

## **ANDHRA PRADESH SALES TAX APPELLATE TRIBUNAL REGULATIONS, 1957**

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### **ANDHRA PRADESH SALES TAX APPELLATE TRIBUNAL REGULATIONS, 1957**

In exercise of the powers conferred by Sub sections (4) and(5) of Section 3 of the Andhra Pradesh General Sales Tax Act, 1957 (Act VI of 1957), the Sales Tax Appellate Tribunal. Andhra Pradesh hereby publishes, with the previous sanction of the State Govt. the following regulations for regulating its procedure and disposal of its business .

#### CHAPTER 1

#### General

#### **1. Short title :-**

These regulations may be called the Andhra Pradesh Sales Tax Appellate Tribunal Regulations, 1957.

#### **2. Definitions :-**

In these Regulations, unless there is anything repugnant in the subject or context

(i) ' Act' means the Andhra Pradesh General Sales Tax Act, 1957;

(ii) 'Appeal' means the memorandum of appeal to the Appellate Tribunal filed under Section 21 of the Act;

(iii) 'Chairman' Means the Chairman of the Tribunal;

(iv) 'Form' means form annexed to these regulations;

(v) 'Gazette' means the Andhra Pradesh Gazette:

(vi) 'Legal Representative' means a person who in law represents the estate of a deceased person, and includes a universal donee of legatee of a part of an estate and any person decided by the Tribunal to represent the deceased person in the proceedings pending before it unless and until a competent Court has decided otherwise.

(vii) 'Party' means the appellate or applicant and includes his pleader or authorised agent;

(viii) 'Pleader' means a pleader as defined in Sub section (15) of Section 2 of the Code of Civil Procedure, 1908;

(ix) 'Rules' means the Andhra Pradesh General Sales Tax Rules, 1957.

(x) 'Secretary' means the person who is for the time being discharging the functions of the Secretary to the Tribunal;

(xi) 'Section' means a Section of the Act;

(xii) 'State Representative' means an officer appointed by the State Government to receive on their behalf notices issued by the Tribunal and generally to appear, act and plead on their behalf in all proceedings before the Tribunal and includes an officer appointed to act in his absence;

(xiii) 'Tribunal' means the Sales Tax Appellate Tribunal;

(xiv) Words and expressions used but not defined in these regulations shall have the meaning assigned to them in the Act and the Rules.

## CHAPTER 2

Headquarters, Sittings and Office hours

### **3. Headquarters :-**

(1) The Headquarters of the Tribunal shall be at Hyderabad.

(2) Place of hearing :- All appeals shall ordinarily be heard at Hyderabad.

Provided that the Chairman may decide that any appeal may be heard during the same hours as the other offices of the State of Andhra Pradesh.

### **4. Office hours :-**

The Appellate Tribunal shall hold its sittings during the same hours as the other offices of the State Government,

### **5. Language :-**

The language of the Tribunal shall be English.

## CHAPTER 3

Appeals

### **6. Presentation of Appeals :-**

(1) An appeal shall be presented to the Secretary either by the party in person or by sending it through registered post.

(2) When an appeal is presented by a pleader or an authorised agent, it shall be accompanied by a letter of authority appointing him as such.

(3) Every such appeal shall be made in accordance with the provisions of the Act, the rules and these regulations and shall be accompanied by a Government Treasury Challan in support of the payment of the fee prescribed by Sub rule (1) (iii) of Rule 38.

(4) An appeal preferred by any dealer shall specify the State of Andhra Pradesh as the respondent; it shall also furnish the name and the address of the party to whom notice may be sent.

## **7. Registration of appeals :-**

(1) On receipt of an appeal, the Secretary shall endorse on it the date of its receipt. The Secretary shall thereafter, as soon as possible, examine

(i) Whether the person presenting it has the authority to do so; and

(ii) Whether it conforms to the provisions of the Act, the rules and these regulations. If the Secretary is satisfied on these points he shall cause it to be registered in, a register to be kept for the purpose.

(2) If the Secretary finds that the appeal does not conform to the requirements of the Act, rules and these Regulations, he shall call upon the party by a notice in Form A to remedy the defect or defects within a reasonable period to be specified by him. The Secretary may, for sufficient cause, extend the said period. If the defect or defects are remedied within the period allowed, the Secretary shall cause the appeal to be registered.

(3) If the defects are not remedied within the period allowed, the Secretary shall make a report to that effect to the Chairman who may reject the appeal or fix a date for hearing the matter and give due notice of such hearing to the party and State Representative in Form - B .

(4) On the date so fixed, the Tribunal shall, after hearing the party and the State Representative, pass orders directing either the registration of the appeal or its rejection. Where the appeal is rejected the Tribunal shall record its reasons for doing so.

