Cost and Works Accountants Act, 1959 (Central Act XXIII of 1959); or

(b) final examination of the Institute of Company Secretaries of India, New Delhi; or

(c) final examination of the Institute of Chartered Accountants of India, constituted under the Chartered Accountants Act, 1949 (38 of 1949); or

(d) any other examination notified by the Government for this purpose.

(3) On receipt of the application referred to in sub-rule (2), the Commissioner shall, after making such enquiry as he considers necessary, enroll the applicant as a Tax Practitioner.

(4) Where the applicant is a retired officer of the Commercial Tax Department, the Commissioner may place such restrictions as he thinks fit, regarding the areas in which such applicant may practice as a Tax Practitioner till the expiry of a period of five years from the date of his retirement.

(5) The enrolment made under sub-rule (3) shall be valid until it is cancelled.

(6) If any Tax Practitioner is found guilty of misconduct in connection with any proceeding under the Act, the Commissioner may, by order, direct that he shall henceforward be disqualified from the profession under Section 86, after giving him the opportunity of showing cause in writing against such disqualification.

(7) Any person whose application for enrolment made under sub-rule (2) has been rejected and any Tax Practitioner against whom an order under sub-rule (6) is made, may, within thirty days from the date of receipt of the order of rejection or the order under sub-rule (6), appeal to the State Government against such order.

(8) The Commissioner shall maintain the list of Tax Practitioners enrolled under sub-rule (2) in Form VAT 550 and make such amendments to the list as may be necessary from time to time, by reason of any change of address or death or disqualification of any practitioner.

169. Conditions for purposes of appearance under clause (c) of Section 86.(1) No person shall be eligible as a Tax Practitioner to attend before any authority in connection with any proceeding under the Act on behalf of any dealer or person unless his name has been entered in the list maintained by the Commissioner under sub-rule (8) of Rule 163.

(2) An Accountant or a Tax Practitioner attending on behalf of a dealer or a person in any proceeding under the Act before any authority shall produce before such authority an authorization given by the dealer or person in Form VAT 555.

170. Liabilities of a legal representative, etc.(1) Where any dealer doing business in respect of which tax is payable under this Act is dead, the executor, administrator, successor in title or other legal representative of the deceased shall, in respect of such business, be liable to submit the returns due under Section 35 or to assessment under Section 38 and to pay out of the estate of the deceased dealer any tax or other amount due from the deceased dealer.

(2) The provisions under Sections 62 to 66 relating to appeals and revisions shall be applicable to assessments made under sub-rule (1) as if the executor, administrator, successor in title or other legal representative were himself the dealer.

(3) The provisions of sub-rules (1) and (2) shall apply *mutatis mutandis* to a partnership firm of which any of the managing partners have died.

(4) Where any Hindu undivided or Aliyasanthana family, firm or other association of persons is partitioned, dissolved or discontinued, notice, summons or orders issued under the Act or these Rules may be served on such person who was a member of the family or a partner or a member of the association immediately before such partition, dissolution or discontinuance.

(5) Where any business is carried on by or is in-charge of any guardian, trustee or agent of a minor or other incapacitated person, on behalf and for the benefit of such minor or other incapacitated person, such guardian, trustee or agent shall in respect of the turnover of the said business be liable to submit the returns due under Section 35 or to assessment under Section 38, and the tax or any other amount shall be levied upon and be recoverable from such guardian, trustee or agent, as it would be leviable upon and be recoverable from any such minor or other incapacitated person, if he were of full age, of sound mind and if he were conducting the business himself.

(6) Where the estate or any portion thereof of a registered dealer who is liable to pay tax or any other amount under this Act is under the control of the Court of Wards, the Administrator General, the Official Trustee or any Receiver or Manager or any other person who manages the business on behalf of such dealer appointed by or any order of a Court, such Court of Wards, Administrator General, Official Trustee, Receiver, Manager or any other person, shall in respect of all the turnover of such business be liable to submit the returns due under Section 35 or to assessment under Section 38, and the tax or any other amount due shall be levied upon and be recoverable from such Court of Wards, Administrator-General, Official Trustee, Receiver or Manager or any person as it would be leviable upon and recoverable from the dealer if he were conducting the business himself.

