

KARNATAKA APPELLATE TRIBUNAL REGULATIONS, 1979

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SCHEDULE 1 :- SCHEDULE

KARNATAKA APPELLATE TRIBUNAL REGULATIONS, 1979

In exercise of the powers conferred by Section 15 of the Karnataka Appellate Tribunal Act, 1976 (Karnataka Act No. 10 of 1976) and with the previous sanction of the Government, the Karnataka Appellate Tribunal hereby makes the following Regulations, namely:

CHAPTER 1

General

1. . :-

(a) These Regulations may be called the Karnataka Appellate Tribunal Regulations, 1979. They shall come into force on the date of their publication in the Karnataka Gazette.

(b) From the date these Regulations came into force, the Karnataka Sales Tax Appellate Tribunal Regulations, 1967, the Karnataka Co-operative Appellate Tribunal Regulations, 1966 and the Karnataka Appellate Tribunal (Temporary) Regulations, 1976 shall stand repealed.

(c) Notwithstanding such repeal, anything done or any action taken under any provision of the repealed regulations shall be deemed to have been done or taken under the corresponding provision of these Regulations.

(d) If any difficulty arises in giving effect to these Regulations, the Chairman may by notification in the Official Gazette, pass such orders as may be necessary or expedient for removing the difficulty.

CHAPTER 2

Definitions

2. In these Regulations unless the context otherwise requires :-

(a) "Act" means the Karnataka Appellate Tribunal Act, 1976 (Karnataka Act No. 10 of 1976);

(b) "Agent" means a recognised agent as defined in Order III, Rule 2 of the Code of Civil Procedure, 1908;

(c) "Bench" means a Bench or a Full Bench constituted under the Act;

(d) "Case" means an appeal, miscellaneous application, revision, reference, review or rectification;

(e) "Certified copy" shall have the same meaning as in Section 76 of the Indian Evidence Act, 1872;

(f) "Interlocutory application" means an application made in the course and for the purpose of any case pending before the Tribunal;

(g) "Legal Representative" means a person who in Law represents the estate of a deceased person and includes any person who intermeddles with the estate of a deceased person;

(h) "Miscellaneous application" is a petition for the restoration of any case disposed of for default of appearance or non-rectification of defects or for any other reason;

(i) "Petition" means a petition for revision, review, rectification or reference and includes a miscellaneous application;

(j) "Registered Clerk" means a person registered in the Office of the Tribunal as a clerk of a pleader or a Sales Tax Practitioner or an Accountant referred to in Section 36(c) of the Karnataka Sales Tax Act, 1957;

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[(k) "Registrar" means the Registrar of the Karnataka Appellate Tribunal and includes a Deputy Registrar and an Assistant Registrar.]

(l) "State Representative" means an officer appointed by the State Government under Section 12 of the Act;

(m) "Subordinate authority" means any Court or authority whose orders or proceedings are subject to appeal or revision to the Tribunal under any law for the time being in force;

(n) "Tribunal" means the Karnataka Appellate Tribunal; and

(o) "Year" means the year commencing from the 1st of January and

ending with the 31st of December of each year.

1. Sub-regulation (k) substituted by Notification No. EST. I/CR 69/93-94, dated 17-11-1993

CHAPTER 3

Presentation of Appeals and Petitions and their Registration

3. . :-

Every Appeal or Petition shall be signed by the appellant or petitioner, as the case may be, or by his agent or pleader;

4. . :-

(a) Every appeal other than an appeal under the Karnataka Sales Tax Act, 1957, Central Sales Tax Act, 1956 ¹[the Karnataka Agricultural Income Tax Act, 1957, the Karnataka Entertainments Tax Act, 1959, the Karnataka Tax on Professions, Trades, Callings and Employment Act, 1976 and the

(i) be either typewritten or legibly written in ink, in English or in Kannada ²[properly stitched and indexed in the order of the contents indicating the page numbers];

(ii) specify the name, father's name, age, occupation and postal address of the appellant, or petitioner and of the respondent as the case may be;

(iii) state the provision of law under which it is presented;

(iv) contain a brief statement of the facts of the case ³ [and the particulars and date of the order or judgment appealed against, the file number and the authority who decided the case under appeal];

(v) state the grounds of appeal or petition and the relief claimed; and

(vi) state how the appeal or petition is in time.

(b) If the appeal or petition is filed after the expiry of the period of limitation, it shall be accompanied by an application for condonation of the delay supported by an affidavit.

1. Substituted for the words and figures "and Karnataka Agricultural Income-tax Act, 1957" by Notification No. EST I/CR/10/94-95, dated 17-1-1996

2. Inserted by Notification No. ESTI/CR/10/94-95, dated 17-1-1996

3. Inserted by Notification No. ESTI/CR/10/94-95. dated 17-1-

1996

5. . :-

(a) Every appeal or petition shall be accompanied by

(i) a copy of the judgment or order or award served on the party by the authority or a certified copy thereof in respect of which the appeal or petition has been presented;

(ii) certified copy of the judgment or order of the Tribunal in the case of a review petition;

(iii) application, if any, for condonation of delay and or stay of operation of the impugned order accompanied by an affidavit; and

(iv) as many copies of the memorandum of appeal or petition as there are respondents:

Provided that in the case of a miscellaneous application no certified copy of the impugned order need be filed.

(b) in addition to the requirements in clause (a) there shall be filed in every case ¹ [four including one for acknowledgement to the party or his Advocate or agent] paper books each containing a true copy of each of the documents mentioned in sub-clauses (i) to (iii) of clause (a).

1. Substituted for the word "three" by Notification No. EST I/CR/10/94-95, dated 17-1-1996

6. . :-

Every appeal under the provisions of the Karnataka Sales Tax Act, 1957, Central Sales Tax Act, 1956 ¹ [and the Karnataka Agricultural Income Tax Act, 1957, the Karnataka Entertainments Tax Act, 1959, the Karnataka Tax on Professions, Trades, Callings and Employment Act, 1976 and the Karnataka Tax on Entry of Goods into Local Areas for Consumption, Use or Sale therein Act, 1979] shall be in the form and manner prescribed under the relevant Rules.

