

S.O. No 219/ Date:- 31.03.2006 In exercise of the powers conferred by Section 94 of the Jharkhand Value Added Tax Act, 2005 (Jharkhand Act 05, 2006), the Governor of Jharkhand hereby makes the following Rules: -

**1. Short Title and Commencement: -**

- (i) These Rules may be called Jharkhand Value Added Tax Rules, 2006.
- (ii) These Rules shall come into force on the Appointed Day on which the Act comes into force.

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

- (i) "**Act**" means, the Jharkhand Value Added Tax Act 2005 (Jharkhand Act 05, 2006).
- (ii) "**Circle**" means, a unit of Commercial Taxes Administration as specified in the Government Notification issued in this behalf from time to time, within the local limits of which a dealer's place of business is situated or in which he is registered, under Rule 3 and includes sub-circle also.
- (iii) "**Contractee**", means any person for whom or for whose benefit a works contract is executed;
- (iv) "**Contractor**" means any person who executes, either himself or through a sub-contractor a works contract;
- (v) "**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;
- (vi) "**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;
- (vii) "**Exempt Transaction**" means, the transfer of taxable goods outside the State, by any VAT Dealer, otherwise than by way of sale.
- (viii) "**Fees**" means, any fee leviable under these Rules.
- (ix) "**Form**" means, a Form prescribed under these Rules.
- (x) "**Government Treasury**" means, a Govt. Treasury in the State of Jharkhand, and includes a "sub-treasury".
- (xi) "**Quarter**" means, a period of three calendar months ending on the 30<sup>th</sup> June, 30<sup>th</sup> September, 31<sup>st</sup> December, and the 31<sup>st</sup> March.
- (xii) "**Registering Authority**" means, the In-charge of the Circle or sub-circle.
- (xiii) "**Repealed Act(s)**" means, "The Adopted Bihar Finance Act (Part-I) 1981, (Bihar Act 5 of 1981)", and includes "The Adopted Bihar Tax on Entry of Goods into Local Areas for Consumption, Use or Sale therein Act 1993 (Bihar Act 16 of 1993)".
- (xiv) "**Section**" means, a Section of the Act, and includes "Sub-Section".
- (xv) "**Signature**" includes "Digital Signature".
- (xvi) "**Tax Period**" means, a Period of time, usually for the purpose of Section 29, 30, 31, 32, 33 shall be a calendar month and part thereof, and for the purpose of Section 34, 35, 36, 37, 38, 40, 42, 43 shall be a year and part thereof or such period(s) as may be specified from time to time .
- (xvii) "**Tax Practitioner**" means —
  - (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 Act/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, and are also enrolled as "Tax Practitioner" vide sub-rule (9) of Rule 51.
  - (b) A "Tax Practitioner", who has been appointed by the Commissioner as "Tax Practitioner" vide sub-rule (9) of Rule 51.
- (xviii) "**Warehouse**" means any enclosure, building or place where a dealer, casual dealer or any other person keeps stocks of goods, and includes a vessel, vehicle or godown;

Words and expressions used herein but not defined, shall have the same meaning as assigned to them in the Act.

## CHAPTER-II: REGISTRATION

### 3. Registration of Dealer: -

- (i) Every dealer, who held a valid certificate of registration under the Repealed Act, and whose liability to pay tax continues under the Repealed Act as well as under the Act, shall furnish particulars of the business, in Form JVAT 100 including information as contained in Annexure-I, II & III; along with two copies of recent passport size photographs, to the Registering Authority, within two months of coming into force of these rules without any fee, and within a further period of thirty days, with a late fee of one hundred rupees, failing which, he shall cease to be a dealer registered under the Act from the next day, following the expiry of the said period (s).
- (ii) Every dealer, whose application for registration under the Repealed Act, was pending for decision before its Repeal, shall furnish particulars of his business, in Form JVAT 100 along with two copies of his recent passport size photographs, to the Registering Authority, within thirty days of coming into force of these Rules, without any fee and within a further period of thirty days with a late fee of fifty rupees, failing which, he shall be deemed to have failed to apply for registration under the Act.
- (iii) Such applications 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 of the family; 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.
- (iv) Where the Registering Authority is satisfied, if necessary after making an enquiry, that the information furnished to him in application in Form JVAT 100 including the information as contained in Annexure-I, II & III; is complete and correct and that the dealer is genuine, he shall issue to the dealer a Certificate of registration under the Act in Form JVAT 106 within fifteen days and grant him a registration number, which shall bear a unique number, to be known as "Taxpayer's Identification Number" or "TIN", which shall be valid from the Appointed Day, and where the Registering Authority finds otherwise, after giving a reasonable opportunity of being heard to the applicant, he shall by order in writing specifying reason(s) thereof, reject the application. The order of rejection shall take effect, in case of a dealer, who held certificate of registration under the Repealed Act, from the date of the order, and in other cases from the Appointed Day without prejudice to the decision that may be taken on his application under the Repealed Act.
- (v) An application for registration under sub-section (2) of Section 25, and sub-section (1) of Section 26, shall be made in Form JVAT 101, including the information, as contained in Annexure-I, II & III annexed to Form JVAT 100, to the Registering Authority, in whose area the principal place of the business of the dealer is located, along with two copies of his recent passport size photographs and shall also furnish such photographs once in every five years. The Registering Authority shall issue a receipt for the application of registration.
- (vi) Such an application shall be presented by a dealer within thirty days from the date of his becoming liable for payment of tax under the Act and shall be-
  - (a) 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
  - (b) Verified in the manner prescribed in the said Form.
  - (c) Where the Registering Authority is satisfied, that the information furnished to him in application in Form JVAT 101 is complete, true and correct, and that the dealer is genuine, he shall subject to Rule 5, issue to the dealer a Registration Certificate in Form JVAT 106 within five days from the date of filing of such application, and allot him a registration number which shall bear a unique number, to be known as "Taxpayer's Identification Number" or "TIN". The Registering Authority thereafter may conduct an enquiry within forty five days from the date of issue of such registration certificate, and if

upon enquiry anything otherwise than the application in Form JVAT 101 along with the annexures and security furnished thereof are found, the registering authority subject to sub-rule (vii) of this Rule, may revoke or cancel such Registration Certificate.

- (vii) 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 dealer, he shall provide an opportunity specifying the reasons for refusal before passing any order for refusal to issue registration certificate.
- (viii) 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
- (ix) The full information contained in the application for registration mentioned in sub rule (v) shall be entered in the computer/register within four days of the receipt of such application.
- (x)
  - (a) Notwithstanding anything contained in sub-rule (i), (ii) & (v), in case of such dealers, who have more places or additional places or branches, of business than one, situated in different circles in the state, or in the case of a dealer having no fixed place of business in the state, and who sells goods, either directly or through his agents or salesmen or otherwise in his behalf and who opts for consolidated registration for the purpose of the Act, in one circle in the state shall declare his principal place of business thereof, and apply before the commissioner or before the officer specially authorised in this behalf, for a permission for obtaining registration in any of the Circles or sub-circles in the State, within thirty days of becoming liable to pay tax under the Act, and the Commissioner or the Officer authorized in this behalf, shall dispose of such application, within thirty days from the date of filing of the said application. After obtaining such permission from the Commissioner or the Officer specially authorised in this behalf, and where the Dealer has been granted permission to get himself registered in any of the circle, as specified in such permission, he shall apply in that respective Circle or sub-circle for getting himself registered for such Principal place of business, including that of Principal place of business and branches, and additional places thereof; and the provisions of the Act and these Rules shall apply accordingly.  
Provided every such dealer, who held a valid consolidated certificate of registration or consolidated assessment/return permission, under the Repealed Act, and whose liability to pay tax continues under the Repealed Act, as well as under the Act who opts for consolidated registration for the purpose of the Act, in one circle in the state, shall apply under this sub-rule, after declaring his principal place of business thereof, and shall apply before the Commissioner in Form JVAT 100, and in the case of a dealer liable to pay tax under the Act, after declaring his principal place of business, shall apply before the Commissioner in Form JVAT 101.
  - (b) Where such permission for registration in the specified circle or sub-circle is granted to a dealer having places of business in different circles or sub-circles, and additional copy of the registration Certificate in Form JVAT 106 shall be issued to the dealer for each of such place of business.
  - (c) The Commissioner or the Officer specially authorized in this behalf, on a request made for such permission may give a hearing to the dealer before passing any order under the rules.
  - (d) Nothing in such order passed in sub-rule shall be deemed to divest the prescribed authorities of the circle or sub-circle, in which the dealer sales goods of their powers and function conferred upon under section 70 of the Act, in respect of such dealer.
- (xi) Every registered dealer shall declare the name of his Business Manager(s) in Form JVAT 113, along with two Passport size photograph of such business Manager(s). In the case of a dealer, registered under the Repealed Act, he shall submit such Declaration with in a period of ninety days of the commencement of these Rules.
- (xii) Such declaration shall be signed by: -
  - a. Proprietor, in case of Proprietorship concern
  - b. Managing Partner, in case of Partnership firm and where there is no Managing Partner, by any other Partner
  - c. Managing Director or authorized signatory, in case of a Company
  - d. Karta, in case of Hindu Undivided Family
  - e. Authorised Signatory, in all other cases.

- (xiii) In case of a change of Business Manager, such Dealer shall inform the Prescribed Authorities within fifteen days from the date of such change, and shall file a new declaration in Form JVAT113.
- (xiv) The Business Manager(s) declared shall deemed to be authorised to receive notice and other documents under this Act, and all act done by the Business Manager(s) in business shall deemed to be done by the dealer and the dealer shall be responsible for all Act, done by his Business Manager(s) in the course of business.

#### **4. Registration of Presumptive Tax and Dealers opting for Composition of Tax: -**

- (i) If a registered dealer intends to exercise his option to pay tax in accordance with the provisions of Section 22 of the Act, he shall make an Application in Form JVAT 103, including the information, as contained in Annexure-I, II & III annexed to Form JVAT 100, to the Registering Authority, in whose area the dealer is located, along with two copies of his recent passport size photographs and shall also furnish such photographs once in every five years. The Registering Authority shall issue a receipt for the application of registration.
- (ii) Such an application shall be presented by a dealer within thirty days from the date of his becoming liable for payment of tax under the Act and shall be-
  - (a) 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 of the family; 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 managing director or the principal 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
  - (b) Verified in the manner prescribed in the said Form:
  - (c) Where the Registering Authority is satisfied, if necessary after making an enquiry, that the information furnished to him in Application in Form JVAT 103 is complete and correct, and that the dealer is genuine, he shall, subject to the Rule 5, issue to the dealer a certificate of registration under the Act in Form JVAT 108, and grant him a registration number, within thirty days from the date of filing of such application, which shall bear a unique number, to be known as "Taxpayer's Identification Number" or "TIN".
- (iii) If a registered dealer intends to exercise his option to pay tax in accordance with the provisions of sub-section (1) of Section 58, he shall subject to rule 5 make an application to the Registering Authority in Form JVAT 103 for permission to do so, within sixty days from the beginning of the year in respect of which the option is exercised.
- (iv) If the concerned Registering Authority, after making such enquiry or scrutiny as such authority may deem it necessary, is satisfied that the application is in order and fulfills conditions laid down in sub-section (1) of Section 58, he shall, subject to Rule 5, issue a Certificate in Form JVAT 108 within fifteen days from the date of receipt of the application to the applicant dealer for making payment at compounded rate. The applicant dealer shall be informed even if his application is rejected. While granting the permission, his turnover of sales in the preceding year shall be considered for making a registered dealer eligible to make payment under sub-section (1) of Section 58.
- (v) Such Dealers, who have been granted registration under this rule as registered retailers to pay Presumptive Tax or Composition Scheme Tax, shall not be authorized to issue "Tax Invoice" under Section 60(2)(a) of the Act.

#### **5. Security: -**

- (1) Where the Registering Authority is of the opinion that a dealer 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 four days or earlier, as may be fixed by the said authority, security for an amount which, in the opinion of the said authority will be equivalent to the tax estimated by the said authority as being payable by the dealer for one quarter. In making such estimate the said authority may take into account the gross turnover if any, of the dealer during the preceding year, its trend at the time the estimate is made, the nature of the goods dealt in by him and such other factors as may, in the opinion of the said authority, assist in making a proper estimate. Where, for any reasons, no such estimate is possible the said authority may fix such amount, as may be deem just and proper.

- (2) Such security may, subject to satisfaction of the Registering Authority, be furnished by the dealer, in any of the following ways, namely—
  - (a) by depositing with the said authority Government securities for the amount fixed by the said authority; or
  - (b) by depositing such amount in cash, in a Government Treasury; or
  - (c) 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
  - (d) by furnishing two Sureties, who are registered dealers and are regularly abiding the provisions of the Repealed Act as well as under the Act, and are acceptable to the said authority, by executing a security bond for such amount in Form JVAT 115; or
  - (e) 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) At any time, the said authority may to his satisfaction, increase or reduce the amount of security furnished in this behalf.

## **6. Certificate of Registration**

- (1) The certificate of VAT registration shall be displayed in a conspicuous place at the place of business, mentioned in such certificate and a copy of such certificate shall be displayed in a conspicuous place at every other place or places of business within the State.
- (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 prescribed fee.

Provided where the registration certificate granted under these rules is lost, or destroyed or becomes illegible, or have been defaced, the dealer 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 dealer a copy of the original certificate, after stamping and marking in "Red Colour" thereon the words, "Duplicate Copy".

## **7. Amendment of Registration Certificate: -**

- (1) A dealer registered under Section 25 or 26 of the Act, shall inform the Registering Authority in writing within thirty days in the Prescribed Form.
  - (a) of any change in the name, address, of the place of business or branches or discontinuation of the business; or
  - (b) of a change in circumstances of the dealer which leads to cessation of business; or
  - (c) of a change in business activities or in the nature of taxable sales being made or principal commodities traded; or
  - (d) of any changes in the constitution or status of business; or
  - (e) of a change in bank account details.
- (2)
  - (a) Where a dealer intends to change his place of business from the jurisdiction of one authority to the jurisdiction of another authority in the State, he shall make an application on Form JVAT 110 with full particulars relating to the change of address and the reasons for such change, to the authority prescribed.
  - (b) The authority prescribed receiving an application on Form JVAT 110 for a change of place of business shall, on approval of the application, remove such registration from the existing registration records. The registration file and the application shall be transferred to the authority prescribed in whose jurisdiction the proposed new place of business is sought to be established.
  - (c) The change in a place of business and a change in business activities shall not in itself, result in cancellation and fresh registration of a VAT dealer.

