

CHAPTER XI
MISCELLANEOUS

55. Powers of Circle In-charge to allot work among Officers

- (1) For smooth functioning of the office, the Deputy Commissioner or the Assistant Commissioner or the Commercial Taxes Officer, in-charge of the Circle or sub-circle shall allot work among the officer's posted in the circle or sub-circle.

56. Investigation of Offences

For the purposes of Section 87 the Commissioner may authorize any authority or officer appointed under Section 4 to investigate, either generally or in respect of a particular case or class of cases, all or any of the offences punishable under the Act. The officer so authorised shall conduct such investigation in accordance with the provisions of sub-section (2) of Section 87 of the Act.

57. Prescribed Authority for the purposes of certain Sections of the Act

The Commissioner shall be the Prescribed Authority for the purpose of Section 37 and 88 of the Act. The Deputy commissioner/the assistant commissioner/Commercial Taxes Officer in-charge of the Circle shall be the prescribed authority for the purposes of Sections 20, 22, 25, 26, 27, 56 and 58. And the Deputy Commissioner/the Assistant Commissioner/Commercial Taxes Officer shall be the prescribed for the purposes of Section 9,10, 11, 18, 19, 28, 29, 30, 33, 34, 35, 36, 38, 40, 42, 43, 44, 45, 46, 47, 59, 62, 69, 70, 71, 72 , 73, 75 and 81 of the Act.

58. Opportunity of Hearing

- (1) The authority referred to in rule 57 shall, in the matter of a proceeding Section 28, under sub-section (3) and (4) of Section 30, sub-section (4) and (6) of Section 37, sub-section (6) of Section 44, sub-section (5) of Section 45, sub-section (1)(b) and (2) of Section 47, sub-section (3) of Section 63, sub-section (5) of Section 70, sub-section (5), (8) of Section 72 and sub-section (3) of Section 73 serve or cause to be served upon the person proceeded against a notice which shall contain a gist of the accusations, a date of hearing which shall in no case be more than fifteen days from the date of issue of notice, and the time of hearing.
- (2) On the date fixed for hearing, the person proceeds against shall be allowed to rebut the accusations leveled against him; but he shall not ordinarily be allowed an adjournment. If an adjournment becomes necessary, the authority referred to in rule (1) shall record reasons thereof.
- (3) After giving a hearing, the authority referred to in sub-rule (1) shall record an order containing precisely and clearly the gist of accusations, the manner in which the person proceeded against was made aware of that, the reply, if any, furnished, and the decision thereon.
- (4) A true copy of order shall be made over the person proceeded against.

59. Notice of hearing

A notice of hearing for the purposes of sub-section (10) of Section 18, sub-section (7) of Section 25, sub-section (4) of Section 26, sub-section (7) of Section 27, sub-section (2) of Section 28, sub-section (2) of Section 29, sub-section (4)(a) of Section 30, sub-section (2) of Section 33, sub-section (3) of Section 34, sub-section (5)(b) of Section 35, sub-section (1)(d) of Section 37, sub-section (4) of Section 37, sub-section (6) of Section 37, sub-section (1) of Section 40, sub-section (3) of Section 44, sub-section (1) of Section 46, sub-section (1) of Section 67, Section 71 and in any other Section, where the presence of the dealer and persons is required, shall be issued in Form JVAT 302.

The authority prescribed in Rule 57 shall fix a date, ordinarily not less than one thirty days from the date of issue of Notice, for producing such accounts and other evidences, as may be required under the said Notice.

60. Conditions for Payment of Tax under Composition Scheme under Section 58 of the Act.

- (1) A registered dealer opting to pay tax under sub-section (1) of Section 58, shall satisfy the following conditions –
 - (a) he shall not have any goods in stock which were brought by him from outside the State or he should not be a manufacturer of taxable goods,

on the day he exercises his option to pay tax by way of composition and shall not sell any such goods, brought from outside the State after such date;

- (b) he shall not be a dealer who has claimed during such period, input tax credit on stock in hand of goods, under Rule 12 of these rules, as on the date of commencement of that Act, or on the date of incurring liability;
- (c) 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;

(2) A registered dealer may, in exercise of his option under sub-section (1) of Section 58, pay tax on the sales of goods at the compounded rate not exceeding of 8% on the turnover of sales in Jharkhand, which remains after deducting therefrom, the turnover, representing sales of goods, which are declared tax-free under sub-section (2)(a) of Section 9 of the Act.