1. Substituted for the words and figures "and Karnataka Agricultural Income-tax Act, 1957" by Notification No. EST I/CR/10/94-95, dated 17-1-1996

7. . :-

Every appeal or petition shall be presented to the ¹[Registrar] by the appellant or petitioner, respectively, or by his agent or pleader

in the office during office hours or sent by registered post addressed to the ² "[Registrar]. Where the appeal or petition is sent by post, it shall not be accepted unless sufficient postage has been paid.

1. Substituted for the word "Secretary" by Notification No. EST. I/CR. 69/93-94, dated 17-11-1993

2. Substituted for the word "Secretary" by Notification No. EST. I/CR. 69/93-94. dated 17-11-1993

8. . :-

When an appeal or petition is presented by a pleader in person or through his registered clerk or sent by post it shall be accompanied by a vakalath. Every such vakalath shall contain the full postal address of the pleader. When it is presented by an agent, it should be accompanied by a power of attorney appointing him as such.

9. 3. :-

(a) Immediately on receipt of the papers, the Registrar shall check or cause to be checked all the papers and the Court-fee, if any, paid thereon with reference to the list referred to and, on being satisfied that the papers and the Court-fee mentioned in the said list have actually been filled and paid, shall return one copy of the list to the party presenting the same or his Advocate duly signed by him affixing thereto the date, seal of the Tribunal containing the date of presentation of papers.

(b) On receipt of such papers, if no defects are found, the same shall, upon the orders of the Chairman, be posted for admission before a Member or Bench, by not later than 10 days from the date of its receipt.

(c) In case of receipt of appeal or petition by registered post acknowledgment due, the acknowledgement for such presentation of appeal or petition shall be the postal acknowledgement for such filing of appeal or petition (if sufficient stamps and self addressed envelope are, enclosed by the appellant or petitioner, then the due date of admission shall be communicated, which shall not be later than 15 days).

(d) In such cases, the date fixed for admission shall be the 15th day of such postal despatch of appeal or petition. If on any account, the 15th day falls on a holiday or the Tribunal does not sit for hearing, the next working day of the Tribunal shall be the date for admission.

(e) On presentation of appeal or petition as above, the Registrar shall examine or cause to be examined to see if it is filed within the time prescribed under the statute, rules or these regulations and confirms to the provisions of the relevant Act, Rules and Regulations and any other law for the time being in force applicable to such appeal or petition.

(f) If the appeal or petition is made after the expiry of the period of limitation, the Registrar shall place the same before a Member or Bench.

10. . :-

1

(a) If the Registrar finds that the proper Court-fee payable has not been paid or that papers presented to him are not in conformity with the provisions of the relevant law and these regulations, the Registrar shall return the papers to concerned party or Advocate with the list of the defects.

(b) If the returned papers are not taken by within 20 days of the returned order, the papers shall be placed before the Bench for appropriate orders.]

1. Regulation 10 substituted by Notification No. EST 1/CR/10/94-95, dated 17-1-1996

CHAPTER 4

Admission of Appeals or Petitions and issue of Stay Orders and Notices

11. . :-

1 Upon admitting the appeal or petition, the Registrar shall call for the records from the subordinate authorities within 15 days, from the date of admission. If more time is needed, the Registrar shall place the papers before the Bench seeking more time.

1. Regulation 11 substituted by Notification No. EST I/CR/10/94-95, dated 17-1-1996

12. . :-

On admission of an appeal or petition, the Member or the Bench shall fix the date of hearing, call for records ¹ [through summons and warrants] and direct issue of notice to such parties as are not present before it.

1. Inserted by Notification No. EST1/CR/109/84-85. dated 5-9-1985, w.e.f. 1-5-1986

12A. . :-

(a) Where an application is expected to be made, or has been made, in an appeal or proceeding instituted, or about to be instituted, in the tribunal, any person claiming a right to appear before the tribunal on the hearing of such application may lodge a caveat in respect thereof.

(b) Where a caveat has been lodged under sub-regulation (a), the person by whom the caveat has been lodged (hereinafter referred to as the caveator) shall serve a notice, of the caveat by registered post, acknowledgement due, on the person by whom the application has been, or is expected to be made under sub-regulation (a).

(c) Where, after a caveat has been lodged under sub-regulation (a), any application is filed in any appeal or proceedings the tribunal shall serve a notice of the application on the caveator.

(d) Where a notice of any caveat has been served on the applicant, he shall forthwith furnish the caveator, at the caveator's expense, with a copy of the application made by him and also with copies of any paper or document which has been, or may be, filed by him in support of the application.

(e) Where, a caveat has been lodged under sub-regulation (a), such caveat shall not remain in force after the expiry of ninety days from the date on which it was lodged, unless the application

13. . :-

The operation of an order appealed from or sought to be revised, shall not be stayed by reason only of an appeal or revision having been preferred from that order but, where an application has been made, the Member or a Bench may, for sufficient cause, order the stay of proceedings or operation of the impugned order.

14. . :-

An emergent order of stay may be made by a Bench or a Member and in every such case notice shall be issued to the opposite party to show cause why the order shall not be made absolute. The opposite party may- file objections or counter affidavit, if any, on or before the date of hearing of the matter. The Bench or the Member, after giving an opportunity to both the parties of being heard, shall decide the matter.

15. . :-

Orders relating to stay may be communicated by telegram at the request of a party concerned if the requisite amount is deposited by such party. A claim for refund of the excess deposit, if any, made after and expiry of thirty days from the date of deposit shall not be entertained.

16. . :-

An order granting or rejecting an application for stay passed by a Bench shall not be interfered with by a Bench consisting of lesser number of Members.

