

## **Gujarat Sales Tax Rules, 1970**

### CONTENTS

#### **CHAPTER 1 :- PRELIMINARY**

1. Short title
2. Definitions
3. Processes not included in "manufacture"
4. Goods returned to a dealer

#### **CHAPTER 2 :- SALES TAX AUTHORITIES AND TRIBUNAL**

5. Sub-ordination of Officers
6. Qualification of members of Tribunal and terms of office
- 6A. Qualifications of members of Settlement Commission etc

#### **CHAPTER 3 :-REGISTRATIONS,LICENCES, RECOGNITIONS AND PERMITS**

7. Application for registration of dealer liable to pay tax under the act
8. Application for Voluntary registration
- 8A. Furnishing of security
9. Grant of or endorsement on certificate of registration
10. Exhibition of certificate of registration
11. Cancellation of certificate of registration or endorsement thereon
- 11AA. The notice for Cancellation of registration under section 30AA shall be in form 3AA
- 11AB. Publication of details of cancellation of registration of certificates
- 11A. Application for fresh registration
- 11B. Fresh Certificate of registration (w.e.f 8-11-76)
12. Application for Licence, Recognition or Permit
13. Application for substitution of Licence and the period of expiry of Authorisation deemed as Licence
14. Further requirements for grant of a Licence
15. Grant of Licence, Recognition or Permit
16. Submission of specimens of signature
17. Nomination of persns by Licenced dealers, etc
18. Maintenance of certain registers by Licenced dealers and Commission Agents holding Permits
19. Surrender of Licence, etc., or suspension or cancellations thereof
20. Declaration under section 60

21. Information under section 38

21A. Amendment in the Certificate of Registration on changing the place of business

21B. Declaration under section 60-A of the Gujarat Sales Tax Act, 1969

22. Additional copies of Certificate of Registration etc

23. Production of Certificate of Registration etc

24. Form of certificate under section 4,12,13

24A. Authority from which the forms prescribed under the rule 24A (or the notification issued under sub-section(2) of section 49) may be obtained the use, custody and maintenance of records of such forms and matters incidental thereto.

24B. Conditions to be fulfilled for obtaining from the registering I authority books containing forms prescribed under Rule 24

#### **CHAPTER 4 :- Returns and Declarations**

25. Submission of returns and declarations

26. Special provisions for return and declaration in certain cases.

26A. Special provision for declaration, where the tax is deducted at source in accordance with section 57B

27. Consolidated returns

27-A. Accompaniment of chalan to return or declaration.

28. Form of service of notice under sub-section (2) of sec. 40.

29. Returns

30. Exemption from furnishing of returns or declarations

#### **CHAPTER 5 :-PAYMENT OF TAX, INTEREST, PENALTY OR COMPOSITION MONEY**

31. Time for payment

32. Method of payment

32A. Deduction at source

33. Notice for payment of tax.

33A. Application for permission to pay composition in lieu of tax:

33B. Application for permission to pay composition under section 55B.

33C. Composition in lieu of tax on sale of lottery tickets, (inserted from 3-4-97)

#### **CHAPTER 6 :- ASSESSMENT OF TAX AND PENALTY**

34. Notice under sub-section (3) of section 41.

35. Notice under sub-section (5) and (6) of section 41. or under sec. 41B

36. Notice under section 44, 45 or 46

36A. Form of application to be made by a dealer under section 44-A.

37. Order of Assessment

37 A. Conditions subject to which Commissioner may grant extension

- 37-B. Conditions subject to which Commissioner may allow deemed assessment under the third proviso to sub-section (3) of section 41.
38. .
39. Supply of copy of order of assessment
- 39A. Form of communication of draft order under sub-section (1) or (2) Section 46A and manner of service of such order on a dealer.
40. Assessment case record.

## **CHAPTER 7 :- GRANT OF DRAW BACK SET-OFF AND REFUND**

41. Draw back. set off or refund of tax on the goods purchased by a licenced dealer against Form 17B and held by him in stock as on 31st March. 1992.
42. Drawback, set off, or refund of tax for the goods purchased by amanufacturer.
- 42D. Drawback, set-off refund of tax for goods purchased by a specified manufacturer commissioning a New Small Scale Industry.
- 42-E. Drawback, set off or refund of purchase Tax under section 15B
- 42F. Drawback, set off or refund of the tax paid in respect of the goods described in entry at Sr. No. 5 of Schedule II, Part A of the Act, held in stock as on 7th June, 1992
- 42G. Drawback, set off or refund of the tax paid by a manufacturer of the goods described in entry-5 of Schedule-11 Part-A of the Act.
- 42H. Set off of the tax paid by a manufacturer of refined cottonsed oil
43. Drawback, set-off or rfund of general sales tax for the goods purchased by a Licenced dealer on or after the appointed day.
44. Drawback, set off or refund of tax for the purchases of goods sold in the course of inter State trade or commerce, or of export out of the territory of India or transported to a place outside the State of Gujarat.
- 44A. .
- 44B. Set off of tax for the purchases of goods by a dealer referred to in sub-clause (h) of clause (10) of section 2
45. Refund of tax for the purchase of declared goods sold in the course of inter-State trade or commerce.
46. Drawback, set-off etc. to a successor or a transferee.
47. General conditions for grant of drawback, set-off or refund.
- 47A. Computation of additional tax under Section 4A for the purpose of drawback, set-off and refund
48. Further conditions in respect of adjustment of drawback, set off etc. in certain circumstances.
49. Remission of tax in cases of loss due to calamities etc.
50. Reduction of sale price for levy of tax
- 50A. Reduction of sale price for levy of turnover tax. (Deleted w.e.f. 3-4-97)
51. Order sanctioning refund.
52. Refund according to revised returns 2[or declaration].
- 52A. adjustment of excess payment for tax, in a quarter of the

same year.]

53. Refund payment Order.

54. Refund Adjustment Order

55. Cancellation of Refund Adjustment Order

56. Order sanctioning interest on delayed refunds

57. Interest payment order

## **CHAPTER 8 :- BILLS AND MEMORANDUM**

58. Particulars to be specified in bill or cash memorandum

## **CHAPTER 9 :- INSPECTION OF ACCOUNTS**

59. Period for Preservation of account books, etc.

60. Notice for production of accounts, documents etc.

61. Notice of Inspection

62. Retention of books of accounts, registers and documents seized.

## **CHAPTER 9A :- ADMINISTRATION OF CHECK-POST ETC (R62-A)**

62A. Declaration under sub-section (3) of section 59A.

62AA. PROCEDURE FOR TRANSIT PASS

62AAA. Declaration under section 59AAA

## **CHAPTER 9B :- SETTLEMENT OF CASES**

62B. .

## **CHAPTER 10 :- APPEALS AND REVISIONS**

63. Submission of appeal or application for revision

64. Furnishing of security

65. Summary rejections

66. Hearing

67. Notice to person likely to be affected adversely

68. Supply of copy of order to the appellant or applicant and to the officer concerned

69. Notice for rectification of mistake

70. Fees

## **CHAPTER 11 :- SALES TAX PRACTITIONERS AND AGENTS**

71. Qualifications of Sales Tax Practitioners

72. Forms of authority under section 83

73. Authority of agent to continue

## **CHAPTER 12 :- SERVICE OF NOTICE**

74. Notice

## **CHAPTER 13 :- COPIES OF DOCUMENTS, STATEMENTS AND ORDERS**

775. Application for copies of documents

#### **CHAPTER 14 :- OFFENCE AND COMPOSITION**

76. Order accepting composition money

#### **CHAPTER 15 :-EXEMPTIONFROM TAX ON THE SALES OF THE PRODUCTS OF VILLAGE INDUSTRIES**

77. Manner of grant of exemption

#### **CHAPTER 16 :- OFFENCE AND PENALTY**

78. Offence and penalty for breach of rules.

### **Gujarat Sales Tax Rules, 1970**

In exercise of the powers conferred by section 86 of the Gujarat Sales Tax Act, 1969 (Guj. 1 of 1970) the Government of Gujarat hereby makes the following rules, the same having been previously published under Government Notification, Finance Department NO. (GHN-621) GSR-1070/TH, dated the 20th March 1970, namely :

#### CHAPTER 1 PRELIMINARY

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

These rules may be called the Gujarat Sales Tax Rules, 1970.

