

**Assam Value Added Tax (Second Amendment) Rules, 2009****[21 May 2009]**

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**Assam Value Added Tax (Second Amendment) Rules, 2009****[21 May 2009]**

Whereas the draft of certain rules further to amend the Assam Value Added Tax Rules, 2005, hereinafter referred to as the principal Rules which the Governor of Assam proposes to make in exercise of the powers Section 106 of the Assam Value Added Tax Act, 2003 (Assam Act VIII of 2005), were published as required under said sub-section (1) of said Section in the Assam Gazette, Extraordinary No. 71 dated 27th February, 2009 and Assam Gazette, Extraordinary No. 72 dated 27th February, 2009 under notification of the Government of Assam inviting objections and suggestion from all persons likely to be affected thereby before the expiry of a period thirty days from the date of publication of the said notification in the Official Gazette, And Whereas no objection or suggestions was received from the public on the said draft. Now, therefore, in exercise of the powers conferred by section 106 of the said Act, the Governor of Assam is hereby pleased to make the following rules, namely:-

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

(1) These rules may be called the Assam Value Added Tax (Second Amendment) Rules, 2009.

(2) They shall come into force on the date of their publication in the Official Gazette.

## **2. Amendment Of Rule 2 :-**

In the principal Rules, in rule 2, sub rule (1), after clause (e), the following new clause (ee) shall be inserted, namely,-

"(ee) "E payment" means payment of the payable taxes or any other payment due to State government using electronic funds transfer services of a designated bank by instant debit of payees account with bank and credit to the State Government account;"

## **3. Amendment Of Rule 14 :-**

In the principal Rules, in rule 14, the existing sub rule (3), the following shall be substituted, namely,-

"(3) On receipt of application under sub-rule (2), if such authority is satisfied about the bona fide of the application, he shall refund the amount of security furnished or part thereof if such security is not required for the purpose for which it was furnished:-

Where the amount of security to be refunded exceeds three lakh rupees but does not exceed ten lakh rupees, the Prescribed Authority shall take prior approval of the Deputy Commissioner before sanctioning such refund. The Deputy Commissioner shall communicate his approval ordinarily within twenty-one days or receipt of the proposal for refund from the Prescribed Authority. Where the amount to be refunded exceeds ten lakh rupees, the Prescribed Authority shall send the proposal of refund to the Commissioner directly for his approval before sanctioning such refund. The Commissioner shall accord his approval ordinarily within twenty one days of the receipt of the proposal for refund from the prescribed authority."

## **4. Amendment Of Rule 17 :-**

In the principal Rules, in rule 17,-

(i) in sub rule (3), "Explanation" shall be renumbered as "Explanation-1", and thereafter Explanation 2 shall be inserted, namely,-

"Explanation 2:- A receipt from designated bank may be a challan duly signed by designated bank as a proof of payment or e-challan generated through computer network as proof of payment. However, e-challan shall have to be duly self attested with signature and seal by the dealer concerned when it is submitted along with a tax return.";

(ii) for the existing sub rule (8), the following shall be substituted,

namely,-

"(8)(a) In case of discovery of any omission or any other error in a monthly/quarterly tax return filed, the dealer may furnish a revised monthly/quarterly tax return at any time before expiration of time limit prescribed by rule 17(5)(a) or 17(5)(b), as may be applicable for filing annual return by him;

(b) In case of discovery of any omission or any other error in the annual return filed, the dealer may furnish a revised annual return within a period of six months from the due date of submission of annual return.

Provided that no revised return or revised annual return shall be entertained if the case has been taken up for audit assessment and notice to that effect has already been served on the dealer."

## **5. Insertion Of New Rules 17A And 17B :-**

In the principal Rules, after rule 17, new rules 17A and 17B shall be inserted, namely,-

17A - Submission of returns in case of branches.

(1) In case of a dealer having more than one place of business in the state all returns and annual returns prescribed by the rules shall be submitted by the head office in the State and shall include the total turnover of all branches of his business. head office and specifying the name and address of such head office.

Provided that such dealer shall also submit along with the returns and annual return of the head office, the copies of the returns and annual return, as the case may be, submitted by each of its branch to the Prescribed Authority of the respective area.

17B. Selection of dealers for electronically transmitting data in filing the return referred to in rule 17 and manner in which such returns to be furnished by dealers so selected:-

(1) The Commissioner may, from amongst the registered dealers who are required under rule 17 to furnish returns, select such dealers on such consideration as he may deem fit and proper, for transmitting return electronically. Any dealer not selected may also opt to transmit return electronically.

(2) The dealers so selected shall be informed, in writing, about such selection by the Commissioner.

(3) Every dealer who has been selected or who opts under sub-rule (1) shall furnish return:-

(a) firstly, by way of transmitting the data in prescribed form either under digital signature or without any digital signature

electronically to the web-site [www.taxassam.co.in](http://www.taxassam.co.in), in respect of return period during which such selection is made and in subsequent return periods until he is left out of such selection by the Commissioner; and

(b) secondly, by way of furnishing the return in paper form to the Prescribed Authority.

(4) (a) The time limit for furnishing return electronically and in paper form will be same as prescribed in rule 17;

(b) The date of furnishing return electronically or in paper form, whichever is later, shall be accepted as the date of furnishing such return.

(5) The provisions of rule 17 shall, mutatis mutandis, apply in the manner of furnishing returns under this rule".

## **6. Amendment Of Rule 26 :-**

In the principal Rules, in rule 26, after sub-rule (8), new sub-rule (9) shall be inserted, namely:-

"(9) Notwithstanding anything contained in sub-rule (1), a dealer may make e-payment of dues under the Act through a designated Bank. Where the payment of tax, demand or other sum is made through e-payment, the designated bank shall generate e-challan through a computer net work. The designated bank shall also forward a statement of such e-challans to the linked Treasury and a copy of such statement shall be forwarded to the Accountant General, Assam, The date of payment for the purpose of these rules shall be the date of deposit generated on the e-challan:-

Provided that the Commissioner may, from amongst the registered dealers, who are liable to pay tax, select such dealers on such consideration as he may deem fit and proper, for making e-payment of dues under this Act compulsorily and such dealers shall make e-payment of dues.

## **7. Amendment Of Rule 29 :-**

In the principal Rules, in rule 29, in sub-rule (1), for the existing clause (e) the following shall be substituted, namely:-

"(e) When the amount to be refunded is more than rupees three lakh the Prescribed Authority shall take prior approval of Deputy Commissioner before sanctioning such refund. The Deputy Commissioner shall not approve the refund if the amount to be refunded exceeds rupees ten lakhs but forward such cases to the Commissioner for approval. Where the amount to be refunded is

more than fifty lakhs, the Commissioner shall take prior approval of the Government before sanctioning such refund."

**8. Amendment Of Rule 61 :-**

In the principal Rules, in Rule 61, in the table, in Serial No. (f), in Column (3), for the words "Rupees twenty five", the word "Nil" shall be substituted.

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