

**CHAPTER X**  
**APPEAL AND REVISION**

**47. Memorandum of Appeal and Revision**

- (1) Every Appeal or application for Revision shall-
- (a) specify the name and address of the appellant/applicant;
  - (c) specify the date of order against which it is made;
  - (d) specify the date on which order was communicated to the appellant or applicant;
  - (e) contain a clear statement of facts;
  - (f) specify the grounds on which appeal or revision is preferred without any argument or narration and numbered consecutively;
  - (g) state precisely the relief prayed for; and
  - (h) be signed and verified by the appellant or applicant or an agent duly authorized by him in writing in this behalf in the following Form, namely:

I .....the appellant/applicant named in the above memorandum of appeal/application for revision do hereby declare that, what is stated therein, is true to the best of my knowledge and belief.

.....

Signature

- (2) (a) The Memorandum of Appeal shall be accompanied by :
- (i) A certified copy of the impugned order; and
  - (ii) a copy of the challan in Form JVAT 205 in proof of the payment of the amount of tax in accordance with the provisions of sub-section (3) of Section 79;
- (3) An appeal against an order of assessment or against an order-imposing penalty shall be in Form JVAT 600 and shall be presented within thirty days from the date of receipt of notice of demand, against which it is filed.
- (4) An application for revision shall be in Form JVAT 602 and shall be presented within ninety days from the date of the receipt of the order against which it is filed.
- (5) The memorandum of appeal or application for revision shall be in duplicate and shall either be presented to the appellate or revisional authority either by hand or by registered post.
- (6) An appellate authority shall, ordinarily within thirty days of the presentation of the appeal, either admit or reject it after proper examination of the impugned order and/or the record relating to such order.

Provided the Appellate or the Revisional Authority may condone the delay in filing such Appeal or Revision within the specified time, on an Application filed by the Appellant or Applicant in Form JVAT 601.

**48. Disposal of Appeal or Application for Revision**

- (1) If a Memorandum of Appeal or an Application for Revision does not comply with all the requirements of Rule 47, the Appellate or Revisional authority may reject it summarily:

Provided that no Appeal or Application for Revision shall be summarily rejected under this sub-rule unless the Appellant or Applicant has been given a reasonable opportunity to amend the Memorandum or Application so as to bring it into conformity with all the requirements of Rule 47.

- (2) An Appeal or Application for Revision may be summarily rejected on other reasonable grounds after giving the Appellant or Applicant a reasonable opportunity of being heard.
- (3) (i) If an appellant intends to pray for stay of recovery of the disputed amount of tax, penalty or interest arising out of an order Appealed against, he shall make a stay petition containing, inter-alia, substance of facts leading to the exact amount of tax, penalty or interest sought to be stayed and the exact amount of tax, penalty or interest disputed, payment of tax before and alter the said order and reasons in brief for seeking stay, and stay petition shall be presented along with the memorandum of appeal under Rule 47 in Form JVAT 603.

- (ii) Where a stay petition has been presented by an appellant along with the Memorandum of Appeal or along with application for Revision before the Appellate authority or the Revisional Authority, as the case may be, and such Appeal or Revision has been entertained, he shall, after giving such Appellant a reasonable opportunity of being heard, dispose of such stay petition within one month from the date of presentation of such Petition.
  - (iii) The Appellate or the Revisional Authority, as the case may be, may, in his discretion, by an order in writing, stay realisation of the amount of tax or interest, part or whole, as the case may be, in dispute, on such terms and conditions as he may deem fit and proper in the facts and circumstances of the case.
  - (iv) If the realisation of the amount of tax, penalty or interest is stayed by the Appellate Authority subject to payment of such amount of tax penalty or interest, or furnishing security for securing the payment of the amount of tax, penalty or interest in dispute, as the case may be, specified in the order referred to in rule 35, the appellant shall pay such amount of tax, penalty or interest, or furnish such security, by the date specified in such order.
  - (v) Where an appellant fails to pay any amount of tax or interest in dispute which he is required to pay according to the order referred to in sub-clause (iv) by the date specified therein or such other date as may be allowed by the Appellate Authority, such order staying realization of the amount of tax, or interest, as the case may be, shall stand automatically vacated after the expiry of the date specified in the order or such other date as may be allowed by the Appellate Authority.
- (4) Where an application for appeal or revision is admitted for hearing on merit the Appellate or Revisional Authority shall, after giving the parties concerned a reasonable opportunity of being heard, fix a date for passing the final order on the appeal or application for revision as the case may be, if the order is not passed on the date of hearing.

**49. Stay of the Recovery of the Amount Payable under the Act -**

- (1) An Appellate or Revisional Authority may, on application, stay recovery of any amount payable under the Act in respect of which an appeal has been entertained by the said authority; before allowing such stay the said authority may obtain and consider a report from the In-charge of the circle, to which such dues relate.
- (2) An application under sub-rule (1) shall not be entertained unless it is filed before the expiry of 3 months from the date the appeal is filed.

