

GUJARAT STATE TAX ON PROFESSIONS, TRADES, CALLINGS AND EMPLOYMENTS TRIBUNAL REGULATIONS, 1980

CONTENTS

CHAPTER 1 :- General

1. Short title
2. Date of commencement
3. Definitions

CHAPTER 2 :- Sittings and Office hours

4. Sittings of the Tribunal
5. Office hours

CHAPTER 3 :-Presentation, registration and admission of appeals and applications

6. Presentation of appeals and applications
7. Registration of appeals or applications
8. Maintenance of Registers
9. Stay of execution of order
10. Calling for the record and proceedings

CHAPTER 4 :-Hearing and disposal of appeals and applications Notice of hearing

11. 11
12. Constitution of Benches
13. Procedure of the hearing
14. Hearing in the absence of party or parties
15. Restoration of appeal or application decided under Regulation
14
16. Adjournment
17. Procedure in case of death of one of several appellants or
applicants or of the sole appellant or applicant
18. No abatement by reason of death after hearing
19. Setting aside of abatement under regulation 17
20. Determination of legal representative
21. Procedure in case of assignment
22. Procedure in case of insolvency
23. Pronouncement of judgment
24. Costs

CHAPTER 5 :- Miscellaneous

25. Senior Most Member to Perform the functions of the President
26. Functions of the Registrar
27. Seal of the Tribunal
28. Notice, judgment, etc. to be signed and sealed
29. Grant of copies
30. Inspection of record and Proceedings
31. Service of notice
32. Service of notice in general
33. Powers to administer oath
34. Tribunal to follow Provisions of Civil Procedure Code
35. Savings

GUJARAT STATE TAX ON PROFESSIONS, TRADES, CALLINGS AND EMPLOYMENTS TRIBUNAL REGULATIONS, 1980

In exercise of the powers conferred by the proviso to sub- section (2) of section 12 of the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 (President's Act No. 11 of 1976) and with the previous sanction of the Government of Gujarat, the Gujarat State Tax Tribunal hereby makes the following regulations to regulate its procedure and disposal of its business under that Act.

CHAPTER 1

General

1. Short title :-

These regulations may be called the Gujarat State Tax on /Professions, Trades, Callings and Employments Tribunal Regulations, 1980 .

2. Date of commencement :-

They shall come into force on the date on which they are published in the Official Gazette.

3. Definitions :-

In these regulations, unless the context otherwise requires

(a) "Act" means the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 ;

(b) "Authorised Agent" includes an Advocate, a Tax Consultant or a Practitioner or an Agent duly authorised by or on behalf of an appellant or an applicant or the Commissioner, as the case may be, to appear before the Tribunal on his behalf;

(c) "Commissioner" means Commissioner as defined in Section 2A of the Act;

- (d) "President" means the President of the Tribunal;
- (e) "Registrar" means the Registrar appointed to the Tribunal and includes any other person for the time being holding the charge of or discharging the functions of the Registrar;
- (f) "Rules" means the Gujarat State Tax on Professions, Trades, Callings and Employments Rules, 1976;
- (g) "Section" means section of the Act;
- (h) 'Tribunal' means the Tribunal as defined in section 2.

CHAPTER 2

Sittings and Office hours

4. Sittings of the Tribunal :-

The Tribunal shall ordinarily hold its sittings at Ahmedabad:

Provided that the President may by order direct that any matter filed or pending before it may be heard at any other convenient place in the State of Gujarat.

5. Office hours :-

Office of the Tribunal shall have the same office hours as the other Departments of the State Government and shall remain closed on Sundays and holidays declared by the State Government.

CHAPTER 3

Presentation, registration and admission of appeals and applications

6. Presentation of appeals and applications :-

(1) An appeal or application for revision, rectification or any other miscellaneous application filed before the Tribunal under the Act, shall be presented to the Registrar during office hours by the appellant or applicant, as the case may be, in person or by a duly authorised agent or shall be sent to the Registrar by Registered Post with acknowledgment due.

(2) Where an authorised agent who had not represented an appellant or an applicant before the lower authorities, presents an appeal or application to the Tribunal, it shall be accompanied by a letter or authority appointing him for that purpose.