## **8. Procedure for cancellation of VAT Registration.**

- (1) Where a VAT dealer ceases to carry on his business, the dealer or his legal representative shall apply before the Registering Authority for cancellation of registration within thirty days of the closure of business.
- (2) Subject to sub-rule (3), a VAT dealer may apply in writing on Form JVAT 105 to have his VAT 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 sub-section (5) of Section 8 of the Act.
- (3) In the case of a VAT dealer making taxable sales, and who is registered under sub-section (3) of Section 25 of the Act, an application under sub-rule (2) of this rule shall only be made, after the expiry of twenty-four months from the date of registration.
- (4) Every VAT dealer whose registration is cancelled under this rule shall pay back input tax credit availed in respect of all taxable goods on hand on the date of cancellation. In the case of capital goods on hand on which input tax credit has been received, the input tax to be paid back, which shall be based on the book value, of such taxable goods and capital goods on that date.
- (5) In respect of transfer of a business to another VAT dealer, there shall be no requirement to repay the input tax credit availed on capital goods and other goods, which shall be deemed to have been transferred to such another VAT Dealer.
- (6) The Registering Authority may cancel the registration of a VAT dealer 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 JVAT 111.
- (7) The authority prescribed may cancel the registration of a VAT dealer who has not applied for cancellation of registration if the authority prescribed is satisfied that the dealer is not entitled for registration under Section 25 or Section 26 of the Act or found to be not complying with the provisions of the Act.
- (8) The Registering Authority shall intimate a VAT dealer when refusing to cancel the registration of the dealer under this rule within fourteen days of receipt of Form JVAT 105.
- (9) The authority prescribed shall issue a notice on Form JVAT 112 to a VAT dealer before compulsory cancellation of the registration.
- (10) The authority prescribed may cancel the registration of a VAT dealer registered under sub-section (5) of Section 25 of the Act, where the VAT dealer—
  - a. has not kept proper accounting records relating to any business activity carried on by him; or
  - b. has not submitted correct and complete tax returns; or
  - c. not complying the provisions of the Act and Rules.
- (11) The cancellation of registration takes effect from the end of the tax period, in which the registration is cancelled unless the authority prescribed orders the cancellation to take effect from an earlier date.
- (12) The cancellation of a registration of any VAT dealer does not affect any liability under the Act or any requirement to comply with the provisions of the Act and the Rules until the date of cancellation of registration.
- (13) Wherever any order of cancellation or refusal to cancel an application is made, the VAT dealer shall be given an opportunity of being heard.
- (14) Every VAT dealer, applying for cancellation in Form JVAT 105, shall surrender all the unused prescribed Forms, which have been authenticated by the prescribed authorities.

## **9. Suspension of Registration Certificate**

- (1) Where a dealer to whom a certificate of registration has been granted and has failed to pay the tax payable or interest payable or penalty payable under this Act; or
- (2) Where a dealer to whom a certificate of registration has been granted and has failed to furnish the monthly return as prescribed in rule 14 of this Rule; or
- (3) Where a dealer to whom a certificate of registration has been granted and has committed any other offence(s) as specified in sub-section (7) of Section 25.
- (4) The Registering Authority may suspend the registration certificate of such dealer.
- (5) Where the registration of any dealer has been suspended, such dealer shall be immediately intimated the fact of suspension of registration with a direction, by notice in Form VAT 306, to produce records, documents and evidence as specified in sub-section (7) of Section 25, on such date, time and place as may be mentioned in the said notice.

- (6) Where the certificate of registration suspended, is restored in accordance with sub-section (8) of Section 25, the restoration shall take effect from the date mentioned in the order restoring the certificate of registration.

Explanation – Every VAT dealer, whose certificate of registration is suspended, shall surrender forthwith all the unused prescribed Forms, which have been authenticated by the Prescribed Authorities.

- (7) Where the certificate of registration suspended, is cancelled in accordance with the provision of sub-section (9) of Section 25, the cancellation shall take effect from the date mentioned in the order of such cancellation.
- (8) In all cases, where the certificate of registration is suspended, restored or cancelled, the registering authority, shall display the fact in the office notice board or may publish such facts in Newspaper or by other means.

## **10. Voluntary Registration**

- (1) A VAT dealer registered under sub-section (1) of section 26 of the Act, shall fulfill the following requirements:
- a. the dealer shall be making taxable sales.
  - b. the dealer shall have a prominent place of business owned or leased or rented in his name.
  - c. the dealer shall have a bank account.
  - d. the dealer shall not have any tax arrears outstanding under the Repealed Acts or CST Act 1956.
- (2) A dealer registered under sub-section (1) of Section 26 of the Act shall:
- a. maintain the full records and accounts required for VAT
  - b. file accurate and timely VAT returns and pay any tax due.
  - c. remain registered for thirty six months from effective date of registration.
- (3) Where VAT dealer registered under sub-section (1) of section 26 of the Act fails to file tax returns and fails to pay any tax due within the prescribed time and his taxable turnover remains under the limits Prescribed in Rule, the Registering authority shall cancel such registration after giving the VAT dealer the opportunity of being heard.

## **11. Start up Business**

- (1) A dealer intending to set up a factory to manufacture taxable goods, and who anticipate making first taxable sales within the next three years, and applying for VAT registration, shall be treated as a start up business.
- (2) A dealer referred to in sub-rule (1) shall make an application in Form JVAT 102, within thirty days of such intention to set up a factory to manufacture taxable goods: including the information, as contained in Annexure-I annexed to Form JVAT 100, for registration before the Joint Commissioner of Commercial Taxes (Administration).
- (3) A dealer applying for registration as a start-up business under clause (lii) of Section 2 of the Act may apply to be registered only for a period of thirty-six months prior to making taxable sales.
- (4) A dealer registered as a start up business under clause (lii) of Section 2 of the Act may claim a tax credit on each tax return for a period of thirty-six months prior to making taxable sales. The input tax claimed must be in respect of tax paid on inputs relating to prospective taxable business activities.
- (5) A dealer registered as a start up business under clause (lii) of Section 2 of the Act shall abide by all the duties and obligations of a VAT dealer including the proper keeping of books of accounts and regular filing of returns.
- (6) The Joint Commissioner of Commercial Taxes (Administration) shall, after such enquiry or verification to his satisfaction shall issue a registration certificate in Form JVAT 107 within thirty days from the date of such application.
- (7) A dealer shall cease to be registered under the provisions of clause (lii) of Section 2 of the Act and become registered under the provisions of sub-section 1 of Section 25 of the Act, when that dealer makes a taxable sale in the course of business.

- (8) A dealer shall cease to be registered under the provisions of clause (lii) of Section 2 of the Act at the end of a thirty-six months period from the date of registration if no taxable sale has been made. In this case, the registration will be cancelled under the provision of Rules.

**12. Declaration of Opening Stock**

- (1) Every dealer holding stock of any goods, as on the Appointed Day with the commencement of the Act, shall furnish to the prescribed authority, the details of such stock in Form JVAT 114 within such time as prescribed under sub-rule (1) of rule 26.
- (2) Such dealer holding stock of any goods, whether for resale or to consume such stock in the manufacture of taxable goods or for directly use in Mining, shall declare his closing stock, which have been purchased under the Repealed Act and taxes has been paid under the Repealed Act from 01.04.2005 to Appointed day and shall be valued, exclusive of tax paid under the Repealed Act. Such stocks shall be the value of stock, and the amount of tax paid from 01.04.2005 to Appointed day, shall be shown separately.
- (3) If a dealer required to furnish the declaration in Form JVAT 114 fails to furnish the details of opening stock as required under sub-rule (1), he shall not be entitled to input tax credit on the opening stock under Section 20 of the Act.



## CHAPTER-III : TRIBUNAL

### 13. Tribunal

- (1) The Tribunal under Section 3 shall consist of three or more members consisting Judicial, Departmental and Accounts members appointed by the State Government.
- (2) A Judicial member shall be:
  - (a) a retired Judge of a High Court who, at the time of his appointment, shall not be more than 65 years of age, or
  - (b) an officer of Judicial Service not below the rank of a District Judge.
- (3) An Accounts or Departmental member shall be a person:
  - (a) Who is serving or a Retired Officer, not below the rank of Joint Commissioner of Commercial Taxes shall: be a Departmental Member.
  - (b) An Accounts member shall be: who is or has been an Officer of the Indian Audit and Accounts Service not below the rank of Deputy Accountant-General; or
  - (c) Who has been an Associate or a Fellow Member of the Institute of Chartered Accountants of India for a minimum period of 10 years.
  - (d) No member shall accept any pecuniary employment outside the duties of his office during the term of his membership of the Tribunal.
- (4) The judicial member shall be the Chairman of the Tribunal.
- (5) No member of the Tribunal shall continue as member after attaining the age of 65 years.
- (6) Subject to the provisions of sub-rule (5), the members of the Tribunal shall ordinarily be appointed for a period of not exceeding three years, which may be extended by a further period not exceeding two years.
- (7) The appointment of a member of the Tribunal may be terminated before the expiry of his tenure if the member:-
  - (a) is adjudged as an insolvent, or
  - (b) is engaged, during his term of office, in any paid employment outside the duties of his office, or
  - (c) is in the opinion of the State Government, unfit to continue in office by reasons of infirmity of mind or of body or for any other reason.
- (8)
  - (a) The State Government may, if it considers expedient to do, set up by a notification issued in this behalf, one or more additional bench of the Tribunal at such places and having jurisdiction over such area as may be specified in the notification.
  - (b) It shall consist of such number of member or members, as may be specified in the notification, possessing such qualifications as are specified in sub-rule (1), (2) and (3):

Provided that if a judicial officer is appointed to such an additional bench, he shall be an officer not below the rank of an Additional District Judge.

- (9) Any vacancy in the membership of the Tribunal shall be filled up by the State Government as soon as may be possible.
- (10) The functions of the Tribunal shall be exercised by a bench to be constituted by the Chairman consisting of one, two or three members. The nature of cases to be disposed of by either of these benches shall be under the discretion of the Chairman:

Provided that a bench consisting of only one member or two members may on its discretion refer a case to a larger bench of two or three members, as the case may be.

- (11)
  - (a) Where an application is heard by all the three members of the Tribunal and the members are divided in opinion on any point or points, such point or points shall, be decided in accordance with the opinion of the majority:

Provided that if the post of any one of the members is vacant such points shall be decided in accordance with the opinion of the Chairman.

- (b) Where an application is heard by a bench consisting of two members, whether it consists of the Chairman or not and the members are divided in opinion on any point or points such point or points shall be referred to a bench consisting of all the three members.
- (12) The Tribunal shall, with the previous sanction of the State Government, make regulations consistent with the provisions of the Act and the Rules, for regulating its procedure and other matters incidental to the disposal of its business. The regulations so made shall be published in the official gazette.
- (13) For smooth functioning, the Tribunal shall have a Secretary to the Tribunal, who shall ordinarily be an officer not below the rank of an Assistant Commissioner of Commercial Taxes;

## CHAPTER IV

### RETURNS, PAYMENT OF TAX, RECOVERY AND REFUND OF TAX

#### 14. Returns

- (1) A return to be filed by a registered VAT dealer under sub-section (1) of Section 29, and a dealer to whom a notice under sub-section (2) of Section 29 of the Act, has been issued to file the return, shall be in Form JVAT 200 and it shall be filed in a circle, where such dealer is registered under the Act, within twenty five days after the end of the tax period. The return shall be true, complete and in duplicate and one copy of the return shall be retained by such dealer.
- (2) In the case of a VAT dealer who is registered vide clause (x) (a) of rule 3 of the Rules, all returns prescribed under these rules, shall be furnished by the principal place of business, in the State which has been declared by the such registered VAT dealer, and shall include the total value of all transactions of all the branches/units of such VAT dealer.
- (3) Where the registration of a VAT dealer is cancelled, a final return in Form JVAT 201 shall be filed within fifteen days of the effective date of cancellation of registration.
- (4) If there is a change in the rate of tax during a tax period, a separate return in respect of each portion of the tax period showing the application of different rates of tax shall be furnished.
- (5) If any VAT dealer having furnished a return in Form JVAT 200 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 JVAT 200 within a period of three months from the end of the relevant tax period stating therein the reasons thereof and indicating in Form JVAT 200 as "Revised" in red colour and also indicating the Period of such revised returns in red colour.

- (6)
  - (a) In the case a casual trader a declaration in Form JVAT 202 shall be filed within five days of arrival of goods in any place in the State, before the authority prescribed indicating the nature of goods and their value in which he intends to deal and the period for which he intends to conduct his business. After proper verification and to his satisfaction, the prescribed authority may grant permission to such casual traders for the same, provided the prescribed authority may require from such casual traders payment of advance tax, if necessary.
  - (b) The casual trader shall file a final declaration in Form JVAT 203 before the authority prescribed on the last day on which he intends to leave the place along with payment of the tax due on the taxable turnover, after making adjustment of advance tax, if any.
- (7) The dealer opting for payment of Composition Tax under Section 58 of the Act and to whom Certificate of registration vide clause (IV) of Rule 4 in Form JVAT 108 has been issued, shall file return in Form JVAT 211 within twenty five days after the end of the tax-period and pay the Composite Tax not later than 21<sup>st</sup> days after the end of the such tax-period.

Provided the dealer opting for Composition of Tax u/s 58 of the Act, shall also file Annual Return in Form JVAT 212 by 31<sup>st</sup> July of the following year.

Provided further in the circumstances, if the gross turnover of the dealer exceeds Rs. 40 lakhs, he shall furnish the Audited Accounts by 31<sup>st</sup> December of the following year, which shall contain a certificate in Form JVAT 409 on behalf of such persons, conducting such audit of accounts as required under sub-section (1) of Section 63 of the Act, certifying therein genuineness and correctness of the account audited thereof.

Explanation: Notwithstanding anything contained in sub-rule (xvi) of Rule 2, for the purpose of filing of returns under this sub-rule, the Tax-Period shall be a quarter, whereas for the purpose of payment of tax, the Tax-Period shall be a Month.

