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## **Delhi Sales Tax (Appellate Tribunal) Regulations, 1979**

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# **Delhi Sales Tax (Appellate Tribunal) Regulations, 1979**

Delhi Sales Tax (Appellate Tribunal) Regulations, 1979

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

(1) These regulations may be called the Delhi Sales Tax (Appellate Tribunal) Regulations, 1979.

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

## **2. Definitions :-**

In this regulations, unless the context otherwise requires,

(a) "Act" means the Delhi Sales Tax Act, 1975 (43 of 1975);

(b) "authorised representative" means

(i) in relation to a dealer, a person mentioned in clause (a), (b) or (c) of sub-section (1) of section 60 of the Act, and

(ii) in relation to the Commissioner, a person duly authorised by him under rule 38 of the rules;

(c) "Registrar" means the person who is for the time being discharging the functions of the Registrar of the Tribunal;

(d) "rules" means the Delhi Sales Tax Rules, 1975;

(e) "Tribunal" means the Appellate Tribunal constituted under section 13 of the Act;

(f) words and expressions used herein but not defined shall have the meaning assigned to them in the Delhi Sales Tax Act, 1975 (43 of 1975), or the rules made thereunder.

## **3. Procedure for filing appeals and applications :-**

(1) An appeal or an application to the Tribunal shall be signed by the appellant or the applicant, as the case may be, and shall be presented by him in person or by his authorised representative to the Registrar or to an officer authorised in this behalf by the Registrar or sent by registered post addressed to the Registrar.

(2) The appeal relating to an assessment or penalty shall be in Form S.T.30 prescribed under Rule 36. Other appeals and applications shall be written on one side of standard watermark judicial paper in double space.

(3) An appeal or an application sent by post shall be deemed to have been presented to the Registrar or to the officer authorised by the Registrar, on the day on which it is received in the office of the Tribunal.

#### **4. Contents of the appeal and application :-**

(1) Every appeal shall set forth clear statement of facts concisely and under distinct heads, the grounds of appeal to the order against which appeal is filed without any argument or narrative and such grounds shall be numbered consecutively and the relief claimed.

(2) The provisions of clause (1) shall, mutatis mutandis, apply to an application made to the Tribunal. In case of an application made under sub-section (1) of section 45 of the Act, the same shall be accompanied by a draft of the statement of the case containing the questions which the applicant considers to be the questions of Law and wishes the Tribunal to refer them to the High Court. The Tribunal shall not, however, be bound to accept the draft of the statement of the case accompanying the application under sub-section (1) of section 45 of the Act.

(3) The Registrar, or, as the case may be, the authorised officer shall endorse on every memorandum of appeal, the date on which it is presented or deemed to have been presented and shall sign the endorsement.

#### **5. What to accompany the appeal or application :-**

(1) Every appeal shall be filed in duplicate and shall be accompanied by two copies (at least one of which shall be certified) of the order appealed against and two copies of the order of the original authority. Copies, other than those which are certified, shall be attested by the appellant or his authorised representative as true copies.

(2) Every application presented under sub-section (1) of section 45 of the Act shall be accompanied by a copy of the order in respect of which a reference is sought to be made to the High Court.

(3) The Tribunal may, in its discretion, accept an appeal or an application under subsection (1) of section 45 of the Act which is not accompanied by all or any of the documents, referred to above.

(4) Where a fact which cannot be borne out by, or is contrary to,

the record is alleged, it shall be stated clearly and concisely and supported by a duly sworn affidavit.

**6. Grounds which may be taken in appeal or application :-**

The appellant or the applicant shall not, except by leave of the Tribunal, urge or be heard in support of any ground or objection not set forth in the appeal or application, but the Tribunal in deciding the appeal or application shall not confine to the grounds of objection set forth in the appeal or application or taken by leave of the Tribunal under this regulation:

Provided that the Tribunal shall not rest its decision on any other ground unless the party affected thereby has been allowed an opportunity of being heard.

**7. Rejection or amendment of appeal :-**

(1) Where the appeal or an application filed under sub-section (1) of section 45 of the Act, is not drawn up in the manner herein before specified, it may be rejected or returned to the appellant or the applicant for the purpose of being amended then and thereof within the time to be fixed by the Tribunal.

(2) Where the Tribunal rejects any appeal or application, it shall record the reasons for such rejection.

(3) Where the appeal or application is amended, the amendment shall be signed or initiated by the Officer competent to make endorsement under clause (3) of regulation 4.

