

Kerala Value Added Tax Rules, 2005

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Kerala Value Added Tax Rules, 2005

CHAPTER 1 PRELIMINARY

1. Short title and Commencement :-

- (1) These Rules may be called the Kerala Value Added Tax Rules, 2005.
- (2) They shall come into force on the first day of April 2005.

2. Definitions :-

In these Rules, unless the context otherwise requires, -

- (a) "Act" means the Kerala Value Added Tax Act, 2003;
- (aa) "Audit Officer" means any officer appointed under section 3 to perform the functions of an Audit Officer under the Act and includes an officer designated under section 23 to conduct audit visit.
- (ab) Omitted [SRO.385/2007].
- (b) "civil structure" means any building, including any temporary or permanent structure, water tank, well, road, bridge, compound wall or other similar structure attached to land;
- (c) "designated bank" means any bank having treasury transactions or such other bank notified by Government to receive any amount due under the Act on behalf of Government;
- (d) "digital signature" means authentication of any electronic record by a subscriber by means of an electronic method or procedure in accordance with the provisions of section 3 of the Information Technology Act, 2000;
- (e) "digital signature certificate" means a digital signature certificate issued under sub-section (4) of section 35 of the Information

Technology Act, 2000;

(f) "electronic record" means data, record or data generated, image or sound stored, received or sent in an electronic form or micro film or computer generated micro fiche;

(g) "form" means a form appended to these Rules;

(h) "Government Treasury" means a District Treasury or Sub-Treasury or Additional Sub Treasury of the State Government;

(i) "key pair" in an asymmetric crypto system, means a private key and its mathematically related public key, which are so related that the public key can verify a digital signature created by the private key;

(ia). "KVATIS" means Kerala Value Added Tax Information System"

(j) "month" means a calendar month;

(k) "private key" means the key of a key pair used to create a digital signature;

(l) "public key" means the key of a key pair used to verify a digital signature and listed in the digital signature certificate;

(m) "quarter" means a period of three months commencing on the first day of April or the first day of July or the first day of October or the first day of January in each year;

(n) "Schedule" means a schedule appended to the Act;

(o) "section" means a section of the Act;

(p) "secure digital signature" means such digital signature satisfying the requirements of section 15 of the Information Technology Act, 2000;

(q) "State Representative" means an Officer appointed by the Government to receive on their behalf notices and orders issued by the Appellate Tribunal or any other authority under the Act and generally to appear, act, plead and file any petition, affidavit or statement before the Appellate Tribunal or any other authority under the Act on behalf of the state and includes an officer appointed to act on his behalf in his absence;

(qa) "taxable goods" means goods other than those included in the first or fourth schedule;

(r) "verify" in relation to a digital signature, electronic record or public key, with its grammatical variations and cognate expressions means to determine whether-

(a) the initial electronic record was affixed with the digital signature by the use of private key corresponding to the public key of the subscriber;

(b) the initial electronic record is retained intact or has been altered since such electronic record was so affixed with the digital

signature.

Explanation: - For the purpose of this clause "subscriber" means a person in whose name the digital signature is issued.

CHAPTER 2 APPELLATE TRIBUNAL AND SETTLEMENT COMMISSION

3. Appellate Tribunal :-

Of the members of the Appellate Tribunal (other than its Chairman) appointed under section 4:-

(i) one member shall be from Officers of the Commercial Taxes Department of the Government not below the rank of Deputy Commissioner; and

(ii) the others shall be Chartered Accountants as defined in the Chartered Accountants Act, 1949, or class I Officers of the Indian Audit and Accounts Service, having not less than three years service as such in revenue audit or officers not below the rank of Deputy Commissioner of Income Tax of the Indian Revenue Service.

4. Appointment of Chairman of the Appellate Tribunal :-

(1) The appointment of the Chairman shall be made by the Governor of Kerala:

Provided that appointment by transfer shall be made from a panel of three names prepared in consultation with the High Court.

(2) Every person appointed as Chairman, Appellate Tribunal shall, from the date on which he joins duty, be on probation for a period of 2 years on duty within a continuous period of 3 years:

Provided that when a District Judge or Additional District Judge or a person who has been a Judicial Officer not below the rank of a District Judge who has successfully completed probation as District Judge or Additional District Judge, as the case may be, is appointed as Chairman, no probation shall be necessary.

Provided further that when a probationary District Judge or Additional District Judge or a person who has been a Judicial Officer not below the rank of a District Judge, as the case may be, is appointed as the Chairman, the period of probation undergone by him in the cadre of District Judge shall be counted for the purpose of probation for the post of Chairman.