- (8) The dealer liable to pay presumptive Tax under Section 22 of the Act and to whom certificate of registration vide Clause (ii)(c) of Rule 4 in Form JVAT 108 has been issued, shall file Return in Form JVAT 211 within twenty five days after the end of the Tax-Period and pay the presumptive tax not later than 21<sup>st</sup> day after the end of the such Tax-Period

Provided the dealer liable to pay Presumptive Tax u/s 22 of the Act, shall also file Annual Return in Form JVAT 212 by 31<sup>st</sup> July of the following year.

Provided further in the circumstances, if the gross turnover of the dealer exceeds Rs. 40 lakhs, he shall furnish the Audited Accounts by 31<sup>st</sup> December of the following year, which shall contain a certificate in Form JVAT 409 on behalf of such persons, conducting such audit of accounts as required under sub-section (1) of Section 63 of the Act, certifying therein genuineness and correctness of the account audited thereof.

Explanation: Notwithstanding anything contained in sub-rule (xvi) of Rule 2, for the purpose of filing of returns under this sub-rule, the Tax-Period shall be a quarter, whereas for the purpose of payment of tax, the Tax-Period shall be a Month.

- (9) Every registered VAT dealer, who is liable to file Return under sub-rule (1) of this rule shall also file an Annual Return in Form JVAT 204, by 31<sup>st</sup> July of the following year.

Provided that the Annual Return filed in Form JVAT 204 contain a true and complete statements in annexures appended to Form JVAT 204 separately giving all the details mentioned in that Form.

Provided further where a dealer who is a manufacturer, has filed an Annual Return along with the annexures as mentioned above, shall provide a true and complete statement showing the quantity and value of goods received for use in manufacture of goods, consumed in manufacture of goods, and the stock remaining at the end of that year and value of goods manufactured.

## **15. Payment of Tax**

- (1) In the case of a registered VAT dealer, the tax declared as due in Form JVAT 200, shall be paid not later than 21<sup>st</sup> day after the end of the tax period in Form JVAT 205.
- (2) The Form JVAT 200, return shall be accompanied by a receipt 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 dealer 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:

Provided further that where a dealer is permitted to pay the amount of tax including penalty if any by a crossed cheque or crossed bank draft such cheque or draft shall be drawn by the dealer in favour of and be forwarded by registered post to the in-charge of circle as the case may be to which the payment relates. Where cheque or draft is on a bank other than a branch of the Reserve Bank or the State Bank of India, it shall also include an additional amount equal to the actual collection charges.

### **Explanation –**

- (1) For the purpose of calculating penalty, if any, under the Act and these rules the date of receipt of cheque or draft, as the case may be, by the authority aforesaid shall ordinarily be deemed to be the date of payment by the dealer, save in the case of a cheque, which is dishonoured.
- (2) Notwithstanding anything, contained in sub-rule (1), the Commissioner may, by a notification issued in this behalf empower any authority appointed under Section 4 for the purpose of receiving payment of tax or penalty or both in cash. Such order shall be subject to such conditions and restriction as may be imposed by the notification.
- (3) A Challan shall be filled up in quadruplicate. The portion of the Challan marked "Original" shall be sent by the Treasury Officer to the Commercial Taxes Officer in-charge of the sub-circle, if the payment relates to a sub-circle and to the Deputy Commissioner or the Assistant Commissioner of the circle in other cases. A portion of the challan marked "Duplicate" shall be returned to the dealer or the payer after being duly receipted. The dealer 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 57.
- (4) 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 dealer 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 VAT dealer having furnished a return in Form JVAT 200 and subsequently furnish a revised return under sub-rule (5) of rule 14, shall pay the different amount of tax according to the Revised Return, along with an Interest @ 1% per month.
- (4) In the case of a registered VAT dealer or any other dealer 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 for the purpose, such tax, Interest, Penalty or any other dues shall be paid in Form JVAT 205.

## 16. Grant of installments

- (1) An application for grant of installments shall be in Form JVAT 123, and shall be produced before the In-charge of the Circle, and in the case, where such installment has to be granted, by the Joint Commissioner (Administration) of the Division or the Commissioner, the same shall be forwarded by the In-charge of the Circle to the authority mentioned in sub rule 2.
- (2) Subject to the provisions of sub-section (5) of Section 43, where it is established that, a dealer is not in a position to make payment of the total demand outstanding against him, under the repealed Act or Acts or under the Act or under the Central Sales Tax Act, 1956, and the Prescribed Authority has reasons to believe that, if an installment is granted, the recovery of such tax is possible, an installment may be granted for a period, not exceeding twelve months from the date of such order, to such dealer,-
  - (i) by the Commercial Taxes Officer, In-charge of the Circle, in case the total demand does not exceed Rs. 50,000/-; and
  - (ii) by the Assistant Commissioner of Commercial Taxes, In-charge of the Circle, in case the total demand does not exceed Rs. 1,00,000/-.
  - (iii) by the Deputy Commissioner of Commercial Taxes, In-charge of the Circle, in case the total demand does not exceed Rs. 10,00,000/-.
  - (iv) by the Joint Commissioner of Commercial Taxes, Administration of the Division, in case the total demand does not exceed Rs. 25,00,000/-.
  - (v) by the Commissioner of Commercial Taxes, in case the total demand exceeds Rs. 25,00,000/-
- (3) Where the period of twelve months is found insufficient in view of the circumstances of the case, prior permission in writing shall be required from the officers referred to in the this rule, and such officer may extend the time, for a further period of six months.
- (4) Where payment of any demand is postponed by installments, in sub-rule (1) and (2) beyond a period of one month, the dealer shall be required to furnish a Security Bond in form JVAT 115 executed with two sureties acceptable to the assessing authority or the officer authorised by the Commissioner for the purpose for the amount of such payment.

## 17. 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 JVAT 300.
- (2) A notice of demand under Section 46 of the Act, shall be in Form JVAT 301.
- (3) If any VAT dealer makes an application before the prescribed authority with a court fee stamp of ten rupees, after service of Notice in Form JVAT 302 for any period, but before the issue of notice of demand in Form JVAT 300 related therewith that a copy of order of assessment / penalty / interest or any other order concerning with the demand notice may be supplied to him, thereafter a copy of such order may be supplied to him, along with the Notice of Demand.  
Provided that, even if the demand of any period is NIL, but such application has been made, a copy of such order may be, nevertheless, be supplied.
- (4) (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 sub-section (4) and sub-section (5) of Section 43, 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 other any 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 dealer, as well as the District Certificate Officer.

(5) A notice for the purpose of sub-section (2) of Section 47 shall be in Form JVAT 302.

## **18. Scrutiny of Returns**

- (1) The Prescribed Authority of the record, within five days of receiving the returns or statements, shall ensure that the full information as contained in them is entered in the computer/ register and thereafter the same is also entered in the Register(s) maintained for this purpose, and the same is also placed on the record of the dealer.
- (2) The authority prescribed in sub rule (1) shall, within fifteen days of the Returns being placed on the record of the dealer, shall scrutinize them in accordance with the provisions of sub section (1) of Section 33, and shall verify the correctness of the return.
- (3) The authority prescribed in sub rule (1) finds any omission or error thereof in the return, shall issue a notice under sub section (2) of Section 33 of the Act in Form JVAT 303.
- (4) If any amount is found payable by the dealer pursuant to an order under sub-section (2) of Section 33 the authority prescribed in sub-rule (1) shall require the dealer to pay the said amount by a date which shall, ordinarily, not be less than fifteen days from the date of service of the Notice requiring such payment along with the Interest.

Provided that where the authority prescribed under sub-rule (1) considers it expedient in the interest of state revenue, it may, for reasons to be recorded in writing, require any dealer to make such payment forthwith.

## **19. Refund and Provisional Refund**

- (1) For the purposes of Section 52 and 53 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.25,000/-; and
- (b) Assistant Commissioner of Commercial Taxes, In-charge of the Circle, if the amount to be refunded does not exceed Rs.50,000/-; 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) (a) The claim for refund under Section 52 of the Act, shall be made by a VAT dealer in Form JVAT 206, within ninety days from the date of receipt of excess demand notice.
- (b) The claim for the Provisional Refund u/s 53 of the Act, shall be made by a VAT dealer in Form JVAT 207.
- (c) The claim for refund for other persons, and for such person(s) as specified in Section 54, shall be made by a VAT dealer or by such person(s) in Form JVAT 208, within thirty days from the date of filing of Return.
- (3) Any VAT dealer who claims any refund in excess of VAT or Tax, shall not be eligible for any refund, unless all the returns due have been filed and 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 dealer.
- (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 repealed Act(s) or under CST Act 1956, against such VAT dealer.
- (5) The authority prescribed shall not refund any VAT where taxes, penalty, interest or any other amount is outstanding against such VAT dealer under the Repealed Act and or under the CST Act 1956.
- (6) Where the VAT dealer makes a claim of refund under Section 52 of the Act, such refund shall be made within a period of ninety days of the date of filing of such claim, as specified in clause (a) of sub-rule (2) of this rule.

- (7) Where the VAT dealer makes a claim of Refund under Section 53 of the Act in the return furnished for a tax period on account of sales as specified in Clause (ii) or (iii) of sub-section (2) of Section 49, he shall make an application in Form JVAT 207 to the Prescribed Authority of the circle, within ninety days from the date of furnishing of such return and the application so made shall be accompanied by documents as specified in sub-rule (9) of this Rule.

Provided that an application for refund made after ninety days may be admitted by such Prescribed Authority if he is satisfied that the dealer had sufficient cause for not making the application within the said period.

- (8) (a) In the case of sales falling within the scope of sub-section (1) of Section 5 of CST Act 1956, for which Refund/Provisional Refund has been claimed, the VAT dealer shall furnish the following documents:
- (i) Copy of contract or order from a foreign buyer
  - (ii) Copy of the customs clearance certificate
  - (iii) Copy of the invoice issued to the foreign purchaser
  - (iv) Transport documentation i.e. Bill of Lading, Airway Bill, or other similar documents.
  - (v) Evidence of payment or evidence of letter of credit from the foreign purchaser.
- (b) In the case of sales falling within the scope of sub-section (3) of Section 5 of CST Act 1956, the VAT dealer shall furnish the following documents:
- (i) Declaration in Form 'H'
  - (ii) Purchase order from exporter
  - (iii) Evidence of export in the Form of Transport Documentation i.e. Bill of Lading, Air Way Bill or other similar documents.
- (9) The application for refund furnished under sub-rule (7) shall be accompanied by the copy of the tax invoice, certificate of the competent authority showing the name and address of the dealer of the SEZ or the STP, or EOU or the EHTP, under which it is established and the entitlement of the dealer to purchase goods free of tax or is entitled for Input Tax Credit covered under such tax invoice and such other evidences, as may be required to establish the claim of Refund.
- (10) (a) Where the VAT dealer fails to annex the details of documents required under sub-rule (9), the Prescribed Authority shall issue a notice to furnish accounts or records or documents required by the authority prescribed within seven days of date of issue of the notice, and in such cases the time limit defined in above clause (7) shall not apply.
- (b) Where a VAT dealer makes a claim under Section 53 of the Act, for refund of Input Tax paid by him, in course of his purchases, he shall file an Affidavit that such Input Tax has been paid by him to the registered VAT dealer(s), against the Tax Invoice(s) under Section 60 of the Act.
- (c) Where the VAT dealer makes a claim under Section 53 of the Act, on account of sales made, as specified in Clause (ii) and (iii) of sub-section (2) of Section 49, such refund shall be made within a period of ninety days from the date of filing of such claim, in the manner as specified in this behalf, by a Notification published in Official Gazette.
- Provided the application contains all the requisite documents as required, vide sub-rule (9) of this rule.
- (11) A VAT dealer making sale of goods in the course of inter-state trade or commerce falling under Section 3 of the CST Act 1956 may adjust any excess credit available under the Act against any tax payable under the CST Act, 1956.
- Provided in the circumstances, if the total of Input Tax paid exceeds against the Tax Payable under the CST Act, for continuous six months, after the due date of filing of returns under the Act and under the CST Act, and he has no any other liability under the Act or under the CST Act, such dealer may, file refund application u/s 53 of the Act.
- (12) For the purpose of refund necessitated u/s 53 of the Act, the Prescribed Authority, subject to his satisfaction may direct the dealer / applicant, to furnish security in any of the ways, as prescribed in sub-rule (2) of Rule 5 of this rules and such security shall be retained by the Prescribed Authority till the assessment of the dealer, under Section 35 or 36 or 37 as the case may be, is completed or till such time the Prescribed Authority may deem fit and proper.

- (13) The Refund Payment Order, in the case of "Refund Adjustment Order" or "RAO" shall be in Form JVAT 210 and in the case of refund in cash, shall be in Form JVAT 209.
- (14) The In-charge of the Circle shall be the Prescribed Authority for the purpose of Section 56 of the Act.

**20. Refund of Tax to Foreign Diplomats or Foreign Missions**

- (1) Any foreign diplomat or mission making any purchase of any goods, excluding in Schedule I and Part E of Schedule II of the Act, after payment of tax; and eligible for refund of such tax under section 54 of the Act, shall Apply for Refund in Form JVAT 208 of the tax so paid.
- (2) Such application shall:
  - (a) be made to the In-charge of the Circle under whose jurisdiction the dealer selling the goods is situated:
  - (b) be accompanied by the original copy of the Tax Invoice issued by the selling dealer showing separately the tax charged:
  - (c) contain the address of the applicant; and
  - (d) contain the following certificate, granted by an officer of the concerned Embassy especially authorised in this behalf.

CERTIFICATE

"Certified that the goods mentioned in the Invoice accompanying this application have been purchased by ..... (name of the purchaser) who is entitled for refund of tax under Section 54 of the Jharkhand Value added Tax Act, 2005.

Further certified that I have been duly authorised to sign this certificate"

Date	Signature
Seal of Embassy	Name and designation of signing authority

- (3) Notwithstanding anything contained in sub-rule (1) of Rule 19, on receipt of such Application, the In-charge of the Circle shall pass Refund Order in Form JVAT 209 within fifteen days of such receipt. The concerned Treasury or the Bank, as the case may be, shall prepare a Bank Draft in the name specified in the Refund Order and forward the same to the concerned Circle In-charge within five days of the receipt of the Refund Order.
- (4) Upon receipt of the Bank draft from the Treasury or the Bank, as the case may be, the Circle In-charge shall send the same by registered post to the applicant within three days of receipt of such draft.

