

THE JHARKHAND TAXATION ON LUXURIES IN HOTELS RULES, 2011

S.O. No. 181..... Date 9-11-11..... In exercise of the powers conferred by Section 29 of the Jharkhand Taxation on Luxuries in Hotel Act 2011 (Jharkhand Act No.21, 2011), the Governor of Jharkhand hereby makes the following Rules: -

1. Short Title and Commencement: -

- (i) These Rules shall be called the Jharkhand taxation on luxuries in hotels rules, 2011.
- (ii) These Rules shall be deemed to have come into force on the Appointed Day on which the Act came into force.

2. Definitions: - In these Rules, unless there is anything repugnant in the subject or context,-

- (i) **"Act"** means, the Jharkhand Taxation on Luxuries in Hotel Act 2011 (Jharkhand Act No....., 2011).
- (ii) **"Circle or sub-circle"** means: a unit of Commercial Taxes Administration; as specified in the Notifications issued in this behalf from time to time under the provisions of the Jharkhand Value Added Tax Act 2005 and the Rules made thereunder; within the local limits of which a Hoteliers place of business is situated or in which he is registered, under Rule 3.
- (iii) **"Designated Bank"** means any bank having treasury transactions or such other bank as notified/ authorised by Government to receive any amount; whether electronically or otherwise, due under the Act on behalf of Government.
- (iv) **"Digital Key"**, means in an asymmetric crypto system, a private key and its mathematically related public key, which are so related that the public key can verify a digital signature created by the private key or the key of a key pair used to verify a digital signature and listed in the Digital Signature Certificate under the Provisions of Information Technology Act 2000;
- (v) **"Digital Signature"** means authentication of any electronic record by a subscriber by means of an electronic method or procedure in accordance with the provisions of Section 3 of Information Technology Act 2000;
- (vi) **"Fees"** means, any fee leviable under these Rules.
- (vii) **"Form"** means, a Form prescribed and appended under these Rules.
- (viii) **"Government Treasury"** means, a Govt. Treasury in the State of Jharkhand, and includes a "sub-treasury".
- (ix) **"Hotelier"** means the proprietor or any other person who is liable to pay tax under section-3 of the Act and includes such person(s) in respect of whom any proceeding have been initiated under the Act for assessment of tax payable by such person(s)
- (x) **"Key pair"** is a asymmetric crypto system, means a private key and its mathematically related public key, which are so related that the public key can verify a digital signature created by the private key.
- (xi) **"Private key"** means the key of a key pair used to create a digital signature.
- (xii) **"Prescribed authorities" and "authority"** means the authorities as specified in section (2)(c), (2)(d), (2)(e) and (2)(g) of the Act.
- (xiii) **"Registering Authority"** means, the In-charge of the circle or sub-circle.
- (xiv) **"Residence"** means occupation of room or rooms of hotel occupied in consideration for a rent or otherwise for a day or part thereof.
- (xv) **"Section"** means, a Section of the Act, and includes "Sub-Section or clauses".
- (xvi) **"Secure Digital Signature"** means such digital signature satisfying the requirements of section 15 of the Information Technology Act, 2000.
- (xvii) **"Signature"** includes "Digital Signature".
- (xviii) **"Supply"** means, supply of food, eatables, non-alcoholic beverages, alcoholic beverages and any other goods supplied to the occupier on account of sale or otherwise.
- (xix) **"Verify"** in relation to a digital signature, electronic record or public key, with its grammatical variations and cognate expressions means to determine whether –
 - (a) The initial electronic record was affixed with the digital signature by the use of private key corresponding to the public key of the subscriber.
 - (b) The initial electronic record is retained intact or has been altered since such electronic record was so affixed with the digital signature.

Explanation: - For the purpose of this clause "subscriber" means a person in whose name the digital signature is issued.

words and expressions used herein above but not defined shall have the same meaning as assigned to them in the Act and the Jharkhand Value Added Tax Act, 2005.