**8. Registry of appeals and applications :-**

Where an appeal or application is admitted, the Registrar shall register the appeal or application in a register to be kept for this purpose.

**9. Who may be joined as responded in an appeal or application by the dealer :-**

In an appeal or application filed by a dealer or other person, the Commissioner shall be made the respondent.

**10. Who may be joined as respondent in an appeal or application by the Commissioner :-**

(1) In an appeal or application filed by the Commissioner, the dealer shall be made the respondent.

(2) In an appeal or application under sub-section (1) of section 45

of the Act filed on behalf of the Commissioner, a certified copy of the order of the Commissioner directing that an appeal or application be preferred, shall be appended to the appeal or application.

Explanation Where the appeal or application is signed by the Commissioner, it shall be presumed that the direction required under the clause was given.

**11. Preparation of paper book, etc. :-**

(1) The appellant shall, within a month of the filing of the appeal, submit in triplicate a paper book containing copies of the documents, statements of witnesses and other papers in the file of, or referred to in the order of, the Assessing/Notified Authority or Assistant Commissioner or Deputy Commissioner or Additional Commissioner of Sales Tax, as the case may be, which he proposes to refer to or rely upon at the hearing of the appeal and the respondent shall also file such a paper book in triplicate within a month of the service of the notice of the filing of the appeal on him.

(2) The Tribunal may, suo mot, direct the preparation of a paper book in triplicate by and at the cost of the appellant or the respondent containing copies of such statements, papers and documents as it may consider necessary for the disposal of the appeal.

**12. Power to dismiss appeal or application without sending notice to the respondent :-**

(1) The Tribunal, after sending for such records as it thinks fit to do, and after fixing the date for hearing the appellant or the applicant or his authorised representative and hearing him accordingly if he appears on that date, may dismiss the appeal or application without sending notice to the respondent.

(2) Dismissal of appeal or application under this regulation shall be notified by the Registrar to the parties.

**13. Day for hearing of appeal or application :-**

Unless the Tribunal dismisses the appeal or application under regulation 12, it shall fix a day for hearing the appeal or application.

**14. Contents of notice :-**

(1) The notice to the respondent shall be accompanied by a copy of the appeal or application and shall declare that if he does not appear on the day and time so fixed, the appeal or application will be heard ex pane.

(2) On receipt of the notice of the date of hearing of the application for reference under sub-section (1) of section 45 of the Act, the respondent shall, at least seven days before the date of hearing submit a reply in writing to the application. The reply to the application shall specifically admit or deny whether the question of law formulated by the applicant arises out of the order under sub-section (6) of section 45 of the Act. If the question formulated by the applicant is defective, the reply shall state in what particular the question is defective and what is the exact question of law which arises out of the said order. The reply shall be accompanied by two copies thereof, a list of documents (the particulars of which shall be stated) which in the opinion of the respondent, should form part of the case and a translation in English of any such document where necessary.

#### **15. Hearing of the appeal or application :-**

(1) On the day fixed or on any other day to which the hearing may be adjourned, the appellant or the applicant shall be heard in support of the appeal or application.

(2) The Tribunal shall then, if it does not dismiss the appeal or application at once, hear the respondent against the appeal or application and in such case the appellant or the applicant shall be entitled to reply.

(3) The order of the Tribunal shall be in writing and shall be signed and dated by the members constituting it.

(4) The Tribunal shall, after the order is signed, cause it to be communicated to the assessee and to the Commissioner.

#### **16. Dismissal of appeal or application for default :-**

(1) Where on the day fixed for hearing or on any other day to which the hearing may be adjourned, the appellant or the applicant does not appear when the appeal or application is called for hearing the Tribunal may, in its discretion, either dismiss the appeal for default or hear it ex parte:

Provided that in case the Tribunal considers it proper to exercise

the power of enhancement under clause (b) of sub-section (6) of section 43 of the Act, it may proceed to adjudicate accordingly.

(2) Where the appellant or the applicant appears and the respondent does not appear, the appeal may be heard ex parte.

**17. Re-admission of appeal or application dismissed for defaults :-**

Where an appeal or application is dismissed under clause (1) of regulation 16, the appellant, or the applicant, may, within thirty days of the communication of that order or the knowledge thereof apply to the Tribunal for re-admission of the appeal or application and if he satisfies the Tribunal that there was sufficient cause for his non-appearance when the appeal or the application was called for hearing, the Tribunal shall make an order setting aside the dismissal and restoring the appeal or the application on such terms as to costs or otherwise as it thinks fit to impose upon him.