17. . :-

The notices issued to parties under these Regulations shall be served by personal delivery of a copy of the notices to the addressee or his agent after taking his signature on the original by way of acknowledgement, or by registered post acknowledgement due. An acknowledgement containing the signature of the addressee or his agent or any endorsement by the postal authorities to the effect that the notice was refused by the addressee shall, unless the contrary is proved, be deemed to be sufficient to hold that the notice was duly served.

18. . :-

Where the Tribunal is satisfied that the addressee is evading service or that it is not practicable to serve the notice in the ordinary course, it may direct that a copy of the notice shall be affixed on its Notice Board and another copy on the outer door or some other conspicuous part of the addressee's, present or last known residence or place of business and at a conspicuous place in the village or town which he last resided or carried on business or by torn torn or by publication of the notice in a newspaper which has circulation in the locality.

19. . :-

Where the Tribunal directs service of notice otherwise than by post, it may be sent for service to the subordinate authority within whose jurisdiction the party resides. Such authority shall cause the notice to be served on the party and return the same to the ¹ [Registrar] with an endorsement stating the time and the manner in which the notice was served and the name and address of the person, if any, identifying the person served and witnessing the delivery or tender of the notice.

1. Substituted for the word "Secretary" by Notification No. EST. I/CR. 69/93-94, dated 17-11-1993

20. . :-

The Tribunal may in any case direct the issue of a notice to any party at its cost if it considers desirable or necessary to do so.

21. . :-

A notice required to be served on the State shall be served on the State Representative.

22. . :-

If in the course of the proceedings the Tribunal is of the opinion that a substantial question of law is involved in any case and that it is necessary that in the interest of justice the State should be heard, a notice shall be issued to the State Representative and he shall be supplied with the copies of the memorandum of appeal or petition as the case may be, by such party as may be directed by the Tribunal.

CHAPTER 5

Payment of Process Fees

23. . :-

The process fee for the issue of notice shall be as prescribed under the Karnataka Appellate Tribunal Rules in force.

24. . :-

The process fee shall be paid in the shape of Court-fee stamps along with oblong addressed envelopes.

25. . :-

1

[(a)] Whenever the Tribunal directs the issue of fresh notice in any case, the party liable to pay the process fee shall furnish the same within ten days from the date of the order failing which the papers shall be placed before a Member or the Bench for orders. The Member or the Bench may either dismiss the appeal or petition against the respondents concerned or extend the time for payment of the process fee.

2 [(b) Interim stay or interim directions if any must be communicated without much delay, but at the cost of the party at whose instance the order or direction is issued.

(c) If the stay applications are separately moved and if additional

records are called for, additional process fee must be paid.]

1. Regulation 25 renumbered as sub-regulation (a) thereof by Notification No. EST I/CR/10/94-95, dated 17-1-1996
2. Sub-regulations (b) and (c) inserted by Notification No. EST I/CR/10/94-95, dated 17-1-1996

CHAPTER 6

Appearance of Parties and Consequences of Non-appearance

26. . :-

If, on the date fixed for hearing or any subsequent date to which the hearing may be adjourned, the appellant or petitioner does not appear either in person or by an agent or a pleader when the case is called on for hearing, the Bench may dismiss the same for default or decide it on merits after hearing the respondent, his agent or pleader if present: Provided that cases arising under the Central Sales Tax Act, 1956, Karnataka Sales Tax Act, 1957 and the Karnataka Agricultural Income Tax Act, 1967 shall always be decided on merits.

27. . :-

If, on the date fixed for hearing or any other subsequent date to which the hearing may be adjourned, the respondent does not appear in person or by his agent or pleader when the case is called on for hearing, the Bench may decide the same on merits after hearing the appellant or petitioner or his agent or pleader.

28. . :-

(a) Where a case is dismissed for default or on merits under Regulation 26, the appellant or petitioner may make a miscellaneous application to the Tribunal along with an affidavit within thirty days from the date of the order;

(b) Where a case is heard ex parte and judgment is pronounced against the respondent or opponent under Regulation 27, he may make a miscellaneous application to the Tribunal along with an affidavit within thirty days from the date of the order; and, if he satisfies the Tribunal that the notice was not duly served or that he was prevented by sufficient cause from appearing when the case was called on for hearing, the Tribunal shall after giving the appellant or petitioner an opportunity of being heard, re-hear the case on such terms as to costs or otherwise as it thinks fit:

Provided that this Regulations shall not be applicable to cases arising under the Central Sales Tax Act, 1956, Karnataka Sales Tax

Act, 1957 and the Karnataka Agricultural Income Tax Act, 1957.

29. . :-

A miscellaneous application in respect of a case decided on merit shall be dealt with in the same manner as a review petition as regards the constitution of the Bench.

30. . :-

A miscellaneous application in respect of a case disposed of otherwise than on merits may be considered by any Bench, not necessarily that which passed the original order.

31. . :-

Whenever for any reason, the cases posted before the Bench or Member cannot be heard, such cases shall be called and adjourned and the next date of hearing shall be announced in open Court by the ¹ [Registrar].

1. Substituted for the word "Secretary" by Notification No. EST. I/CR. 69/93-94, dated 17-11-1993

32. . :-

The Tribunal may, on such terms as it thinks fit, including the payment of costs, at any stage, adjourn the hearing of any case in open Court.

CHAPTER 7

Hearing and Production of Additional Evidence

33. . :-

On the day fixed for hearing or on any other day to which the hearing may be adjourned, the appellant or petitioner or his agent or pleader shall be heard in support of the appeal or petition. The respondent or his agent or pleader shall, if necessary be heard next and in such cases the appellant or petitioner or his agent or pleader shall be entitled to reply.

34. . :-

The hearing of an appeal or petition shall generally be on the entire case. However the Bench may direct the parties to address arguments in regard to limitation, maintainability or such other grounds when it considers that the matter can be disposed of on such grounds only.