3. Registration of Hotelier: -

- (1) Every Hotelier, who is liable to pay tax, shall make a application for registration electronically in the official website of department of commercial taxes in Form JHLT 101 for registration under sub-section (2) of Section 6 within thirty days from the date of his becoming liable for payment of tax under the Act or within forty five days after the commencement of these Rules, to the Registering Authority, in whose area the principal place of the business or otherwise of the Hotelier is located, along with two copies of his recent passport size colour photographs.
- (2) Such application for registration may be filed either under digital signature or without any digital signature electronically through said website and follow the steps/ instructions contained in the software specially evolved for this purpose.
 - (a) The applicant shall receive the acknowledgement number for further reference as regard to the said application.
 - (b) The said electronic application thereafter shall be verified and the applicant shall be informed electronically within two days to be present within two days, before the prescribed authority with the requisite document(s).
 - (c) On such specified date the applicant shall furnish the security bond as required under Rule 4 and also file the hard copy of the application in JHLT 101, duly filled and signed as required under clause (b) of sub rule (3) of this rule, with the requisite fees along with an affidavit, certifying that the contents of the said application in Form JHLT 101 are true and correct.
 - (d) The prescribed authority being satisfied and subject to Rule 4 and sub rule(4) of this rule, shall issue registration certificate in JHLT 102 within one day after the duly filled and signed hard copy in Form JHLT 101 and such other document(s) have been filed under clause (c) sub-rule.

Explanation: For the purpose of this rule the holidays shall not be counted as a day.
 - (e) Notwithstanding anything contained in this rule, the Commissioner may evolve criteria, other than those prescribed in this rule for the purpose of filing of application and obtaining of registration electronically.
- (3)
 - (a) Notwithstanding anything contained in sub-rule (1) such application for registration in Form JHLT 101, may by option, be filed by such Hotelier manually.
 - (b) Such an application shall be Signed, as the Applicant, by the proprietor of the business; or in the case of a firm, by the partner authorised to act on behalf of the firm; or in the case of the business of an undivided Hindu family, by the Karta; or in the case of a company incorporated under the Indian Companies Act, 1956 (1 of 1956) or a Corporation constituted under any law, by the Principal Officer or the Chief Executive Officer thereof; or in the case of a society, club or association of persons or a Department of Government or local authority, by the Principal Executive Officer, or officer-in-charge thereof, and verified in the manner prescribed in the said Form.
 - (c) The Registering Authority after receiving the said application, shall issue a receipt for the application of registration.
 - (d) Such an application shall be filed or presented by a Hotelier within thirty days from the date of his becoming liable for payment of tax under the Act or within forty five days after the commencement of these Rules.
- (4) Where the Registering Authority is satisfied, that the information furnished to him in application in Form JHLT 101 is true and correct, and that the Hotelier is genuine, he shall subject to Rule 4, issue to the Hotelier a Registration Certificate in Form JHLT 102 within five days from the date of filing of such application, and allot him a eleven digit registration number, which shall have the number the state code, the computer generated two digit code, the circle code, forty five, followed by the three digit registration number.
- (5) Where the Registering Authority is not satisfied with the information furnished by the applicant and has reasons to believe that the applicant does not meet the requirements for registration as Hotelier, he shall provide an opportunity specifying the reasons for

refusal before passing any order for such refusal to issue registration certificate and for this he shall issue a notice in Form JHLT 301.