**50. Services of Notice**

- (1) Notices under the Act or these rules may be served by any of the following methods, namely:-
  - (i) by delivering or rendering a copy of the notice to the addressee or to any adult male member or his family residing with him or to his manager, if any, declared under Section 64.
  - (ii) by Post or by Speed Post
  - (iii) by such courier services as approved by the Commissioner or the Joint Commissioner (Administration) In-charge of the division concerned or
  - (iv) by Fax or by e-mail service

Provided that if upon an attempt having been made to serve any such notice by any of the above mentioned methods, the authority under whose orders the notice was issued is satisfied that the addressee is keeping out of the way for the purpose of avoiding service, or that for any other reason the notice cannot be served by any of the above mentioned methods, the said authority shall order the service of the notice by affixing a copy thereof on some conspicuous part of the addressee's office or the building in which his place of business(s)/office is located or where he normally resides, or upon some conspicuous part or any place or business, office or residence last notified by him and such service shall be as if it has been served on the addressee personally or by publication of such notice in any daily newspaper.

- (2) A notice under sub-section (5) of Section 72 may be served upon the dealer, or the person for the time being in-charge of goods or the person for the time being in-charge of the vehicle on which the goods are loaded by delivering a copy of the notice to such person or in case of refusal

to receive notice, by affixation of such notice either on some conspicuous part of his office or residence or on the vehicle on which goods were being transported.

- (3) When the serving officer delivers or tenders a copy of the notice to the addressee personally or to his manager or other person on his behalf, he shall require the signature of the person to whom the copy is so delivered or tendered to an acknowledgement of the service endorsed on the original notice. When the notice is served by affixing a copy thereof in accordance with proviso to sub-rule (1), the serving messenger shall return the original to the authority, under whose order the notice was served, with report endorsed thereon or annexed thereto stating that he so affixed the copy, the circumstances under which he did so and the name and address of the person, if any, by whom the addressee's office or the building in which his office is or was located or his place of business or residence was identified and in whose presence the copy was affixed. The serving officer shall also require the signature or thumb impression of the person identifying the addressee's office or building or place of business or residence to his report.
- (4) When service is made by post, the service shall be deemed to be effected by properly addressing, pre-paying and posting by registered post the notice, and, unless the contrary is proved, the service shall be deemed to have been effected within fifteen days of issue of such notice.
- (5) The authority under whose orders the notice was issued shall, if it is satisfied from the report of the messenger or the postal acknowledgement or by taking such evidence as he deems proper that the notice has not been properly served, he may, after recording an order to that effect direct the issue of a fresh notice:

Provided that if upon service of a notice the person to whom the notice was served files a Time Petition it shall be the duty of such person to inquire about the order passed consequent upon such Time Petition and if a fresh date is fixed on the basis of the time petition filed, no further notice shall be required to be served afresh.

#### **51. Appearance before Taxing Authorities and Tribunal and Appointment of "Tax Practitioners"**

- (1) Any person who is entitled or required to appear before any authority, in relation with any proceedings under the Act: may be represented before such authority -
  - (a) By his relative or a person employed by him, or by a person declared under Section 64 of the Act and where such relative or person is duly authorized by him in declaration in JVAT 113, in this behalf; or
  - (b) By a "Legal Practitioner"; or
  - (c) By an "Accountant" duly authorized by him in writing in this behalf; or
  - (d) By a "Sales Tax Practitioner" or a "Tax Practitioner" duly authorized by him in writing in this behalf.
  - (e) A "Sales Tax Practitioner" already enrolled under the Provisions of the Repealed Act and Rules.
- (2) A "Sales Tax Practitioner" representing any person before an Authority appointed under Section 4 shall be-
  - (a) a person who possesses a degree in Commerce, Law, Economics or banking including Higher Auditing conferred by any Indian University incorporated by any law for the time being in force or any Foreign University duly approved by the State Government or who possesses such other qualification as may be recognized by the State Government in this behalf; or
  - (b) A former gazetted employee of the State Government with a minimum of ten years of service, including the period of service in erstwhile the State of Bihar in the Commercial Taxes Department, and who has also passed the Departmental Examination as required.
- (3) Save for a person specified in sub-rule (2), no sales tax practitioner shall be entitled to appear on behalf of any person before any authority appointed under Section 4 unless his name stands enrolled in that behalf in a register in Form JVAT 605 maintained by the Commissioner.
- (4) An application for enrolment for the purpose of the sub-rule (2) shall be made in Form JVAT 104 before the Commissioner.
- (5) On receipt of an application under sub-rule (2) the Commissioner shall, if he is satisfied about the bona fide and antecedents of the applicant register his name as an enrolled sales tax practitioner and shall grant to the applicant a certificate in Form JVAT 109 to that effect.
- (6) If any enrolled Sales Tax Practitioner is found by the Commissioner to have been guilty of misconduct in any proceeding before any authority appointed under Section 4 or before the

Tribunal, the Commissioner may order that the name of such person be removed from the Register in Form JVAT 605 :