35. . :-

The appellant or petitioner shall not, except by leave of the

Tribunal, urge or be heard in support of any ground of objection in an appeal or petition, not set forth in the memorandum of appeal or petition, but the Tribunal in deciding a matter before it shall not be confined to the grounds of objection set forth in the memorandum of appeal or petition or taken by leave of Court under this Regulation:

Provided that the Tribunal shall not rest its decision on any other ground of fact unless the party who may be affected thereby had sufficient opportunity of contesting the same on that ground.

36. . :-

(a) The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary; but if.

(i) the authority from whose order the appeal is preferred has refused to admit evidence which ought to have been admitted; or

(ii) the party seeking to produce additional evidence establishes that notwithstanding the exercise of due diligence such evidence was not within his knowledge or could not after exercise of due diligence be produced by him at the time when the order appealed against was passed; or

(iii) the Tribunal requires any document to be produced or any witness to be examined to enable it to pronounce judgment; or

(iv) there be any other substantial cause, the Tribunal may, after hearing the parties, allow such evidence or document to be produced or witness to be examined.

(b) A party desiring to produce additional evidence shall file an application stating the evidence proposed to be produced, supported by an affidavit giving the reasons therefor and shall serve copies of such application and affidavit on the opposite party.

(c) wherever additional evidence is allowed to be produced, the Tribunal shall record the reasons for its admission.

37. . :-

Wherever additional evidence is directed or allowed to be produced, the Tribunal may either take such evidence or direct any subordinate authority to take such evidence and to send it to the Tribunal. The Tribunal shall specify the points to which the evidence should be confined.

38. . :-

The Tribunal may, with due notice to the parties, at any stage of proceedings, inspect any property or thing concerning which any question may arise and where the Tribunal inspects any property or thing, it shall, as soon as may be practicable, make a memorandum of relevant facts observed at such inspection and such memorandum shall form part of the record.

CHAPTER 8

Parties to Proceedings

39. . :-

Where an appeal or petition has been filed in the name of a wrong person or where it is doubtful whether it has been filed in the name of a right person, the Tribunal may at any stage of the proceeding, if satisfied that the appeal or petition has been filed through a bona fide mistake and that it is necessary for the determination of the real matter in dispute so to do, order any person to be substituted or added as a party upon such terms as the Tribunal thinks just.

40. . :-

(a) The Tribunal may at any stage of the proceeding either suo motu or upon an application of either party, order that the name of any party improperly joined be struck out and that the name of any person who ought to have been joined and who or whose presence before the Tribunal may be necessary in order to enable the Tribunal effectually and completely to adjudicate upon and settle all the questions involved in the proceedings, be added.

(b) No person under any disability shall be added as a party to the proceeding without a guardian and the consent of the guardian shall be necessary before doing so.

(c) Where a respondent is added, necessary amendment shall be made in the appeal or petition and amended copies of the memorandum of appeal or petition together with notices shall be served on the new respondents and if the Tribunal thinks fit, on the original respondent.

41. . :-

Subject to the provisions of the Limitation Act, 1963 (Central Act No. 36 of 1963) the proceeding as against any person added as respondent shall be deemed to have begun only from the date of service of the notice.

42. . :-

The death of an appellant or petitioner or respondent shall not cause the proceeding to abate if the right to relief survives.

43. . :-

Applications to bring legal representatives of parties to the proceeding shall be filed within ninety days from the date of death of the party. If the application to bring the legal representatives on record is not filed within the time specified and if the Tribunal is of the opinion that the proceeding cannot be continued in the absence of the legal representatives, the appeal or petition shall abate as regards the deceased and if he is the sole appellant or petitioner, the appeal or petition shall be dismissed.

44. . :-

On the death of a respondent or opponent, if the appellant or petitioner fails to file an application to bring the legal representatives on record within the time specified above, the appeal or petition shall abate as regards the deceased respondent. If the deceased be the sole respondent then the appeal or petition shall be dismissed.

45. . :-

There shall be no abatement of the proceedings by reason of the death of either party between the conclusion of the hearing and the pronouncement of the judgment and the judgment in such cases may be pronounced notwithstanding the death and shall have the same force and effect as if it had been pronounced before the death took place.

46. . :-

Where a question arises as to whether any person is or is not legal representative of deceased party, such question shall be determined by the Tribunal.

47. . :-

(a) Any legal representative may apply within sixty days from the date of the abatement of the proceeding to set aside the abatement and the Tribunal may after hearing the opposite party set aside the abatement on sufficient cause being shown.

(b) In cases arising under the Central Sales Tax Act, 1956, the Karnataka Sales Tax Act, 1957, and the Karnataka Agricultural Income Tax Act, 1957, the legal representative of the parties to the

proceeding or the Receiver in a case where the appellant has become an insolvent and his estate has vested in him, may within sixty days from the date of communication of such order, apply to the Tribunal for setting aside the abatement and the Tribunal shall on sufficient cause being shown set aside such abatement and proceed with the case.

48. . :-

A party to a proceeding who is a minor, shall on attaining majority elect to continue the proceeding and if he so elects he shall apply for an order discharging the next friend or guardian and seek leave of the Tribunal to proceed with the proceeding in his own name.

49. . :-

(a) In cases of assignment, creation or devolution of interest during the pendency of the proceeding, such proceeding may be continued by or against the person upon whom such interest has devolved with the leave of the Tribunal.

(b) In cases arising under the Central Sales Tax Act, 1956, the Karnataka Sales Tax Act, 1957 and the Karnataka Agricultural Income Tax Act, 1957, if the business of any dealer who is a party to the proceeding is assigned or has devolved upon some other person either wholly or in part, the Tribunal may on application of such assignee or such person on whom the business devolves, add him as a party to such proceeding. If the estate of an appellant in such cases becomes vested in the Receiver on his being declared an insolvent, the Receiver with the leave of the Tribunal may be substituted as a party to the proceeding.