- (6) The Registering Authority shall enter the name and style of the business, the date of commencement of liability and the name and address of the applicant; and
- (7) The full information contained in the application for registration mentioned in sub-rule (3) and sub-rule (1) shall be entered in the computer/register within two days of the receipt of such application.
- (8) Every registered Hotelier shall declare the name of his Business Manager(s) in Form JHLT 104, along with two Passport size colored photograph of such business Manager(s).
- (9) Notwithstanding anything contained in these Rules, the commissioner, in order to achieve the objectives of electronic methods and automation including the provision relating to digital signatures, electronic governance, attribution acknowledgement and dispatch of electronic records, secure electronic records and secure digital signatures and digital signature certificates; may determine criteria and shall in so far as they are feasible, apply to the said electronic procedures.
- (10) Where any notice or communication is prepared on any automated data processing system and is properly served on any Hotelier or person, then the said notice or communication shall not be required to be personally signed by any officer or person and the said notice or communication shall not be deemed to be invalid merely on the ground that it is not personally signed by any such officer.
- (11) For the proper functions of the departmental electronic system, all the registered Hoteliers are required to furnish their PAN, e-mail id, mobile numbers and fax numbers to the incharge of their respective circles.

4. Security: -

- (1) Where the Registering Authority is of the opinion that a Hotelier who is liable to pay tax should furnish security for the proper payment of tax payable by him, the said authority may direct him to furnish, within such reasonable time not exceeding two days or earlier, as may be fixed by the said authority, security for an amount which, in the opinion of the said authority may deem just and proper.
- (2) Such security may, subject to satisfaction of the Registering Authority, be furnished by the Hotelier, in any of the following ways, namely—
 - (a) by depositing such amount in cash, in a Government Treasury; or
 - (b) by depositing such amount into the different schemes of the Post Office and pledging the such Certificates of deposit and depositing the same with the said authority; or
 - (c) by furnishing two Sureties, who are either registered assesses under the Act or the registered dealers registered under the Jharkhand Value Added Tax Act, 2005, and are regularly abiding the provisions under the Act, and are acceptable to the said authority, by executing a security bond for such amount in Form JHLT 105; or
 - (d) by furnishing to the said authority a guarantee from a Nationalized Bank approved in this behalf by the said authority, agreeing to pay to the State Government, on demand the amount of security fixed by the said authority.
- (3) Provided such security shall also be furnished once in every five years.
- (3) At any time, the said authority may to his satisfaction, increase or reduce the amount of security furnished in this behalf.

5. Certificate of Registration

- (1) The certificate of registration shall be displayed in a conspicuous place at the place of business, mentioned in such certificate.
- (2) No certificate of registration issued, shall be transferable.
- (3) Where the certificate of registration issued is lost, destroyed, defaced or mutilated, a duplicate certificate shall be obtained from the Registering Authority on payment of prescribed fee.

Provided where the registration certificate granted under these rules is lost, or destroyed or becomes illegible, or have been defaced, the Hotelier shall forthwith apply to the Registering Authority, for the grant of a duplicate copy of such certificate. The said

authority shall, after such verification as may be necessary and after obtaining an Affidavit, in case of loss or destruction, issue to the Hotelier a copy of the original certificate, after stamping and marking in "Red Colour" thereon the words, "Duplicate Copy".

6. Amendment of Registration Certificate: -

- (1) An Hotelier registered under Section 6 of the Act, shall inform the Registering Authority in writing within thirty days in the Prescribed Form in Form JHLT 103:-
 - (i) of any change in the name, address, of the place of branches or discontinuation of the business; or
 - (ii) of a change in circumstances of the Hotelier, which leads to cessation of business; or
 - (iii) of any changes in the constitution or status of business; or
 - (iv) of a change in bank account details.
 - (v) of a change in e-mail id, Fax/Phone Nos. or Mobile Numbers.

7. Procedure for cancellation of Registration.

- (1) Where a Hotelier ceases to carry on his business, the Hotelier or his legal representative shall apply before the Registering Authority for cancellation of registration within fifteen days of the closure of business in Form JHLT 106.
- (2) Subject to sub-rule (3), a Hotelier may apply in writing on Form JHLT 106 to have his registration cancelled if,
 - (a) With respect to the preceding period of three consecutive years, the taxable turnover did not exceed specified quantum as specified in Section 3 of the Act.
- (3) The Registering Authority may cancel the registration of a Hotelier who has applied for cancellation under sub-rule (1) or sub-rule (2) of this rule if it is satisfied that there are valid reasons for such cancellation of registration. The cancellation shall be intimated in Form JHLT 107.
- (4) The authority prescribed may cancel the registration of a Hotelier registered under Section 6 of the Act, where the Hotelier—
 - (a) has not kept proper accounting records relating to any business activity carried on by him; or
 - (b) has not submitted true, correct and complete tax returns; or
 - (c) not complying the provisions of the Act and Rules.
- (5) Wherever any order of cancellation or refusal to cancel of an application is made, the Hotelier shall be given an opportunity of being heard and for this purpose the prescribed authority shall issue a notice in JHLT 301.