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

In these rules, unless the Context otherwise requires-

(a) "the Act" means the Gujarat Sales Tax Act, 1969 (Guj. 1 of 1970);

(e) "Form" means form appended to these rules;

(f) "Government" or "the Government" when referred to as a dealer shall mean any State Government or the Central Government as the case may be;

Provided that when the accounting year which is other than the financial year, consists of an additional month, whether known by name of Adhik Mas or any other name, the particular quarter comprised of such additional month shall consist of four months;

##### **3. Processes not included in "manufacture" :-**

For the purposes of clause (16) of section 2 , "manufacture" shall not include the following manufactures and manufacturing processes, namely;

- (i) The dyeing, bleaching or printing of all kinds of cotton, rayon, artificial silk, pure silk or woolen textile or handloom fabrics;
- (ii) the decorticating, colouring, scenting, boiling, cutting, crushing or roasting of betel nuts;
- (iii) the Colouring of cardamom;
- (iv) the roasting or grinding of coffee seeds;
- (v) the blending of different varieties of tea;
- (vi) conversion of milk into Khoa;
- (viii) the dispensing of medicines;
- (x) the cutting of paper from reels into reams and the ruling of papers;
- (xi) the recovering of jewels and other components from old jewellery and ornaments;
- (xii) the preparing from betel leaves, of pan, tambul, uida or patti;
- (xiii) the grinding of chillies, turmeric or other condiments and the grinding of masala and its ingredients and the mixing or blending of condiments and spices;
- (xiv) the preparing of butter from cream or ghee from butter or cream without use of power;
- (xv) the rolling of bidis by hand;
- (xvi) any activity carried out in relation to goods specified in any entry in Schedule I as a result of which the resultant product is not taken out from Schedule I;
- (xix) Parching, roasting or salting (with or without adding turmeric) groundnut seeds or groundnut;
- (xx) the cutting of glass into sizes;
- (xxi) the charging of electric batteries;
- (xxii) the threading of iron pipes including galvanised pipes;
- (xxiii) repolishing of furniture;
- (xxiv) repolishing of utensils excluding electroplating thereof;
- (xxv) embroidery or decorating on cotton fabrics;

#### **4. Goods returned to a dealer :-**

The period for the return of goods for the purposes of clauses (35) and (36) of section 2 shall be six months from the date of purchase or as the case may be, sale;

Provided that, if in any particular case the Commissioner is satisfied that the purchaser could not return the goods within the said period on account of circumstances beyond his control, the Commissioner may, in such a case, extend the said period by a further period not exceeding three months;

Provided further that, in the case of gramophone records sold by a manufacturing or importing dealer who is liable to pay tax on his sale of record, the period for return of the records for the purpose of the said clause, shall be one year from the date of their purchase.

#### **CHAPTER 2**

#### **SALES TAX AUTHORITIES AND TRIBUNAL**

#### **5. Sub-ordination of Officers :-**

**1** [For the purpose of sub-section (8) of section 27 the sub-ordination of the officers and persons shall be as follows, namely:

(a) a Deputy Commissioner shall be sub ordinate to an Additional Commis- sioner and a special Commissioner.

(b) and Assistant Commissioner shall be sub ordinate to a Deputy Commis- sioner, an Additional Commissioner and a Special Commissioner.

(c) a Sales Tax Officer shall be sub ordinate to an Assistant Commissioner, a Deputy Commissioner, and Additional Commissioner, and a Special Commissioner; and

1. This Sub-rule was inserted by G.N.FD. No.(GHN-78) GSR 1985/(45) - TH dt. 4.9.85

#### **6. Qualification of members of Tribunal and terms of office :-**

(2) A member of the Tribunal shall, on the expiry of his term of office, be eligible for re-appointment.

(3) A member of the Tribunal may at any time by writing under his hand addressed to the State Government resign his office, and his resignation shall take effect from the date on which it is accepted.

## **6A. Qualifications of members of Settlement Commission etc :-**

### **CHAPTER 3**

#### **REGISTRATIONS, LICENCES, RECOGNITIONS AND PERMITS**

## **7. Application for registration of dealer liable to pay tax under the act :-**

(6) The person signing and verifying an application for registration shall specify the capacity in which he does so, and shall wherever possible, give particulars of the authority vested in him for signing and verifying the application.

(7) In the case of a business carried on by an individual a firm, a Hindu undivided family or other unincorporated association of individuals, the name and permanent residential address of such individual, each of the partners of the firm, members of the family or as the case may be, members of the managing committee of the association, and of persons having any interest in the business, shall be stated in the application for registration.

Provided that in respect of a partnership firm, the application shall be accompanied by two copies of recent photographs of the passport size of all the partners of a partnership firm duly attested by a Gazetted Officer or a Sales Tax practitioner whose name has been entered in the list in Form 51 maintained by the Commissioner or an Advocate

## **8. Application for Voluntary registration :-**

The application for Voluntary registration under sub-section (1) of Section 30 shall be made in form 1 to the registering authority and all other provisions in sub-rules (3) to (10) of Rule 7 shall apply thereto.]

## **8A. Furnishing of security :-**

**1**

(3) Where the bank guarantee furnished by the dealer is for a specified period the dealer shall furnish a fresh bank guarantee or any other security specified in sub-rule (1) before the expiry of the said bank guarantee.]

1. This Proviso was inserted by G.N.F.D. No. (GHN-78) GSR 1985/(45) TH dt. 4.9.85

## **9. Grant of or endorsement on certificate of registration :-**



(2) Where a dealer applying for registration is a firm, Hindu undivided family, body corporate, or association of individuals or Government, the certificate of registration shall be issued in the name of such firm, family, body corporate, association or Government, as the case may be.

(5) Where the dealer has two or more places of business within the jurisdiction of the same registering authority, the registering authority shall issue free of charge to the dealer one additional copy of the certificate of registration for each additional place of business (not being merely a warehouse) specified in the application for registration.

1. This Sub-rule was inserted by G.N.FD. No.(GHN-78) GSR 1985/(45) - TH dt. 4.9.85

**10. Exhibition of certificate of registration :-**

Every registered dealer shall display conspicuously at each place of his business (not being merely a warehouse) the certificate of registration or a copy thereof.

**11. Cancellation of certificate of registration or endorsement thereon :-**

(2) If the registering authority is satisfied that the application is in order, it shall, by order in writing cancel the registration with effect from a date fixed in accordance with sub-rule (3) and shall, by a notice placed on the notice board of its office, publish the name, address and registration number of the dealer and the date from which the cancellation takes effect.

**11AA. The notice for Cancellation of registration under section 30AA shall be in form 3AA :-**

]

**11AB. Publication of details of cancellation of registration of certificates :-**

(2) The Commissioner shall publish the details, as specified in sub-rule (1), in atleast two newspapers published in the State of Gujarat and in the Official Gazette." ]

**11A. Application for fresh registration :-**

(4) The person signing and verifying an application for registration shall specify the capacity in which he does so and shall where ever possible give particulars of the authority vested in him for signing and verifying the application.

(5) In the case of a business carried on by an individual, a firm, a Hindu undivided family or other unincorporated association of individuals, the name and permanent residential address of such individual, each of the partners of the firm, members of the family or as the case may be, members of the managing committee of the association, and of persons having any interest in the business shall be stated in the application for registration.

1. This Sub-rule was inserted by G.N.FD. No.(GHN-78) GSR 1985/(45) - TH dt. 4.9.85

**11B. Fresh Certificate of registration (w.e.f 8-11-76) :-**

(1) A fresh certificate of registration shall be issued in Form 2

(2) Where a dealer applying for registration is a firm, Hindu individed family, body corporate, or association of individuals or Government, the certificate of registration shall be issued in the name of such firm, family, body corporate, association or Government, as the case may be.

(4) Where the dealer has two or more places of business within the jurisdiction of the same registering authority, the registering authority shall issue free of charge to the dealer one additional copy of the fresh certificate of registration for each additional place of business (not being merely a ware house) specified in the application for registration.

**12. Application for Licence, Recognition or Permit :-**

(2) Where the dealer making such application has more places of business than one, whether within the jurisdiction of the same registering authority or different registering authorities the application shall be with reference to all such places, and accordingly all such places shall be specified in the application.

(3) A fee of rupees one hundred shall be payable on an application under this rules. Such fee shall be paid in court fee stamps."]