CHAPTER 9

Judgment and Orders

50. . :-

After the case has been heard, the Bench shall pronounce judgment or order in open Court either at once or on some future date of which notice shall be given to the parties of their pleaders. Where the judgment or order is pronounced without such prior notice, the parties or their pleaders shall be intimated.

51. . :-

The judgment shall state:

(i) the points for determination;

- (ii) the decision thereon;
- (iii) the reasons for the decision; and
- (iv) the relief granted.

It shall at the time of its pronouncement be signed and dated by the Members.

52. . :-

A judgment or order may be dictated to a stenographer or a typist or written by hand. When the judgment is dictated to a stenographer in the open court, the transcript shall be edited and signed by the Members.

53. . :-

(a) A copy of the final order or judgment passed by the Tribunal in any case shall be sent by the ¹ [Registrar] within thirty days to the officer against whose order the appeal or petition had been filed and also when so directed by the Chairman to the State Government.

(b) Every order passed under the Central Sales Tax Act, 1956, Karnataka Sales Tax Act, 1957, and the Karnataka Agricultural Income Tax Act, 1957, shall be communicated within thirty days to.

- (i) the parties concerned;
- (ii) the authority from whose order the appeal was preferred;
- (iii) the Deputy Commissioner of Commercial Taxes concerned if he is not such authority; and
- (iv) the Commissioner of Commercial Taxes.

1. Substituted for the word "Secretary" by Notification No. EST. I/CR. 69/93-94, dated 17-11-1993

54. . :-

(a) The Members of a Bench shall refer any proceeding before then; to the Chairman with a recommendation that it may be placed before a Full Bench.

- (i) when they consider that the decision which they propose to take in the proceeding involves a substantial departure from the previous decision of the Tribunal; or
- (ii) when the case involves a point of law of general importance; or

(iii) when conflicting decisions of the Tribunal are brought to their notice; or

(iv) when they differ in opinion on any point material for the decision of the case. While making the recommendation for constitution of Full Bench, the Members shall formulate the specific points for determination by the Full Bench.

(b) The Full Bench shall hear the case and either record its opinion or dispose it of, as the case may be.

(c) When any particular question or questions are referred to a Full Bench, it shall furnish its opinion on those questions to the Bench which made the reference. The Bench shall dispose of the case in conformity with such opinion.

(d) The decision of the Full Bench shall be in accordance with the opinion of the majority.

55. . :-

(a) Clerical or arithmetical mistakes in judgments or orders or errors arising therein from accidental slip or omission, may, at any time, be corrected by a Bench of the Tribunal on its own motion or on the application of any party:

Provided that the Bench before ordering such correction shall give an opportunity of being heard to the parties likely to be affected by such correction.

(b) The procedure to be followed in this behalf shall be the same as the procedure followed in respect of a review petition as regards the constitution of the Bench.

CHAPTER 10

Revision, Review and Reference

56. . :-

The Tribunal may on its own motion or on application call for records of any proceedings of any authority subordinate to it wherever the law provides for a revision of orders by the Tribunal for the purpose of satisfying itself with regard to the legality or propriety of any such order. On a perusal of the records the Tribunal may take up the case in revision and issue notice to all the parties concerned who are likely to be affected to appear before a Bench of the Tribunal for showing cause why the order should not

be varied or reversed. On the appearance of such parties and after giving reasonable opportunity of representing their case the Bench may proceed to pass such orders as it deems fit.

57. . :-

Where an application for a review is made by a party, it shall be accompanied by a copy of the order sought to be reviewed and an affidavit stating the grounds on which the review is sought. The review application shall be placed before the very Bench which passed the original order for admission. If that is not possible, it shall be posted before a Bench consisting of at least one Member who was on the original Bench. If even that is not possible it may be placed before any Bench as directed by the Chairman.

58. . :-

The Bench hearing the application for admission of a review shall not admit the application unless it is prima facie satisfied that the matter has to be reviewed. When the review petition is admitted, it shall be decided after affording an opportunity to the parties to be heard.

59. . :-

When an application is made by a party under Section 64 of the Karnataka Land Revenue Act, 1964, the Tribunal may, after hearing the party, either allow or reject the application summarily. When the application is rejected, the Tribunal shall briefly record the reasons for doing so.

CHAPTER 11

Costs

60. . :-

(a) The Bench shall have the powers to award costs of and incidental to any proceeding before it and may direct by whom such costs shall be paid. After the judgment is delivered, a memo of costs shall be prepared and annexed to the judgment or order and signed by the ¹ Registrar] and sealed with the seal of the Tribunal. Such a memo shall be conclusive evidence of the costs incurred in appeals, petitions or other proceedings.

(b) In the calculation of costs, all expenditure incurred by the successful party in taking the necessary copies required to be filed as part of the

Provided that when any Bench takes up a case in revision sou motu

and passes orders after hearing the parties concerned, no costs shall be ordered against any party:

Provided further that the provisions of this Chapter shall not be applicable to cases arising under the Central Sales Tax Act, 1956, Karnataka Sales Tax Act, 1957 and Karnataka Agricultural Income Tax Act, 1957.

1. Substituted for the word "Secretary" by Notification No. EST. I/CR. 69/93-94. dated 17-11-1993

CHAPTER 12

Limitation

61. . :-

(a) Whenever any law, under which the Tribunal exercises jurisdiction, . provides for filing of an appeal, revision or review, but does not specify the period of limitation therefor, the following periods of limitation are prescribed. 1.First appeal-sixty days 2.Second appeal-Ninety days 3.Revision-One hundred and twenty days 4.Review-Ninety days 5.For setting aside ex parte-Thirty days order

(b) The provisions of Sections 4, 5 and 12 of the Limitation Act, 1963 (Central Act No. 36 of 1963) shall apply mutatis mutandis to all appeals and petitions.

CHAPTER 13

Interlocutory Applications

62. . :-

(a) Every interlocutory application shall be indicated by the abbreviation "LA." and shall be consecutively numbered in each proceeding in which it is filed.