**18. Re-hearing on application of respondent against whom ex parte order made :-**

Where an appeal or application is heard in default of respondent under clause (2) of the regulation 16 and an ex-parte order is made against the respondent, he may within thirty days of the communication of the order or the knowledge thereof, apply to the Tribunal to re-hear the appeal or application and if he satisfies the Tribunal that the notice was not duly served or that he was prevented by sufficient cause from appearing when the appeal or application was called for hearing. The Tribunal shall re-hear the appeal or application on such terms as to costs or otherwise as it thinks fit to impose upon him.

**19. Adjournment of appeal :-**

The Tribunal may, on such terms, as it thinks fit and at any stage, adjourn the hearing of the appeal.

**20. Production of additional evidence before the Tribunal :-**

The parties to the appeal shall not be entitled to produce additional evidence, either oral or documentary, before the Tribunal, but if the Tribunal requires any documents to be produced or any witness to be examined or any affidavit to be filed to enable it to pass orders or for any other substantial cause, or if any of the authorities below has decided the case without giving sufficient opportunity to the assessee to adduce evidence either on points specified by him or not specified by him, the Tribunal may allow such documents to be

produced or witness to be examined or affidavit to be filed or may allow such evidence to be adduced, subject to the condition that the Commissioner shall be entitled in that case to lead rebuttal evidence.

**21. Mode of taking additional evidence :-**

(1) Such document may be produced or such witness examined or such evidence adduced either before the Tribunal or before such lower authority as the Tribunal may direct.

(2) Without prejudice to the provisions of sub-rule (1) of rule 38 of the rules, the Tribunal may direct the Registrar to hold such further enquiry as it may direct before deciding the appeal. If document is directed to be produced or witness is directed to be examined or evidence is directed to be adduced, the direction of the Tribunal in this regard shall be complied with and the document, the record of deposition of the witness or the record of evidence adduced shall be sent to it.

**22. Additional evidence to be submitted to the Tribunal :-**

Without prejudice to the provisions of sub-rule (5) of rule 36 of the Rules, if the Tribunal directs that any document is to be produced or witness examined or evidence adduced before any lower authority appointed under sub-section (2) of section 9 of the Act, he shall comply with the direction of the Tribunal and after compliance send the document, the record of deposition of the witness or the record of evidence, adduced to the Tribunal.

**23. Continuation of proceedings after the death of adjudication of a party to the appeal :-**

Where a dealer whether he be appellant or the respondent to an appeal dies or is adjudicated insolvent or in the case of company is being wound up, the appeal shall not abate and may, if the dealer was the appellant, be continued by and if he was the respondent be continued against the executor, administrator or other legal representative of the appellant or by or against the assignee, receiver or liquidator of the company as the case may be.

**24. Review of order :-**

(1) Subject to the provisions contained in section 46 of the Act and the rules made thereunder, any person considering himself aggrieved by an order of the Tribunal and who, from the discovery of new and important matter or evidence which after the exercise



of due diligence, was not within his knowledge or could not be produced by him at the time when the order was made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of the order made against him, may apply for a review of the order within sixty days from the date of service of the order.

Provided that the Tribunal may, at any time, review the order passed by it suo-motu also for reasons to be recorded by it in writing.

(2) Where it appears to the Tribunal that there is no sufficient ground for a review, it shall reject the application.

(3) Where the Tribunal is of opinion that the application for review should be granted, it shall grant the same:

Provided that

(a) no such application shall be granted without previous notice to the opposite party to enable him to appear and be heard in support of the order, a review of which is applied for; and

(b) no such application shall be granted on the ground of discovery of new matter or evidence which the applicant alleges was not within his knowledge or could not be adduced by him when the order was made without strict proof of such allegation.

## **25. Registry of application granted and order for re-hearing in case of review :-**

Where an application for review is granted, a note thereof shall be made in the Register referred to in regulation 8 and the Tribunal may at once re-hear the case or make such order in regard to the re-hearing as it thinks fit.

## **26. Bar of certain applications :-**

No application to review an order made on an application for a review or an order made on a review shall be entertained.

## **27. Amendment of orders or proceedings :-**

Clerical or arthmetical mistakes in orders and proceedings or errors arising therein from any accidental slip or omission may at any time be corrected by the Tribunal either of its own motion or the application of any of the parties.

