

NAGALAND SALES TAX RULES, 1970

CONTENTS

1. Short title, extent and commencement
2. Definitions
3. Taxing authorities
4. Delegation of powers
5. Registration
6. Returns
7. Assessments
8. Appeal
9. Revisions
10. Appeal to the State Government
11. Reference
12. Notice of demand
13. Payment, methods of
14. Refund
15. Prosecution and composition of offences
16. Maintenance, preservation and inspection of accounts, etc
17. Information to be furnished
18. Service of notice
19. Exercise of powers
20. .
21. Fees
22. Copies of orders
23. Penalty
24. Place of assessment
25. Production of documents in support of claims for deduction from gross turnover under S. 14 (1) (a)
26. .
27. .
28. .
29. .

NAGALAND SALES TAX RULES, 1970

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1. Short title, extent and commencement :-

- (1) These rules may be called the Nagaland Sales Tax Rules, 1970.
- (2) These rules shall apply to the whole of Nagaland.
- (3) These rules shall come into force with effect from 1st April,

1970.

2. Definitions :-

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

(1) 'Act' means the Nagaland Sales Tax Act, 1967. (Act II of 1967).

(3-a) "Deputy Commissioner" means a Deputy Commissioner of Taxes referred to in R. 3 and any person appointed by that designation by the State Government under S. 3 of the Act.

(3-b) 'Assistant Commissioner' means an Assistant Commissioner of Taxes referred to in R. 3, and any person appointed by that designation, by the State Government under S. 3 of the Act.

(4) 'Form' means a form prescribed in the Schedule appended to these rules.

(5) 'Government Treasury' means in respect of a dealer, the treasury and sub-treasury, as the case may be, of the area where the dealer's place of business or, if he has more than one such places, his chief branch or head office is situated ;

(6) 'Inspector' means the Inspector of Taxes referred to in R. 3 and any person appointed by that designation by the State Government under S. 3 ;

(7) 'Place of business' means any place where a dealer sells any goods or keeps accounts of sales ;

(8) 'Return period' means the period for which returns are prescribed to be furnished by a dealer ;

(9) 'Rule' means a rule of these rules ;

(10) 'Section' means a section of the Act ;

(11) 'Superintendent' means in respect of a dealer a Superintendent of Taxes referred to in R. 3 and any person appointed by that designation by the State Government under S. 3 and within whose jurisdiction the dealer's place of business is situated or, if the dealer has more than one such places, the Superintendent within whose jurisdiction the chief branch or head office in Nagaland of such business is situated or if the dealer has no place of business within the State of Nagaland the Superintendent who has been so notified by the Commissioner

under R. 4.

3. Taxing authorities :-

The State Government may, in exercise of the powers conferred by S. 3 of the Act appoint by notification in the official Gazette, the following classes of officers to assist the Commissioner :

- (i) Deputy Commissioner of Taxes ;
- (ii) Assistant Commissioner of Taxes ;
- (iii) Superintendent of Taxes ;
- (iv) Inspector of Taxes.

4. Delegation of powers :-

Subject to the provisions of the Act and the rules made thereunder, the Commissioner may, by notification in the official Gazette, delegate the powers to be exercised by the above classes of the officers and shall by like notification, specify the area in which powers are to be exercised by each of the above classes of officers.

5. Registration :-

(1) An application for registration under S. 9 or 11 of the Act, shall, on commencement of the Act, be made within such time as may be notified by the Commissioner in the official Gazette and thereafter not less than one month before the date from which the dealer becomes liable to pay tax under the Act. The application shall be addressed to the Superintendent in Form I.

(2) A dealer required under S. 10 to register shall apply for registration to the Superintendent in Form I.

(5) The person making an application for registration shall specify the capacity in which the application is made, signed and verified.

(6) The certificate to be granted under S. 12 shall be in Form I-A.

(7) The particulars to be specified in the certificate shall, so far as possible, be described in the same terms as are used in the application for registration.