- (3) If the turnover of sales of the registered dealer, who is permitted to pay tax at the compounded rate, in a year, exceeds fifty lakhs rupees at any time during a year, he shall inform the assessing officer in writing within seven days from the day when his turnover of sales has so exceeded.
- (4) The Registering Authority granting permission under rule (4), may withdraw the permission if the dealer fails to make payment of tax for any two quarters of a year. The order of withdrawal will be effective from the first date of the quarter for which the dealer has made himself defaulter in the matter of payment of tax for the first time.
- (5) The registered dealer, granted Composition Scheme under this rule, when opts to withdraw from Composition, he shall furnish an application before the Registering Authority in Form JVAT 119.
- (6) When the Registering Authority, withdraws the permissions under sub-rule (4) of this rule, the provisions of Section 36, 37, 43 and 46 of the Act shall apply to such dealer.

61. Conditions for Payment of Tax under Presumptive Scheme under Section 22 of the Act.

(1) A registered dealer liable to pay tax under sub-section (1) of Section 22, shall satisfy the following conditions –

(a) he shall not have any goods in stock which were brought by him from outside the State or he should not be a manufacturer of taxable goods, on the day he exercises his option to pay tax by way of presumptive tax and shall not sell any such goods, brought from outside the State after such date;

- (b) he shall not be a dealer who has claimed during such period, input tax credit on stock in hand of goods, under Rule 12 of these rules, as on the date of commencement of that Act, or on the date of incurring liability;
- (c) 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;

(2) A registered dealer liable to pay presumptive tax under sub-section (1) of Section 22, pay tax on the sales of goods at such rate as specified in the notification, on the turnover of sales in Jharkhand, which remains after deducting therefrom, the turnover, representing sales of goods, which are declared tax-free under sub-section (2)(a) of Section 9 of the Act.

- (3) If the turnover of sales of the registered dealer, who is permitted to pay presumptive tax, in a year, and whose turnover alters as specified in the notification, at any time during a year, he shall inform the assessing officer in writing within seven days from the day when his turnover of sales has so altered.
- (4) The Registering Authority granting permission under Rule (3) may withdraw the permission if the dealer fails to make payment of tax for any two quarters of a year. The order of withdrawal will be effective from the first date of the quarter for which the dealer has made himself defaulter in the matter of payment of tax for the first time.
- (5) The Registered Dealer, granted Composition Scheme under this Rule, when opts to withdraw from Composition, he shall furnish a application before the Registering Authority in Form JVAT 119.
- (6) When the Registering Authority, withdraws the permissions under sub-rule (4) of this Rule, the provisions of Section 36, 37, 43 and 46 of the Act shall apply to such dealer.

62. Compounding of Offence

- (1) When the Commissioner decides under Section 88 to accept any sum from a dealer or any other person charged with an offence under Section 84 of the Act by way of composition of that offence, he shall issue an order directing the dealer or other person, as the case may be, to deposit into the Government Treasury, the amount of composition money by the date mentioned therein and to produce before such authority as may be specified in the order a copy of the receipted challan showing payment of such amount. A copy of the order shall be sent simultaneously to the said authority and the Government Treasury.
- (2) On receipt of the order the dealer or person shall comply with all the terms thereof failing which the order of composition shall stand cancelled.