**13. Application for substitution of Licence and the period of expiry of Authorisation deemed as Licence :-**

#### **14. Further requirements for grant of a Licence :-**

(2) Where a registered dealer has furnished a surety under clause (iv) of sub-rule (1) and before he has paid to the Commissioner the amount of tax (including penalty, if any) payable by him in respect of the period ending on the last day of the year following the year in which the Licence was issued to him or before the expiry of the period of thirty six months next following the date on which the Licence is granted to him whichever is earlier, the surety dies or becomes insolvent the dealer shall give intimation thereof to the Commissioner within fifteen days of the happening of the event and shall furnish a fresh surety in accordance with the provisions of clause (iv) of sub-rule (1) within a period of thirty days of the happening of such event.

#### **15. Grant of Licence, Recognition or Permit :-**

#### **16. Submission of specimens of signature :-**

A Licensed dealer, Recognised dealer or Commission Agent holding Permit shall, within fifteen days from the date on which he is granted the Licence, Recognition or as the case may be Permit, furnish to the Commissioner in Form 10, three specimens of his signature as entered by him in Licence, Recognition or Permit.

#### **17. Nomination of persons by Licenced dealers, etc :-**

(2) Where such dealer makes such nomination he shall within fifteen days from the date of such nomination send to the Commissioner an intimation in Form 11 specifying the date of such nomination, the full name and address of the person nominated and containing three specimens of the signature which such person intends to use for signing on behalf of the dealer any such certificate;

(3) If the dealer cancels any such nomination, he shall forthwith inform the Commissioner in writing the name of the person whose nomination has been cancelled and the date of such cancellation.

#### **18. Maintenance of certain registers by Licenced dealers and Commission Agents holding Permits :-**

Provided that it shall not be necessary to maintain any such register by a dealer who exclusively re-sells the goods so purchased, otherwise than in the course of inter-State trade or commerce or export out of the territory of India.

**19. Surrender of Licence, etc., or suspension or cancellations thereof :-**

(2) The dealer shall there upon surrender the Licence, Recognition or as the case may be, Permit to the Commissioner within fifteen days from the date of receipt of the copy of the order.

**20. Declaration under section 60 :-**

(3) Where any such declaration is to be revised, it shall be made in form 15 and sent to the registering authority within thirty days from the date on which the Manager or Manager previously declared are changed.

**21. Information under section 38 :-**

(2) While giving any information under sub-rule (1) the Certificate of Registration or Licence, Recognition or Permit held by the dealer, and all copies thereof shall also be delivered to the authority to whom the information is given.

(3) The authority referred to in sub-rule (1) shall unless the certificate of registration and the Licence, Recognition or Permit if any, so delivered is not cancelled by it, return the Certificate of Registration, Licence, Recognition or the Permit, to the dealer, after making therein such amendments as may be necessary in view of the information.

**21A. Amendment in the Certificate of Registration on changing the place of business :-**

**1**

(1) When the dealer holding the Certificate of registration changes his place of business which is situated within the jurisdiction of another registering authority, such dealer shall give intimation of such change in writing within sixty days from the date of change to the registering authority under whose jurisdiction his new place of business is situated and also to the registering officer under whose jurisdiction his previous place of business was situated. On receipt of such intimation necessary amendment shall be made in the certificate of registration by the registering authority within whose jurisdiction the new place of business is situated and return the Certificate of Registration to the dealer under intimation to the registering authority under whose jurisdiction the previous place of business was situated.

1. This Sub-rule was inserted by G.N.FD. No.(GHN-78) GSR 1985/(45) - TH dt. 4.9.85

**21B. Declaration under section 60-A of the Gujarat Sales Tax Act, 1969 :-**

**1**

(1) A declaration under 60-A shall be made in Form 15-A and shall be sent to the registering authority.

(3) The dealer shall file separate declaration for each place of business.]

1. This Proviso was inserted by G.N.F.D. No.(GHN-78) GSR 1985/(45) TH dt. 4.9.85

**22. Additional copies of Certificate of Registration etc :-**

(1) When a Registered dealer opens a new place of business not being merely a warehouses in addition to the place or places which were in existence at the time of his registration or at the time of issue to him of Licence, Recognition, or as the case may be Permit, the authority, issuing a Certificate of Registration, Licence, Recognition or Permit, as the case may be, shall issue free of charge an additional copy of the Certificate of registration, Licence, Recognition or as the case may be, Permit, for such place on the dealer applying for the same.

(2) A registered dealer may obtain from the registering authority a duplicate copy of a certificate of registration or of an additional copy thereof, issued to him but which is lost, destroyed or defaced, and a dealer who holds a Licence, Recognition or Permit may obtain from the authority issuing the Licence, Recognition or as the case may be, permit a duplicate copy of the Licence, Recognition or as the ase may be, permit a duplicate copy of the Licence, Recognition or as the case may be, permit or of an additional copy thereof, issued to him but which is lost, destroyed or defaced.

**23. Production of Certificate of Registration etc :-**

(1) The registering authority may by notice in writing require a registered dealer to produce before it his certificate of registration and all copies thereof, for the purpose of carrying out any amendment therein or for any other purpose under the Act.

(2) The Commissioner may by a like notice for a like purpose require a dealer holding a Licence, Recognition or Permit to produce

before him the Licence, Recognition or the Permit and all copies thereof.

(3) Every such dealer shall, within fifteen days from the date of service on him of a notice as aforesaid produced the certificate of registration Licence Recognition or as the case may be, Permit and copies thereof to the registering authority or as the case may be, the Commissioner.

**24. Form of certificate under section 4,12,13 :-**

<sup>1</sup>[xx] <sup>2</sup> [19-B and 49.]

(6) A certificate to be issued by a selling commission agent to the principal for sale of goods of the principal shall be in Form 21.

(7) A certificate to be given by the principal to the selling commission agent in respect of the mode of purchase of goods sent to the said agent for sale shall be in Form 22.

(8) A certificate to be given by the buying agent to the principal in respect of the mode of purchase of goods by him for the principal shall be in Form 23.

1. This Sub-rule was inserted by G.N.F.D. No.(GHN-78) GSR 1985/(45) - TH dt. 4.9.85

2. This Proviso was inserted by G.N.F.D. No.(GHN-78) GSR 1985/(45) TH dt. 4.9.85

**24A. Authority from which the forms prescribed under the rule 24A (or the notification issued under sub-section(2) of section 49) may be obtained the use, custody and maintenance of records of such forms and matters incidental thereto. :-**

(3) Where any of the forms of certificate obtained by a dealer under sub- rule (1) is lost, destroyed or stolen the dealer shall report the fact to the registering authority immediately.

(4) Any unsued form of certificate remaining in stock with a registered dealer, a licensed dealer or a dealer holding permit on the cancellation of his registration certificate, licence or permit shall be, within two working days of the date of cancellation, surrendered to the registering authority from whom the forms were obtained.

(5) The commissioner shall, from time to time, publish in the Official Gazette the particulars of the forms of certificate which

have been lost, destroyed, stolen or surrendered under the provisions of sub-rule (4) of this rule.

(8) Such forms shall be kept by the dealer in his own custody or in the custody of any person duly authorised by him and such dealer shall be personally responsible for the loss, destruction or theft of any such form or forms or the loss of government revenue, if any, resulting directly or indirectly from such theft or loss and the amount of such loss of government revenue shall be recoverable from the dealer as an arrears of land revenue.

(9) Where a blank or duly completed form is lost whether such loss was caused while it is in the custody of the purchasing dealer or in transit to the selling dealer, the purchasing dealer shall furnish in respect of every such form so lost, an indemnity bond, to the registering authority from whom the form was obtained for such sum as the said registering authority having regard to the circumstances of the case, fix. Such indemnity bond shall be furnished by the selling dealer to the registering authority if duly completed form received by him is lost whether such loss occurs while it is in his custody or otherwise:

Provided that where more than one form is lost, the purchasing dealer or the selling dealer as the case may be, furnish one such indemnity bond to cover all the forms so lost.

(12) The two parts of certificate in Forms mentioned in sub-rule (1) marked "second copy to be given to the officer" and "third copy to be given to the seller" shall be produced before the commissioner at the time of the assessment by the seller and the Commissioner may retain the part marked "second copy to be given to the officer" in the assessment records of the dealer.

(13) No purchaser shall give nor shall a seller accept from any purchaser any certificate in Forms mentioned in sub-rule (1), except in the form prescribed and obtained as per provisions of this rule.