(8) Each certificate shall bear a number and distinctive registration mark. The distinctive registration mark to be entered on a certificate shall be such as may be assigned by the Commissioner for each local area.

(9) A certificate shall be issued for each place of business and it shall be kept at the place of business to which it relates.

(10) Any dealer may obtain, on payment of the fee referred to in sub-R. (c) of R. 21, a duplicate copy of any certificate which has been issued to him and which may have been lost, destroyed or defaced.

(11) When a registered dealer applies for cancellation or amendment of his certificate of registration, he shall submit the certificate along with his application to the Superintendent.

(12) When a registered dealer furnishes any information required by S. 53, he shall send, along with his report, the certificate of registration to the Superintendent for amendment, cancellation or replacement, as the case may be.

(13) A Register of Certificates of Registration issued shall be maintained by the Superintendent in Form I-B.

6. Returns :-

(1) Every registered dealer shall furnish return of his total turnover under S. 15 to the Superintendent in Form II.

(3) All returns required to be furnished shall be signed and verified as in the case of an application for registration under R. 5 (3) and (4).

(4) The notice referred to in sub-S. (2) of S. 15 shall be issued and served in Form III.

(5) The returns required to be furnished under sub-S. (2) of S. 15 shall be furnished in the manner indicated in sub-Rr. (1) and (3) and for such period and within such time as may be specified in the notice.

7. Assessments :-

(2) In determining the amount of turnover, fraction of a rupee below fifty paise shall be ignored and a fraction of a rupee equal to or exceeding fifty paise shall be taken as a whole rupee.

(3) In determining the amount of tax payable or in allowing any refund under this Act, an amount equal to or less than two paise shall be ignored and an amount more than two paise shall be taken as five paise.

8. Appeal :-

(1) An appeal against an order of assessment or penalty passed by a Superintendent shall lie to the Assistant Commissioner : Provided that an appeal against an order of a Superintendent shall be heard by the Deputy Commissioner if the Commissioner so directs.

(2) A memorandum of appeal may be presented to the appellate officer by the appellant or by an agent or it may be sent by post.

(3) The memorandum of appeal shall be in Form XII,

(4) The memorandum of appeal shall be accompanied by a certified copy of the order appealed against and by the fee prescribed in R. 21(1).

(6) Where an appellant does not comply with any of the requirements of sub-R. (3), (4) or (5) of R. 7 in presenting the appeal, it may summarily be rejected.

(7) Where an appeal is not disposed of under sub-R. (7) a date and place for hearing shall be fixed as required by sub-S. (3) of S. 31.

9. Revisions :-

(2) A petition for revision shall be presented, signed, verified and endorsed as in the case of an appeal. It shall be accompanied by a certified copy of the order objected to and by the fee prescribed in R. 21 (1).

(3) A petition for revision may be summarily rejected where the requirements of sub-R. (1) or (2) are not complied with on presentation of the petition.

(4) Where a petition for revision is not disposed of under sub- R. (3), a date and place shall be fixed for hearing.

(5) The revisional authority may, from time to time, adjourn the hearing and make or cause to be made such further enquiry as may be deemed necessary.

10. Appeal to the State Government :-

(1) Every appeal to the State Government under S. 33 of the Act shall be in Form XV and addressed to the Secretary to the Government of Nagaland, Finance Department.

(3) The memorandum of appeal shall be accompanied by either the

order in original against which it is made or a duly authenticated copy thereof.

11. Reference :-

A petition for reference shall be addressed to the Secretary to the Government of Nagaland, Finance Department.

12. Notice of demand :-

The notice of demand shall be in Form V.

13. Payment, methods of :-

(1) The dues referred to in S. 36 or 38 shall be paid direct into the Government Treasury by challans. No payment shall be accepted at the office of the Commissioner, Assistant Commissioner, or Superintendent.

(2) The dues referred to in S. 37 of the Act shall be paid direct into the Government Treasury by challans within thirty days of the completion of the half year during which the tax has been collected.