Provided that —

- (a) no such order shall be passed by the Commissioner, without giving the sales tax practitioner a reasonable opportunity of being heard;
  - (b) the sales tax practitioner may, within one month of the passing of the order by the Commissioner, appeal to the Tribunal against such order; and
  - (c) the Commissioner shall re-enter the name of such person in the Register in Form JVAT 605 if the Tribunal sets aside the order passed by the Commissioner.
- (7) The particular contained in register in Form JVAT 605 may from time to time, be amended by the Commissioner, it and when necessary.
  - (8) An authorization to a "Sales Tax Practitioner" or "Tax Practitioner" for appearing on behalf of any person before any authority appointed under Section 4 shall be in Form JVAT 606. Such authorization shall be valid only in respect of the proceeding for which or in the course of which it has been given.
  - (9) Notwithstanding anything contained in this rule, the Commissioner, on application may enroll a "Tax Practitioner", for the purpose of Section 63 of the Act, who are eligible to be appointed as Tax Practitioner vide sub-rule (xvii) of Rule 2, and who are -
    - (a) A "Legal Practitioner", as defined in Clause (iii) of sub-section (2) of Section 288 of the Income Tax Act, 1961, and who has completed fifteen years as a "Legal Practitioner" under the Provisions of Income Tax Act, 1961 or under the Provisions of the Repealed Acts, Central Sales Tax Act / VAT Acts / Acts, and who also possesses a degree in Commerce, or Economics, or Banking including Higher Auditing conferred by any Indian University incorporated by any law for the time being in force or any foreign University duly approved by the State Government, or
    - (b) A former gazetted employee of the State Government, with a minimum of twenty years of service, and not below the rank of Assistant Commissioner of Commercial Taxes, including the period of service in erstwhile the State of Bihar in the Commercial Taxes Department.
    - (c) The "Tax Practitioner" enrolled under this sub-rule, shall also be a "Sales Tax Practitioner" for the purpose of this rule.
    - (d) In order to be enrolled as "Tax Practitioner", the person shall file an application before the Commissioner in Form JVAT 104.
    - (e) On receipt of an application under this sub-rule, the Commissioner shall, if he is satisfied about the bonafide and antecedents of the applicant register his name as an enrolled "Tax Practitioner" and shall grant to the applicant a certificate in Form JVAT 109 to that effect, and enroll his name as "Tax Practitioner" in Form JVAT 605.
    - (f) If any enrolled "Tax Practitioner" is found by the Commissioner to have been guilty of misconduct in any proceeding before any authority appointed under Section 4 or before the Tribunal, or if it is found that, the "Tax Practitioner" has not acted bonafidely and has misrepresented himself for the purpose of Section 63 of the Act, the Commissioner subject to the "Proviso" of sub-rule (6) of this rule, may order that the name of such person be removed from the Register in Form JVAT 605.

## **52. Manner of obtaining copy of certain Orders by Dealers**

- (1) Subject to the provision of Section 76, if any dealer or person requires a certified copy of a document filed by him or of an order concerning him passed by any authority appointed under Section 4, he shall make an application to the authority concerned. The application shall bear adhesive court-fee stamp of the value of rupees fifty for an ordinary copy and such stamps of the value of rupees hundred for an urgent copy. In addition, a searching fee of rupees five shall be levied in all cases except where the papers of which copies are required have not been deposited in the record room of the said authority.
- (2) On receipt of the application, the said authority shall inform the applicant of the amount of court-fee stamp required, under the provisions of sub-rule (1), for the supply of the copy. After the requisite amount of court-fee stamps are furnished by the applicant, the said authority shall cause a certified copy of the documents or order to be prepared and granted to the applicant.

(3) The following additional fee in the shape of court fee stamp shall be payable for the grant of copies, namely —

	<b>Ordinary copy</b>	<b>Urgent copy</b>
(a) Copying fee for every 150 words or less of the order of document.	Rs. Two	Rs. Five
(b) Authentication fee	Rs. Four	Rs. Seven

(4) Notwithstanding anything contained in sub-rules (1), (2) and (3), an application for a copy may also be made by registered post, in which case the applicant shall pay a consolidated fee of rupees ten. In such case the application shall be accompanied by a challan in Form JVAT 205 showing payment of the amount into the Government Treasury.

**53. Revision by Commissioner of Commercial Taxes**

For the purposes of sub-section (4) of Section 80, the Commissioner may require any dealer, by Notice in Form JVAT 302, to produce or cause to be produced before him such documents, accounts or other evidence which may be deemed fit.

**54. Review**

- (1) When any authority appointed under Section 4 reviews under Section 81 any order passed under the Act, it shall record reasons for doing so.
- (2) Save with the previous sanction of the Commissioner or an authority specially authorized by him in this behalf no authority appointed under Section 4, other than the Commissioner, shall review any such order except before the expiry or twelve months from the date of passing of the order which is sought to be reviewed.
- (3) Save with the previous sanction of the Commissioner or an authority specifically authorized by him in this behalf, no authority appointed under Section 4, other than the Commissioner, shall review any order, which has been passed by any of its predecessors in office.