**24B. Conditions to be fulfilled for obtaining from the registering authority books containing forms prescribed under Rule 24 :-**

The registering authority shall issue book containing certificates in Forms mentioned in sub-rule (1) of Rule 24A on the fulfillment of the following conditions :

(a) The application must bear the required court fee stamps.

(f) The applicant should further satisfy the Registering Authority that purchase made on the strength of the respective certificate have been accounted properly in regular books of accounts and resales of the goods purchased or sales of manufactured goods out of the goods purchased on the strength of such certificates are also accounted properly in regular books of accounts and resales of the goods purchased or sales of manufactured goods out of the goods purchased on the strength of such certificates are also accounted properly in regular books of account and tax due and payable as per the provisions for these purchase, sales and resale has been fully paid within the prescribed time limit.

#### CHAPTER 4

#### Returns and Declarations

### **25. Submission of returns and declarations :-**

**1**

(4) X X X]

1. This Proviso was inserted by G.N.F.D. No.(GHN-78) GSR 1985/(45) TH dt. 4.9.85

### **26. Special provisions for return and declaration in certain cases. :-**

**1**

1. This Sub-rule was inserted by G.N.FD. No.(GHN-78) GSR 1985/(45) - TH dt. 4.9.85

### **26A. Special provision for declaration, where the tax is deducted at source in accordance with section 57B :-**

### **27. Consolidated returns :-**

(2) If the Commissioner is satisfied that the application is in order, he may grant the dealer a permission to submit consolidated returns for such places of business and to such Sales Tax Officer as may be specified by the commissioner and there upon the dealer shall furnish consolidated return accordingly.].

### **27-A. Accompaniment of chalan to return or declaration. :-**

**1** A dealer required to furnish a return or as the case may be the declaration under rule 25, Section 26 or Section 27 shall furnish such return or as the case may be the declaration accompanied by the receipted chalan in Form 33.]



1. This Sub-rule was inserted by G.N.F.D. No.(GHN-78) GSR 1985/(45) - TH dt. 4.9.85

**28. Form of service of notice under sub-section (2) of sec. 40. :-**

The commissioner shall serve a notice under sub-section (2) of section 40 in Form 30 in the manner required under rule 74.

**29. Returns :-**

**1** [or declaration] by dealers having no fixed or regular place of business in the State. The commissioner may by an order in writing require a dealer doing the business of buying or selling goods in the State who has no fixed or regular place of business therein to submit with the return [or as the case may be declaration] for any period, all the certificates furnished to him during such period in accordance with section 12 , section 13 or section 49 and there upon such dealer shall attach to his return [or the case may be declaration] all such certificates.

1. This Proviso was inserted by G.N.F.D. No.(GHN-78) GSR 1985/(45) TH dt. 4.9.85

**30. Exemption from furnishing of returns or declarations :-**

(3) The Commissioner may, after giving the dealer reasonable opportunity of being heard, and for the reasons to be recorded in writing cancel the exemption.

(4) The exemption granted for any year may be renewed from year to year.

**CHAPTER 5**

**PAYMENT OF TAX, INTEREST, PENALTY OR COMPOSITION MONEY**

**31. Time for payment :-**

**32. Method of payment :-**

**32A. Deduction at source :-**

]

**33. Notice for payment of tax. :-**

**33A. Application for permission to pay composition in lieu of tax: :-**

**1**

(6) The dealer shall be required to file a statement in form 35C for every quarter within one month and fifteen days from the end of

the quarter to which it pertains alongwith copies of receipted challans in respect of the payments made for that particular quarter.

(8) The option exercised under this rule shall be final and is irrevocable.]

1. This Proviso was inserted by G.N.F.D. No.(GHN-78) GSR 1985/(45) TH dt. 4.9.85

**33B. Application for permission to pay composition under section 55B. :-**

**1**

(2) The Commissioner shall, after making such inquiry as he thinks fit, grant the permission in Form 35E subject to the provisions of the Act. the rules and with such conditions as he thinks fit :

Provided that such an applications shall be made within 30 days, (1) from the 1st October, 1995 in respect of the year 1995-96; (2) from the beginning of the year 1996-97 and any year thereafter.

(6) A dealer shall be required to file a statement in Form 35F for every quarter within forty five days from the end of the quarter to which it pertains alongwith copies of challans in respect of the payment made for that particular quarter.

(8) Once the option is exercised under this rule, it shall be final and irrevocable for the year for which the option is given.

1. This Sub-rule was inserted by G.N.FD. No.(GHN-78) GSR 1985/(45) - TH dt. 4.9.85

**33C. Composition in lieu of tax on sale of lottery tickets, (inserted from 3-4-97) :-**

**1**

1. This Sub-rule was inserted by G.N.FD. No.(GHN-78) GSR 1985/(45) - TH dt. 4.9.85

**CHAPTER 6**

**ASSESSMENT OF TAX AND PENALTY**

**34. Notice under sub-section (3) of section 41. :-**

The notice required by sub-section (3) of section 41 shall be in Form 36 and the date fixed for compliance with the notice shall not be earlier than fifteen days from the date of service thereof :

Provided that a date earlier than aforesaid may be fixed. If the

dealer or his agent agrees thereto in writing.

**35. Notice under sub-section (5) and (6) of section 41. or under sec. 41B :-**

The Commissioner shall, before proceeding to assess the dealer to tax under sub-section (5) or (6) of section 41 [or under sec. 41B] call upon him by a notice in Form 36 to show cause why he should not be so assessed. The date fixed for compliance with the notice shall not be earlier than fifteen days from the date of service thereof :

Provided that the date earlier than aforesaid may be fixed, if the dealer or his agent agrees thereto in writing.

**36. Notice under section 44, 45 or 46 :-**

**36A. Form of application to be made by a dealer under section 44-A. :-**

The application to be made by a dealer for re-opening of assessment under section 44A shall be in Form 38-A.] deleted w. e. f. 1-8-98

**37. Order of Assessment :-**

**37A. Conditions subject to which Commissioner may grant extension :-**

<sup>1</sup> Conditions subject to which the Commissioner may, under the first proviso to sub-section (1) of section 42 [extend] the assessment proceedings of a dealer or a class or dealers, shall be as follows, namely :-

1. This Sub-rule was inserted by G.N.FD. No.(GHN-78) GSR 1985/(45) - TH dt. 4.9.85

**37-B. Conditions subject to which Commissioner may allow deemed assessment under the third proviso to sub-section (3) of section 41. :-**

]

**38. . :-**

X X X]

**39. Supply of copy of order of assessment :-**

**39A. Form of communication of draft order under sub-section (1) or (2) Section 46A and manner of service of such order on a dealer. :-**

<sup>1</sup> The draft order proposed to be made under sub-section (1) or sub-section (2) of section 46A shall be communicated to the dealer in Form 50-A. \ Such order shall be served on the dealer either by hand delivery or by the registered post acknowledgment due. (See 46-A as deleted w.e.f. 1-4-86] deleted w. e. f. 1-8-98

1. This Proviso was inserted by G.N.F.D. No.(GHN-78) GSR 1985/(45) TH dt. 4.9.85

#### **40. Assessment case record. :-**

(1) All papers relevant to the making of an assessment in respect of a dealer shall be kept together and shall form an assessment case record.

#### **CHAPTER 7**

#### **GRANT OF DRAW BACK SET-OFF AND REFUND**

#### **41. Draw back. set off or refund of tax on the goods purchased by a licenced dealer against Form 17B and held by him in stock as on 31st March. 1992. :-**

<sup>1</sup> In assessing the tax payable by a licenced dealer (hereinafter referred to as the "assessee"), the Commissioner shall, subject to the general conditions of rule 47, and further conditions specified below grant him a draw back set off or as the case may be, refund of the whole or any part of the sales tax including additional tax thereon in respect of the purchases of goods held by him in stock on the 31st March, 1992. Conditions :

(1) The goods held shall be the goods falling in any of the entries in Schedule III as existed prior to 1st April, 1992;

Extent of draw back, set off, etc. shall be the amount calculated as under:-

(i) the amount of sales tax including additional tax thereon recovered separately under the said Act; and

(ii) the amount calculated in accordance with the formula hereunder where the amount of sales tax and additional tax there on has not been so recovered separately as per the said formula :  
Formula:  $\frac{9P}{10}$  multiplied by  $\frac{R}{100+R}$  (where "P" means the purchase price of goods and "R" means the rate of sales tax and additional tax thereon applicable to the respective goods at the relevant time of purchase thereof).