63. Fees

The following fees shall be payable in connection with proceeding under the Act and other matter ancillary or incidental thereto, namely: -

- (a) Upon a memorandum of Appeal against an order of assessment or penalty or both 2% of the amount in dispute calculated to the nearest of Rupees subject to a minimum of Rupees one hundred and a maximum of rupees one thousand.
- (b) Upon an application for revision of an appellate or revisional order concerning an order of assessment or penalty, or both 7.5% of the amount in dispute calculated to the nearest of Rupees two hundred and a maximum of rupees two thousand.
- (c) Upon an application for enrolment as an accountant or sales tax practitioners Rupees five hundred.
- (d) Upon an application for grant of a registration certificate, Rupees fifty.
- (e) Upon an application for grant of a duplicate copy of a registration certificate, Rupees two hundred.
- (f) Upon a memorandum of appeal against an order under Section 46 or upon an application for revision other than an application for review or upon any other miscellaneous petition or petition or relief, Rupees ten.
- (g) Upon an Application for Amendment or Cancellation of a Registration Certificate, Rupees ten.
- (h) Upon an Application for extension of amount for Payment of Tax, Penalty Rupees ten.
- (i) Upon an application for acknowledgment in a proceeding before any authority appointed under Section 4, Rupees ten.
- (j) Upon an application for grant of installment for payment of tax Rupees one hundred.

64. Deferment

- (1) (a) All such Industrial units, which were availing the benefit of deferment of tax under the provisions of the Repealed Act and notifications issued there-under, immediately before the Appointed Day, and who are continued to be so eligible on such Appointed Day under the Act, may be allowed to continue the benefit of such deferment of payment of tax, for the balance un-expired period or un-availed percentage of gross value of fixed assets, provided such Industrial units file an application in Form JVAT 121 for grant of fresh eligibility Certificate, for the balance un-expired period or un-availed percentage of gross value of fixed assets, before the In-charge of the Circle, in which such unit is registered.

- (b) All the procedure and provisions issued for availing deferment in the Repealed Act shall continue to be in operation and shall be deemed to have been adopted for the purpose of the Act.
- (c) The In-charge of Circle, on receipt of such application mentioned in sub-rule (a) shall issue a revised eligibility certificate, indicating therein the balance un-expired period or un-availed percentage of gross value of fixed assets.

Provided such Industrial Unit shall file an application mentioned in sub-rule (a) within a period of fifteen days from the date, on which the Act comes into operation.

Provided further the In-charge of the circle, shall issue a revised eligibility certificate, for the remaining un-expired period within fifteen days, from receipt of such application.

- (2) All such industrial units, which were availing the benefit of exemption from payment of tax on the sales of their finished products, granted under clause (b) of sub-section (3) of Section 7 of the Repealed Act, and who have not availed of their full entitlement as on Appointed Day, may be allowed to opt for deferment of payment of tax for the balance unexpired period or unveiled percentage of value of fixed assets as determined, whichever is earlier, in accordance with sub-section (3)(ii) of Section 95 of the Act.

Provided no dealer eligible for deferment under sub-rule (2), shall be allowed to defer his tax liability under the Act, unless he applies to the concerned Registering Authority of the Circle in Form JVAT 121, and upon receipt of such application, the concerned Registering Authority of the circle shall issue a certificate of eligibility in Form JVAT 408.

Provided further such deferment as mentioned in sub-rule (2) shall be allowed in accordance with the notification issued for this purpose by the State Government in accordance with the provisions of sub-section (3)(ii) of Section 95 of the Act.

Provided also that, if such notification is issued by the State Government, the Industrial Unit opting to changeover to deferment the tax for the remaining unexpired period or unveiled percentage of value of fixed assets, shall apply within fifteen days of publication of such notification before the In-charge of the circle in which such unit is registered, and thereafter the In-charge of the Circle shall issue revised eligibility certificate for the balance unexpired period or unveiled percentage of value of fixed assets, after making such enquiry as he may deem fit & proper.

65. Power to Prescribe and Formulate Registers, Forms and Instructions

The Commissioner may Prescribe Registers, Forms to be maintained for Returns, Registration Certificates or Statements or Records to be submitted or documents to be used by the offices or the officers of the Commercial Taxes Department, for matters connected with the administration of the Act and the Rules.

- 66. Punishment for Breach of Rules** - Any person contravening any provision of these rules shall be punishable with a penalty, which may be imposed by an authority appointed under Section 4 of the Act, after allowing the person concerned an opportunity of being heard, not exceeding two thousand rupees and where the contravention is a continuing, with a daily penalty of a sum not exceeding rupees one hundred during the continuance of contravention.