8. Returns

- (1) Every registered Hotelier shall file a true, complete and correct return under sub-section (1) of Section 7 in Form JHLT 201 and it shall be filed in a circle, where such Hotelier is registered under the Act, within twenty five days after the end of the quarter.
- (2) Every registered Hotelier, who is liable to file Return under sub-rule (1) of this rule shall also file an Annual Return in Form JHLT 202, by the end of the month of July after expiry of the year.
- (3) If any Hotelier having furnished a return in Form JHLT 201, finds any omission or incorrect information therein, other than as a result of an inspection or receipt of any other information or evidence by the authority prescribed, he shall furnish a revised return in Form JHLT 201, stating therein the reasons thereof indicating in Form JHLT 201 as "Revised" in red colour and also indicating the Period of such revised returns in red colour before the expiry the year.
- (4) Where the Hotelier files an application for cancellation of its registration certificate, a final return in Form JHLT 202 shall be accompanied with such application.
- (5) Notwithstanding anything contained in this rule, the Rule 14 of the Jharkhand Value Added Tax Rules, 2006 shall be applied mutatis mutandis and followed for the purpose of filing the returns electronically.

9.

Payment of Tax

- (1) (a) In the case of a registered Hotelier, the tax declared to be as due in a return in Form JHLT 201, shall be paid, not later than 15th day after the end of the that month in challan Form JHLT 203 failing which an interest shall be payable @ 2.5% per month or part thereof.
- (2) The Form JHLT 201, return shall be accompanied by a receipt either electronically generated or from Government treasury, or a crossed demand draft or a crossed cheque drawn on the local bank in the State of Jharkhand in favour of the authority prescribed.
- Provided, if the In-charge of the circle, is satisfied that a Hotelier has been and is maintaining adequate funds in his bank account, he may permit him to pay the amount of tax including penalty, if any where such amount exceeds Rs.1,000/- through a crossed cheque or crossed bank draft on bank functioning at the place where the Government Treasury is situated. Such permission may, at any time, be revoked without assigning any reason:

Explanation –

- (a) A Challan shall be filled up in quadruplicate. The portion of the Challan marked "Original" shall be sent by the Treasury Officer to circle. A portion of the challan marked "Duplicate" shall be returned to the Hotelier or the payer after being duly receipted. The Hotelier or the payer shall retain the portion marked "triplicate" and shall furnish the portion marked "Quadruplicate" along with his return to the authority prescribed in Rule 23.
- (b) Notwithstanding anything contained in sub-rule (1) or sub-rule (2) the State Government may by an order provide for the acceptance or payments of any tax or penalty directly by any branch of the State Bank of India or of any other Scheduled Bank. The manner in which such payments shall be made by a Hotelier or accepted by the Branch of the Bank and other matters incidental thereto shall be specified in the order and be subject to such conditions and restrictions as may be laid down therein.
- (3) If any registered Hotelier having furnished a return in Form JHLT 201 and subsequently furnish a revised return under sub-rule (3) of Rule 8, shall pay the different amount of tax according to the Revised Return, along with an interest @ 2.5% per month or part thereof.
- (4) In the case of a registered Hotelier or any other Hotelier or person, liable to pay tax, interest or penalty thereof, shall be paid into the Government Treasury by such date as may be specified in the notice issued in Form JHLT 301 for this purpose and such tax, Interest, Penalty or any other dues shall be paid in Form JHLT 203.
- (5) Notwithstanding anything contained in this rule; the Form JHLT 203, for the purpose of depositing tax shall be in the Head "0045/105" i.e. Tax on luxuries, shall be in white colour.
- (6) If any tax due on account of annual return in Form JHLT 202, such tax shall be deposited within 15th of the month of July after the end of the year along with the interest payable @ 2.5% per month or part thereof.
- (7) Notwithstanding anything contained in this rule, the Rule 15 of the Jharkhand Value Added Tax Rules, 2006 shall be applied mutatis mutandis and followed for the purpose of payment of tax electronically.