5. Pay, Allowances and other conditions of services of Chairman :-

Rules relating to pay, allowances and other conditions of service applicable to Government servants or retired Government servants, as the case may be, in general, not inconsistent with these rules, shall unless specific provisions are made in these rules, apply to persons appointed as Chairman, Appellate Tribunal.

6. Settlement Commission :-

(1) The Head quarters of the Settlement Commission shall be at such place as the Government may notify in the Official Gazette and it shall have sittings at different parts of the State as the Chairman may fix from time to time.

(2) Of the members of the Settlement Commission (other than its Chairman) appointed under section 5, one member shall be from Officers of the Commercial Taxes Department of the Government not below the rank of Deputy Commissioner; and the others shall be Chartered Accountants as defined in the Chartered Accountants Act, 1949, or class I Officers of the Indian Audit and Accounts Service, having not less than three years service as such in revenue audit or officers not below the rank of Joint Commissioner of Income Tax of the Indian Revenue Service.

7. Appointment of Chairman of the Settlement Commission :-

(1) The appointment of the Chairman, Settlement Commission shall be made by the Governor of Kerala from a panel of three names prepared in consultation with the High Court.

8. Pay, Allowances and other conditions of services of Chairman :-

Rules relating to pay, allowances and other conditions of service applicable to judicial officers not inconsistent with these rules, shall, unless specific provisions are made in these rules, apply to persons appointed as Chairman, Settlement Commission.

CHAPTER 3 INCIDENCE AND LEVY OF TAX

9. Determination of total turnover :-

(1) The total turnover of a dealer for the purposes of these rules

shall be the aggregate of-

- (a) the amount for which goods are sold by the dealer;
- (b) the amount for which goods, which is liable to tax under sub-section (2) of section 6, are purchased by the dealer.
- (c) contract amount received or receivable, in the case of a works contract.,
- (d) all receipts from transfer of right to use.

Provided that where a dealer in petroleum products is having turnover in respect of the goods coming under Fourth Schedule, such turnover shall not be considered for the purpose of computing the eligibility for paying tax by such dealers under sub section (5) of section 6 of the Act.

(2) For the purpose of sub-rule (1), the amount for which goods are sold by a dealer shall, -

(a) Omitted [SRO.385/2007]

(b) Omitted [SRO.385/2007]

(c) in relation to Annual Maintenance Contract where the goods transferred in the execution of such contract is ascertainable from the accounts of the dealer be the turnover of such goods (which shall not exceed the total amount of the contract) calculated by adding the gross profit as per accounts to the purchase value of the goods and where the goods are not so ascertainable be fifty percent of the amount of the contract.

(2A) Where, in a works contract, the awarder supplies a portion of the goods involved in the execution of the works contract and deducts the value of the material from the payment made to the contractor, the turnover of the goods so supplied shall form part of the total turnover of the awarder as well as the contractor.

(3) Omitted [SRO.385/2007]

(4) The amount payable for a contract which does not involve any transfer of goods, whether as goods or in some other form, shall not be deemed to be turnover for the purpose of this rule.

(5) Amounts claimed by a dealer to be not includible in his total turnover, as representing discount allowed in accordance with the provisions of clause (ii) of Explanation III to clause (lii) of section 2 shall be that allowed in respect of sales effected during the period to which the return relates and is allowed in accordance with the regular practice in the trade. Where a dealer has claimed any amount as discount during a return period, he shall not revise the claim subsequently so as to enhance the amount of discount relating to such return period.

10. Determination of taxable turnover :-

(1) In determining the taxable turnover, the amounts specified in the following clauses shall, subject to the conditions specified therein, be deducted from the total turnover of the dealer: -

(a) [Omitted]

(b) all amounts allowed to purchasers in respect of goods returned by them to the dealer within a period of ninety days from the date of delivery of the goods, where the goods are taxable on the amount for which they have been sold, provided that the accounts show the date on which the goods were returned and the date on which and the amount for which refund was made or credit was allowed to the purchaser and the deduction is claimed during the year in which the sale was effected;

(c) all amounts received from the sellers in respect of goods returned to them by the dealer, where the goods are taxable under sub-section (2) of section 6, provided that the goods are returned within a period of ninety days from the date of delivery of the goods by the seller and the accounts show the date on which the goods were returned, the date on which the refund was made and the amount of such refund and the deduction is claimed during the year in which the sale was effected;

(d) all amounts for which goods specified in the first Schedule to the Act are sold;

(e) all amounts falling under the following heads, when specified and charged for by the dealer separately, without including them in the price of goods sold:

(i) freight

(ii) charges for delivery

(iii) cost of installation

(f) all amounts realised by a dealer by the sale of his business as a whole;

(g) all amounts for which goods are sold or purchased where such sale or purchase takes place in the course of export of the goods out of the territory of India or in the course of import of the goods into the territory of India or in the course of inter State trade or commerce;

(h)(i) the turnover of sales or purchases made by a dealer through his agent in respect of which tax has been paid by the agent.