(5) When an appeal is presented after the period prescribed under the Act, it shall be accompanied by a petition supported by an affidavit setting forth the facts on which the applicant relies to satisfy the Tribunal that he had sufficient cause for not preferring

the appeal within such period. Such appeal shall not be admitted unless notice has been given to the respondent and his objections have been heard and the Tribunal is satisfied that the appellant had sufficient cause for not preferring the appeal in time.

#### **8. Procedure after registration of appeal :-**

(1) As soon as may be after the registration of the appeal, the secretary shall fix a date for hearing in Form-C. A copy of the memorandum of appeal and of the order appealed from shall also be furnished to him. It shall be the duty of the State Representative to obtain the records of the case from the Commercial Tax Officer or the Deputy Commissioner, as the case may be, and transmit them to the Secretary.

#### **9. Notice of appeal :-**

(1) After the appeal has been registered, notice of the day fixed for hearing under Regulations 8 in Form-C shall be delivered or issued by registered post to the party. The notice shall state that if he does not appear on the day so fixed or on any other day to which the hearing may be adjourned the appeal will be dismissed for default or disposed of on merits, ex-parte.

(2) Where an appeal, application or petition has been dismissed for default or disposed of ex parte, the appellant, applicant or petitioner may apply to the Tribunal for re admission of the appeal, application or petition; and where it is shown to the satisfaction of the Tribunal that he was prevented by sufficient cause from appearing when the appeal, application or petition was called on for hearing the Tribunal may re admit the appeal, application or petition on such terms as it thinks fit.

(3) An application for re admission of an appeal, application or petition dismissed for default or disposed of ex parte, shall be made within thirty days from the date of communication of the order of dismissal.

#### **CHAPTER 4**

Hearing, Adjournment and Judgment

#### **10. Procedure of the hearing :-**

On the date fixed for hearing or on any other date to which the hearing may be adjourned, the party shall ordinarily be heard first in support of his appeal. The respondent or his pleader or his authorised agent shall, if necessary, be heard next and in such

case, the party shall be entitled to reply.

### **11. Fresh evidence and witnesses :-**

(1) The party or the respondent shall not be entitled to produce additional evidence, whether oral or documentary, before the Tribunal, but

(a) if the authority from whose order the appeal is preferred has refused to admit evidence which ought to have been admitted, or

(b) if the party or the respondent seeking to adduce additional evidence satisfies the Appellate Tribunal that such evidence, notwithstanding the exercise of due diligence, was not within his knowledge or could not be produced by him at or before the time when the order under appeal was passed, or

(c) if the Tribunal requires any documents to be produced or any witnesses to be examined to enable it to pass orders, or

(d) for any other sufficient reason the Tribunal may allow such evidence or documents to be produced or witnesses examined.

Provided that the other party shall, in such cases, be entitled to produce rebutting evidence, if any.

(2) If the Tribunal is of opinion that any witness should be examined in connection with any case before it, it may, instead of examining him before itself, issue a commission to any Commercial Tax Officer or Deputy Commissioner of Commercial Taxes or an Advocate or such other suitable person as it may deem fit, in the circumstances of the case.

### **12. Adjournment :-**

The Appellate Tribunal may, on such terms as it thinks fit, and at any stage, adjourn the hearing of any appeal. An application for adjournment shall ordinarily be presented in person by the party before the Tribunal. In case such an application is sent by post or otherwise, the party shall make his own arrangements for obtaining intimation of the date of adjournment at his own cost by enclosing postage stamp or reply paid telegram voucher. Notice of adjournment shall also be put up on the notice board of the Tribunal.

### **13. Procedure in case of death of Appellant :-**

If an appellant dies while the appeal is pending and it cannot be

proceeded with, unless his legal representative is brought on record, the Tribunal shall adjourn further proceedings to enable his legal representative to appear and apply for being made a party . If the legal representative fails to do so within ninety days from the date of death of the appellant, the appeal shall abate as regards such deceased appellant.

**14. No abatement by reason of death after hearing :-**

Notwithstanding anything contained in Regulation 13, there shall be no abatement by reason of the death of any party between the conclusion of the hearing and the passing of the order but the order may, in such case, be passed notwithstanding the death and shall have the same force and effect as if it has been passed before the death took place.

**15. Determination of legal representative :-**

If a question arises in any appeal whether a person is the legal representative of a deceased appellant, such question may be determined by the Tribunal in a summary way, if necessary, after taking evidence.

**16. Procedure in case of assignment :-**

If during the pendency of an appeal before the Tribunal, the business of any dealer who is a party thereto is assigned to or devolves upon some other person either wholly or in part the Tribunal may after considering the applications of any persons claiming to be so entitled, add such person as a party to the appeal as it may consider to be so entitled in law.

**17. Procedure in case of insolvency :-**

If a dealer, who is a party to an appeal becomes insolvent and his estate becomes vested in the Official Assignee or official Receiver the latter may by leave of the Tribunal, be made a party to the appeal.