1. This Sub-rule was inserted by G.N.FD. No.(GHN-78) GSR

**42. Drawback, set off, or refund of tax for the goods purchased by a manufacturer. :-**

In assessing the tax payable by a manufacturer (hereinafter referred to as the 'assessee'), the Commissioner shall, subject to the general conditions of rule 47, and further condition specified below, grant him draw back set off or as the case may be refund, of the whole or any part of the tax in respect of the purchases of goods used by him in manufacture :- Conditions :

(4) the goods so manufactured have been sold by the assessee in the State of Gujarat or in the course of intr-State trade or commerce or of export out of the territory of India or have been transported by the assessee outside the State of Gujarat but within India, to his own place of business, or to the place of business of his agent, and sold there.

Provided that the aggregate of the amount if any, calculated in the manner prescribed herein above shall be granted to the assessee after deducting therefrom.

(i) two percent of the purchase price of the goods considered for the grant of set off in the manner prescribed above ;

(iii) four percent of the sale price of the goods which have been manufactured, where the sale of the said goods is made at any place within India but outside the State of Gujarat the goods having been transported there by the assessee to his own place of business or to the place of business of his agent.

Rule 42A : Draw back set off or refund of tax for goods purchased by a certified manufacturer establishing New Industry - Deleted w.e.f. 8-6-92

Rule 42-B Draw back set off or refund of tax for goods purchased by a specified manufacturer establishing a New small scale Industry. Deleted w.e.f. 8-6-92

Rule 42-C : Drawback set-off or refund of tax for goods purchased by a specified manufacturer who commissions a specified industry. Deleted w.e.f. 8-6- 1992.

**42D. Drawback, set-off refund of tax for goods purchased by a specified manufacturer commissioning a New Small Scale Industry. :-**

<sup>1</sup>In assessing the tax payable by a specified manufacturer (hereinafter referred to as "the assessee") who has commissioned a "New Small Scale industry" the Commissioner shall subject or the general conditions of rule 47 and further condition specified below grant him a drawback, set-off or refund of the whole or any part of the tax in respect of the purchases of machinery, raw materials, processing materials, or consumable stores used by him in the manufacture of <sup>2</sup> [goods for sale by him] which shall not take place outside the State of Gujarat, or of purchase of packing materials used by him in packing of goods so manufactured. Conditions

(1) The assessee is a Registered dealer;

(2) The assessee has obtained an eligibility certificate, from the Commissioner of Industries Gujarat State stating inter alia that the new industry has been commissioned on or after the 15 November 1979 in the designated area the population of which as ascertained at the last preceding census and notified by the State Government in the Official Gazette after such census is not more than 1,00,000.

(3) The assessee is granted a certificate, by the Commissioner of Sales Tax in this behalf.

(4) The purchases have been made during the period of two and half years from the date of commissioning of the New Small Scale Industry as certified by the Industries Commissioner in the eligibility certificate.

Extent of drawback set-off, etc. shall be the aggregate of the amounts calculated in accordance with clauses (A) and (B) hereunder :- (B) The amount of purchase tax paid or payable under section 16 . Explanation - In this rule, - TABLE NO. 1 1. (1) Sanand (2) Kalol (Part) (3) Dehgam (4) Bavaria (Part) (5) Mehmabad (6) Gandhinagar (7) Saij 2. (1) Padara (2) Karjan (3) Dabhoi (4) Waghodia 3. (1) Kathor (2) Sayan (3) Sandhner 4. (1) Sihor (Part) (2) Vartej (3) Budhel TABLE NO. II INDUSTRIES (1) Flour Mill. (2) Rice Mill (Huller type), pulse and Cereal Mill. (3) Spice Mill (4) Photographic Studios (other than Cinematographic Units). (5) Manufacture of Ice cream, Ice-candy and Ice-Fruits. (6) Laundry. (7) Tailoring (Other than manufacture of ready-made garments.) (8) Repacking of medical and toilet goods. (9) Preparation of Khari and Butter Biscuits. (10) Preparation of Khakhra and Papad. (11) Preparation of Farsan. (12) Production of fire wood and charcoal. (13) Decorticating, expelling, crushing, roasting, parching, frying of oil seeds and colouring, decolouring and scenting of oil. (14) Solvent extraction of oil from seeds and oil cakes. (15) Preparing of bread (Other than mechanised bakery).

Explanation I. An industrial undertaking the ownership of which has been transferred shall be deemed to be a New Small Scale Industry for this purpose if the transferee has made substantial additions to the fixed assets in plant and machinery which shall not be less than 75 percent of the value of the fixed assets at the time of the transfer without making allowance for depreciation.

Explanation II. A Specified Manufacturer who established a New Small Scale Industry shall be entitled to any draw back, set off, or refund of tax under this rule so long as he has not availed of the benefit under the Government scheme under which interest free loans are given to "New Small Scale Industries.

1. This Sub-rule was inserted by G.N.FD. No.(GHN-78) GSR 1985/(45) - TH dt. 4.9.85

2. This Proviso was inserted by G.N.F.D. No.(GHN-78) GSR 1985/(45) TH dt. 4.9.85

**42-E. Drawback, set off or refund of purchase Tax under section 15B :-**

<sup>1</sup>In assessing the purchase tax levied under section 15B and payable by dealer (herein after referred to as "the assessee") the Commissioner shall subject to conditions of rule 47 in so far as they apply, and further conditions specified below, grant him a drawback, set off or as the case may be refund of the whole of the purchase tax paid in respect of <sup>2</sup> purchase of goods effected on and from the 1st April, 1986] used by him, as raw materials, processing materials, or consumable stores, in the manufacture of taxable goods. Conditions

(1) The assessee is a registered dealer.

(2) The goods purchased are taxable goods other than declared goods.

(3) The said goods have been used by the assessee within the State as raw materials or processing materials or consumable stores in the manufacture of taxable goods.

1. This Sub-rule was inserted by G.N.FD. No.(GHN-78) GSR 1985/(45) - TH dt. 4.9.85

2. This Proviso was inserted by G.N.F.D. No.(GHN-78) GSR 1985/(45) TH dt. 4.9.85

**42F. Drawback, set off or refund of the tax paid in respect of the goods described in entry at Sr. No. 5 of Schedule II, Part A of the Act, held in stock as on 7th June, 1992 :-**

In assessing the tax payable by a dealer, (hereinafter referred to as "the assessee"), the Commissioner shall, subject to conditions of rule 47, and further conditions specified below, grant him a drawback, set off or as the case may be, refund of the tax paid in respect of purchases of iron and steel described in entry at Sr. No. 5 of Schedule II, Part A, held in stock by him as on 7th June, 1992. Conditions : Extent of drawback, set off, etc. shall be the amount calculated as under :-

(1) The amount of sales tax recovered separately under the Act; and

(2) The amount calculated in accordance with the formula hereunder where the amount of sales tax was not so recovered separately Formula  $\frac{9P}{10} \text{ multiplied by } \frac{R}{100+R}$  (where 'P' means purchase price and 'R' means the rate of sales tax applicable to the said goods.)

**42G. Drawback, set off or refund of the tax paid by a manufacturer of the goods described in entry-5 of Schedule-11 Part-A of the Act. :-**

<sup>1</sup>In assessing the amount of tax payable by a registered dealer (hereinafter referred to as "the assessee"), the Commissioner shall, in respect of the purchases made by the assessee on or after 1st August, 1998 of the goods specified in entry-5 of schedule-II, Part-A of the Act (hereinafter referred to as "specified goods") which are used by him in the State of Gujarat in the manufacture of the specified goods for sale within the State of Gujarat <sup>2</sup> [or in the course of inter-state trade or commerce or in the cause of export] grant him a draw-back, set-off or, as the case may be, a refund of the aggregate of the sums determined in accordance with the conditions of rule 47 and further conditions specified below : Conditions :

(2) The said goods have been used by the assessee in the State of Gujarat in the manufacture of goods described in entry 5 of Schedule-11, Part- A of the Act.

Provided further that where the process of manufacturing results in the production of the specified goods as well as goods other than specified goods, then such draw back, set-off or as the case may be, the refund shall be apportioned as between the manufacture of the specified goods and the goods other than specified goods on the basis of the purchase price of the specified goods used in the



process of manufacture and shall be allowed only to the extent to which it pertains to the specified goods manufactured and where such purchase prices are not ascertainable, the apportionment shall be on the basis of the sale prices of the manufactured goods and shall be allowed only to the extent that it pertains to the specified goods so manufactured".]

1. This Sub-rule was inserted by G.N.F.D. No.(GHN-78) GSR 1985/(45) - TH dt. 4.9.85

2. This Proviso was inserted by G.N.F.D. No.(GHN-78) GSR 1985/(45) TH dt. 4.9.85

**42H. Set off of the tax paid by a manufacturer of refined cottonseed oil :-**

In assessing the amount of tax payable by a registered dealer (hereinafter referred to as the "assessee") the Commissioner shall, in respect of the purchases made by the assessee of washed cottonseed oil, which is used by him, in the State of Gujarat in the manufacture of refined cottonseed oil for sale within the State of Gujarat or in the course of inter-state trade or commerce, grant him a set off of the aggregate of the sums determined in accordance with the conditions of Rule 47 and further conditions specified below : CONDITIONS :

(2) The said goods have been used by the assessee in the manufacture of the refined cottonseed oil in the manufacturing unit of the assessee, situated in the State of Gujarat.

(3) The refined cottonseed oil so manufactured by the assessee has been sold by him within the State of Gujarat or in the course of inter-state trade or commerce.

(4) Extent of set off shall be the amount of sales tax on the washed cottonseed oil, charged separately in the bill or invoice issued by the registered dealer who has sold the washed cottonseed oil to the assessee.]

**43. Drawback, set-off or refund of general sales tax for the goods purchased by a Licenced dealer on or after the appointed day. :-**

In assessing the general sales tax payable by a registered dealer (hereinafter referred to as the "assessee"). the Commissioner shall, subject to the general condition of rule 47 and further conditions specified below, grant him a drawback, set off or as the case may be refund, of the whole of general sales tax in respect of the goods

purchased by him on or after the appointed day :- Conditions :  
Extent of drawback, set-off etc. shall be the aggregate of the amounts, if any, calculated in accordance with clause (A) and (B) hereunder,

(A) The amount of general sales tax recovered separately, under the Act, in respect of such purchases.

(B) The amount calculated in accordance with the formula hereunder, where the amount of general sales tax has not been so recovered separately. Formula:-  $\frac{9P}{10} \times \frac{R}{R+100}$  (Where "P" means the purchase price of the goods and "R" means the rate of general sales tax applicable to the respective goods under the Act, 1959 at the relevant time of purchase thereof;)

**44. Drawback, set off or refund of tax for the purchases of goods sold in the course of inter State trade or commerce, or of export out of the territory of India or transported to a place outside the State of Gujarat. :-**

In assessing the tax payable by a Registered dealer (hereinafter referred to as the "assessee") the Commissioner shall, subject to the general conditions of rule 47, and further conditions specified below, grant him a drawback, set off or as the case may be refund, or the whole or any part of the tax in respect of the purchases of goods sold in the course of inter State trade or commerce or of export out of the territory of India or transported to a place outside the State of Gujarat. Conditions :

(1) The Assessee is a Registered dealer as defined in clause (25) of section 2 of the Act, and

Extent of Drawback, set off etc. shall be the amount calculated in accordance with clauses <sup>1</sup> [(B) and (C)] hereunder subject to the proviso ;

1. This Sub-rule was inserted by G.N.FD. No.(GHN-78) GSR 1985/(45) - TH dt. 4.9.85

**44A. . :-**

<sup>1</sup> Drawback, set-off or refund of tax for the purchases of goods, by a licenced dealer under section 12(1)(aa) or section 12(2)(aa) and sold in the course of inter-state trade or commerce, (deleted w.e.f. 1-8-98)

1. This Proviso was inserted by G.N.F.D. No.(GHN-78) GSR 1985/(45) TH dt. 4.9.85

**44B. Set off of tax for the purchases of goods by a dealer referred to in sub-clause (h) of clause (10) of section 2 :-**  
**1**

1. This Sub-rule was inserted by G.N.FD. No.(GHN-78) GSR 1985/(45) - TH dt. 4.9.85

**45. Refund of tax for the purchase of declared goods sold in the course of inter-State trade or commerce. :-**

In assessing the tax payable if any, in respect of any period by any dealer (hereinafter referred to the "assessee") the Commissioner shall subject to the general conditions of rule 47 and further conditions specified below, grant him a refund of the whole of the tax in respect of the purchases of goods, sold in the course of inter-State trade or commerce : Conditions

(2) The said goods have been sold by the assessee in the course of inter- state trade or commerce.

Extent of refund shall be the amount calculated in accordance with clauses (A) to (C) hereunder ;-

**46. Drawback, set-off etc. to a successor or a transferee. :-**

Where the business of any Registered dealer who is required to maintain a true account of purchases under clause (B) of sub-rule (1) of rule 47, is taken over by way of succession or transfer by any person in the manner described in clause (a) of sub-section (1) or in sub-section (4) of section 26, then in respect of the purchases of such goods as have been entered in the true account of purchases maintained under the said clause (B) of sub-rule 47 by such dealer and which are transferred to the successor or transferee on the date of such succession or transfer, a drawback, set off or as the case may be refund under rule 41, rule 42, rule 43, rule 44 or rule 45 shall be granted to the successor or the transferee in the same manner in which it would have been granted to the dealer himself, had there been no such succession or transfer :

Provided that such successor or transferee is a Registered dealer on the date of such succession or transfer or has applied for registration within the period specified in sub-section (6) of section 26.

**47. General conditions for grant of drawback, set-off or refund. :-**

(2) No drawback, set off or refund under these rules shall be

granted to an assessee in respect of any amount of tax recovered (whether separately or not) from him or of any tax payable by him, on the purchase of any packing materials used in the packing of any goods, which are not taxable goods.

(3) No drawback, set off or refund under these rules shall be granted to the assessee for any amount of tax in respect of the purchases of any goods held by him in stock on the appointed day, if in respect of the same purchases of goods, the assessee had become entitled to any drawback, set off, refund or remission under the Bombay Sales Tax Rules, 1959.

(5) Where the assessee is unable to identify the goods purchased with goods resold, or with the goods used in the manufacture of goods sold, it shall be presumed that goods so purchased have been resold or used in the manufacture of goods for sale, in the chronological order in which they were purchased, whether before or after the appointed day.

**47A. Computation of additional tax under Section 4A for the purpose of drawback, set-off and refund :-**

<sup>1</sup> :- For the purpose of rule 42, rule 42E, rule 43, and rule 44, the amount of sales tax or of general sales tax or, as the case may be, of purchase tax admissible for drawback, set off or refund under the respective rules shall include the amount of additional tax in relation thereto and in accordance with section 4A."

1. This Proviso was inserted by G.N.F.D. No. (GHN-78) GSR 1985/(45) TH dt. 4.9.85

**48. Further conditions in respect of adjustment of drawback, set off etc. in certain circumstances. :-**

Where a notice under sub-section (4) of section 47 of the Act or under a corresponding provision in the earlier law has been issued for the payment of any sum by an assessee who is entitled to a draw back, set off or refund under these rules, the Commissioner shall first apply the amount so due by way of drawback, set off or refund towards the recovery of the amount in respect of which such notice has been issued and shall there after grant the drawback, set-off or refund of the balance, if any, and he may also direct that the assessee shall not adjust any such drawback, set off or refund against the tax payable by him when furnishing any return [of declaration] as long as any such amount in respect of which a notice as aforesaid had been issued, remains unpaid.

#### **49. Remission of tax in cases of loss due to calamities etc.**

:-

(1) Subject to the provisions of sub-rule (2) the Commissioner may remit the whole or any part of the tax payable in respect of any period by a Registered dealer if such registered dealer has suffered financially on account of riot or any natural calamity.

(3) The Commissioner may for sufficient reasons, remit the whole or any part of the tax payable in respect of any period by any dealer, in such circumstances which the Commissioner may consider appropriate.

#### **50. Reduction of sale price for levy of tax :-**

A registered dealer may in respect of any sale on which the sales tax general sales tax [xxx] [or in respect of any specified sale on which the sales tax] is actually payable by him either -

(i) exclude the amount if any, collected by him separately by way of sales tax or general sales tax, 3[xxx] from the sale price on which tax is leviable,

#### **50A. Reduction of sale price for levy of turnover tax. (Deleted w.e.f. 3-4-97) :-**

A registered dealer may in respect any sale on which the turnover tax is payable by him either :-

(i) exclude the amount if any, collected by him separately by way of sales tax or general sales tax, from the sale price on which turnover tax is leviable, or

(ii) deduct from such price on which turnover tax is leviable, a sum calculated in accordance with the following formula, namely : Sale Price on which turnover tax is leviable multiplied by  $\frac{R}{100 + R}$  (Where "R" means the rate of tax applicable to sale of goods, that is to say, where the sale price is liable only to sales tax, the rate of sales tax or where it is liable only to general sales tax, the rate of general sales tax.)

#### **51. Order sanctioning refund. :-**

When the Commissioner is satisfied that a refund is due to any person, he shall record an order showing the amount of refund and shall communicate same to the person concerned.

#### **52. Refund according to revised returns 2[or declaration].**

:-

Where a dealer has furnished a revised return <sup>1</sup>[or as the case may be revised declaration] under sub-section (3) of section 40 and the amount of tax paid with the original return <sup>1</sup>[or declaration] already furnished exceeds the amount payable according to the revised return <sup>1</sup> [or declaration] the dealer may apply for a provisional refund of the excess and the Commissioner may sanction such refund by an order in writing :

Provided that in making such order the Commissioner may withhold one fourth part of the excess or a sum of rupees on hundred, whichever is greater :

Provided further that refund so sanctioned shall be without prejudice to any order which may be passed subsequently under section 41 or 44.

1. This Proviso was inserted by G.N.F.D. No. (GHN-78) GSR 1985/(45) TH dt. 4.9.85

**52A. adjustment of excess payment for tax, in a quarter of the same year.] :-**

Where a dealer has furnished a quarterly return according to which tax payable as per the said return is less than the tax actually paid by him for the said quarter and if the dealer desires that the payment so made in excess of the tax payable as per the said return shall be adjusted towards the tax payable as per returns of the subsequent quarter, he may make such adjustment in the return of the subsequent quarter in the same year."

**53. Refund payment Order. :-**

When an order for refund has been made under rule 51 or rule 52 the Commissioner shall, if the applicant desires payment in cash issue to him a Refund Payment Order in Form 42 and simultaneously forward a copy thereof to the Treasury Officer concerned or the concerned branch of the State Bank of India or the concerned branch of the State Bank of Saurashtra.

**54. Refund Adjustment Order :-**

If the applicants desires payment by adjustment against and amount payable by him, the Commissioner shall make out a Refund Adjustment Order in Form 43 authorising the applicant to adjust the sum to be refunded against any amount payable by him in respect of the period for which a return [or as the case may be declaration] is to be furnished under rule 25 and during which the refund is sanctioned or any subsequent period or payable under

any notice under sub-section (4) of section 47.

**55. Cancellation of Refund Adjustment Order :-**

When the Refund Adjustment Order is furnished with the return or as the case may be, declaration submitted under sub-rule (1) of rule 25 the Commissioner shall cancel his own copy as well as the refundee's copy of the Refund Adjustment Order.

**56. Order sanctioning interest on delayed refunds :-**

Where upon an application by any person claiming interest on any delayed refund or otherwise, the Commissioner is satisfied that such interest is due and payable to the applicant or any person under section 54, the Commissioner shall record an order specifying therein the amount of refund the payment of which is delayed, the period of delay for which interest is payable and the amount of interest payable by the State Government therefor and shall communicate the same to the applicant or person concerned.

**57. Interest payment order :-**

When an order for payment of interest on any delayed refund has been made under rule 56, the Commissioner shall issue to the applicant or person concerned, an interest payment order in Form 44, and simultaneously forward a copy thereof to the Treasury Officer concerned or the concerned branch of the State Bank of India or the concerned branch of the State Bank of Saurashtra.

CHAPTER 8

BILLS AND MEMORANDUM

**58. Particulars to be specified in bill or cash memorandum :-**

Every dealer who is required by section 57 to issue a bill or cash memorandum in respect of goods sold by him, shall specify in the bill or cash memorandum issued by him, the full name and style of his business, the address of his place of business and the number of his certificate of registration together with the date of effect thereof, and the number of his Licence, Recognition or Permit (if any), the particulars of the goods sold and the sale price thereof; and where the sale price is not less than Rs. 500, the dealer shall also enter in the bill or cash memorandum the full name and the style of business, if any, of the buyer, and his address and the, number of certificate or registration held by him, if any.

CHAPTER 9

INSPECTION OF ACCOUNTS

**59. Period for Preservation of account books, etc. :-**

Every Registered dealer and every dealer on whom a notice has been served under sub-section (2) of section 40 or sub-section (1) of section 58 shall preserve all books of accounts, registers and other documents including bills, cash memorandum, invoices, vouchers and other documents relating to the stocks, purchases, despatches and deliveries of goods till the assessment for the relevant period is duly completed in accordance with the provisions of section 41.

**60. Notice for production of accounts, documents etc. :-**

Where the Commissioner requires any dealer to produce any accounts or documents or to furnish any information under section 59 he shall issue a notice therefor, in Form 45.

**61. Notice of Inspection :-**

Unless the Commissioner desires to make surprise visit, he shall give a notice in writing to the dealer of his intention to inspect the accounts, registers, documents or stocks of goods and in specifying the date, time and place for the purpose shall, as far as possible, have, due regard to the convenience of the dealer.

**62. Retention of books of accounts, registers and documents seized. :-**

If the Commissioner including and Officer below the rank of Commissioner who has been delegated powers of the Commissioner under section 59 seizes any books of accounts, registers or documents or any materials of any dealer under section 59 he shall not retain them for more than twenty one days without recording his reasons in writing for so doing :

Provided that such longer period as specified in items (i) and (ii) above, shall not be more than six months at a time.

**CHAPTER 9A**

**ADMINISTRATION OF CHECK-POST ETC (R62-A)**

**62A. Declaration under sub-section (3) of section 59A. :-**

(3) Notwithstanding anything contained in sub-rule (1), if a registered dealer imports any specified goods for sale, use in manufacture or processing of goods for sale or for sale by way of execution of a works contract or receives any specified goods consigned to him from outside the State for the aforesaid purpose, he shall make and furnish or cause to be furnished, a declaration in



Form 45C. The counterfoil of the declaration shall be retained by such dealer and portion thereof marked original and duplicate shall be produced before the Officer-in-charge of the check-post who shall retain such original portion and return such duplicate portion duly sealed and signed in taken of having verified it to the person producing it. Such duplicate portion of the declaration shall then be furnished by the dealer alongwith a quarterly statement in Form 45 D to the Sales Tax Officer within whose jurisdiction he is registered;

(4) Form 45C may be obtained by the Registered dealer or any person duly authorised by him from the registering authority. The Forms shall be available in a book of twenty Five Certificates and a fee Rupees twenty-five (in court fee stamps) shall be charged for every book;

## **62AA. PROCEDURE FOR TRANSIT PASS :-**

**1**

(1) The driver or the person in charge of a goods vehicle shall, in order to obtain a transit pass under section 59AA, submit an application, in triplicate, in Form 45E to the officer-in-charge of the check-post or barrier, if any, established near the point of entry into the state of the first check-post or barrier, after his entry into the State (hereinafter referred to as the 'entry check post' or to any other officer empowered in this behalf, by the Commissioner.

(2) The officer-in-charge of the entry check post or such officer empowered shall, after examining the document and after making such inquiries, and after inspecting consignments and goods as he may deem necessary, issue a transit pass on the duplicate and triplicate copies of the application, retaining the original with himself, the transit pass shall specify the check-post or the barrier, (hereinafter referred to as "the exit check post)" of the State to be crossed by the vehicle, the route to be followed and the date and time upto which it should be so crossed.

4. The driver or the person-in-charge of the goods vehicle shall surrender the duplicate copy of the transit pass at the specified exit check-post and allow the officer-in-charge of the check-post to inspect the documents, consignments and goods in order to ensure that the goods being taken out of the State are the same for which transit pass had been issued, the Officer-in-charge of the exit check-post shall issue a receipt on the triplicate copy of the transit pass for the duplicate copy surrendered by the driver or the

person- in-charge of the goods vehicle.

5. The officer-in-charge of the exit check post may., for the purpose mentioned in sub-rule (4) detain, unload and search the contents of the vehicle.