10. Notice of Demand and Excess Payment –

- (1) A notice of demand for tax, Penalty, Interest payable under the provisions of the Act or notice of excess payment in accordance with the provisions of the Act, shall be in Form JHLT 302.
- (2) A notice of demand under Section 9 of the Act shall be in Form JHLT 302.
- (3) (a) In case where any amount of tax, Penalty, or Interest remains unpaid, even after the due date of payment in pursuance to the Notice issued under Section 14; shall be recoverable as arrear of land revenue, and for such recovery a requisition shall be forwarded to the District Certificate Officer.
- (b) Where a requisition has been forwarded to the District Certificate Officer, and where any proceeding has been started for recovery of tax, Penalty, Interest or part thereof or any other amount remaining unpaid, have been commenced and the amount of tax, Penalty, Interest or any other amount is subsequently

enhanced or reduced as a result of any order, the requisitioning officer (In-charge of Circle) shall revise such requisition and inform the Hotelier, as well as the District Certificate Officer.

11. Refunds -

- (1) For the purpose of Section 25, the following shall be the prescribed authority:-
 - (a) Commercial Taxes Officer, In-charge of the Circle, if the amount to be refunded does not exceed Rs.25000/- ; and
 - (b) Assistant Commissioner of Commercial Taxes, In-charge of the Circle, if the amount to be refunded does not exceed Rs.50000/-; and
 - (c) Dy. Commissioner of Commercial Taxes, In-charge of the Circle, if the amount to be refunded does not exceed Rs.1,00,000/-; and
 - (d) The Joint Commissioner of Commercial Taxes (Administration), if the amount to be refunded exceeds, Rs.1,00,000/-.
- (2) The claim for refund under Section 25 of the Act, shall be made by a Hotelier in Form JHLT 108, within ninety days, from the date of receiving JHLT 302. Provided the Commissioner, on application; may condone the delay for filling the claim of refund.
- (3) Any Hotelier who claims any refund in excess of tax, shall not be eligible for any refund, unless all the returns due have been filed and all the taxes, Interest or Penalties due have been paid, and a notice of excess demand has been issued by the prescribed authority and received by such Hotelier.
- (4) The authority prescribed shall have the powers to adjust any amount due to be refunded against any taxes, penalty or interest outstanding under the Act or under the Jharkhand Value Added Tax Act, 2005 or under the Central Sales Tax Act 1956.
- (5) The Refund Payment Order, in the case of "Refund Adjustment Order" or "RAO" shall be in Form JHLT 205 and in the case of refund in cash, shall be in Form JHLT 204.