(3)

(a) Every such appeal or application shall:- (i) if filed after the expiry of period of limitation, state the reasons why it was not filed

in time; and (ii) specify the name and address of the appellant or applicant and specify the State of Gujarat as the respondent or opponent, as the case may be;

(b) Every such appeal or application shall be accompanied by true legible copies of the orders of all the sub-ordinate authorities together with four ordinary copies thereof and of the memorandum of appeal or application filed before the Tribunal, such copies shall be tendered in five sets in the form of Paper-books, including an equal number of copies of such other documents upon which the appellant or the applicant relies. The Paper-book supplied shall be arranged in the following order: - (1) Index; (2) Memorandum of appeal or application; (3) Order complained of; (4) Orders of the lower authorities; if any, in chronological order; (5) Copies of any other documents, if any;

(c) All paper-books shall be properly stitched or bound and their pages shall be serially numbered.

7. Registration of appeals or applications :-

(1) On receipt of an appeal or an application, the Registrar shall endorse on it the date of receipt and the mode of presentation. He shall thereafter, as soon as may be, satisfy himself that;

(a) the person presenting it has an authority to do so; and

(b) it is in order in all other respects.

(2) After an appeal or application is found to be in order in all respects, the same shall be registered in the register prescribed in that behalf.

(3) If the Registrar finds any such appeal or application to be defective in any manner, he shall record or cause to be recorded the relevant objections there against and shall call upon the party concerned or his authorised agent, if any, by a notice in Form A to remedy the relevant defects within a period of fifteen days from the receipt of that notice. The Registrar may, however, for sufficient reasons, extend the above period upto 30 days, in all, in order to remedy those defects : Provided that if the defects are not removed within the said period of 30 days, in all, the Registrar shall cause the matter to be placed before the Tribunal for preliminary hearing after giving notice thereof in Form B to the party or his authorised agent.

(4) The Registrar shall cause the relevant appeal or application to be registered in the appropriate register after the above defects are remedied. (5) In case where the matter is fixed for preliminary hearing for any reason, the Tribunal may summarily reject that matter or pass suitable orders thereon, after hearing the party or his authorised agent if he appears, or in his absence if it is satisfied about the service of the notice in Form B.

8. Maintenance of Registers :-

The Registrar shall cause to be maintained separate registers for :

(i) Appeals in Form C; (ii) Applications for revision in Form D; (iii) Applications for restoration in Form B; (iv) Applications for rectification in Form F; (v) Applications for review filed under sub-section (1) of Section 15 of the Act in Form G; and (vi) Miscellaneous applications in Form H.

9. Stay of execution of order :-

(1) Pending the registration or final disposal of an appeal or application, the President or the Member authorised by the President or the Tribunal may direct execution of any order against which the appeal or application is made, to be stayed on such terms and conditions as he or it deems fit.

(2) An order made under sub-regulation (1) may be vacated by the President, the Member or the Tribunal, as the case may be, for appropriate reasons, at any time:

Provided that before any such order is vacated, notice shall be given in Form I to the party affected thereby, to show cause why it should not be vacated and after an opportunity of hearing is given to that party.

(3) Every application for stay under this regulation shall: (a) be typed and shall be given in 5 sets; (b) contain the relevant facts and grounds on which the stay is applied for; (c) state the amount of tax and penalty in dispute, if any, and the amount already paid thereagainst; (d) state where the recovery proceedings are at the relevant time.

10. Calling for the record and proceedings :-

(1) Ordinarily the Registrar shall call for the record and proceedings relating to an appeal or application filed in the Tribunal, from the Commissioner, by notice in Form J, after the same is registered in

the relevant register : Provided that the Registrar shall call for such record and proceedings at an earlier stage also, if so required by the President or the Tribunal, as the case may be.

(2) The Registrar shall return the record and proceedings to the Commissioner as soon as practicable, on disposal of the matter for or in which they were called.

CHAPTER 4

Hearing and disposal of appeals and applications Notice of hearing

11. 11 :-

(1) After an appeal or application has been registered under sub-regulation (4) of regulation 7, the same shall be fixed for regular hearing of which a notice shall be served by the Registrar to the appellant or applicant or his authorised agent as also to the respondent or the opponent or its authorised agent, as the case may be, calling upon them to appear before the Tribunal on the date and at the time and place specified therein.

(2) Notice referred to in sub-regulation (1) to the appellant or applicant or his authorised agent shall be in Form K and notice to the respondent or opponent or its authorised agent shall be in Form L.

12. Constitution of Benches :-

(1) The President shall constitute from amongst the Members of the Tribunal including himself, a Bench or Benches of one or more members to hear and dispose of any matter or matters as directed by him.

(2) The President may, as he deems fit, transfer any matter previously assigned to one Bench to any other Bench for hearing and disposal.

13. Procedure of the hearing :-

On the date fixed for hearing, the appellant or applicant or his authorised agent shall ordinarily be heard first in respect of the appeal or application. The respondent or opponent or his authorised agent shall, if necessary, be heard thereafter and in that case, the appellant or the applicant or his authorised agent shall be entitled to reply.

14. Hearing in the absence of party or parties :-

(1) If on the date fixed for hearing, the appellant or applicant does not appear either in person or through his authorised agent when the appeal or application is called out for hearing, the Tribunal may dismiss the same for default of appearance want of prosecution or may decide it on merits without or after hearing the respondent or opponent or his authorised agent, as it deems fit.

(2) If at the above hearing, the respondent or opponent does not appear through the Commissioner or his authorised agent, the Tribunal may decide the Same in his absence on merits after hearing the appellant or the applicant or his authorised agent, if present.

Provided that when the Tribunal decides an appeal or application in terms of sub-regulation (1) or (2), it shall send a copy of its order to both the parties concerned or their authorised agents, if any.

15. Restoration of appeal or application decided under Regulation 14 :-

Within thirty days from the date of the receipt of the copy of the order, of the Tribunal referred to in the proviso to Regulation 14, the party affected may apply to the Tribunal to set aside the order on the ground that it or its authorised agent was prevented by sufficient cause from appearing before it on the date of hearing. The Tribunal may pass an order to set aside its earlier order upon such terms including costs as it thinks fit, if it is satisfied about the existence of sufficient cause as pleaded by the appellant or applicant, as the case may be. In that case, the Tribunal shall restore the appeal or application to file on such terms as it deems proper and fix the same for regular hearing. Provided that the Tribunal shall not pass any such order without giving other party a reasonable opportunity of hearing in that behalf.

16. Adjournment :-

The Tribunal may at any time and at any stage and on such terms as it thinks fit, adjourn the hearing of any appeal or application before, it and of which the notice wherever necessary, shall be issued in Form I.

17. Procedure in case of death of one of several appellants or applicants or of the sole appellant or applicant :-

(1) If during the pendency of an appeal or application before the Tribunal, an appellant or an applicant dies and the same cannot be proceeded within the absence of the legal representative, the

Tribunal shall give reasonable time and opportunity to enable the legal representative to be made a party to the relevant proceedings.

(2) If the person seeking to be made a party to the proceedings in such a case, fails to take the necessary steps within a period of ninety days from the date of the death of the appellant or applicant, as the case may be, the appeal or application shall abate as regards the deceased and if he be the sole appellant or applicant, the appeal or application shall abate. In any other case, the appeal or application, as the case may be, shall be proceeded with as regards the remaining appellants or applicants who are already on record.

18. No abatement by reason of death after hearing :-

Notwithstanding anything contained in Regulation 17, there shall be no abatement by reason of death of an appellant or applicant taking place between the conclusion of the hearing of an appeal or application and the Pronouncement of the judgment of the Tribunal. In such case, the judgment may be pronounced notwithstanding the death and shall have the same force and effect as if it has been pronounced before the death took place. No legal representative need be made a party in such a case.

19. Setting aside of abatement under regulation 17 :-

Where any appeal or application has abated under Regulation 17(2), the person claiming to be the legal representative of the deceased may apply within sixty days from the date of abatement in order to have the abatement set aside and the Tribunal may set aside the abatement for sufficient reasons and on such terms as it deemed fit. Provided that an application under this regulation may be admitted after the expiry of the aforesaid period of sixty days, if the person claiming to be the legal representative satisfies the Tribunal that he had sufficient cause for not making the application within the time prescribed.

20. Determination of legal representative :-

If any question arises in any appeal or application as to whether a person is or is not the legal representative of the deceased party, the same may be determined by the Tribunal in a summary way as it thinks necessary.

21. Procedure in case of assignment :-

In any case where during the pendency of an appeal or application

before the Tribunal, the profession, trade, calling or employment of the person concerned is transferred or assigned wholly or in part to or devolves wholly or in part, upon any other person, the appeal or application may, by leave of the Tribunal, be continued by such person.