**21. Forfeiture of Tax collected in violation of the Act**

- (1) The authority referred to in Rule 57 shall, in the matter of a proceeding under sub-section (2) of Section 48, serve upon any person or a registered dealer proceeded against a notice in Form JVAT 305 fixing a date of hearing which shall in no case be less than thirty days from the date of issue of such notice.
- (2) The person from whom the amount so forfeited was collected shall apply to the Commissioner in Form JVAT 116 for the Refund of the amount forfeited.
- (3) Where an order for forfeiture is passed under Section 48, the Commissioner shall cause a notice to be published in more than one widely circulated newspaper containing the following details: -
  - (a) The name of the dealer of person, as the case may be, from whom the amount illegally collected has been forfeited;
  - (b) The period during which the amount was illegally collected;
  - (c) The amount forfeited; and
  - (d) Any other information that may be deemed fit in the facts and circumstances of the case.



## CHAPTER - V

### DETERMINATION OF TAXABLE TURNOVER FOR THE PURPOSE WORKS CONTRACTORS

#### 22. Determination of Taxable Turnover of Goods involved in Works Contract for the purpose of sub-section (3)(c) of Section 9: -

1. (a) The works contractor VAT Dealer shall be liable to pay tax at the appropriate rates, on the total value of goods, transferred in property (either in the same Form or in other Form) involved in execution of works contract.
  - (b) When such VAT dealer awards any part of the contract to a sub-contractor, such sub-contractor shall issue a tax invoice to the contractor for the value of the goods at the time of incorporation in such sub-contract.  
The tax charged in the tax invoice issued by the sub-contractor shall be accounted by him in his returns.
  - (c) The value of the goods used in execution of work in the contract, declared by the contractor shall not be less than the purchase value and shall include total consideration contract charges, including blasting and breaking charges, crusher charges, loading, transport and unloading charges, stacking and distribution charges, expenditure incurred in relation to hot mix plant and transport of hot mix to the site and distribution charges.
  - (d) The value of goods involved shall be taxable after deducting from it, the following charges, such as: -
    - (i) Labour charges for execution of the works;
    - (ii) Charges for planning, designing and architect fees;
    - (iii) Charges for obtaining on hire or otherwise machinery and tools used for the execution of the works contract;
    - (iv) Cost of consumables such as water, electricity, fuel, etc., used in the execution of the works contract, the property in which is not transferred in the course of execution of a works contract;
    - (v) Cost establishment of the contractor to the extent it is relatable to supply of labour and services;
    - (vi) Other similar expenses relatable to supply of labour and services;
    - (vii) Profit earned by the contractor to the extent it is relatable to supply of labour and services.
2. Where the amount of charges towards the labour, services, hire charges or all other like charges in any contract are not ascertainable, from the terms and conditions or the accounts furnished in this behalf of the contract, the amount of such charges shall be calculated at the following percentages: -

Sl. No.	Type of contract	Percentage of the total value eligible for deduction
1.	(a) Electrical Contracts.  (i) H.T. Transmission lines (ii) Sub-station equipment  (iii) Power house equipment and extensions  (iv) 11 and 22 KV and L.T. distribution lines 12+5  (v) All other electrical contracts  (b) All structural contracts	Twenty percent  Fifteen percent  Fifteen percent  Seventeen percent  Twenty five percent  Thirty five percent
2	Installation of plant and machinery	Fifteen percent
3	Fixing of marble slabs, polished granite stones and tiles (other than mosaic tiles)	Twenty five percent
4	Civil works like construction of buildings, bridges roads etc	Thirty percent
5	Fixing of sanitary fittings for plumbing, drainage and the like	Fifteen percent
6	Painting and polishing	Twenty percent
7	Laying of pipes	Twenty percent
8	Tyre re-treading	Forty percent
9	Dyeing and printing of textiles	Forty percent
10	Printing of reading material, cards, pamphlets, posters and office stationery	Forty percent
11	All other contracts	Thirty percent

Provided, where such contractor VAT dealer has not maintained the accounts to determine the correct value of the goods at the time of incorporation he shall pay tax at the rate of twelve and a half percent (12.5%) on the total consideration received or receivable subject to the deductions specified in the table aforesaid. In such cases the contractor VAT dealer shall not be eligible to claim input tax credit and shall not be eligible to issue tax invoices.

3. Where a works contractor is permitted to pay lump-sum amount or Composition of Tax under Section 22 or 58 respectively of the Act, the provisions of this Rule shall not apply in such cases.

### **23. Tax Deduction at Source**

- (1) (a) Where a works contract is awarded to a VAT dealer by any contractee and where the contractee is liable for deduction of tax at source of Advance Tax, as specified in the notification issued under Section 44 of the Act, by the State Government in this behalf, the tax shall be deducted from the payment of the valuable consideration after deducting: -
  - (i) the amount of labour charges, services and the transactions falling under Section 3, 4 and 5 of the CST Act 1956.
- (2) the amount of Advance Tax so deducted by the Contractee in pursuance to the notification issued in this behalf, the same shall be deposited in the Government Treasury in the following manner: -
  - (a) In the circumstances, when the contractee is the department of the State Government, it will deduct the Advance Tax from the bills of the contractor, in accordance to the rules, as provided by the Government for such respective departments and shall remit to the Government Treasury for credit therein into the respective "0040 Head", and a copy of such Schedule forwarded to the Prescribed Authorities of the appropriate circle.
  - (b) In the circumstances, where the contractee is other than the contractee mentioned in sub-rule (a) of this Rule, such person shall deposit the deducted Advance tax into the Head "0040", directly into the Government Treasury through a prescribed Challan, in the name of such contractor(s), from whose bills such deduction has been made, and furnish a statement to be submitted to the respective Circle In-charge for each month on the 15<sup>th</sup> day of the following month along with copies of challans.
  - (c) Every person or Government Department referred in this Rule, shall issue to the contractor, a certificate of tax deduction at source in Form JVAT 400 deducted for the respective year.

Provided that, a Certificate issued to the contractor in Form JVAT 400, shall be accepted and adjusted against the tax payable by such contractor, by the Assessing Authority, where the contractor is registered.

### **24. Non-deduction of Tax at Source from the bills of Supplier and Works Contractors**

- (1) No deduction shall be made under Section 45—
  - (a) if the dealer is not liable to pay tax under Section 14, 49 & 57 of the Act;
  - (b) if the supplier, being a dealer registered under Section 25 or 26 of the Act, produces before the deducting authority a certificate in Form JVAT 407 issued by the in charge of the circle in which he is registered.
- (2) Further; no deduction shall also be made under Section 44—
  - (a) if the works contractor, in course of execution of works contract, involves such goods in the transfer of property in goods in the same form or in some other forms: and such goods are not liable to tax under Section 14, 49 & 57 of the Act; or
  - (b) if the works contractor, being a registered dealer: and has opted for composition of tax under Section 58 of the Act, and is registered in terms of Rule 4 of this Rule, and produces before the deducting authority a certificate in Form JVAT 407 issued by the in-charge of the circle; in which he is registered.
- (3) A supplier or the works contractor, registered under the Act, for the purpose of obtaining the certificate in Form JVAT 407, shall apply for the same, in Form JVAT 120 and the authority specified in Rule 57, after verifying the particulars furnished in the application, shall issue the certificate in Form JVAT 407.
- (4) The provisions of sub rules (2) of Rule 23 shall apply mutatis mutandis in so far as they relate to deductions, deposits, returns and certificates.

## CHAPTER VI

### CALCULATION OF VAT PAYABLE AND INPUT TAX CREDIT

#### 25. Calculation of VAT Payable

- (1) Subject to sub rule 2 of this rule the tax payable on a taxable turnover is calculated by applying the rate of VAT specified in the Act on the "Sale Price(s)" of the transaction.
- (2) Where the "Sale Price(s)" is inclusive of tax and the VAT payable shall be calculated by the Formula 
$$\frac{R \times \text{Sale Price}}{100 + R}$$
where R is the rate of tax.
- (3) The tax payable by a VAT dealer for a tax period shall be calculated by the Formula, X-Y where 'X' is a total of the VAT payable in respect of all taxable sales made by the VAT dealer during the tax period, and 'Y' is the total input tax credit the VAT dealer is eligible to claim in the tax period under the Act.

#### 26. Computation of Input Tax Credit

- (1) Input tax credit on the opening stock of the tax paid goods purchased between 1.4.2005 and Appointed Day —

After the commencement of the Act, where any dealer registered as a VAT dealer or where the authority prescribed registers any dealer as a VAT dealer under Rule 3, such dealer shall be eligible for Input Tax Credit as provided under Section 20 of the Act. The goods on which the input tax credit is claimed or allowed shall be available as on the Appointed Day, on stock of tax paid goods excluding the goods mentioned in Part-E of Schedule-II of the Act, and shall be admissible within nine months from the appointed date on the following conditions-

- (a) The dealer claiming such input tax credit must be registered under the Act.
- (b) The VAT dealer claiming input tax credit, shall make an inventory of all goods in hand, on the Appointed Day, which has suffered the incidence of tax under the Repealed Act, and shall file his claim for Input Tax Credit in Form JVAT 401 along with the evidences, including the purchase or sale invoice(s) and the evidences / copies of the Declaration(s) in Form IX-C issued/received under the Repealed Act.
- (c) The VAT dealer claiming Input Tax Credit, in the circumstances he is a Manufacturer or a Miner and has purchased his Inputs or the raw-materials under sub-section (1) of Section 13 of the Repealed Act, shall make an inventory of all such goods in hand, on the Appointed Day, which has suffered the incidence of tax under the Repealed Act, and shall file his claim for Input Tax Credit in Form JVAT 401 along with the evidences, including the purchase or sale invoice(s) and the evidences / copies of the Declaration(s) in Form IX issued/received under the Repealed Act.
- (d) In the circumstances, the Tax Paid Purchase Invoices reflect the amount of taxes realised and paid separately: Input Tax Credit to the extent of 100% of such amount of tax shall be admissible.
- (e) In the circumstances, the Tax Paid Purchase Invoices are inclusive of Tax, the Amount of tax shall be derived by an under-mentioned formula and Input Tax Credit to the extent of 75% of such calculated tax amount shall be admissible: -

$$\text{Tax Amount} = \frac{R \times \text{Purchase}}{100 + R}$$

Where, R is equal to "Rate of tax"; "Purchase" is "Purchase Value" or "Opening Stock Value" inclusive of tax amount. (If Rate of Tax is 10%, 'R' is 10)

- (f) The claim for such input tax credit shall be filed before the prescribed authority, within a period of thirty days from the date of commencement of the Act. The claim of such input tax credit shall be verified and allowed in Form JVAT 402, not later than a period of thirty days, from the date of receipt of Form JVAT 401.
- (g) In the circumstances, if the Input Tax Credit is claimed and availed under this sub-rule, in any manner with an intention to evade the tax payable, the same shall be treated as an offence under sub-section (7) of Section 84 of the Act.
- (h) The burden of proving, that the Input Tax Credit claimed under this sub-rule is true and correct, shall be on such dealer.

Subject to this sub-rule, if the Input Tax Credit as allowed in Form JVAT 402 and claimed in the Return(s) by such dealer, remains unadjusted from the Output Tax for that month, the same shall be carried forward for the next month(s).

- (2) Input Tax Credit on the Capital Goods.
- (a) Input Tax Credit in respect of the purchase of Capital goods on VAT Invoice by an existing Industrial Unit shall be allowed; not exceeding in thirty six equal monthly installments, from the date of commencement of taxable sales of commercial production of such Industrial Unit. The Input Tax Credit allowed shall be claimed from the first return and tax payable by such VAT dealer along with monthly VAT returns.
- (b) Subject to rule 27, the Input Tax Credit on the Capital goods of Start-up Unit shall be allowed; not exceeding in thirty six equal monthly installments from the date of commencement of taxable sale of commercial production of such Unit.

Provided if the Input Tax Credit allowed as mentioned in sub-rule (a) and (b) remains unadjusted after thirty six months, no further adjustment shall be allowed from the VAT payable by such dealers.

- (3) Input Tax Credit in respect of Goods other than mentioned in sub-rule (1) and (2).
- (a) The extent of Input Tax Credit available to a registered VAT dealer, for a tax period shall be equal to the amount of tax paid on purchases, including tax paid on entry of goods under Section 11 of the Act, as evident from the original Tax Invoice, and evidence of payment of Entry Tax, where such Invoice has been lost, on the basis of duplicate copy thereof, issued to him in accordance with the provisions of sub-rule 6 of Rule 28. Subject to the other provisions of this rule and the following conditions: -
- (i) that such dealer has maintained a true and correct separate account of Input Tax, relating to his purchases against Tax Invoices for this purpose.
- (ii) that such dealer has maintained a true and correct separate account of Output Tax, relating to his sales against Tax Invoice for this purpose.
- (b) Input Tax Credit shall not be allowed in respect of such goods, used as raw materials for manufacture of exempted goods or used as packing materials for exempted goods.
- (4) Where all the sales of a VAT dealer for that tax period are taxable, the whole of the Input Tax may be claimed as a credit excluding the tax paid on the purchase of any goods mentioned in sub-section (8) of Section 18.

Provided where goods purchased by a dealer are partly for his business use and partly for other than his business use, the amount of the Input Tax Credit shall be limited to the extent of Input Tax that relates to the goods used in his business.

- (5) (i) Where any VAT dealer buys and sells the goods in the same form, the input tax credit can be claimed fully in respect of all the taxable goods purchased for every tax period excluding the tax paid on the purchase of any goods mentioned in sub-section (8) of Section 18. Such VAT dealer is required to make a declaration in Annexure-A of Form JVAT 200 for every tax period along with tax return.
- (ii) Where any common inputs like packing material are used commonly for sales of taxable and exempt goods (goods in Schedule-I), the VAT dealer shall repay Input Tax related to exempt element of common inputs after making adjustment in the Annual Return by filing Annexure-B of Form JVAT 204 by applying a formula. The eligible Input Tax Credit for this sub-rule as well as for other transactions in this Rule shall be calculated/computed, by applying the under-mentioned formula, i.e.-

$$\frac{A \times B}{C} \quad \text{[ 'A' multiplied by 'B' and divided by 'C' ]}$$

Where -----

- (A) is the total amount of input tax paid at each tax rate for the tax period; excluding the tax paid on the purchase of any goods mentioned in negative list in Appendix-I and as defined under Section 2(xxviii).