(b) All facts, on which an applicant relies for making the prayer or obtaining the relief sought in the application, shall be set out in an affidavit accompanying the application. Where, however, the facts on which the application is based appear from the records of the case or relate to any act or conduct of the applicant's pleader himself, the Tribunal may permit a memorandum of facts signed by the applicant's pleader to be filed instead of an affidavit.

(c) Every interlocutory application shall bear the cause title of the main matter in which it is made and shall set out the names of the applicants and the opponents and their respective ranks in the

main matter, the provision of law under which it is made and the prayer or relief sought, in clear and precise terms.

(d) The application shall be signed by the applicant or his pleader, who shall enter the date on which such signature is made and the date on which the application is made.

63. . :-

(a) Every interlocutory application shall, after presentation, be numbered and posted before the Bench for orders:

Provided that, when any party likely to be affected by it has already entered appearance by pleader, no such application shall be so posted, unless such pleader has been served with notice of the application by delivering to him a copy of the application together with a copy of the supporting affidavit or memorandum of facts and the written acknowledgement over the signature of each such pleader or his registered clerk is taken either by an endorsement on the application, or otherwise and is filed along with the application.

(b) If, however the applicant's pleader makes an endorsement on the application that such service on pleader was either refused to be accepted or could not be effected in spite of due diligence, the Bench may direct that the application be numbered and posted.

(c) Whenever it is intended to move the application as an emergent application, the copy of the application served on the opposite party or his pleader under this regulation shall contain an endorsement stating that the application is intended to be moved as an emergent application on the day specified in the endorsement.

(d) Orders on interlocutory applications recorded in the order sheet shall state the serial number of interlocutory applications.

64. . :-

There shall be a separate application in respect of each distinct prayer. When several prayers are combined in one application, the Bench may direct the applicant to confine the application only to one of such prayers and to file a separate application in respect of each of the others.

65. . :-

In the proceedings pending before the Tribunal, whenever an application is made seeking urgent orders, the Chairman may direct

that the matter may be heard and disposed of by a particular Bench.

CHAPTER 14

Affidavits

66. . :-

(a) The Tribunal may at any stage of a proceeding call for proof of any fact by an affidavit.

(b) Every affidavit for use in the Tribunal shall bear the general heading as "Before the Karnataka Appellate Tribunal, Bangalore" and shall set forth the cause title of the proceeding or matter in which it is sought to be used and, in the case of an affidavit in an interlocutory application, also the cause title of the interlocutory application.

67. . :-

An affidavit shall be confined to statements of facts and avoid arguments and when it contains statements of facts not within the declarant's personal knowledge but based on information received, by the declarant, he shall state so and shall also state that he believes them to be true and shall also give the source of such information wherever possible and the grounds of his belief, if any.

68. . :-

(a) Affidavits intended for use before the Tribunal may be made before and attested by any of the following persons.

(i) any Judicial Officer, Magistrate, or other Presiding Officer of Civil, Criminal or Revenue Court;

(ii) any Registrar or Sub-Registrar under the Indian Registration Act;

(iii) the Registrar, Deputy Registrar or Assistant Registrar of any High Court;

(iv) the Chief Ministerial Officer of any Civil Court by whatever name called including any officer in-charge of the duties of the Chief Ministerial Officer for the time being;

(v) any Notary appointed under the Notaries Act (Central Act LI11 of 1952); and

(vi) the ¹ Registrar, Deputy Registrar and Assistant Registrar]

Secretaries of the Tribunal who are hereby empowered to administer oath or solemn affirmation.

(b) The deponent of an affidavit shall sign or make his mark at the foot of every page of the affidavit and also at the end of it. The attesting officer shall authenticate every correction, alteration or interlineation by placing his initials near it and also enter at the foot of every page the number of such authenticated corrections, etc., or enter the word 'nil' if there is none and initial such entry and sign his name and enter his designation at the end of the affidavit and affix thereto his official seal or seal of his Court together with the date. The fact of the oath having been administered or the solemn affirmation having been made in his presence shall be noted by the attesting officer, before he affixes his signature.

(c) If the deponent is not personally known to the attesting officer, he shall be identified by a person known to the attesting officer and the fact of such identification together with the name and description of the person making the identification shall be noted at the end of the affidavit and the signature of such person shall be affixed. If the deponent is not known to the attesting officer or cannot be so identified, the left hand thumb impression of such deponent shall also be affixed at the end of the affidavit and be certified to be such impression by the attesting officer.

(d) If the deponent is illiterate or blind or is not acquainted with the language in which the affidavit is made or written, the affidavit shall be read out and explained to him in the language known to him in the presence of the attesting officer, who shall certify that it was so explained to him and the deponent appeared to understand the same and signed his name or made his mark in his presence.

(e) If any document is referred to in the affidavit and produced with it the attesting officer shall affix his signature to an endorsement thereon as follows. "This is the document referred to as Exhibit.....in the affidavit of..... sworn to solemnly affirmed before me this the.....day of.....19 ..".

1. Substituted for the words "Secretary and Assistant Secretaries" by Notification No. EST. I/CR. 69/93-94, dated 17-11-1993

CHAPTER 15

Transfer of Cases

69. . :-

(a) Every application made under Section 27(1) of the Karnataka Land Revenue Act, 1964 seeking transfer of any case shall be in writing and accompanied by an affidavit setting out the circumstances under which the party seeks the transfer. The application shall be placed before a Bench which may in its discretion obtain the remarks from the officer from whom the case is sought to be transferred and after hearing the applicant may summarily reject the same if it is satisfied that there are no grounds for admitting the same.

(b) If the Tribunal is of the opinion that the application has to be considered on merits, it may admit the same and after hearing the parties, including the opposite parties in the original case, may pass an order either allowing or rejecting the application.