## **28. Grant of stay :-**

(1)

(a) Without prejudice to the provisions of sub-rule (6) of rule 36 of the Rules, every application for stay of recovery of demand of tax, interest and penalty or any other dues or for admission of an appeal without payment of tax with or without penalty or as the case may be, of the payment of penalty in respect of which the appeal has been preferred, shall be presented in duplicate by the applicant in person or by his duly authorised representative or sent by registered post to the Registrar.

(b) Separate application shall be filed for stay of recovery of demand for each year.

(2) Every application for stay shall be neatly written on one side of the standard watermark judicial paper and shall be affixed with a court-fee stamp of rupees two and shall set forth concisely the following, namely

(a) short facts regarding the demand of the tax, interest, penalty or any other sum, recovery of which is sought to be stayed;

(b) the result of the appeal filed before the authority referred to in sub-section (1) of section 43;

(c) the exact amount of tax, interest, penalty or any other sum demanded and the amount undisputed therefrom and the amount outstanding;

(d) whether the tax admitted due has already been paid before filing the memorandum of appeal;

(e) the date of filing the appeal before the Tribunal;

(f) reasons in brief for seeking stay;

(g) whether the applicant is prepared to offer security, and if so, in what form;

(h) the prayer to be mentioned clearly and concisely (stating exact amount sought to be stayed);

(i) whether the contents of the application are supported by an affidavit sworn by the applicant or his duly authorised representative;

(j) whether any application for stay was made to the revenue authorities concerned, and if so, the result thereof (copies of

correspondence, if any, with the revenue authorities to be attached).

(3) An application which does not conform to the above requirements shall be liable to be summarily rejected.

(4) On receipt of the stay application, a notice along with the copy of the stay application shall be sent to the Commissioner and the stay application shall be disposed of by the Tribunal after affording the Commissioner an opportunity of being heard.

**29. Modes of services :-**

Modes of service of notices shall be the same as prescribed in rule 46 of the Rules.

**30. Payment of fees :-**

(1) The fees of fifty rupees prescribed under sub-section (4) of section 43 and under sub-section (1) of section 45 shall be payable in the form of court-fee stamps.

(2) Fees payable in respect of other applications to the Tribunal shall be the same as prescribed in rule 49 of the Rules and shall be payable in the form of court-fee stamps.

**31. Supply of copies of orders to the parties :-**

A copy of every order of the Tribunal shall be served on the parties by the Registrar as soon as practicable.

**32. Copies of documents of payment of fees :-**

(1) Any party to the appeal or application before the Tribunal may apply to the Registrar for certified copy of any order of the Tribunal or document filed before the Tribunal in an appeal or application to which he was a party.

(2) Procedure and payment of fees for obtaining certified copy shall be the same as prescribed in rule 50 of the Rules.

(3) The amount calculated according to the scale prescribed in rule 50 of the Rules shall be retained by the Registrar as copying fees and the surplus amount, if any, deposited by the party shall be refunded to him at the time of supplying the copy :

Provided that the party shall, if the amount deposited by him is not sufficient to cover the copying fees, pay the deficit before taking delivery of the copy.

(4) If the Registrar feels any doubt about the propriety of granting a copy of any such documents, he shall place the application before the Tribunal for orders.

(5) Persons who are not parties to an appeal or application may be supplied with the copy of such documents only under the orders of the Tribunal and on payment of the copying fees.

(6) All copies shall be certified by the Registrar.

**33. Fees for inspection of records :-**

(1) Fees for inspection of records and registers of the Tribunal shall be the same as prescribed in rule SO of the Rules.

(2) An inspection shall be allowed only in the presence of the Registrar or any other officer authorised by him in this behalf, and copies of documents shall not be allowed to be taken, but notes of the inspection may be made.

**34. What to accompany the statement of the case :-**

(1) In respect of applications for reference to the High Court, the Tribunal shall append to the statement of the case, the documents which in its opinion, should form part of the case. Within such time, after the statement of the case is drawn up, as the Tribunal may direct, the applicant of the respondent, as the case may be, shall file as many certified copies of the documents, which form annexures, to the case as the Tribunal may direct, and in case the party responsible for filing defaults, the Tribunal may send the statement to the High Court without annexures.

(2) The order on the application for reference shall be communicated to the assessee and the Commissioner.