- (B) is the "that part of turnover", which qualify for Input Tax Credit under the provisions of this Act for the respective tax period, which shall include
- (i) zero rated sales of any goods falling within the scope of sub-section (1) or (3) of Section 5 of the Central Sales Tax Act, 1956 and
  - (ii) inter-state sales of taxable goods falling within the scope of Section 3 of the CST Act,

but shall not include:

- (i) purchase price of goods taxable under Section 10 of the Act;
  - (ii) transactions falling under Section 5(2) , Section 6 A and Section 6(2) of the CST Act, 1956
  - (iii) value of transfer of a business as a whole
- (C) is the "total turnover" as defined under the Act during the period, but shall not include-
- (i) purchase price of goods taxable under Section 10 of the Act;
  - (ii) transactions falling under Section 5(2) and Section 6(2) of the CST Act, 1956; and
  - (iii) value of transfer of a business as a whole.
- (iii) This sub-rule is not applicable, if the VAT dealer is making exempt transactions.
- (6) (a) Where the value of taxable sales is 95% or more of the total value for that tax period, the VAT dealer may claim credit for the full amount of input tax paid or purchases.
- (b) Where the value of taxable sales is 5% or less of the total value, the VAT dealer shall not be eligible to claim Input Tax Credit for that tax-period.
- (c) Such a VAT dealer covered under clause (a) and (b) above, shall make an adjustment in the Annual Return for the period ending in March; in Annexure-B of Form JVAT 204. In the Annexure-B of Form JVAT 204, the eligible input tax credit shall be calculated by applying the same aforesaid formula  $A \times B / C$ . The excess input credit claimed shall be paid back or the balance input credit eligible can be claimed in the Annual Return.
- (d) This sub-rule is not applicable, if the VAT dealer is making exempt transactions.
- (7) Where any VAT dealer is able to establish that specific inputs are meant for specific output, the input tax credit can be claimed separately for taxable goods. For the common inputs, such VAT dealer can claim Input Tax Credit, for such common inputs used for taxable goods, exempt goods (goods in Schedule-I) and exempt transactions; by applying the same aforesaid formula, i.e. -

$$\frac{A \times B}{C} \quad \text{['A' multiplied by 'B' and divided by 'C']}$$

Provided the VAT dealer furnishes Annexure-A of Form JVAT 200 for each tax period for adjustment of Input Tax Credit and also makes an adjustment for a period of Twelve months ending March every year by filing Annexure-B of Form JVAT 204.

- (8) Where a VAT dealer is making taxable sales and sales of exempt goods (goods in schedule-I) for a tax period and inputs are common for both, the amount which can be claimed as input tax credit for the purchases of the goods at each tax rate shall be calculated by the same aforesaid formula, i.e. -

$$\frac{A \times B}{C} \quad \text{['A' multiplied by 'B' and divided by 'C']}$$

Provided the VAT dealer furnishes Annexure-A of Form JVAT 200 for each tax period for adjustment of Input Tax Credit and also makes an adjustment for a period of 12 months ending March every year by filing Annexure-B of Form JVAT 204.

- (9) (a) Where a VAT dealer is making sales of taxable goods and also exempt transactions of taxable goods in a tax period, for the purchases of goods taxed at 12.5%, the Input Tax to the extent of 8.5% portion can be fully claimed in the same tax period.
- (b) In respect of purchases of goods taxable at 1%, 4% and for the 4% tax portion in respect of goods taxable at 12.5%, the VAT dealer shall apply the same aforesaid formula, i.e.

$$\frac{A \times B}{C} \quad \text{['A' multiplied by 'B' and divided by 'C']}$$

for each tax period:

Provided the VAT dealer furnishes Annexure-A of Form JVAT 200 for each tax period for adjustment of Input Tax Credit and also makes an adjustment for a period of 12 months ending March every year by filing Annexure-B of Form JVAT 204.

- (10) (a) Where a VAT dealer is making sales of taxable goods, exempt sales (goods in Schedule I) and also exempt transactions of taxable goods in a tax period, for the purchase of goods taxed at 12.5%, the input tax to the extent of 8.5% portion can be provisionally fully claimed in the same tax period;
- (b) In respect of purchases of goods taxable at 1%, 4% and for the 4% tax portion in respect of goods taxable at 12.5%, the VAT dealer shall apply the same aforesaid formula, i.e. -

$$\frac{A \times B}{C} \quad \text{['A' multiplied by 'B' and divided by 'C']}$$

for each tax period:

Provided the VAT dealer furnishes Annexure-A of Form JVAT 200 for each tax period for adjustment of Input Tax Credit and also makes an adjustment for a period of twelve months ending March every year by filing Annexure-B of Form JVAT 204.

- (11) (a) In the case of a VAT dealer filing Annexure-B of Form JVAT 204, the excess Input Credit claimed including 8.5% portion provisionally claimed for sales of exempt goods shall be paid back or the balance input credit eligible can be claimed in the Annual Return for period ending March:
- (b) For the purpose of this rule, the words A, B and C in the formula shall be same as specified in clause (ii) of sub-rule (5) of this Rule, i.e. -

$$\frac{A \times B}{C} \quad \text{['A' multiplied by 'B' and divided by 'C']}$$

- (c) Where a VAT dealer makes exempt transactions, for the calculation of input Tax Credit, in excess of input tax of 4% of 12.5% rate of goods, "the value of B" shall include the value of the goods transferred outside the State otherwise than by way of sales (transaction falling under Section 6-A of the CST Act 1956).
- (d) For the purpose of sub-rules from (5) to (10) of this Rule, the value of A is the amount of Input Tax relating to common inputs at each tax rate separately, B is the taxable turnover, i.e. that part of turnover eligible for Input Tax Credit and C is the total turnover. For the purpose of Annexure-A of Form JVAT 200, the value of A, B and C would be for that tax period whereas for the purpose of Annexure-B of Form JVAT 204, the values of A, B and C would be the values for the period of twelve months ending March.
- (e) Any VAT dealer opting for any method of Input Tax Credit calculation specified from sub-rule (5) to sub-rule (10) shall be required to be under only one method for twelve months period ending March. The method of adjustment to be made in the Annual Return for the period ending March, shall be on the basis of preceding option exercised by the dealer upto March.
- (12) In circumstances where, from sub-rule (4) to (11) of this Rule, does not give a fair apportionment, the VAT dealer may use an alternative method where four separate records have to be maintained:
- (a) a record of the purchase of taxable goods intended for taxable sales;
- (b) a record of the purchase of taxable goods intended for exempt sales;
- (c) a record of the purchase of taxable goods intended for exempt transactions;
- (d) a record of the purchase of taxable goods where the purchases cannot be related to either taxable or exempt sales or exempt transactions with this method:
- (i) all the tax charged in (a) above can be claimed as input tax;
- (ii) none of the tax charged in (b) above can be claimed as input tax;
- (iii) in the case of the tax charged in (c) above the provision of sub-rule 8, 9, 10 shall be applicable.

- (13) (a) Where a VAT dealer has declared exempt sales and or exempt transactions for any tax period of one financial year, he shall, in the Annual Return, make a calculation in accordance with from sub-rule 7 to 11 of this rule as the case may be for the preceding twelve months.
- (b) In the case of cancellation of the registration of a VAT dealer the final calculation and adjustment shall be made for the period outstanding since the last adjustment.
- (14) The alternative methods of computing Input Tax Credit shall be verified and approved by the Prescribed Authority, and the VAT dealers shall claim Input Tax Credit after such approval.
- (15) Reverse Tax Credit – (a) Where Input Tax Credit has already been availed by a registered dealer against the purchase of goods, under sub-section (4) of Section 18, and a part of which is, however, used in manufacturing of such goods: which are exempted from Tax; the Input Tax Credit, so availed for that part of the goods, shall be deducted from the Input Tax Credit already availed for that tax period under sub-section (9) of Section 18, in which such event takes place.
- (b) Where there is a negative Input Tax Credit for a tax period, as a result of deductions made under sub-rule (1), the excess Input Tax Credit availed of, shall by order in Form JVAT 308, be demanded as if it was a tax due under the Act from the dealer, and it shall be recovered as an arrear of tax under the provisions sub-section (7) of Section 43.
- (c) Where the goods purchased by a registered dealer from another registered dealer, are returned to the selling dealer and necessary adjustment is made in their respective accounts, the purchasing dealer shall "Reverse" the Input Tax Credit already availed by him for purchase of such goods, subsequently returned.
- (d) Where a registered dealer fails to keep separate account of purchase of goods for the purpose of determining "Reverse Tax Credit" under sub-rule (1), the Input Tax Credit already availed shall be reversed in the following manner: -
- (i) In case of a registered dealer manufacturing both taxable goods and exempted goods for sale, reverse tax shall be calculated as under: -

***U x V***

$$X = \frac{U \times V}{W}$$

***W***

- Where 'X' is the amount of the Input Tax Credit, which is to be reversed.
- 'U' is the amount of the Input Tax Credit, already availed during the tax period.
- 'V' is the total sale value of manufactured goods, exempt from tax in that tax period.
- 'W' is the total sale value of goods manufactured in that tax period.

- (ii) In case of a registered dealer selling taxable goods, a part of which is damaged, or destroyed, reverse Tax Credit shall be calculated as under: -

***U x V***

$$X = \frac{U \times V}{W}$$

***W***

- Where 'X' is the amount of the Input Tax Credit, which is to be reversed.
- 'U' is the amount of the Input Tax Credit, already availed during the tax period.
- 'V' is the total estimated sale value of goods, damaged or destroyed in that period.
- 'W' is the total sale value of goods including the sale value of 'damaged or destroyed' goods during that tax period.

## **27. Input Tax Credit on Capital Goods**

- (1) A dealer claiming input tax under Section 18, in respect of capital goods, as defined under clause (x) of Section 2, shall, apply in Form JVAT 118 to the Prescribed Authority within thirty days of commencement of commercial production or sale of taxable goods or at the time of applying Registration under Section 25 of the Act.
- (2) The Prescribed Authority shall review such application to ensure that it contains all the information required and inform the dealer within one month from 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 Prescribed Authority shall inform the dealer eligible for Input Tax Credit in Form JVAT 406 within thirty days of receipt of an application, which is correct and complete.

(4) Deduction of input tax under Section 18 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 JVAT

118 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 Input Tax Credit shall be calculated on the basis of a formula as per sub-rule (5)(ii) of Rule 26.

(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 as per sub-rule (5)(ii) of Rule 26 or as specified by the Prescribed Officer.

(5) (a) Where there is a change in use of the capital goods, after the claim and for Input Tax Credit has been allowed, and the dealer is no longer eligible for such Input Tax Credit, the dealer shall inform the Prescribed Authorities within ten days of such change in use.

b) The Prescribed Authority shall inform the dealer in Form JVAT 307 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.



**CHAPTER VII**  
**TAX INVOICES, CREDIT AND DEBIT NOTES**

**28. Tax Invoices for VAT Dealers**

- (1) Where a registered dealer effects sale to another registered dealer, the dealer making the sale shall issue a Tax Invoice.
- (2) All Tax Invoices and Retail Invoices issued against sales made by a registered dealer shall indicate the Tax charged, at each rate of tax separately.
- (3) Tax Invoice/Retail Invoice issued by a registered dealer shall be signed by the dealer himself or by his authorized representative.
- (4) Where such Tax Invoices are generated electronically, they shall also be signed by the dealer himself or by his authorized representative.
- (5) Notwithstanding anything when goods sold contained in this rule, a registered dealer shall issue a Tax Invoice and also for such goods listed in Part-E of the Schedule-II. However, in case of sales of exempted goods the dealer shall issue "sale invoice" in any format.
- (6) If a registered Dealer has more than one place of business from where sales are effected by him, he shall maintain and issue separate serially numbered Tax Invoice assigning separate prefix thereon, for each such place of business.
- (7) On demand, another copy of the Tax Invoice, marked as "Copy of the Tax Invoice" shall be issued to the buyer.

Provided that the seller may, on demand issue extra copies other than those stated in this rule, to the buyer, on demand, which shall be marked "Extra Copy".

- (8) A Tax Invoice specified under Section 60 of the Act shall contain the following particulars:
  - (a) The words "Tax Invoice" written in bold and in a prominent place.
  - (b) Commercial name, address, place of business and TIN of the VAT dealer making a sale.
  - (c) Commercial name, address, place of business and TIN of the purchasing VAT dealer.
  - (d) The serial number of the invoice (printed or computer generated) and date on which invoice is issued.
  - (e) The date of delivery of the goods.
  - (f) The description of the goods supplied.
  - (g) The quantity or volume of the goods sold.
  - (h) The total value of the goods sold and tax related thereto inclusive of the value of the goods sold and the statement that VAT is included in the value at the appropriate rate.
  - (i) The rate of tax for each category of goods and amount of tax charged therein.
  - (j) The name and address of the printers along with first and last serial no. of Tax Invoices printed and supplied by him to the dealer.
  - (k) Signature of the selling dealer or the person authorized by the dealer in this behalf.
  - (l) Vehicle number (Where the goods are carried in a vehicle).
  - (m) Name of the person carrying the goods (where the goods are carried in a vehicle).
- (9) Notwithstanding anything contained in sub-rule (1) the gate pass cum invoice which a dealer registered under the Central Excise Act 1944, (Central Act 1 of 1944) or rules made there under is obliged to issue shall be deemed to have been issued under this Act provided such gate passes cum invoices contain all the particulars mentioned in clauses (a) to (m) of sub-rule (8).
- (10) A VAT dealer who has not received a tax invoice may require a VAT dealer, who has supplied the goods, to provide a tax invoice in respect of the sale.
- (11) Input tax credit can be claimed only against an original tax invoice.
- (12) The VAT dealer making a taxable sale shall retain one copy of the tax invoice.
- (13) Where a purchasing VAT dealer loses the original tax invoice, the seller shall provide a copy clearly marked "copy in lieu of lost tax invoice" containing the following certificate.

" I hereby declare that this is the duplicate of the tax invoice bearing No.\_\_\_\_\_, dated \_\_\_\_\_ Issued to \_\_\_\_\_ bearing TIN\_\_\_\_\_." Date: Signature:

- (14) A request for a tax invoice under sub-rule (7) of this rule shall be made within thirty days after the date of the sale.

- (15) A VAT dealer who receives a request under sub-rule (7) of this rule shall comply with the request within fourteen days after receiving that request.
- (16) The Prescribed Authority may require a registered VAT dealer, using the machine printed / computerized serial no., to furnish information stating therein, the details of tax invoice being used during a period.