22. Procedure in case of insolvency :-

If during the pendency of an appeal or application before the Tribunal, an appellant or an applicant, as the case may be, becomes or is declared to be an insolvent and estate there of becomes vested in the assigned or the receiver, the latter, may, by leave of the Tribunal, be made a party to the appeal or application concerned.

23. Pronouncement of judgment :-

(1) After the hearing of an appeal or application is over, the Tribunal may pronounce or reserve its judgment or order or both as it thinks fit. In case the judgment and order are reserved, the date for pronouncing the judgment shall be fixed and notice thereof shall be given to the parties in Form I unless the date for that purpose is fixed in the presence of the parties.

(2) If the Tribunal thinks fit, the substance of its decision or order in intended to be given in a case may be announced in the open Court after an appeal or application is heard and the judgment may follow thereafter according to the convenience of the Tribunal.

(3) Where an appeal or application is heard by a Division Bench of the Tribunal consisting of more than two Members, in case of difference of opinion between them or any of them on any point or points, the decision of the majority shall be the decision of the Tribunal. But in that case, the dissenting Member shall also write his own judgment and order and record his opinion on the point or points on which he differs from the judgment of the majority.

(4) But in a case where an appeal or application is heard by a Division Bench consisting of only two Members and there is a difference of opinion between them on any point or points, each of them shall write his own judgment and order. In such a case, the President shall refer the matter for hearing on such point or points to the third members, if there be any, and the decision according to the majority of the Members who have heard the matter, shall be the decision of the Tribunal.

(5) But in a case covered by sub-regulation (4), where no third Member of the Tribunal is available for any reason, the decision of the President in case of difference of opinion between the two Members of the Division Bench shall be the decision of the Tribunal.

24. Costs :-

(1) Costs of an appeal or application shall be in the discretion of the Tribunal.

(2) The Registrar shall cause a bill of costs, if any, to be drawn in Form M and the same shall be attached to the judgment.

CHAPTER 5

Miscellaneous

25. Senior Most Member to Perform the functions of the President :-

The President may by order direct that in his absence on account of any reason, the other Member or the Senior Most Member of the Tribunal if there are more than two members, shall perform all or any of his duties or functions under the Act.

26. Functions of the Registrar :-

The Registrar shall perform such functions as assigned to him by or under these regulations or by the President.

27. Seal of the Tribunal :-

The Tribunal shall have an official seal which shall be kept in the custody of the Registrar.

28. Notice, judgment, etc. to be signed and sealed :-

Every notice and every certified copy of the judgment or order of the Tribunal shall be signed and dated by the Registrar and shall bear the official seal of the Tribunal.

29. Grant of copies :-

(1) Any party to an appeal or application before the Tribunal, may apply to the Registrar for a certified copy of the judgment or order of the Tribunal or of any document filed by it.

(2) The application for a certified copy and the supply thereof by the Registrar shall be regulated by the provisions contained in rule 27 of the rules.

30. Inspection of record and Proceedings :-

(1) Any appellant or applicant or his authorised agent intending to have the inspection of the relevant record or proceedings, shall make an application in writing to the Registrar stating therein the purpose for which inspections is required. Such application shall bear a Court fee stamp of Rs. 1/-.

(2) The Registrar on being satisfied with regard to the above application, shall pass an appropriate order thereon.

(3) No inspection of any record or proceedings shall be allowed except in the presence of an official of the Tribunal as nominated or directed by the Registrar for that purpose.

(4) The party or the person taking the inspection shall be liable to pay an inspection fee of Rs. 1/- per matter, per every two hours or part thereof during which the inspection is taken.

31. Service of notice :-

Any notice which is required to be served by the Tribunal upon the State Government shall be served on the Commissioner or his authorised agent.

32. Service of notice in general :-

Any notice which is required to be issued by the Tribunal under these regulations shall be served in the manner prescribed by rule 26 of the Rules.

33. Powers to administer oath :-

The Registrar shall have power to administer oath to a dependent who desires or is required to file an affidavit relating to any matter filed or pending before the Tribunal.

34. Tribunal to follow Provisions of Civil Procedure Code :-

The Tribunal shall in any matter not provided for in these regulations, follow, as far as applicable, the procedure laid down in the Code of Civil Procedure, 1908 .

35. Savings :-

Anything done or any action taken by the Tribunal till these regulations come into force, shall be deemed to have been done or taken under the Gujarat Sales Tax Tribunal Regulations, 1973 in terms of section 12(2) of the Act.