(3) Challans for making payments shall be in Form VI and shall be obtainable at any Government Treasury or at the office of the Superintendent.

(4) Challans shall be filled in quadruplicate. Two copies duly signed as proof of payment shall be returned to the dealer and the other two retained by the Treasury.

(5) One of the copies retained by the Treasury or Sub-Treasury shall be transmitted to the Superintendent on the day following the day of payment. Every Treasury and Sub-Treasury shall send an advice list to the Superintendent of the area on the 5th day of every month showing the amount received in the previous month. The advice list shall contain the challan number and date, the name of the dealer and the amount paid.

(6) One copy of the receipted challan returned to the dealer shall be attached by him to the returns referred to in sub-S (2) or (3) of S. 36.

(7) Every Superintendent shall record the receipt of challans in his Daily Collection Register indicating the number, date and amount of each challan. The Daily Collection Register shall be maintained in Form VIII.

(8) Every Superintendent shall maintain a Demand Assessment and

Collection Register in Form VII.

14. Refund :-

(2) An application for refund shall be signed, verified and presented in the case of an application for registration.

(3) No claim to any refund shall be allowed unless it is made within one year from the date of the original order of assessment or within one year of the final order passed on appeal, revision or reference, as the case may be, in respect of such assessment.

(4) When the Superintendent is satisfied that the refund claimed is due wholly or in part, he shall, subject to the provisions of sub-R. (8) below record an order sanctioning the refund.

(5) When an order for refund has been passed, a refund voucher in Form IX shall be issued in favour of the claimant, if he desires payment in cash. An advice list shall, at the same time, be forwarded to the Treasury Officer concerned.

(6) When the claimant desires to adjust the amount of refund due to him against any amount payable by him the Superintendent shall set off the amount to be refunded or any part thereof against the tax, if any, remaining payable by the claimant.

(7) A register shall be maintained in Form X wherein particulars of all applications for refund and the orders passed thereon shall be entered.

(8) When the amount to be refunded exceeds two hundred and fifty rupees, the application together with relevant records shall be submitted to the Assistant Commissioner for orders.

15. Prosecution and composition of offences :-

(1) A register in Form XI shall be maintained showing the prosecutions instituted and offences compounded under the Act.

(3) The sum referred to in sub-R. (2) shall be paid by the dealer to a Government Treasury in the manner indicated in R. 13 (1) and (4) and a receipted copy of the Challan shall be produced by him in proof of payment.

16. Maintenance, preservation and inspection of accounts, etc :-

(1) In issuing a direction under sub-S. (1) of S. 47 strict regard

shall be had to the necessity of not disturbing the counting procedure of the dealer or the work of his staff any more than is absolutely necessary for the purpose of applying an adequate check.

(2) Accounts referred to in sub-S. (2) of S. 47 shall be preserved for a period of 8 years.

(4) In requiring the production by any dealer of his accounts or documents, etc., strict regard shall be had to the necessity of not disturbing the business of the dealer or the work of his staff any more than is necessary for the purpose of ascertaining the required information.

(5) Unless the authority acting under sub-S. (2) of S. 48, in his discretion, deems it necessary to make a surprise visit, he shall give reasonable notice in writing, to the dealer of his intention to inspect the accounts, registers, documents or stock of goods of such dealer and in fixing the date, time and place for the purpose, Due regard shall, as far as possible, be paid to convenience of the dealer.

(6) Accounts, registers or documents seized under sub-S. (3) of S. 48, shall not be retained by the authority seizing them for more than fourteen days without written sanction of the Assistant Commissioner.

17. Information to be furnished :-

The information required to be furnished under S. 53 shall be furnished to the Superintendent and within fourteen days of the occurrence of the event in respect of which the information is to be furnished.