Explanation – The sale price or the purchase price as the case may be shall exclude the VAT charged, (Refer definition under Section 2(xlii) and 2(xlviii) of the Act for the definition of "Purchase Price" and "Sale Price" respectively).

## **29. Retail Invoice**

- (1) Where a registered dealer effects sales to an unregistered dealer, he shall issue a Retail Invoice.
- (2) All Retail Invoices issued against sales made by a Registered Dealer shall indicate the tax charged at each rate of tax separately.
- (3) Retail Invoice issued by a registered dealer shall be signed by the dealer himself or is authorized representative.
- (4) Where such Retail Invoices are generated electronically, they shall also be signed by the dealer himself or by his authorized representative.
- (5) Notwithstanding anything contained in this rule, a registered dealer shall issue a Retail Invoice and also for such goods listed in Part-E of the Schedule-II. However, in case of sales of exempted goods the dealer shall issue "sale invoice" in any format.
- (6) If a registered dealer has more than one place of business from where sales are effected by him, he shall maintain and issue separate serially numbered Tax/Retail Invoice assigning separate prefix thereon for each such place of business.
- (7) On demand, another copy of the Retail Invoice, marked, as "Copy of the Retail Invoice" shall be issued to the buyer. For this purpose, the procedure in sub-rule 14 & 15 of Rule 28 shall apply.  
Provided that the seller may, on demand issue extra copies other than those already stated in rules, to the buyer, on demand, which shall be marked "Extra Copy".
- (8) Notwithstanding anything contained in this rule, a registered dealer shall issue a Retail Invoice even when goods sold by him are exempt from tax, and also for such goods listed in Part-E of the Schedule-II.
- (9) An Invoice specified under sub-section 6 of Section 60 of the Act shall contain the following particulars:
  - (a) The words "Retail Invoice" or "Cash Memorandum" or "Bill" written in bold in a prominent place.
  - (b) Commercial name, address, place of business and TIN of the VAT dealer making a sale.
  - (c) The serial number of the Invoice (printed or computer generated) and date on which invoice is issued.
  - (d) In the circumstances, where the sale is in course of Export out of the territory of India, the name, address, registration number if any of the purchasing dealer/or of foreign buyer and the type of statutory Forms, if any against which sale has been made.
  - (e) The date of delivery of the goods.
  - (f) The description of the goods supplied.
  - (g) The quantity or volume of the goods sold inclusive of Tax.
  - (h) The total value of the goods sold and tax related thereto, including tax calculated and payable on M.R.P. or the VAT inclusive value of the goods sold and the statement that VAT is included in the value at the appropriate rate.
  - (i) Signature of the selling dealer or the person authorized by the dealer in this behalf.
  - (j) The name and address of the printers along with first and last serial no. of Tax Invoices printed and supplied by him to the dealer.
- (10) Notwithstanding anything contained in sub-rule (1) the gate pass cum invoice which a dealer registered under the Central Excise Act 1944, (Central Act 1 of 1944) or rules made there under is obliged to issue shall be deemed to have been issued under this Act provided such gate passes cum invoices contain all the particulars mentioned in clauses (a) to (j) of sub-rule (9).

- (11) Only an original copy of a retail invoice shall be valid to set up a claim of input tax for the purposes of sub-section (4) of Section 18. The original copy shall bear the words "Valid for input tax" on it.
- (12) Before making use of any new series of invoices and delivery notes, the dealer shall inform the circle assessing authority of their serial numbers.

### **30. CREDIT AND DEBIT NOTES**

- (1) Where a tax invoice has been issued and the amount shown as tax charged in that tax invoice exceeds the tax payable in respect of the sale, the VAT dealer making the sale shall issue to the buyer a credit note; containing the particulars specified in sub-rule (4) of this rule.
- (2) Where the tax invoice has been issued in respect of any sale, and the tax charged in the Tax Invoice in respect of that sale is found to be less than the amount of tax payable under this Act, the VAT dealer making the sale, shall issue to the buyer a debit note; containing the particulars specified in sub-rule (5) of this rule.
- (3)
  - (a) Credit and debit notes in respect of sales or purchase return; subject to clause (b) of this sub-rule, shall be issued only when the goods have been returned within a period of six months from the date of original sale or purchase.
  - (b) Credit and debit notes in respect of any annual discounts and any price adjustments shall be issued, as and when the accounts are settled between the seller and the buyer; provided such settlement is made within the three months from the end of the year, and they are supported by proper documentary evidence.
- (4) The Credit Notes shall contain: -
  - (a) The words "credit note" in a prominent place.
  - (b) The commercial name, address, place of business and the VAT taxpayer identification number and of the VAT dealer making the sale.
  - (c) The commercial name, address, place of business and the VAT tax payer identification number of the receiving VAT dealer.
  - (d) The date on which the credit note was issued;
  - (e) The rate of tax;
  - (f) The sale price shown on the tax invoice, the revised amount of the sale price, the difference between those two amounts and the tax charged that relates to that difference;
  - (g) A brief explanation of the circumstances giving rise to the issuing of the credit note; and
  - (h) Information sufficient to identify the taxable sale to which the credit note relates.
  - (i) Proof of transport of the goods in respect of sales returns.
- (5) The Debit Notes shall contain: -
  - (a) The words 'debit note' in a prominent place
  - (b) The commercial name, address, place of business and the tax identification number of the VAT dealer making the sale;
  - (c) The commercial name, address, place of business and the taxpayer identification number of the purchasing VAT dealer.
  - (d) The date on which the debit note was issued;
  - (e) The rate of tax;
  - (f) The sale price shown on the tax invoice, the revised amount of the sale price, the difference between those two amounts and the tax charged that relates to that difference;
  - (g) A brief explanation of the circumstances giving rise to the issuing of the debit note;
  - (h) Information sufficient to identify the taxable sale to which the debit note relates.
  - (i) Proof of transport of the goods in respect of sales returns.

## CHAPTER VIII

### ASSESSMENT AND MAINTAINCE OF BOOKS OF ACCOUNT

#### 31. Self-Assessment

- (1) For the purpose of self-assessment under section 35 of the Act, the Annual Return in Form JVAT 204 and JVAT 124 shall be treated as "self-assessment", provided the VAT dealer, furnishes the under-mentioned documents and Prescribed Forms along with Form JVAT 124 -
  - (a) A declaration duly issued by a selling dealer in Form JVAT 403 and JVAT 404 as the case may be, as prescribed in sub-rule (1) and (2) of Rule 35.
  - (b) Copy of the Audited Accounts, duly certified by such persons specially authorised in this behalf, under Section 63 of the Act, in the circumstances where his Gross Turnover exceeds Rs. 40 lakhs, along with the Form of Audit Certificate, in Form JVAT 409.
  - (c) Notwithstanding anything contained in clause (b) of this sub-rule, all such dealer shall furnish their profit and loss account, trading account and manufacturing account, as the case may be, stating therein the details of purchases, sales and stocks held.
  - (d) Statement showing the purchases / arrivals from outside the State under CST Act 1956;
  - (e) Statement showing purchases in course of Import under Section 5(2) of the CST Act 1956;
  - (f) Statement showing purchases from the registered VAT dealer of the State of Jharkhand along with the details of Tax Invoices received thereof;
  - (g) Statement showing sales of goods to registered VAT dealers to whom Tax Invoices has been issued along with the details of such tax Invoice and particulars thereof;
  - (h) Statement showing the details of all Declarations Forms received in support of the claims, whether under the provisions of the CST Act or the Act along with the original copy of such Forms;
  - (i) Statement showing the details of all Declarations Forms issued, whether under the provisions of the CST Act or the Act;

All the aforesaid documents required for self-assessment of a Tax Period, shall be filed before the Prescribed Authorities on or before 31<sup>st</sup> December of the following year.

- (2) In the circumstances, the self-assessment has not been filed within the time prescribed in sub-rule (1) of this rule, or if filed, the prescribed authorities are satisfied that the returns or the revised returns and the documents for the purpose of self-assessment are not consistent, true and complete, the Prescribed Authorities shall issue a Notice in Form JVAT 302 to the dealer, and make a final assessment in accordance with the provisions of sub-section (5) of Section 35.
- (3) If the Tax assessed along with the Interest and Penalty is more than the amount paid along with self-assessment, the Assessing Authority shall issue Demand Notice in Form JVAT 300.

#### 32. Provisional Assessment

When the Prescribed Authority has completed the provisional assessment in accordance with the provisions containing in Section 36, he shall issue a Notice of Demand in Form JVAT 300.

Explanation – Provided the dealer for the purpose of Provisional Assessment also furnishes the Declarations as Prescribed in sub-rule (1) and (2) of rule 35, and shall also file a copy of the Audited Accounts, duly certified by such persons specially authorised in this behalf, under Section 63 of the Act, in the circumstances where his Gross Turnover exceeds Rs. 40 lakhs, along with the Form of Audit Certificate, in Form JVAT 409.

#### 33. Audit Assessment

- (1) For the purposes of Section 37, the Prescribed Authority shall, in respect of any year, select by the 31<sup>st</sup> of March of the year following the financial year, such number of dealers as may be deemed fit, for audit, to be conducted either singly or by a team of officers for ascertaining the correctness of accounts maintained by such dealers. Such selection by the commissioner shall be made through a formula specially evolved for this purpose. The number of registered dealers to

be audited every year shall ordinarily be not more than ten per centum of the total number of registered dealers in the State.

- (2) After making selection of the registered dealers under sub-rule (1), a list relating to each Circle shall be sent to the in-charge of the circle. Upon receipt of such list the In-charge shall, constitute a team of such officers as may be required to conduct an audit in respect of each such dealer. Such team of audit authority may consist of one or more Commercial Taxes Officers, Assistant Commissioner of Commercial Taxes or Deputy Commissioner of Commercial Taxes, as the In-charge of the circle may deem fit.
- (3) The audit authority constituted under sub rule (2) shall serve upon the dealer selected for audit, a notice in Form JVAT 304 specifying therein, the time, date, the expected duration of the audit at the place of business of the dealer and the nature of accounts and documents to be examined by the authority and the dealer shall comply with the terms of such notice.
- (4) The Prescribed authorities may require the assistance of any authority or person for the cross verification of any information gathered during the course of an audit assessment.
- (5) The audit report drawn by the audit team shall be scrutinized by the Circle in-charge and a final report shall be prepared a copy of which shall be handed over to the dealer.
- (6) The dealer shall file his reply to the issues raised in the final report within a period, which shall not ordinarily be less than fifteen days from the date of the receipt of the report.
- (7) If, having regard to the final report and the reply filed by the dealer, the prescribed authority has reasons to believe that the dealer has not disclosed his correct tax liability or has concealed or omitted any fact leading to any reduction in the tax payable by him, he shall proceed to assess to the best of his judgment, the amount of tax due from such dealer in accordance with the provisions of sub-section 5 of Section 37 of the Act.
- (8) The Prescribed authorities conducting the audit, shall issue a notice in Form JVAT 304, in accordance with the provisions of sub-section (6) of Section 37, and after hearing the dealer, if the said authority is satisfied, the dealer has, in order to evade or avoid payment of tax, has failed to file a Return or has furnished an incomplete and incorrect Return or has availed Input Tax Credit for which he was not entitled or has employed any such method of accounting, which does not enable the prescribed authority to assess the tax due from him, the Prescribed Authority shall proceed on imposing a penalty, a sum equal to twice the amount of additional tax assessed on account of the aforesaid reason(s).
- (9) When the additional tax assessed along with the Penalty imposed, the Assessing Authority shall issue demand notice in Form JVAT 300.

#### **34. Assessment of dealer who fails to get himself Register**

- (1) If a dealer liable for registration, fails to get himself registered under the Act, the Prescribed Authority shall serve upon a notice of hearing in Form JVAT 302, and the dealer shall comply and produce such records, documents and informations, as required in that notice by the date specified therein, and after examination of the record and document produced, the Prescribed Authority shall assess the tax and penalty payable from such dealer, in respect to such Tax Period as may be specified in the notice.
- (2) If the dealer, who has been served upon with a Notice, mentioned in sub-rule (1) above, fails to comply the requirements specified in the Notice, the Prescribed Authority shall assess to the best of his judgment, the amount of tax due and penalty due from such dealer, in respect of tax period and all subsequent period(s).

#### **35. Evidence in support of claims in respect of goods leviable to Output Tax at the First Point of Sale within the State of Jharkhand**

- (1) A dealer who claims that any amount of his turnover should be exempted from tax on account of the goods being specified in Part E of Schedule II and for the sales made at the first stage of sale in the State under sub-section (2) of Section 9 of the Act, shall substantiate for such claim before the authority prescribed by producing the purchase order, if any, the original copy of the cash memoranda or bills issued to him and a true Declaration in writing from the selling dealer or his manager declared under Section 64 in Form JVAT 403 that the goods in question have already been subjected to tax on the first point of their sale in the state of Jharkhand.
- (2) Any VAT dealer, who claims Input Tax Credit under sub-section (4) of Section 18 of the Act and his Output Tax payable requires the Input Tax Credit, for the sales made at the stage(s) under sub-section (1) of Section 9 of the Act, shall substantiate for such claim before the authority

prescribed, by producing a true Declaration in writing, issued by the preceding VAT selling dealer, in Form JVAT 404 evidencing that the goods in question have already been subjected to Tax at the preceding stage of their sale in the State of Jharkhand.

- (3) Registered dealers shall get the Declaration in Form JVAT 403 and JVAT 404 printed thereunder and shall issue such Forms from a bound book containing twenty five leaves in triplicate, duly perforated and such Forms shall bear printed serial number along with the name of the Printer in the Bold letters, or in the circumstances self-printed by the own computer, it shall be printed in Bold letters as "Computer Generated". In the case of "Self Printed" or "Computer Generated" the provisions of sub-section (9) of Section 60 shall apply. Before issue of the volume, the dealer shall get it authenticated by the In-charge of the Circle or any other officer of the Circle authorised in this behalf, where such dealer is registered.

Provided that the Prescribed Authority may refuse to authenticate such Declarations in Form JVAT 403 and JVAT 404, in the circumstances when there are any dues of admitted VAT payable or assessed VAT payable or Interest payable or Penalty payable under the Act or under the Repealed Act, or if the VAT registration certificate of the dealer has been suspended under rule 9, and also if the Prescribed Authority, is of the opinion that the registered VAT dealer is not complying the provisions of the Act and the Rules.