171. Declarations.-Every dealer liable for registration under Section 22 shall within sixty days from the date on which he becomes liable for registration submit to the prescribed authority a declaration in Form VAT 5C, stating the name or names of the person or persons who are authorized to sign returns under the Act on their behalf, or to make statements in any enquiry under the Act, and all returns signed and statements so made by such person or persons shall be binding on such dealer, and the declaration so furnished may be revised.

172. Name boards and notices.-(1) Every dealer liable for registration under Section 22 shall exhibit at the entrance to his place of business, including branches and godowns, a name board showing the name of the dealer or the trade name with full address.

(2) The Government or the Commissioner, may by notification published in the Official Gazette, require all dealers or any class thereof specified in such notification to display at a conspicuous place in the premises of their place of business in such a manner as to be within the view of the customers,-

(a) a notice containing a request to the customers to insist upon the issue of a tax invoice or bill of sale for goods purchased by them; and

(b) a notice containing a list of goods available for sale together with the rate of tax applicable to each such good.

(3) Any dealer who fails to comply with the requirements of a notification issued under the sub-rule (2) shall, on conviction by a Magistrate of First Class, be punishable with fine of rupees one thousand, and where non-compliance is continuous, with a further fine of one hundred rupees for every day of non-compliance.

(4) An offence under this Rule may be compounded by any officer of the Department for a sum of rupees one thousand, only after the dealer has complied with the requirements of a notification issued under sub-rule (2).

173. Powers of an Officer or Authorities to summon.-Any officer of the Commercial Taxes Department.-

(1) may require any person whose evidence he considers necessary for the purpose of any enquiry under the Act or these Rules to appear before him and give evidence and may examine such person on oath or affirmation.

(2) shall have all the powers conferred on a Court by the Code of Civil Procedure, 1908 (Central Act V of 1908), for the purposes of securing attendance of persons or the production of the documents.

(3) may issue a summons in Form VAT 485 for the production of any document or the appearance of any person.

174. Powers of Appellate and Revisional Authority.- The powers conferred on the Officers of the Commercial Taxes Department by Rule 173 may also be exercised by an Appellate or Revisional Authority or by the Appellate Tribunal.

175. Under-valuation of goods and power to levy penalty.- Exercise of the powers under subsection (1) of Section 55 shall be subject to the control and direction of the Joint Commissioner and the Commissioner.

176. Service of Notices, etc.-The service on a dealer of any notice, summons or order under the Act or these Rules may be effected in any of the following ways, namely.-

(1) by giving or tendering it to such dealer or his manager or agent; or

(2) if such dealer or his manager or agent is not found, by leaving it at his last known place of business or residence or by giving or tendering it to some adult member of his family; or

(3) if the address of such dealer is known to the prescribed authority by sending it to him by registered post; or

(4) if none of the modes aforesaid is practicable, by affixing it in some conspicuous place at his last known place of business or residence.

177. Fees for grant of copies.-The fees payable for the grant of certified copies of any document under the Act or these Rules shall be five rupees per page which shall be paid in cash.

178. Particulars to be furnished by Banks, Clearing Houses and others.-(1) Every Bank in the State shall, if so required by an officer of the Department furnish any such particulars as he may require in respect of the transactions of any dealer with such Bank, including copies of statement of profit and loss account, trading account, balance sheet and stock inventory, filed by the dealer with such Bank.

(2) Every person who during the course of his business handles, possesses or manufactures any goods liable to tax under the Act, shall, if so required by any officer of the Department, furnish any such particulars as he may require in respect of the transaction of any dealer in so far as it relates to the goods handled, possessed or manufactured by him for or on behalf of such dealer.

179. **Penalties.**-Whoever commits a breach of any of the Rules 12, 15, 16,17, 27, 28, 29,30, 31, 32, 33, 34, 35, 157, 159, 160,171 and 172 shall on conviction by a Magistrate of First Class be punishable with a fine of not less than two thousand rupees but not exceeding five thousand rupees, and where the breach continues, a further fine not exceeding one hundred rupees per day.

180. **Forms to be used.**-Where a Form has been prescribed by these Rules for the keeping or maintaining of any accounts or for submission of any returns or any claims, such Form prescribed shall be used for that purpose.