12. Proprietors to issue Bills and Records to be maintained by a Hotelier -

- (1) Every proprietor of a hotel liable to pay tax under the 3 of the Act, shall issue a bill or cash memorandum in respect of the charges for occupation for residence in a hotel collected by him. Such bill or cash memorandum shall contain the particulars regarding the full name and address of the person(s), period of stay, period of residence and the charges/rent thereof, separately for:-
 - (i) Occupation for residence (including charges for air-conditioning, television, radio, music, extra beds and the like charges);
 - (ii) Supply of food and beverages;
 - (iii) Supply of Alcoholic beverages;
 - (iv) Providing telephone calls; and
 - (v) the amount of tax collected for each of the description herein above in clauses (i),(ii) and (iii) of this sub-rule.
- (2) Every proprietor of a hotel shall keep machine/computer printed bill books or cash memoranda, the pages of which shall have printed serial numbers and shall be affixed with the seal of the registering authority.
- (3) Every proprietor of a hotel shall keep a stock register showing the serial numbers of bills or cash memoranda got sealed by the registering authority and the serial numbers of bills or cash memoranda issued during and for each month.
- (4) Every proprietor shall maintain,-
 - (a) Information of residential accommodation and tariff thereof in respect of room or rooms for his hotel;
 - (b) Daily account of occupation of residential occupation in his hotel and collection of tax thereof; and
 - (c) Monthly abstract of collection and remittance of tax.
- (5) Every proprietor of a hotel shall display a notice board in conspicuous place of his

hotel (reception room or the place where the rent for accommodation is collected, as the case may be) displaying rates of charges for different types of accommodation for residence provided in the hotel.

- (6) Every Hotelier shall keep and maintain a true and correct account of his business transactions preferably in English, Hindi or any other languages whether electronically, which can be readable to the Prescribed Authorities.
- (7) The following records in particular shall be maintained:
 - (a) Computer/electronic records, where available.
 - (b) Annual accounts including trading, profit and loss accounts, and the balance sheet thereof.
 - (c) Bank records, including statements, chequebook counterfoils and pay-in-slips.
- (8) All records specified in this rule shall be retained and made available for inspections / verifications for a period of three years, after the end of the year.
- (9) Every Hotelier who keeps and maintains the accounts in a language other than English shall adopt international numerals in the maintenance of such accounts.

13. Taxable turnover and calculation of tax payable -

- (1) The taxable turnover of a Hotelier shall be determined on the value of the bills as raised by the hotelier by way of rent for a room or rooms of a hotel, which shall be exclusive of tax charged therein.
- (2) Where hotelier issues consolidated bills which are inclusive of tax for rent, food and non alcoholic beverages charges: a deduction; of VAT paid or payable under section 17 of the Jharkhand Value Added Tax Act 2005, save as provided in sub-rule (3), may be admissible, provided such hotelier is also registered under the said JVAT Act 05.
- (3) Where a registered hotelier, in respect of any receipt on which tax is payable by him, either,-
 - (i) include the amount, if any, collected by him separately by way of tax, from the occupier on which tax is leviable; or
 - (ii) Where the tax is not separately collected: deduct from the receipt as per tariff charged; a sum calculated in accordance with the formula given hereunder :-
The formula shall be as follows :-
Receipt multiplied by $R/100+R$ where 'R' means the rate of tax.

14. Assessment

- (1) For the purpose of assessment under section 9 of the Act, the provisions of Section 35 of JVAT Act 2005 and the rules made thereunder, shall apply mutatis mutandis.
- (2) For the purpose of self-assessment the Hotelier shall file his claim in Form JHLT 109 within six months after the expiry of year.
- (3) Where an application has been filed under sub-rule (2) of this rule in Form JHLT 109, the prescribed authorities, if not satisfied may issue a notice in JHLT 301 within 45 days of furnishing the said application. If no notice has been issued to this effect, it shall be deemed the Hotelier has been self assessed.
- (4) The tax assessed under Section 9 shall be payable within thirty days or on such day as specified in said notice, from the date of receipt of notice of demand in JHLT 302, failing which a notice in JHLT 301 shall be issued for payment of interest and penalty as provided in sub-section (1) Section 14 of the Act.

15. Assessment of Hotelier who fails to get himself Registered

- (1) If the prescribed authority, upon information which has come into his possession, is satisfied that any Hotelier who has been liable to pay tax under the Act, in respect of any period, has failed to get himself willfully registered, the prescribed authority shall proceed to assess to the best of his judgment under sub-section (3) of section 9 of the Act; the amount of tax due from the Hotelier in respect of such period and all subsequent periods

and in making such assessment shall give the dealer reasonable opportunity of being heard in Form JHLT 301.