- (4) Before furnishing Declaration to the purchasing dealer in Form JVAT 403 and JVAT 404, the selling dealer or any person authorized by him in his behalf, shall fill in all required particulars in the Form and shall also affix his signature in the space provided in the Form for this purpose. Thereafter, the counterfoil of the Form shall be retained by the selling dealer and the other two portions marked 'Original' and 'Duplicate' shall be made over by him to the purchasing dealer.  
Provided the selling dealer shall issue one Declaration in respect to one purchasing dealer for the sales made during a year.
- (5) The selling dealer shall also maintain, serially and chronologically, a complete account in a Register in respect of all Forms of Declarations printed and issued by him and also file a statement of Forms along with the Annual Return.
- (6) The purchasing dealer shall also maintain serially and chronologically a complete account in separate Register in respect of the Forms of Declaration, received by him from the selling dealer.
- (7) Every Declaration authenticated by the Prescribed Authority, shall be kept by him in safe custody and he shall be responsible for the loss, destruction, or theft of any such form and loss of Government revenue, if any, caused thereby.
- (8) If any such authenticated Declaration, before it is issued, is signed and dispatched by the consignor, is lost, destroyed or stolen from his custody, the dealer shall report the fact to the Prescribed Authority within seven days from the date of such loss, destruction or theft, make appropriate entry in the "Remarks" column of the Register and take such other steps to issue public notice of loss, destruction, theft and in respect of each such Declaration, shall furnish to the Prescribed Authority, an indemnity bond in Form JVAT 122 against any possible loss to Government.
- (9) The aforesaid Declaration(s) Form shall not be transferable.

**36. Evidence in support of claims in respect of goods leviable to Tax on Entry of Goods into a Local Area as specified in Section 11 of the Act.**

- (1) A dealer, who claims that any part of his turnover relating to import of goods mentioned in Schedule III of the Act, is not liable to tax on the ground that tax was paid at the first point of entry into the State or into a local area under sub-section (1) of Section 11, he shall substantiate such claim before the assessing officer by producing purchase bill, invoices or cash memos and other documentary evidence to the satisfaction of the said authority and a true and complete Declaration in Form JVAT 405 received from the selling dealer.
- (2) (a) Every registered dealer who makes first sale of the goods mentioned in Schedule III of the Act, imported from the outside the State and by virtue of being the first importing dealer has paid tax thereon, shall issue to the purchasing dealer in the State, in addition to a cash memo or bill or invoice, a true and complete Declaration in Form JVAT 405. The Declaration shall be signed by the dealer or his declared manager.

- (b) Any other dealer making second or subsequent sale of such goods mentioned in Schedule III of the Act, which has suffered the levy of tax and on which entry tax has been paid at the stage of first entry into a local area, shall issue to the purchasing Dealer a Declaration in Form JVAT 405 as prescribed in clause (a).
  - (c) The selling dealer shall issue one Declaration in respect to one purchasing dealer for the sales made during a year.
- (3) The dealer shall maintain serially and chronologically a complete account in a Register containing all particulars required to be mentioned in the Form and of all the Forms issued.
  - (4) Every Declaration authenticated by the Prescribed Authority, shall be kept by him in safe custody and he shall be responsible for the loss, destruction, or theft of any such form and loss of Government revenue, if any, caused thereby.
  - (5) If any such authenticated Declaration, before it is issued, is signed and dispatched by the consignor, is lost, destroyed or stolen from his custody, the dealer shall report the fact to the Prescribed Authority within seven days from the date of such loss, destruction or theft, make appropriate entry in the "Remarks" column of the register and take such other steps to issue public notice of loss, destruction, theft and in respect of each such Declaration, shall furnish to the Prescribed Authority, an indemnity bond in Form JVAT 122 against any possible loss to Government.

**37. Manner for claiming reduction in the liability to pay VAT -**

- (1) A claim for reduction in the liability to pay VAT shall be made by the registered VAT dealer, who is entitled to claim such reduction in accordance with the provision of sub-section (1) of Section 11 of the Act.
- (2) Such claim shall be valid only when the amount of Entry Tax has been paid on the concerned goods.
- (3) The burden of proving the claim for reduction of VAT payable shall be on the dealer.
- (4) Such claim shall be made by furnishing a statement showing the details of the evidence of payment of Entry Tax, deposited in the Government Treasury.

**38. Records to be maintained for VAT**

- (1) Every VAT dealer shall keep and maintain a true and correct account of his business transactions preferably in English, Hindi or any other languages, which can be readable to the Prescribed Authorities.
- (2) The following records in particular shall be maintained:
  - (a) A VAT monthly account specifying total Input Tax (including Entry Tax), and net Input Tax payable shall be maintained in Form JVAT 500.
  - (b) A VAT monthly account specifying total Output Tax and net Output Tax payable shall be maintained in Form JVAT 501.
  - (c) Purchase records, showing details of all purchases on which tax has been charged and all purchases made without charge of tax. Original tax invoices for purchases on which tax has been charged, and invoices for purchases made without charge of VAT shall all be retained in date order.
  - (d) Sales records showing separately all sales made at each tax rate, branch transfer / transactions otherwise than by way of sales and exempt sales. Copies of tax Invoices related to taxable sales and invoices related to exempt sales shall all be retained in date and numerical order.
  - (e) Credit and debit notes issued and received shall all be retained in date and numerical order.
  - (f) Record of all Export of goods together with copies of customs clearance certificates, invoices issued to the foreign purchasers, transport documentation in the case of Export of goods under sub-section 3 of Section 5 of C.S.T. Act 1956, Form H prescribed under the said Act, orders or contracts for or with the foreign purchaser, and evidence of payment by bank transfer or by a letter of credit payable by a bank.
  - (g) Record of inter-State sales and inter-State transfer supported by "C Forms", "F Forms" and stock transfer invoices / vouchers etc.
  - (h) Records of Intra-State Stock Transfers/Transfer for sale by the Agents, on behalf of the Principal, along with such contracts for appointment of Agents, if any.

- (i) Cash records maintained by retailers namely cash books, petty cash vouchers, and other account records including copy receipts or cash register machine rolls detailing the daily takings.
  - (j) Records of Entry Tax payment.
  - (k) Records of tax collection at source and tax deduction at source.
  - (l) Records of details of availment tax deferment.
  - (m) Records of adjustment of VAT credit against liabilities under CST Act.
  - (n) Records of calculation of Purchase Tax liability.
  - (o) Computer/electronic records, where available.
  - (p) Details of input tax calculations where the VAT dealer is making both taxable and exempt sales.
  - (q) Documents, records, and claim Forms for all transitional relief claims of tax credit for sales tax and for claims for VAT credit on first registration for VAT.
  - (r) Stock records showing stock receipts and deliveries and any manufacturing records.
  - (s) Order records, delivery notes etc.
  - (t) Annual accounts including trading, profit and loss accounts, and the balance sheet thereof.
  - (u) Bank records, including statements, chequebook counterfoils and pay-in-slips.
- (3) All records specified in this rule shall be retained and made available for inspections / audit / verifications for a period of five years, after the end of the year.
- (4) Every VAT dealer who keeps and maintains the accounts in a language other than English shall adopt international numerals in the maintenance of such accounts.
- (5) A VAT dealer making sales predominantly to non-VAT dealers and consumers who does not separately record every sale, shall maintain a daily record of gross receipts at each tax rate including exempt sales.
- (6) Every dealer, being a manufacturer shall, in addition to the accounts and register require to be maintained under this rule, shall also maintain month wise, separate accounts in respect of -
- (i) Quantity of stocks, receipts, issue and closing stocks of different inputs received;
  - (ii) Quantity of opening stock, production, sales or dispatches and closing stock of different finished goods.
- (7) Every dealer claiming input tax credit on account of capital goods shall maintain a Register of such goods containing the following particulars: .
- (i) Location of the capital goods;
  - (ii) Date of purchase of the capital goods and such particulars regarding the purchase as the persons or dealers from whom such goods are purchased, details of bill or invoice relating to such capital goods;
  - (iii) Quantity of the capital goods;
  - (iv) Cost of purchase of the capital goods.
- (8) Copy of the customs clearance certificates.
- (9) Every dealer or person required by sub-section (1) of Section 63, whose Gross Turnover in a year exceeds Rs. 40 Lakhs, shall get his Accounts audited by an "Accountant" or by a "Tax Practitioner", which shall contain the audited Accounts in Form of a "Statement of Particulars" along with a Certificate in Form JVAT 409, on behalf of such persons, conducting such Audit of accounts, stating therein the genuineness and correctness of the Accounts audited thereof.

Explanation - Except the Registers and Records mentioned in sub-rule (1) and (2) of this Rule, where a manufacturer or other VAT dealer registered under Central Excise Act 1944 (Act 1 of 1944) or Rules made thereunder, and is obliged to maintain Registers or records for the purposes of that Act, shall be deemed to have been kept under this Act also, provided it also contains the particulars mentioned in this rule.



## CHAPTER IX

### SURVEY, INSPECTION, ESTABLISHMENT OF CHECK POSTS AND TRANSPORTATION OF GOODS

#### 39. Inspection, Search and Seizures

- (1) When any accounts, registers or documents are inspected or examined by any prescribed authority appointed under Section 4 of the Act, or any Officer empowered under Section 69, such authority shall affix his signature at one or more places thereon.
- (2) Where any authority appointed under Section 4 or any officer empowered under Section 69, conducts a search under Section 70, he shall, as far as applicable, follow the procedure prescribed in the Code of Criminal Procedure, 1973 (Act 2 of 1974).
- (3) When any Accounts, Registers or Documents of a dealer seized by any authority appointed under Section 4 or any officer empowered under Section 69, have to be returned to the dealer; such return may be made after taking such extracts therefrom as may be considered necessary. The authority making the return shall affix its signature on such Accounts, Registers or Documents and the dealer shall give a receipt, in acknowledgment, which shall mention the number and particulars of the places where the signatures have been affixed on the Accounts, Register or Documents returned to him.
- (4) The Commissioner, or any other officer authorized in this behalf may, by an order in writing, empower any officer, ordinarily not below the rank of an Assistant Commissioner, to authorise the conduct of any inspection, search or seizure. Such order shall also contain the manner in which such authorization is to be granted.

#### 40. Information for Survey

For the purposes of Section 71-

- (a) The Prescribed authorities may direct, by notice in writing, any dealer to keep his books of accounts ready for verification. Such verification may be made either at his place of business of the dealer, may be directed to produce the same in the office, on the date and time as specified in the notice in this behalf;
- (b) The Prescribed authority may require such dealer to furnish information in respect of his business as regard to his purchases and sales thereof;
- (c) The Prescribed authority may, by notice, require a dealer or any public utility of any financial institutions including banking companies, to furnish such information as may be required by the notice.

Explanation: For the purposes of this rule the expression "public utility" shall include any institution, which provides public utility by way of any work or project useful to members of the public at large such as a Municipal Body, Gram Panchayat, District Board, Electricity Board, State Transport Corporation, etc.

#### 41. Check Posts

- (1) Where the state Government decides to set up a check-post, under Section 72 at any place in this state, the location of such check-post shall be notified in the official Gazette. When a check-post is set up on a thoroughfare or road, barrier may be erected, across the road or thoroughfare, in the Form of a contrivance to enable traffic being intercepted, detained and searched.
- (2) No person shall transport across or beyond a check-post to any place outside the State of Jharkhand, any goods notified under Section 72 exceeding such quantity as may be specified in the notification, except after filing a Declaration in Form JVAT 502 or JVAT 504P or 504G or 504B as the case may be, in triplicate, before the Appropriate Authority or officer authorised by the state Government in this behalf.
- (3) The said authority or officer, on being satisfied about the particulars furnished, shall countersign the Declarations and seal them with his official seal; two copies of the Declaration shall be returned to the person filing it after endorsing on one of these copies the particulars of the authority or officer to whom it shall be surrendered.
- (4) The driver of the vehicle carrying the goods or the person in charge of the goods shall produce the countersigned Declarations, for inspection and checking at any other check post, which may fall in the route, and shall surrender one copy thereof to the authority or officer to whom he has directed under sub-rule (3) to surrender it.

Explanation: For the purposes of this rule expression 'Appropriate Authority or Officer' shall mean the authority or officer-in-charge of a check- post.

#### 42. Restriction on Movement of Goods

No person shall transport any consignment of goods referred to under sub-section (2) of Section 72 exceeding such quantity, as maybe specified in the notification, except in accordance with the following conditions, namely: -

- (1) If any such consignment is to be so transported by or on behalf of any unregistered dealer or by any other person; he shall :
  - (a) Make an application in Form JVAT 502 in triplicate, to the prescribed authority of the circle or the sub-circle, as the case may be, for grant of a permit in Form JVAT 503 to enable him to transport the consignment. The said authority, on being satisfied about the particulars furnished and after making such enquiry as may be deemed fit, shall countersign all the three copies of the application and prepare a permit in triplicate in Form JVAT 503; two copies of permit, together with two copies of the countersigned application shall be made over to the applicant, the third copy of both shall be retained by the said authority;
  - (b) Produce, where the consignment is to be transport from any Railway Station, Steamer Station, Airport or Post Office, notified under the said Section, for counter-signature before the prescribed authority of the Circle or the sub-circle, as the case may be, the Railway Receipt or other document required for the purpose of obtaining delivery of the consignment together with the two copies of the countersigned application in Form JVAT 502 and the two copies of the permits in Form JVAT 503. The said authority shall thereupon countersign the railway receipt or other document, seal the same with its official seal and make endorsement, on both copies of the countersigned application and the permit of such particulars, as may be necessary including particulars of goods to be actually transported, and shall sign, seal and date of endorsement. One copy of the countersigned application and of the permit shall be retained by the said authority and the other copy shall be returned to the dealer, the consignment shall thereafter the transported accompanied with the other copy of permit without undue restriction except for normal checking and inspection en-route;

Provided further, if any person(s) transporting the goods, without the aforesaid Declarations as issued under this sub-rule, by the In-charge of the Circle or by any Officer authorized in this behalf, shall be treated to be being transporting the goods without Declaration, and shall be treated the violation of sub-section (4) of Section 72 of the Act and shall follow the provisions of the Section 72 of the Act thereof, for such violation. Such declarations of the forms shall remain valid for Forty five days from the date of issue.
  - (c) Produce, where the consignment is to be transported from across or beyond any place, notified under Section 72 of the Act, other than Railway Station, Steamer Station, Airport or Post Office, the two copies of the counter-signed application in Form JVAT 502 and the two copies of the permit in Form JVAT 503 before the authority or officer authorized by the State Government under sub-section (3) of Section 72 of the Act, and exercising jurisdiction at the said place. The said authority or office shall, after such inspection and checking as may be deemed necessary endorse, on both copies of the countersigned application and the permit, such particulars of the goods to be actually transported and shall sign, seal and date the endorsement; one copy of the countersigned application and of the permit shall be retained by the said authority or officer and the other copy shall be returned to the dealer, and the consignment shall thereafter be transported accompanied with other copy of the permit without undue restriction except for normal checking and inspection en-route.
- (2) Notwithstanding anything contained in sub-rule (1), a VAT dealer, who is in possession of a valid certificate of registration in Form JVAT 106 or 108 and, and where any such consignment is to be transported by or on behalf of such dealer, he shall fill in all the columns of Form JVAT 504P, 504G or 504B as the case may be, obtained by such VAT dealers and as authenticated by the Prescribed Authorities wherever necessary under sub-rule (4) of this rule, and
  - (a) If any such consignment is to be transported by or on behalf of a dealer, within the state, he shall carry a Tax Invoice or an invoice, or a cash memo, or a bill in the case of movement as a result of sale or a challan in case the movement is otherwise than as a result of sale, and supported by a Declaration in Form JVAT 504P, in respect of goods which is being transported or is otherwise in transit or in transit storage and produce such cash memo or bill and produce such invoice or cash memo or bill or challan, as the case may be with aforesaid Form of declaration on Demand before the prescribed authority.