18. Service of notice :-

(2) When service is made by post, it shall be deemed to be effected by properly addressing, repaying and posting either by registered post or under certificate of posting the notice or requisition and unless the contrary is proved, the service shall be deemed to have been effected at the time at which notice or requisition would be delivered in the ordinary course of post.

19. Exercise of powers :-

(1) The Commissioner shall not delegate his powers under S. 32 to any officer below the rank of the Assistant Commissioner.

(2) The officer to whom powers under S. 32 have been delegated shall exercise the powers in respect of such persons or classes of persons and in respect of such cases and areas as the Commissioner may direct.

(3) The powers to call for returns, to make assessments, to cancel or rectify them, to impose a penalty, to compound offences and to the maintenance of accounts shall not be delegated to any officer below the rank of Superintendent.

(4) The officer to whom powers may be delegated under S. 55 shall exercise the powers subject to provisions of the Act and the rules thereunder and to such restrictions as may be imposed by the Commissioner in delegating the powers.

20. . :-

Deleted].

21. Fees :-

(2) No fee shall be payable in respect of any objection, written or verbal, made in reply to a notice or in respect of any spontaneous application which asks only for information and does not seek any specific relief.

22. Copies of orders :-

(1) The first copy of any assessment if and when applied for and the first copy of the appellate or revisional order will be supplied to the dealer free of charge.

(4) The fees payable under Cls. (a) and (b) and R. 21 of the rules thereunder shall be deposited into the Government Treasury under the head "XII Sales Tax Taxes under the Nagaland Sales Tax Act-Miscellaneous". All other fees payable under the Act or the rules shall be paid in Court fee stamps.

23. Penalty :-

(1) Whoever signs and verifies an application for registration or a return or an application for refund otherwise than in conformity with R. 5 (4), 6 (3) or 14 (2) shall be punishable with a fine not exceeding one hundred rupees.

(2) When the dealer acts in contravention of, or fails to comply with any. rules, he shall be punishable with fine not exceeding five hundred rupees, and when the offence is a continuing one, with a

daily fine not exceeding twenty-five rupees during the continuance of the offence.

(3) Whoever fails to furnish the information required to be furnished under S. 53 within the period prescribed in R. 17 shall be punished with fine not exceeding five hundred rupees, and when the offence is a continuing one with a daily fine not exceeding twenty-five rupees during the continuance of the offence.

24. Place of assessment :-

A dealer shall ordinarily be assessed by the Superintendent within whose jurisdiction his business is situated and when the dealer has no place of business in Nagaland, by such Superintendent as the Commissioner may by notification in the official Gazette so appoint. Where a dealer has more than one such place of business he shall be assessed by the Superintendent within whose jurisdiction his chief place or head office in Nagaland of such business is situated.

25. Production of documents in support of claims for deduction from gross turnover under S. 14 (1) (a) :-

A dealer who wishes to claim deduction from his gross turnover under Cl. (a) of sub-S. (2) of S. 14 shall produce, in support of such claim, account books showing details of daily sale of the different kinds of articles concerned.

26. . :-

(2) Every registered dealer obtaining from the appropriate Superintendent of Taxes declaration Form 'P' shall maintain at his places of business in a register in Form XIV a true and up-to-date account of every declaration form so obtained by him and shall keep such register open, at all reasonable times, to inspection by the Commissioner or by a person appointed under S. 3 to assist the Commissioner.

(3) No registered dealer who obtained from the appropriate Superintendent of Taxes declaration Form 'P' shall transfer any such declaration form to any person except in pursuance of a transaction of purchase referred to in sub-R. (1) and if any such declaration is lost, destroyed or stolen from the custody of any person to whom it may have come in course of bona fide business transaction, he shall immediately report the fact of such loss, destruction or theft to the nearest Superintendent of Taxes and the appropriate Superintendent of Taxes and shall make appropriate entry in the remarks column of the register in Form XIV, when it is

lost, destroyed or stolen from the custody of a registered dealer.