(ii) the turnover of sales or purchases made by an agent for and on behalf of any principal in respect of which tax has been paid by the principal

Provided that no such deduction shall be allowed unless the principal or agent claiming the deduction furnishes a declaration in Form No. 25F issued by the agent or principal, as the case may be.

(i) Omitted [SRO.385/2007]

(j) all amounts collected by way of tax under the Act, if shown separately in the bills.

(k) amount for which medicines and drugs falling under the Third Schedule is sold by a dealer where tax under clause(e) of section 8 had been paid in respect of such goods by any previous dealer:

Provided that no such deduction shall be allowed unless the dealer claiming such deduction obtains an invoice in Form 8H from the dealer who sold the goods to him with the declaration therein duly signed by the seller or his authorised signatory, which shall be produced for verification, as and when required, by any authority under the Act and also furnish a declaration in the following format before the assessing authority within fifteen days from the date on which the Kerala Value Added Tax (Amendment) Rules, 2005 is published and thereafter on or before the 30th day of April of the year to which the sales relate:

DECLARATION

I/We.....(name and address of the dealer with TIN) hereby declare that the medicines and drugs in which I/we trade are either those in respect of which tax under section 8(e) was paid by the dealer who sold the goods to me or by any previous seller, or those in respect of which I/we shall pay tax under the said section.

Place

Date

Signature and status of the authorised signatory

(Seal)

Provided further that for the year 2005-06, the above declaration shall be applicable only in respect of the sales for the period from the date on which the Kerala Value Added Tax (Amendment) Act, 2005 (39 of 2005) was notified or for any subsequent period, where the dealer furnishes statement showing the particulars of medicine in respect of which tax had not been paid on the maximum retail price.

(l) amount for which goods specified under clause (b) of sub-section (7) of section 6 are sold to any industrial unit specified there under where the dealer claiming such deduction obtains a declaration in Form No.43 duly signed and sealed by the buyer and produces, on demand, for verification

by any authority under the Act.

(m) the turnover of sales or purchases made by a dealer in respect of the goods coming under Fourth Schedule to the Act.

(2)(a) In relation to a works contract in which transfer of property takes place not in the form of goods but in some other form, the taxable turnover in respect of the transfer of property involved in the execution of works contract shall be arrived at after deducting the following amount from the total amount received or receivable by the dealer for the execution of the works contract such as;

(i)labour charges for the execution of work,

(ii)charges for planning and designing and the architects fee;

(iii)charges for obtaining on hire or otherwise, machinery and tools used for the execution of the works contract, or where the machinery is owned by the contractor, the interest paid on any loan taken for the purchase of the machinery;

(iv)cost of consumables used;

(v)cost of establishment and overhead charges of the dealer to the extent it is relatable to the supply of labour and service;

(vi)profit earned by the dealer to the extent it is relatable to supply of labour and services:

Provided that notwithstanding anything contained in clause (a) when the turnover arrived at after deducting the amounts mentioned in clause (a) falls below the cost of goods transferred in the execution of works contract, an amount equal to the cost of the goods transferred in the execution of works contract together with profit, if any, shall be the taxable turnover in respect of such works contract.

Explanation.- For the purpose of the proviso, cost of goods means the price of goods together with all expenses incurred by the contractor in bringing the goods to the work site.

(b) Where the actual turnover in relation to a works contract, in which the transfer of goods takes place not in the form of goods but in some other form, is not ascertainable from the books of accounts of the dealer or where the dealer has not maintained any accounts, the total turnover in respect of such works contract shall be computed after deducting labour and other charges as given in the Table below from the total amount of contract.