- (2) Notwithstanding anything contained in sub-rule (1), the prescribed authority may, if he is satisfied that the default was without reasonable cause, direct that the such Hotelier shall pay, by way of interest @ 5% for each month of such default , in addition to the amount of tax so assessed.

16. Memorandum of Appeal and Revision

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

Ithe 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 JHLT 203 in proof of the payment of the amount of tax in accordance with the provisions of sub-section (1) of Section 21;
- (3) An appeal against an order of assessment or against an order-imposing penalty shall be in Form JHLT 601 and shall be presented within forty five days from the date of receipt of notice of demand, against which it is filed.
- (4) An application for revision before the commissioner shall be in Form JHLT 602 and shall be presented within ninety days from the date of the receipt of the order against which it is filed.
- (5) Tribunal
- (6) 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.
- (7) 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 JHLT 603.

Provided further the appeal under sub-rule (1) and revision under sub-rule(4) shall be disposal within one year of filing such appeal or revision.

17. 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 16, 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 in Form JHLT 301 to amend the Memorandum or Application so as to bring it into conformity with all the requirements of Rule 16.

- (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 and for this purpose a notice in JHLT 301 shall be issued.
- (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 after the said order and reasons in brief for seeking stay, and stay petition shall be presented along with the memorandum of appeal under Rule 16 in Form JHLT 604.

- (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 in Form JHLT 301 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 in Form JHLT 301 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.

18. Stay of the Recovery of the Amount Payable under the Act -

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.

19. 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 sub-rule (8) of rule 3 of these Rules; or
 - (ii) by Post or by Speed Post; or
 - (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, by e-mail service or by any other electronic means.
- Rule 50 of the Jharkhand Value Added Tax Rules, 2006 for its applicability for the purpose of this rule shall, apply mutatis-mutandis.

20. Appearance before Taxing Authorities and Tribunal and Appointment of "Tax Practitioners"

- (1) Any person who is entitled or required to appear before any prescribed authority, in relation with any proceedings under the Act: may be represented before such authority, as prescribed under rule 51 of the Jharkhand Value Added Tax Rules, 2006.

Rule 51 of the Jharkhand Value Added Tax Rules, 2006 for its applicability for the purpose of this rule shall, apply mutatis-mutandis.

21. Review

- (1) When any authority appointed under Section 2(c), (d), (e) and (g) reviews under Section 24 of the Act 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 authorised by him in this behalf no authority appointed under Section 2(d), (e) and (g), 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 authorised by him in this behalf, no authority appointed under Section 2(d), (e) and (g) other than the Commissioner, shall review any order, which has been passed by any of its predecessors in office.
- (4) Provided that no such review, if it has the effect of enhancing the tax or penalty or both, or of reducing a refund shall be made unless the prescribed authority gives a reasonable opportunity of being heard and for this purpose a notice in JHLT 301 shall be issued.

22. Investigation of Offences

For the purposes of Section 26 the Commissioner may authorised any authority or officer appointed under Section 2(d),(e) and (g) of the Act 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 Section 26 of the Act.

23. Prescribed Authority or the Authority for the purposes of certain Sections of the Act

- (1) The Commissioner shall be the Prescribed Authority for the purpose of Section 22, 24 and 27 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 6, 7, 9, 10, 11, 12, 13, 14, 19, 24 and 25. The Joint Commissioners shall be the prescribed for the purposes of Section 21 of the Act.
- (2) The incharge of the circle shall distribute the respective proceedings under the Act and these Rules, among the officers posted therein.
- (3) Provided where no authority has been prescribed for the purpose of any section, the commissioner shall be the prescribed authority.

24. Notice of hearing

A notice of hearing for the purposes of Section 5, 6, 7, 8, 9, 11 12, 13, 14, 15, 19, 21, 22, 23, 24, 25 and 27 shall be issued in Form JHLT 301.

The authority prescribed in Rule 23 shall fix a date, ordinarily not less than thirty days from the date of issue of notice, for producing such accounts and other evidences, as may be required under the said notice(s).