70. . :-

If the parties to a case posted for hearing at a place other than the headquarters agree that the case be heard at the headquarters, the Chairman may, on an application made in that behalf, permit the case to be heard at the headquarters. ¹

Provided that when such an application could not be made to the Chairman, the Bench sitting at a place other than the headquarters, may on an application made in that behalf, permit the case to be heard by it at the headquarters.

1. Regulation 71 substituted by Notification No. EST I/CR/10/94-95, dated 17-1-1996

70A. . :-

¹The Chairman, suo motu or on an application made by the parties in this behalf may, if he is of the opinion that it is necessary or expedient to do so in the interest of justice transfer any case from one Bench to another]. ² Where it is just and expedient to club the cases pending in other Benches, by transfer, for disposal, the Chairman, on being satisfied that the disposal of the cases by a common judgment or order is necessary, shall order the transfer and clubbing of such cases for common disposal by any Bench as the Chairman deems necessary, on any reference made by a Bench or on the application of the party concerned.

1. Regulation 71-A inserted by GSR 192, dated 21/25-10-1991

2. Regulation 72 substituted by Notification No. EST I/CR/10/94-95, dated 17-1-1996

70B. . :-

Where an indication is made by a member or a Bench of his or its disablement to dispose of an appeal or a petition, in such cases a note shall be placed before the Chairman to transfer that appeal or petition to any other before any Bench for disposal, by withdrawal from any fit.

70C. . :-

On the application of any of the party, the Chairman may at any stage transfer any appeal or petition before any Bench for disposal, by withdrawal from any Bench.

CHAPTER 16

Grant of Certified Copies

71. . :-

¹ (a) Parties to a proceeding before the Tribunal shall be entitled, as of right, to apply for and receive certified copies of all pleadings, judgments or orders and all documents and depositions of witnesses made or exhibited or referred to in the judgments or the said proceedings and the proceedings before the lower authorities.

(b) Persons who are not parties to the proceedings may be granted such copies on application supported by an Affidavit only if the Chairman on being satisfied about the sufficiency and bona fides of the grounds or reasons on which the applicant requires copies, direct that such copies be furnished.

(c) Certified copies may be prepared either.

(i) by copying on copying sheets and if copying sheets are not available, on judgment sheets with due affixation of Court-fee stamps of proper value; or

(ii) by photocopying including photostat, Xerox, or reprograph of any other process by which the original is mechanically or electronically copied representing faithfully the original.]

1. Regulation 71 substituted by Notification No. EST I/CR/10/94-95, dated 17-1-1996

71A. 2Certified copies may be prepared either :-

(i) by copying on copying sheets; or

(ii) by photo copying.

72. . :-

¹ The applicant, for certified copy shall send a self addressed duly sufficiently stamped envelopes for supply of certified copy of sending the other intimation.

1. Regulation 72 substituted by Notification No. EST I/CR/10/94-95, dated 17-1-1996

73. Such application shall set forth :-

- (i) the name of the applicant and his rank in the proceeding;
- (ii) the number of the proceeding whether the same is pending or disposed of and the date of disposal; and
- (iii) the description of the document or the paper and its exhibit number and the proceeding in which it is filed and the date of document if any.

74. . :-

x x x x x.]

75. . :-

(a) On presentation or receipt of a copy application, it shall be entered in the Register of copy applications " ¹[or the Register of Photo-copy application, as the case may be] and the applicant shall be asked to appear on a date not later than ten days from the date of receipt of the application. ²[Court-fee stamps, as the case may be] of the value fixed from time to time within fifteen days thereafter if already not produced and his signature shall be obtained. If the applicant fails to rectify the defects and or produce the required number of copying sheets, ³[Court-fee stamps, as the case may be] the application shall be rejected by the ⁴[Registrar].

(b) If the order is complied with, the applicant shall be informed of the date on which the copy would be ready and it shall not be later than thirty days. When the certified copy is ready, it shall be delivered to the applicant or his authorised agent and an acknowledgment shall be obtained in that behalf.

(c) When the application is received by post, the certified copy shall be prepared and sent by registered post. If there are defects and/or if the application is not accompanied by required number of copying sheets, ⁵[Court-fee stamps, as the case may be] the applicant shall be informed to rectify the defects or to produce the

required number of copying sheets,⁶[Court-fee stamps, as the case may be] within fifteen days from the date of intimation. If the applicant fails to comply with the requirement within the specified time, the ⁷ [Registrar] shall reject the application.

1. Inserted by GSR 192. dated 21/25-10-1991
2. Inserted by GSR 192, dated 21/25-10-1991
3. Inserted by GSR 192, dated 21/25-10-1991
4. Substituted for the word "Secretary" by Notification No. EST. VCR. 69/93-94, dated 17-11-1993
5. Inserted by GSR 192, dated 21/25-10-1991
6. Inserted by GSR 192, dated 21/25-10-1991
7. Substituted for the word "Secretary" by Notification No. EST. I/CR. 69/93-94, dated 17-11-1993

76. . :-

Each copying sheet shall contain not more than one hundred and twenty-five words either typewritten or written by hand.

77. . :-

When an application for grant of copy does not distinctly describe the number, date and nature of the document required or if the description given in such application is incorrect and it shall in consequence be necessary for the officer-in-charge of the document to search his records in order to find it, a search fee of Rs. 5/- for each year of which the records are searched shall be payable in cash by the applicant for such search.

78. . :-

Applications for copy shall be disposed of in the chronological order. Whenever copies are required by the applicant urgently, the application shall be accompanied by an Additional Court-fee ¹[stamp of rupees twenty]. The ²[Registrar] on being satisfied about the urgency shall direct the issue of a copy urgently if no defects are found and if the required number of copying sheets³ [Court-fee stamps of required amount, as the case may be] are produced. In such cases, the copy shall be prepared and delivered within forty eight hours and if the copy cannot be prepared within that period, as soon as possible thereafter.