(4) When the certificate of registration of the registered dealer is cancelled, he shall forthwith surrender to the appropriate Superintendent of Taxes all unused declaration Forms 'P' remaining in stock with him and the appropriate Superintendent of Taxes shall thereon cancel the declaration forms so surrendered and report the fact of such cancellation to the Commissioner.

(5) The Commissioner may, by notification in the Nagaland Gazette, declare forms of particular series or colour obsolete or invalid with effect from such date not being less than 15 days from the date of publication in the Gazette as may be specified in the notification and on the publication of such notification in the Gazette all registered dealers shall, before the date specified in such notification, surrender to the appropriate Superintendent of Taxes all such forms so declared obsolete and invalid.

(6) The Commissioner may, from time to time, publish in the Nagaland Gazette, the particulars of declaration Forms 'P' which have been cancelled under sub-R. (4) or in respect of which reports have been received by a Superintendent of Taxes under sub-R. (3).

(8) Any registered dealer contravening any of the provisions of sub- Rr. (2), (3), (4), (5), (6) and (7) shall on conviction be punishable with a fine of not less than Rs. 500 and not exceeding Rs. 5,000 and when the offence is a continuing one, with a daily fine not exceeding Rs. 100 during the continuance of the offence. All offences punishable under this sub-rule shall be cognizable and bailable and no court inferior to that of a Magistrate of first class shall try any such offence.

(9) For obtaining declaration form referred to in sub-R. (1), a registered dealer shall apply in writing to the appropriate Superintendent of Taxes stating requirement of such forms and shall furnish such other particulars, statements and information and produce such other documents as the Superintendent of Taxes may require for the purpose of satisfying himself about the bona fide use of such forms issued to the applicant on previous occasions and the bonafide nature of the applicants' requirement of such forms on the present occasion.

27. . :-

A dealer who wishes to claim deduction on the ground that the

goods were not sold in the State but despatched outside State shall, on demand furnish in respect of such despatch the following particulars namely :

(i) the name of Railway, Air Stations of despatch (and of booking office if separate from station of despatch) and station of delivery ;

(ii) the No. of railway, air receipt or bill of lading and invoice No. with date ;

(iii) the names and addresses of the consignor and the consignee ; and

(iv) the description and quantity or weight of the goods consigned with their value.

28. . :-

Every registered dealer shall hang up (I) the list of goods, the sales of which is exempted from taxation under S. 8 ; and (II) his registration number at each counter of his business premises very prominently. The exhibition shall be in a very prominent type in order to attract the attention of the purchasing dealer or consumer.

29. . :-

(i) No person shall deliver or cause to be delivered from any Railway Station, Air port, Post Office or carriers' office in this State any goods or consignment of goods to any person other than a registered dealer exceeding such quantity as may be notified in this behalf by the Commissioner in the official Gazette and on production by such registered dealer permit produced by the dealer in manner prescribed hereinunder in respect of any goods dispatched from any place outside Nagaland.

(ii) The quantitative limit of the consignment referred to in sub-R. (i) shall be such as may be specified by the Commissioner by notice in the official Gazette.

(iv) The appropriate Superintendent of Taxes shall thereupon countersign the Railway Receipt, bill of landing, air-note or other relevant document and shall seal it with his official seal and both the copies of the declaration made by the registered dealer shall be endorsed with the number of the Railway receipt, bill of lading or other documents, as the case may be, and the date of countersignature of the aforesaid document and they shall be signed by the Superintendent of Taxes and sealed with his official

seal, one copy of the declaration thereafter being returned to the registered dealer and the other copy being retained by the Superintendent of Taxes. The appropriate Superintendent of Taxes shall issue a permit in Form XVI-A. On presentation of the permit in Form XVI-A and the endorsed document, the consignment shall be delivered from the public carrier.

(v) Any breach of the rule shall be punishable with a fine not exceeding Rs. 500 (Rupees five hundred) and when the violation is a continuing one with a daily fine not exceeding Rs. 25 (Rupees Twenty five) during the continuance of such violation.