**18. Setting aside of abatement or dismissal :-**

(a) Whenever an order of abatement or dismissal has been passed, in a case where the appellant has died, his legal representative, in a case where the respondent has died, the appellant and, in a case where the appellant has become insolvent and his estate vested in the Official Assignee or Official Receiver such Assignee or Receiver, may, within sixty days from the date of such order, apply to the Tribunal for setting aside the abatement or dismissal and the Tribunal shall, on sufficient cause being shown to its satisfaction,

set aside such abatement or dismissal and proceed with the appeal.

(b) Where an application under Clause (a) has been filed after more than 60 days from the date of the order, the Tribunal, may condone the delay on a separate application when the delay is properly explained.

**19. Order :-**

Every order of the Tribunal shall be in writing.

**20. Unanimous or majority order :-**

Where the order is unanimous, it shall be signed and dated by all the members of the Tribunal. Where it is an order of the majority it shall be similarly signed and dated by the members forming the majority. The dissenting member, shall also write his order and record his opinion on the point or points on which he dissents.

**21. Communication of the order :-**

The Tribunal shall communicate the order to the party, the State Representative, the authority against whose order the appeal was preferred, the concerned Deputy Commissioner and the Board of Revenue.

**22. Return of exhibits :-**

(a) The parties or respondents, other than the State Representative shall apply for the return of the documents filed by them within three months from the date of communication of the Tribunal's orders, failing which the Tribunal shall not be responsible for any loss or damage to the documents. The application shall contain an undertaking to the effect that such documents shall be produced before the Tribunal whenever required by it.

(b) The records of the case and such other documents as may be produced by the State Representative shall, after the disposal of the case, be returned to him along with the order on the case and acknowledgment obtained.

(c) Unfiled documents: Other documents which have been produced by parties (as additional evidence before the Tribunal under Regulation 11) but have either not been tendered in evidence or having been tendered in evidence have been rejected shall be taken back immediately after the disposal of the case, by the party producing them after signing thereof. If they are not so



taken, the Tribunal shall not be responsible for any loss of or damage to the said documents.

**23. Appointment of temporary copyists :-**

It shall be competent to the Chairman to appoint without the previous sanction of the Government, one or more temporary copyists according to necessity for preparing the copies to be granted under Regulation 24. Such temporary copyists shall be paid out of the contingent provision, a remuneration at 12 naya paise for every 175 words or a fraction of 175 words copied by him or at such other rate as may be fixed by the Chairman.

CHAPTER 5

Miscellaneous

**24. Copies of documents on payment of fees :-**

(1) Any party or respondent in an appeal before the Tribunal may apply to the Secretary for the inspection of any documents or for a certified copy of any documents including the order in the appeal.

(2) Application for copies shall be in Form - E and shall set out the name and address of the applicant in full, the date and description of the document of which a copy is required and the purpose for which it is required. Any application which is not in the proper form shall be returned for amendment.

(3) Application for copies shall be accompanied by copy stamp papers to cover the cost of preparing copies according to the following scale, namely:

(a) For the first 200 words or less 75 naye paise.

(b) For every additional 100 words or fraction thereof 37 naya paise.

(4) If the Secretary feels any doubt about the propriety of granting a copy of any such document, he shall place the application before the Chairman, and act in accordance with his orders.

**25. Application for search :-**

Every person requiring a search to be made among the records of the Tribunal for the purpose either of inspecting a document or of obtaining copy thereof shall apply to the Secretary in Form - F.

**26. Scale of search fee :-**

When the document applied for belongs to a year, previous to the

current calendar year, a search fee in Court fee stamps, shall be affixed to the application, according to the following scale:

(a) Fee payable for the first document or entry applied for or, if only one document or entry is applied for, for that document or entry one rupee.

(b) Fee payable for every document or entry other than first included in the same application and connected with the same subject 50 naye paise.

(c) When the applicant does not know to which of two or more years a document or entry belongs, the fee for searching the records of every year other than the first shall be 50 naye paise.

**27. Notice :-**

Forms A to with suitable modifications wherever necessary, shall be used for the purpose of the notice to be issued by the Tribunal.

**28. Service of notices on Government :-**

(1) The notices required to be issued under the Act or the Rules of these Regulations, shall be served in the manner, prescribed in Rule 58 of the Andhra Pradesh General Sales Tax Rules, 1957. An acknowledgment containing the signature of the addressee undelivered or any member of his family or his pleader or his authorised agent or an endorsement by the Postal authorities to the effect that the notice was refused by the addressee shall unless the contrary is proved, be deemed to be sufficient to hold that the notice was duly served.

(2) Where the Tribunal is satisfied that the addressee is evading service or that it is not possible to serve the notice in the ordinary way, it may direct that a copy of the notice shall be affixed on its notice board and another copy of the outer door or some other conspicuous part of the addressee s office or place of business or last known place of his residence.

**29. Delegation of Powers by Chairman :-**

The Chairman may in writing, delegate his powers under these Regulations to one of the other members during his absence on leave or otherwise.