1. Substituted for the words "Stamp of rupees two" by Notification No. EST I/CR/10/94-95, dated 17-1-1996
2. Substituted for the word "Secretary" by Notification No. EST. yCR. 69/93-94, dated 17-11-1993
3. Inserted by GSR 192, dated 21/25-10-1991

79. . :-

In the case of maps and plans etc., a reasonable fee having regard to the skill, labour and time required for preparing the copy shall be fixed in each case by the ¹[Registrar] and deposited in cash ² [by the party applying. The whole of such fee so fixed shall be paid to the person employed for preparing the copy, who shall use his own material for that purpose.]

1. Substituted for the word "Secretary" by Notification No. EST. I/CR. 69/93-94. dated 17-11-1993

2. Substituted for the words "by the party applying" by Notification No. EST 1/CR/10/94-95, dated 17-1-1996

80. . :-

The unused copying sheets ¹ [or excess court-fee stamps, as the case may be] shall be returned to the applicant at the time of delivery of the copy under acknowledgement.

1. Inserted by GSR 192, dated 21/25-10-1991

81. . :-

Before a copy is delivered, it shall be certified and sealed by the ¹ [Registrar] in the manner prescribed under Section 76 of the Indian Evidence Act, 1872.

1. Substituted for the word "Secretary" by Notification No. EST. I/CR. 69/93-94. dated 17-11-1993

82. . :-

Whenever the copies and the unused copying sheets ¹[or excess court-fee stamps, as the case may be] are not claimed within six months from the date on which they are ready for delivery, they shall be destroyed in the presence of the ² [Registrar] and a note shall be made in the concerned register.

1. Inserted by GSR 192, dated 21/25-10-1991

2. Substituted for the word "Secretary" by Notification No. EST. I/CR. 69/93-94, dated 17-11-1993

82A. . :-

¹ Charges for certified copies by photocopying shall be two rupees for fullsize paper or any part thereof or such other rate as the Chairman may fix from time to time. This shall be deposited in cash.

1. Regulations 82-A and 82-B inserted by Notification No. EST I/CR/10/94-95, dated 17-1-1996

82B. . :-

Nothing contained in this Regulation shall apply to printed copies or copies which under any provision of law or rule having the force of law, the Tribunal is required to grant free of costs.

CHAPTER 17

Records

83. . :-

The records of the Tribunal shall be in the custody of the ¹ [Registrar].

1. Substituted for the word "Secretary" by Notification No. EST. I/CR. 69/93-94, dated 17-11-1993

84. . :-

Any person who has a right to inspect the records under the provisions of the Indian Evidence Act, 1872 or any other law for the time being in force shall make an application in writing to the ¹[Registrar] stating therein the ²[ground] for which the said request is made. The fees for the inspection of the record and proceedings of any case or any document therein shall be ³[rupees ten] for every day or part thereof on which the inspection is allowed except on the day of hearing. No inspection of any records of the Tribunal shall be allowed by the ⁴ [Registrar] except in the presence of an officer of the Tribunal.

1. Substituted for the word "Secretary" by Notification No. EST. I/CR. 69/93-94, dated 17-11-1993

2. Substituted for the word "purpose" by Notification No. EST I/CR/10/94-95, dated 17-1-1996

3. Substituted for the word and figure "Rupees 2" by Notification No. EST I/CR/10/94-95, dated 17-1-1996

4. Substituted for the word "Secretary" by Notification No. EST. I/CR. 69/93-94, dated 17-11-1993

CHAPTER 18

Miscellaneous

85. . :-

(a) For the purpose of exercising the powers vested in the Tribunal under Sections 10, 11 and 15 of the Act, the Chairman shall convene a meeting of the Members of the Tribunal whenever necessary. Decisions shall be taken according to the opinion of the majority of the Members present at such meeting. If the opinion of the Members is equally divided, the Chairman will have a casting

vote.

(b) Any two or more Members may request the Chairman to convene a meeting of the Members of the Tribunal and in that event the Chairman shall convene such a meeting within a month therefrom.

(c) The ¹ [Registrar] shall maintain the proceedings of the meeting and forward a copy of the same for the information of the Government.

1. Substituted for the word "Secretary" by Notification No. EST. I/CR. 69/93-94, dated 17-11-1993

86. . :-

Whenever judgments and orders are marked for reporting, copies thereof may be made available to recognised Law Journals for purposes of publication.

87. . :-

The ¹[Registrar] shall maintain in the forms prescribed in the Schedule appended to these Regulations the following registers separately for cases relating to Revenue, Sales Tax and Co-operation wherever necessary.

- (1) Petitions in Form No. 'A';
- (2) Appeals in Form No. 'B';
- (3) Revision Petitions in Form No. 'C';
- (4) Review Petitions in Form No. 'D';
- (5) Rectification petitions in Form No. 'E';
- (6) Miscellaneous Applications in Form No. 'F';
- (7) References in Form No. 'G'; and
- (8) Copy Applications in Form No. 'H'.

2

- (9) Register of Photo-copy application in Form No. I.

1. Substituted for the word "Secretary" by Notification No. EST. I/CR. 69/93-94, dated 17-11-1993

2. Item (9) inserted by GSR 192, dated 21/25-10-1991

88. . :-

1 While the business of the Tribunal is being conducted, every Member, the State Representatives and the Sales Tax Practitioners appearing before the Tribunal shall wear a coat with a necktie or a buttoned up coat.

1. Regulations 88 and 89 inserted by Notification No. EST I/CR/69/83-84, dated 18-3-1986. w.e.f. 1-5-1986

89. . :-

While the business of the Tribunal is being conducted, every Advocate appearing before the Tribunal shall wear a black coat with a black necktie or a buttoned up coat.]

90. . :-

The opinion furnished by each Member or Bench while referring the matter to the Full Bench, and also the Full Bench opinion shall be deemed to be ordered for the purpose of issue of certified copies.]

SCHEDULE 1

SCHEDULE