- (b) In case of goods being imported from any other state into the State of Jharkhand, by or on behalf a dealer who is in possession of a valid certificate of registration, the person transporting the goods or the dealer, as the case may be, he shall carry a Tax Invoice or an invoice, or a cash memo, or a bill in the case of movement as a result of sale or a challan in case the movement is otherwise than as a result of sale, and supported by a Declaration Form JVAT 504G, in respect of goods which is being transported or is otherwise in transit or in transit storage and produce such cash memo or bill and produce such invoice or cash memo or bill or challan, as the case may be with aforesaid Form of Declaration on demand before the Prescribed Authority.
- (c) In case of goods being exported from the state to any other state, by or on behalf a dealer, the person transporting the goods or the dealer, as the case may be, he shall carry a Tax Invoice or an invoice, or a cash memo, or a bill in the case of movement as a result of sale or a challan in case the movement is otherwise than as a result of sale, and supported by a Declaration Form JVAT 504B, in respect of goods which is being transported or is otherwise in transit or in transit storage and produce such cash memo or bill and produce such invoice or cash memo or bill or challan, as the case may be with aforesaid Form of Declaration on demand before the Prescribed Authority.
- (3) Registered VAT dealers shall get the declaration(s): in Form JVAT 504P or 504G or 504B as the case may be; printed themselves in a "Security Press" or "Registered Printing Press" or "Self Printed through own Computer System", and such Forms shall bear printed serial number and name of the Printing Press or shall bear as "Self Printed" or "Computer Generated" in Bold letters, and shall issue such Forms in a bound book containing 25 leaves in triplicate, duly perforated.

**Explanation-** (I) The Declaration(s) Form JVAT 504P or 504G or 504B, as mentioned in sub-rule (2)(a), (2)(b) and (2)(c) shall be the Form of Declaration for transport of goods, within the State of Jharkhand in Pink colour, from outside the State of Jharkhand into the State of Jharkhand in Green colour and to outside the State of Jharkhand from the State of Jharkhand in Blue colour.

(II) Notwithstanding anything contained in the Explanation (I) of this sub-rule, when the Declaration(s) in Form 504P or 504G or 504B are "Self Printed through own Computer System", the respective colours, as prescribed in the preceding explanation, shall not apply. Provided when such Declaration(s) are "Self Printed through own Computer System" the provisions of sub-section (9) of Section 60 shall apply.

(III) Registered Printing Press means a 'Press' registered permanently under the Industry Department and Commercial Taxes Department.

- (4) Before issue of declaration in Form JVAT 504G, the volume shall be authenticated by the In-charge of the circle or any other officer of the circle authorised in this behalf, where such dealer is registered.

Provided, if any Registered VAT Dealer issues the aforesaid Declarations and uses the same, without the authentication by the In-charge of the circle or by any officer authorized in this behalf, shall be treated to be being transporting the goods without Declaration, and shall be treated the violation of sub-section (4) of Section 72 of the Act and shall follow the provisions of the Section 72 of the Act thereof, for such violation. Such authentication of the forms shall remain valid for six months from the date of validation.

Provided further that the Prescribed Authority may refuse to authenticate such Declarations in Form JVAT 504G, in the circumstances when there are any dues of admitted VAT payable or assessed VAT payable or Interest payable or Penalty payable or if the Prescribed Authority, is of the opinion that the registered VAT dealer is not complying the provisions of the Act and the rules.

- (5) Before furnishing the declaration in Form JVAT 503 or JVAT 504 series, the dealer or any person authorized by him in his behalf, shall fill in all required particulars in the Form and shall also affix his signature in the space provided in the Form for this purpose. Thereafter, the counterfoil of the Form shall be retained by the dealer, and the other two portions marked 'Original' and 'Duplicate' shall be made over by him to the person transporting goods.
- (6) The selling dealer shall also maintain, serially and chronologically, a complete account in a Register in respect of all Forms of Declarations printed and issued by him in Form JVAT 509 and also file a statement of Forms along with the Annual Return.

- (7) The purchasing dealer shall also maintain serially and chronologically a complete account in separate Register in respect of the Forms of Declaration, received by him from the selling dealer in Form JVAT 510.
- (8) Every Declaration authenticated by the Prescribed Authority, shall be kept by him in safe custody and he shall be responsible for the loss, destruction, or theft of any such form and loss of Government revenue, if any, caused thereby.
- (9) If any such authenticated Declaration, before it is issued, is signed and dispatched by the consignor, is lost, destroyed or stolen from his custody, the dealer shall report the fact to the Prescribed Authority within seven days from the date of such loss, destruction or theft, make appropriate entry in the "Remarks" column of the register and take such other steps to issue public notice of loss, destruction, theft and in respect of each such declaration, shall furnish to the Prescribed Authority, an indemnity bond in Form JVAT 122 against any possible loss to Government.
- (10) The Declaration Form(s) as prescribed in this rule shall not be Transferable.

#### **43. Transit Movement**

- (1) In order to obtain a transit pass under sub-section (11) of Section 72, the driver or the person-in-charge of a goods and vehicle shall submit an application in Form JVAT 117 to the officer-in-charge of the first check post or barrier, after his entry into the State and shall also furnish if so required, any other information that may be relevant and necessary.
- (2) The officer-in-charge of the first check post shall, after examining the documents and after making such enquiries as he deems necessary, shall make out a transit pass in Form JVAT 508 in triplicate and issue the original and duplicate thereof duly signed by him to the driver or the person-in-charge of the goods and vehicle.
- (3) The driver or the person-in-charge of the goods and vehicle shall carry the original and duplicate copies of the transit pass and shall surrender the original copy to the officer-in-charge of the last check post or barrier before his exit from the State.
- (4) The driver or the person-in-charge of the goods and vehicle shall stop the vehicle and allow the officer-in-charge of the last check post or barrier to inspect the documents, transit pass and the goods in order to ensure that the goods being taken out of the State are the same goods for which transit pass had been obtained.
- (5) If on such inspection, the officer-in-charge of the last check post or barrier is satisfied that the goods being transported are the same goods both in quantity and description noted in the transit pass, he shall affix the seal of the check post on the duplicate copy of the transit pass under his signature and allow the vehicle to pass into the other State.
- (6) If on such inspection, it appears that the quantity of goods under transport is less than the quantity noted in the transit pass or the description of the goods is different from the description noted in the transit pass, such officer-in-charge of the last check post or barrier shall presume that the goods to that extent have been sold within the State by the owner or other person-in-charge of the goods and vehicle and shall accordingly proceed to impose penalty to the owner of the goods and vehicle under sub-section (4) and (5) of Section 72. The said officer shall have the power to detain the vehicle so long as he may reasonably be deem it necessary.
- (7) Powers of the nature referred to in sub-rule (6) may also be exercised by an officer of the Department not below the rank of a Commercial Taxes Officer. He may, inform the officer-in-charge of the first check post within seven days of such inspection, in case, he proposes to proceed to impose penalty to the owner of the goods and vehicle under sub-section (4) and (5) of Section 72.
- (8) The original copy of the transit pass, so received by the officer-in-charge of last check post or barrier shall be sent by him by Registered Post, to the officer-in-charge of the first check post or barrier within ten days from the date of receipt from the driver or the other person-in-charge of the goods and vehicle. Action taken under sub-rule (6) shall also informed within the said time.
- (9) The officer-in-charge of the first check post or barrier, if he is not in receipt of the original copy of the transit pass within thirty days of issue by him, shall send a report to the Commercial Tax Officer, having jurisdiction over the first check post or barrier, who shall proceed to impose penalty to the owner of the goods and vehicle under sub-section (4) and (5) of Section 72, to the owner of the goods and vehicle.

#### **44. Intra-state Stock Transfer or Movement of Goods otherwise than by way of Sale**

- (1) Where any dealer claims that he is not liable to pay tax under the Act, in respect of any goods, on the ground that the movement of such goods from one place to another within the State of Jharkhand was occasioned by the reason of transfer of such goods to other branches, or otherwise than by way of sale under Section 66 of the Act, the burden of proving the claim shall be on that dealer, and for this purpose he shall furnish to the Prescribed Authority along with the Statement / Challans / Transfer Memos / Invoices, required to be furnished by him, under sub-rule (2)(h) of Rule 38.
- (a) a true and complete Declaration in Form JVAT 505, as obtained from the consignee in the case of transfer by Principal to his Agent for sale on commission basis in Form JVAT 505, and in the case of branch transfer from one branch to another in the State in Form JVAT 506 to be issued by the transferee branch.
- (b) Where any Principal dealer transfers any goods within the state to his Commission Agent or to his branch / units for sale therein, he shall issue a Declaration in Form JVAT 507 in respect of such goods, duly filled in and signed by him to his Commission agent/branches/units bearing Printed Serial Nos. and shall retain a copy thereof for a record.
- (c) Correct and complete record of the name, address, Taxpayer Identification Number. if any, of the person to whom the goods were transferred incorporating therein the quantity of the goods and the value thereof,
- (d) Copy of accounts rendered by the Agent or the office to the whom the goods were transferred, and
- (e) Copy of the Railway or the Lorry receipts relating to such transfer.
- (2) The transferor shall issue to the transferee a Challan or Transfer Memo to this effect.

Provided the transferee / consignee dealer / person shall issue one Declaration, for any such transfer made during a year.

**45. Information to be furnished and records to be maintained by persons engaged in the Business of Transporting Goods, C&F Agents, etc.**

(1) Every person required by sub-section (1) of Section 73 to furnish information shall, within one month of the appointed date, furnish the following certificate to the concerned circle in-charge of every circle within whose jurisdiction his place of business is located:

**Certificate**

To

Circle In-charge \_\_\_\_\_ Circle

Certified that the business operations of M/s \_\_\_\_\_ (*Name and style of the person/firm furnishing the certificate*) are conducted at the following places:

Sl No	Complete address of the place of business	Name and address of the owner of the premises mentioned in column (2)
(1)	(2)	(3)

Further certified that the above information are true and correct to the best of my knowledge and belief and that no place has been omitted from the above list and that I am authorised to sign this certificate.

Place

Signature

Date

Designation of the person signing the certificate

(2) If any change takes place in any of the particulars mentioned in the certificate furnished under sub-rule (1), a fresh certificate, incorporating such changes, shall

be furnished to the authority specified in sub-rule (1) within seven days of such change.

(3) For the purpose of sub-section (2) of Section 73, any clearing, forwarding or booking agent or a person engaged in the business of transporting goods shall maintain a register in Form JVAT 511.

(4) For the purpose of Section 62, any clearing, forwarding or booking Agent, or any Agent, or Principal thereof in relation to such Agent, or a Person engaged in the business of Transporting goods, shall provide such information, accounts and documents as may be required by the Prescribed Authority to carry out the purposes of this Section.

**46. Auction of Seized Goods and Release of Security**

- (1) Goods which are seized under sub-section (5) of Section 70 of the Act and which are not released owing to failure to furnish security or to pay the penalty imposed under clause (b) of sub-section (5) of Section 70 within the time allowed shall be sold in public auction after following the procedure as indicated below: -
- (2) (a) The step for public auction shall be taken by the circle in-charge, who shall cause to be published on the notice board of his office, a list of the goods seized and intended for sale with a notice under his signature, specifying the place where, and the day and time at which, the seized goods are to be sold and display copies of such lists and notices at more than one public place near the place where the goods were seized. Normally a notice of not less than ten days shall be given before the auction is conducted; but this condition may be waived in case of goods of perishable nature.
- (b) Intending bidders shall deposit as earnest money a sum equal to ten per centum of the estimated value of goods;
- (c) At the appointed day and time, the goods shall be put up in one or more lots, as the officer conducting the auction sale may consider desirable, and shall be knocked down in favour of the highest bidder subject to confirmation of the sale by the circle in-charge conducting auction or an officer subordinate to the said circle in-charge;
- (d) The auction purchaser shall pay the sale value of the goods in cash immediately after the sale and he will not be permitted to carry away any part of the goods until the sale has been confirmed by the authority specified in clause (a) and full value has been paid by him. If the successful bidder fails to deposit the purchase money in full, the earnest money deposited by him shall stand forfeited to the State Government. The earnest money deposited by the unsuccessful bidders shall be refunded to them after the auction is over;
- (e) If the order-imposing penalty is either stayed or reversed in appeal or revision, the goods seized shall be released forthwith. If the goods are sold before such an order and any sum received as sale proceeds on account of auction sale of such seized goods has been appropriated towards penalty imposed, the sum so appropriated shall be refunded to the owner of the goods in the manner specified in Rule 19;
- (f) Any amount of sale proceeds in excess of the amount appropriated towards penalty shall be refunded to the owner of the goods in the manner specified in Rule 19; the release of security deposited under clause (c) of sub-section (5) of Section 70 and refund thereof shall also be in the manner specified in Rule 19.

**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.

**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.