Provided the notices can be sent to the Hoteliers by an electronic means through e-mails or by any other electronic media, and such shall be treated to be served upon the Hotelier.

25. Compounding of Offence

- (1) When the Commissioner decides under Section 27 to accept any sum from a Hotelier or any other person charged with an offence under Section 26 of the Act by way of composition of that offence, he shall issue an order directing the Hotelier 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 Hotelier or person shall comply with all the terms thereof failing which the order of compounding shall stand cancelled.

26. 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 grant of a registration certificate, Rupees one hundred.
- (d) Upon an application for grant of a duplicate copy of a registration certificate, Rupees two hundred.
- (e) Upon a memorandum of appeal against an order under Section 21 or upon an application for revision other than an application for review or upon any other miscellaneous petition or petition or relief, Rupees twenty.
- (f) Upon an Application for Amendment or Cancellation of a Registration Certificate, Rupees fifty.
- (g) Upon an Application for extension of amount for Payment of Tax, Penalty Rupees one hundred.

27. Application of Jharkhand Value Added Tax Rules 2006

In the circumstances where there is no rules provided under these Rules, The Jharkhand Value Added Rules 2006 shall be applicable in such cases/issues.

- 28. 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 2(c), (d), (e) and (g) of the Act, after allowing the person concerned an opportunity in Form JHLT 301 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 twenty five subject to a limit of rupees five thousand in a year during the continuance of contravention and for this purpose a notice shall be issued in JHLT 302.

(File No. Va.Kar1/Ho.vi.kar./2/2011)

By the Order of the Governor of Jharkhand,

A. Tiwari
(Alka Tiwari) 2/11/11

Secretary-cum-Commissioner,
Commercial Taxes Department,
Jharkhand, Ranchi

**DETAILS OF JHARKHAND TAXATION ON LUXURIES IN HOTEL RULES 2011
FORMS TO BE APPENDED**

Sl.	Form No.	Purposes & Uses of the Forms thereof, for the purpose of Act & Rules
1.	JHLT 101	Application for Registration- Rule 3(1) and 3(3)
2.	JHLT 102	Registration Certificate -Rule 3(2)(d) and 3(4)
3.	JHLT 103	Amendment in Registration Certificate- Rule 6(1)
4.	JHLT 104	Declaration of Business Manager- Rule 3(8)
5.	JHLT 105	Security Bond- Rule 4(2)(c)
6.	JHLT 106	Application for cancellation for Registration Certificate- Rule 7(1), 7(2) and 7(3)
7.	JHLT 107	Cancellation of Registration Certificate- Rule 7(3)
8.	JHLT 108	Application for Refund - Rule 11(2)
9.	JHLT 109	Application for Self-Assessment- Rule 14(2)
10.	JHLT 201	Monthly Return- Rule 8(1) and 8(3)
11.	JHLT 202	Annual Return -Rule 8(2) and 8(4)
12.	JHLT 203	Payment of Tax into the Treasury / Challan - Sub-section (1) of Section 8 and Rule 9(1)
13.	JHLT 204	Refund Order- Rule 11(5)
14.	JHLT 205	Refund by Adjustment Order- Rule 11(5)
15.	JHLT 301	Notice for hearing- Rule 3(5), 7(5), 9(4), 14(3), 14(4), 15(1), 17(1), 17(2), 17(3), 17(4), 21(4), 24, 28
16.	JHLT 302	Notice of Demand – Rule 10(1),10(2),11(2), 14(4) and 28
17.	JHLT 601	Memorandum of Appeal- Rule 16(3)
18.	JHLT 602	Application for Revision by Commissioner -Rule 16(4)
19.	JHLT 603	Application for Condonation for delay for filing Appeal- Rule 16(7)
20.	JHLT 604	Application for stay of recovery in Appeal/Revision -Rule 17(3)(i)
21.	JHLT 605	Application for revision before the Tribunal -Rule 16 and 22