TABLE

Sl. No.	Type of works contract	Labour or other charges as a Percentage of the value
---------	------------------------	--

(1)	(2)	of the works contract (3)
1	Electrical Contracts	20
2	All structural contracts	30
3	Sanitary contracts	20
4	Tyre re-treading contract	50
5	Dyeing and Textile Printing contracts	50
6	Sculptural contracts or contracts relating to Arts	70
7	Refrigeration, air conditioning or other machinery, rolling shutters, cranes installation contracts	15
8	Installation of plant and machinery	15
9	Laying of pipes	20
10	Installation of elevators (lifts) and escalators	15
11	Installation of air conditioners and air coolers	10
12	Fixing of marble slabs, polished granite stones and tiles (other than mosaic tiles).	25
13	Annual maintenance contract	50
14	All other contracts	25

Explanation.- No deduction as per the above Table shall be allowed out of the total contract amount for the supply and installation of any machinery, equipment or any other system, where the goods involved are transferred in the "knocked down" condition (unassembled form) and assembled and installed, and the skill and labour employed for installation is only incidental to the supply of such goods.

10A. Filing of option for collection and payment of tax :-

Every dealer opting to pay tax in accordance with the provisions of sub-section (1A) of section 6 shall file application in Form 1F before the assessing authority. The option shall be deemed to have been accepted by the assessing authority as and when the assessing authority acknowledges the receipt of such application.

11. Filing of option by dealers for payment of compounded tax :-

(1) Every application for exercising option for payment of compounded tax under section 8 shall be in the case of a dealer other than a works contractor in Form No. 1D and in the case of a works contractor in Form No. 1DA and shall be filed before the assessing authority on or before the 30th day of April every year: Provided that in case of dealers who become liable to registration under the Act during the course of the year, such option shall be

filed along with the application for registration.

Provided further that, -

(a) in the case of a contractor, the option shall be filed within thirty days from the date on which the contract, in respect of which such option is filed, is concluded. One such option may cover one or more works contract;

(aa) in the case of a builder or whatever name called who engaged in the construction and sale of flats or villas shall file option project wise and such dealer shall not be entitled for payment of tax in a different stream for individual flats or villas covered under such projects.

(b) in the case of a dealer of medicines and drugs filing option under clause (e) of section 8, the option shall cover all categories of medicines and drugs sold by him.;

(c) Where a dealer becomes eligible for payment of tax under any of the clauses of section 8 for the year 2005-2006 in the light of the Kerala Value Added Tax (Amendment) Act, 2005 (39 of 2005) option shall be filed within one month from the date on which the Kerala Value Added Tax (amendment) Rules, 2005 is published. A contractor covered by item (iii) of clause (a) of section 8 shall also file option within this time. Item (iii) of clause (a) of section 8 shall apply to cases where the contractor had made the option either by filing an application before the assessing authority or by making an express provision in the contract.

Provided also that in the case of a dealer in ornaments or wares or articles of gold, silver or platinum group metals eligible for payment of tax under clause (f) of section (8) shall file option for the year 2006-07 on or before 15th March, 2007. (1A). Along with the application the dealer shall furnish the following documents, namely:

(a) in the case of a works contractor other than those covered by item (iii) of clause (a) of section 8-

i) a copy each of the agreement executed by the contractor with the awarder and the work schedule; and

ii) copies of the agreement executed with sub-contractor and certificates in Form No.20H obtained from each sub-contractor (applicable in cases where deduction is claimed in respect of sub-contracts);

(b) in the case of a works contractor covered by item (iii) of clause (a) of section 8-

(i) copies of the permission, if any, granted under sub-section (9) of section 7 of the Kerala General Sales Tax Act, 1963 (15 of 1963)

- (ii) a certificate from the awarder showing the date of awarding, total amount and payments already made in respect of each contract; and
- (iii) a copy each of the agreement executed by the contractor with the awarder and the work schedule;
- (c) in the case of a metal crushing unit, a statement in the following format

Size of machine	whether used as Primary machine or not	No. of machines in use
(1)	(2)	(3)

- (d) in the case of a dealer lending video cassettes/ CD, a statement in the following format:

Total No. of Shops	No. of Shops situated within the area of a Municipal corporation/municipality	No. of shops situated in other places
(1)	(2)	(3)

(2)(i) If the assessing authority is satisfied that the application filed is in order, it shall grant permission:

- (a) under clause (a) of section 8 in Form No 4D, (b) Under clause (b) of section 8 in Form No 4DA,
- (c) under clause (c(i)) of section 8 in Form No 4DB, (d) under clause (c)(ii) of section 8 in Form No 4DC,
- (e) under clause (d) of section 8 in Form No 4DD,
- (f) under clause (e) of section 8 in Form No 4DE and
- (g) under clause (f) of section 8 in Form No 4DF."

(ii) If the application filed is not in order, the assessing authority shall reject the application, for reasons to be recorded in writing, after giving the dealer an opportunity of being heard.

(3) