

## **GUJARAT SALES TAX SETTLEMENT COMMISSION REGULATIONS, 1980**

### **CONTENTS**

#### **CHAPTER 1 :- GENERAL**

1. Short title
2. Definitions

#### **CHAPTER 2 :- SITTINGS, OFFICE HOURS AND DISTRIBUTION OF WORK**

3. Place of Sitting
4. Notice of date of hearing
5. Office hours and Court hours
6. Distribution of work

#### **CHAPTER 3 :- PRESENTATION AND REGISTRATION OF APPLICATIONS**

7. Presentation of applications
8. Registration of applications
9. Maintenance of registers
10. Calling for records
11. Interlocutory orders

#### **CHAPTER 4 :- HEARING, ADJOURNMENT AND DECISION OF ORDER**

12. Permission to appear or act through legal practitioner
13. Fixing the date for admission of application
14. Fixing the date for final hearing
15. Hearing in the absence of the parties
16. Procedure at hearing
17. Setting aside of ex parte order
18. Adjournment of hearing
19. No abatement by reason of death
20. Procedure regarding decision of Settlement Commission
21. Supply of certified copy of order

#### **CHAPTER 5 :- MISCELLANEOUS**

22. Appearance of legal practitioners
23. Seal of the Settlement Commission
24. Notices, decision etc., to be signed and sealed

- 25. Records
- 26. Functions of the Registrar
- 27. Inspection of Records
- 28. Power to Administer oath
- 29. General form of Notice
- 30. Service of notice and presumption regarding service
- 31. Power of chairman regarding procedural matters

## **GUJARAT SALES TAX SETTLEMENT COMMISSION REGULATIONS, 1980**

In exercise of the powers conferred on it by sub-section (6) of section 28-A of the Gujarat Sales Tax Act, 1969 (Guj. 1 of 1970) and with the previous sanction of the Government of Gujarat the Gujarat Sales Tax Settlement Commission hereby makes the following regulations, namely :

### CHAPTER 1 GENERAL

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

These regulations may be called The Gujarat Sales Tax Settlement Commission Regulations, 1980.

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

(2) words and expressions used but not defined in these Regulations shall have the meanings assigned to them in the Act and Rules.

### CHAPTER 2 SITTINGS, OFFICE HOURS AND DISTRIBUTION OF WORK

#### **3. Place of Sitting :-**

(1) All applications shall ordinarily be heard at the Settlement Commission's Head Quarters at Ahmedabad : Provided that the Settlement Commission may by reason of the large number of applications in respect of any area or for any other reason, hear them at any other convenient place in the State of Gujarat.

(2) Sufficient notice about the sitting of the Settlement Commission outside its Head Quarters shall be given to the parties concerned and by publication on the Notice Board of the Commission.

#### **4. Notice of date of hearing :-**

The Registrar shall, with the approval of the Chairman arrange for the sittings of the Settlement Commission for hearing the applications and publish the dates of the hearing on the Notice

Board of the Commission.

## **5. Office hours and Court hours :-**

(1) The Office of the Settlement Commission shall observe the same office hours as of the office of the Commissioner of Sales Tax and shall remain closed on such days when it remains closed, including holidays declared by the State Government for that Office, except that when the Settlement Commission is on vacation, the office shall remain open during such hours and on such days as the Chairman may notify in the Official Gazette.

(2) Court hours of the Settlement Commission shall be 11.00 A.M. to 1.30 P.M. and 2.30 P.M. to 5.00 P.M.

## **6. Distribution of work :-**

(1) For the expeditious disposal of the work before the Settlement Commission the Chairman may by a general or special order constitute benches the Settlement Commission of not less than two members in case Settlement Commission consists more than one member.

(2) The Chairman may by a general or special order allocate the work of the Settlement Commission to its various benches.

## **CHAPTER 3**

### **PRESENTATION AND REGISTRATION OF APPLICATIONS**

## **7. Presentation of applications :-**

(1) An application shall be presented in person by the applicant or by his duly appointed agent including his Legal Practitioner, to the Registrar, during Office hours.

(2) Every application shall be made in accordance with the provisions of the Act, the Rules and these Regulations.

(3) Every such application shall be written legibly in ink or typed or printed in English or Gujarati Language on a durable foolscap or other paper similar to it in size and quality and shall be in quadruplicate.

## **8. Registration of applications :-**

(1) On receipt of an application the Registrar shall endorse on it the date of its receipt. The Registrar shall as soon as possible examine it. On satisfying himself that it is made within the prescribed time,

if any, and that it conforms to all the provisions of the Act, the rules and these regulations, he shall cause it to be registered in the appropriate register maintained under these Regulations.

(2) If the Registrar finds that the application does not conform to any of the said provisions, he shall make a note on the application to that effect and shall call upon the applicant or his legal practitioner or agent by a notice in Form A to remedy the defects within a period of 10(ten) days.

(3) If the party concerned or his legal practitioner or agent fails to remedy the defects within the said period, the Registrar shall report to the Chairman, and with his approval, fix a date for hearing, of which notice shall be given to the applicant or his legal practitioner or agent.

(4) On the date so fixed the Settlement Commission shall hear the party or his legal' practitioner or agent and pass orders directing that the application be registered or be rejected. The Settlement Commission shall record its reason for rejecting it.

(5) When an application has been ordered to be registered under this regulation, the Registrar shall ensure that it is registered immediately and in any case not later than 5 (five) days from the date of the order requiring to be registered.

#### **9. Maintenance of registers :-**

The Registrar shall maintain separate registers for

(i) application under Section 61B in Form B; and

#### **10. Calling for records :-**

When an application is registered, under regulation 9, the Registrar shall as soon as possible write to the Sales Tax Authority or Tribunal to send the record of the case or of appeal or both to the Settlement Commission.

#### **11. Interlocutory orders :-**

(1) Pending a decision on an application, the Settlement Commission may after giving the Commissioner an opportunity of being heard, issue interlocutory orders.

#### **CHAPTER 4**

#### **HEARING, ADJOURNMENT AND DECISION OF ORDER**

#### **12. Permission to appear or act through legal practitioner :-**

The Settlement Commission may permit any party to appear or act through a legal practitioner.

**13. Fixing the date for admission of application :-**

The Registrar shall, with the approval of the Settlement Commission, by a notice in Form D, fix a date for preliminary hearing of the parties to decide whether the application should be allowed to be proceeded with or to reject it under section 61C.

**14. Fixing the date for final hearing :-**

In case an application is allowed to be proceeded with under sub-section (1) of section 61C the Registrar shall, with the approval of the Settlement Commission, by a notice in Form D, fix the case for final hearing after the records and the report of the Commissioner, if called for under sub-section (3) of section 61C, are received. The notice of such hearing shall be delivered or served on the parties, their agents, legal practitioners or representatives.

**15. Hearing in the absence of the parties :-**

On the date specified in the notice or on any subsequent date to which the hearing may be adjourned, the Settlement Commission shall hear and decide the application even if either or both parties concerned do not appear in person or through their agents or legal practitioner on such dates.

**16. Procedure at hearing :-**

On the date fixed or any other day to which the bearing may be adjourned, the applicant or his agent shall ordinarily be heard first in support of his application. The Commissioner or his agent or representative shall be heard next and the applicant or his agent shall be entitled to reply.

**17. Setting aside of exparte order :-**

If any of the parties was absent on the date of hearing and the application was heard and decided exparte, the party concerned may apply within 30 days from the date of order of the Settlement Commission, for setting aside the order so passed exparte. If the party concerned satisfies the Settlement Commission that he had no notice of the date of hearing or that he was prevented by sufficient cause from appearing when the application was called for hearing, the Settlement Commission may set aside its order passed exparte, and pass such orders as may be deemed just and proper but only after giving a notice to the other side and an opportunity of being heard why such exparte order should not be set aside.

### **18. Adjournment of hearing :-**

(1) The Settlement Commission on an application giving the grounds for adjournment may for sufficient reason, adjourn at any stage, the hearing of any application on such terms as it thinks fit: Provided the hearing may also for sufficient reasons be adjourned suo moto by the Settlement Commission on such terms as may be deemed fit.

(2) Save otherwise provided, the Registrar may postpone the hearing of the application if notice of hearing has not been served on either party: Provided that the other party to the application shall also be informed by the Registrar of such postponed hearing.

### **19. No abatement by reason of death :-**

The death of an applicant shall not result in the dismissal or abatement of the application, but the Settlement Commission shall proceed to decide the matter on the material available on the record after issue of notice on persons liable in respect of the subject matter under the Act if the death is notified to the Settlement Commission.

### **20. Procedure regarding decision of Settlement Commission :-**

(1) Where a bench of the Settlement Commission consists of two or even number of members and the members are equally divided and are not able to come to agreement and if the Chairman is one of the members of such bench, his opinion shall prevail.

(2) Where the bench consists of two or even number of members and the members of the bench are equally divided and are not able to come to agreement and the Chairman is not one of the members of such bench the case shall be referred to the Chairman who may refer the case to another member or to himself and the decision of such another member or Chairman shall operate as the decision of the Settlement Commission.

(3) In cases of difference of opinion as is referred to in sub-regulations (1) and (2) above each member shall write his opinion and conclusion with reasons.

### **21. Supply of certified copy of order :-**

Certified copy of every order under sub-section (1) or (4) of section 61C of the Act shall be supplied or be sent to the applicant and the

Commissioner free of cost.

## CHAPTER 5

### MISCELLANEOUS

#### **22. Appearance of legal practitioners :-**

(1) When a party has been permitted by the Settlement Commission to appear through a legal practitioner such legal practitioner shall accept service of all notices or orders on behalf of his client until he is discharged.

(2) If a Legal practitioner is prevented by sickness or other sufficient reason from appearing in any case, he may appoint another legal practitioner to appear act and plead on his behalf by an instrument in writing with the consent of his client.

#### **23. Seal of the Settlement Commission :-**

The Settlement Commission shall have an official Seal of its own which shall be kept in the custody of the Registrar.

#### **24. Notices, decision etc., to be signed and sealed :-**

Every notice and a certified copy of any document including the decision or order shall be signed by Registrar with the date, month and year of signing and shall be sealed with the seal of the Settlement Commission.

#### **25. Records :-**

The records of the Settlement Commission shall be kept in the custody of the Registrar.

#### **26. Functions of the Registrar :-**

The Registrar shall perform such functions as are assigned to him by these regulations or by the Chairman. The registrar shall be incharge of the office administration subject to the control and direction of the Chairman.

#### **27. Inspection of Records :-**

(2) Inspection of any record of Settlement Commission shall not be allowed by the Registrar except in the presence of an officer of the Settlement Commission.

#### **28. Power to Administer oath :-**

The Registrar shall have power to administer oath to a deponent who may have to file affidavit before the Settlement Commission.

#### **29. General form of Notice :-**

Where a form of notice for a particular purpose is not provided in these regulations, the notice shall be given in Form E with suitable modifications.

**30. Service of notice and presumption regarding service :-**

(1) The notices to the party shall be served in any of the modes provided in Chapter XII of the Gujarat Sales Tax Rules, 1970. Unless the contrary is proved, the service shall be deemed to have been effected at the time the notice would be delivered in the ordinary course of post or at the time of its delivery or tender in person to the party or his agent or legal practitioner or at the time the copy was affixed under the said rules.

**31. Power of chairman regarding procedural matters :-**

If any difficulty arises in respect of procedure to be followed by the Settlement Commission and in respect of which no provision is made in these regulations, the decision of Chairman shall be final.