6. If for any reason the transit pass issued does not specify the exit check-post of the State to be crossed and if for sufficient reasons the driver or the person-in-charge of the goods vehicle is unable to surrender the duplicate copy of such transit pass before exit from the State, the driver or the person-in charge of the goods vehicle shall cause to surrender the copy to the officer-in-charge of the entry check-post either in person or by Registered post Acknowledgement Due within seven days from the date of crossing the State limits".]

1. This Sub-rule was inserted by G.N.FD. No.(GHN-78) GSR 1985/(45) - TH dt. 4.9.85

**62AAA. Declaration under section 59AAA :-**

**1**

(2) The registered dealer shall submit a statement of import of speci- fied goods in Form 45D along with the duplicate portion of Form 45C to the Assessing Officer within fifteen days from the last day of the month.

(3) From 45C may be obtained by the importer from the Sales Tax Officer having jurisdiction, over the area within which the registered dealer carries on his business or, in case of any other person who imports the specified goods ordinarily resides. The From shall be available in a book of 25 forms and a fee of rupees twenty five(in court fee stamps) shall be charged for every such book.

1. This Sub-rule was inserted by G.N.FD. No.(GHN-78) GSR 1985/(45) - TH dt. 4.9.85

**CHAPTER 9B**

**SETTLEMENT OF CASES**

**62B. . :-**

X X X]

**CHAPTER 10**

**APPEALS AND REVISIONS**

**63. Submission of appeal or application for revision :-**

(2) The memorandum of appeal or the application for revision shall

be accompanied by either the order in original against which it is made or a duly authenticated copy thereof, unless the omission to produce such order or copy is explained at the time of the presentation of the appeal or application for revision, to the satisfaction of the appellate, or revising authority.

(3) An appeal against an order or assessment or a second appeal against such order passed in appeal, shall as far as possible be in accordance with form 46.

(4) An application for revision against any order shall as far as possible be in accordance with Form 47.

(5) The memorandum of appeal or the application for revision shall either be presented by the appellant or applicant or his agent to the appellate or revising authority or be sent to the said authority by registered post.

#### **64. Furnishing of security :-**

Every dealer required in accordance with sub-section (4) of section 65, to furnish security shall]

(i) furnish a bond executed by himself in Form 48 with one surety acceptable to the appellate authority, for such sum as the latter may determine within his discretion and the surety shall execute a bond in Form 48 or

(ii) deposit Government Securities in form of Stock Certificates or Government promissory Notes of a market value not less than the sum determined as aforesaid or National Savings Certificates, National Plan Certificate, National Plan Savings Certificates, or Treasury Savings Deposit Certificate of a face value not less than the said sum, duly endorsed in favour of the Commissioner or furnish to the Commissioner the guarantee of a Bank approved by Government agreeing to pay to the Commissioner on demand a sum not exceeding the amount determined as aforesaid as the Commissioner may certify as being due from the dealer in respect of the appeal filed by the dealer.

#### **65. Summary rejections :-**

Provided that no appeal or application for revision shall be summarily rejected under this sub-rule unless the appellant or the applicant is given reasonable opportunity to amend the memorandum of appeal :

(2) The appeal or application for revision may also be summarily rejected on the grounds other than those specified in sub-rule (1) which the appellate or revising authority may consider sufficient and which shall be reduced to writing by the appellate or revising authority :

Provided that before an order summarily rejecting an application for revision under this sub-rule is passed, the appellant or as the case may be applicant shall be given a reasonable opportunity of being heard.

#### **66. Hearing :-**

(2) If on the date and at the time fixed for hearing or on any other date or at any other time to which the hearing may be adjourned, the appellant or the applicant does not appear before the said authority either in person or through an agent, the said authority may dismiss the appeal or the application or may decide it ex-parte as it may think fit;

Provided that if, within 30 days from the date on which the appeal or application for revision was dismissed or decided ex-parte under this sub-rule, the appellant or as the case may be, the applicant makes an application to the appellate or revising authority for setting aside the order and satisfies it that the intimation of the date of hearing was not duly served on him or that he was prevented by sufficient cause from appearing when the appeal or as the case may be, application for revision was called on for hearing, the said authority shall make an order setting aside the dismissal or ex-parte decision upon such terms as it thinks fit, and shall appoint a day for proceeding with the appeal or application for revision.

#### **67. Notice to person likely to be affected adversely :-**

(1) Before an appellate or revising authority passes an order in appeal or revision which is likely to affect the appellant or applicant or any other person adversely, it shall serve on him a notice in Form 49 and shall give him a reasonable opportunity of being heard.

#### **68. Supply of copy of order to the appellant or applicant and to the officer concerned :-**

<sup>1</sup> A copy of the order passed in appeal or revision shall be furnished free of charge to the appellant or the applicant or to a person declared by him in Form 15 to be the Manager of his business or to

any other agent duly authorised by him, or to a person regularly employed by him in connection with his business or to any adult member of his family residing with him or to any other person adversely affected thereby and a copy of the order passed under clause (a) of sub-section (1) of section 67 shall be furnished free of charge to the party to such proceedings or to a person declared by him in Form 15 to be the manager of his business or to any other agent duly authorised by him or to a person regularly employed by him in connection with his business or to any adult member of his family residing with him or to a person adversely affected thereby; and another copy shall be sent to the officer whose order form the subject of the respective proceeding.]

1. This Sub-rule was inserted by G.N.FD. No.(GHN-78) GSR 1985/(45) - TH dt. 4.9.85

**69. Notice for rectification of mistake :-**

The notice required to be given under section 72 shall be in Form 50

**70. Fees :-**

(2) A uniform extra copying fee of Rs. 2 +[20] per copy shall be charged on an application for a copy required urgently.

(3) All fees payable under this rule shall be paid in court fee stamps, save for copying fees which shall be payable in cash.

CHAPTER 11

SALES TAX PRACTITIONERS AND AGENTS

**71. Qualifications of Sales Tax Practitioners :-**

**72. Forms of authority under section 83 :-**

**73. Authority of agent to continue :-**

An authority given to an agent shall continue to be valid for the purpose of appearance in proceeding in an appeal against, or an application of revision, of an order passed in the proceeding in respect of which such authority was given or in an application for reference arising out of such appeal or application for revision:

Provided further that a separate authority shall be furnished for appearance in the proceeding under different provisions of the Act, the rules, or the notification issued by or under the Act.

CHAPTER 12

SERVICE OF NOTICE

#### **74. Notice :-**

(3) When service is made by post, the service shall be deemed to be effected by properly addressing or preparing the notice and posting it by registered post with acknowledgment due. and, unless the contrary is proved, the service shall be deemed to have been effected at the time at which the notice would be delivered in the ordinary course of post.

#### **CHAPTER 13**

##### **COPIES OF DOCUMENTS, STATEMENTS AND ORDERS**

#### **775. Application for copies of documents :-**

(1) Any person who is a party to a proceeding under the Act or under these rule may apply to the appropriate authority having jurisdiction in respect of such proceeding or having the custody of the records pertaining there to, for a certified copy of a document or statement produced or filed in such proceeding or of an order passed by such authority.

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

#### **CHAPTER 14**

##### **OFFENCE AND COMPOSITION**

#### **76. Order accepting composition money :-**

(2) The Commissioner shall send a copy of such order to the person from whom the said sum is accepted by way of composition and also to the authority referred to in clause (c) of sub-rule (1).

#### **CHAPTER 15**

##### **EXEMPTION FROM TAX ON THE SALES OF THE PRODUCTS OF VILLAGE INDUSTRIES**

#### **77. Manner of grant of exemption :-**

The Commissioner shall grant a certificate of exemption from the payment of any tax in respect of any of the goods specified in <sup>1</sup> [entry 74] in Schedule I of the Act in Form 56, after taking into account the recommendations of the Gujarat Rajya Khadi and Gramodyog Board established under the Bombay Khadi and Village Industries Act, 1960 or of the Khadi and Village Industries Commission constituted under the Khadi and Village Industries Commission Act, 1956 or of the Registrar of Cooperative Societies, Gujarat State.

1. This Sub-rule was inserted by G.N.FD. No.(GHN-78) GSR 1985/(45) - TH dt. 4.9.85

CHAPTER 16

OFFENCE AND PENALTY

**78. Offence and penalty for breach of rules. :-**

A breach of any of these rules by a dealer shall be an offence under this rule and the same shall be punishable with fine which may extend to one thousand rupees and, when the offence is continuing one, with a daily fine not exceeding fifty rupees during the continuance of the offence.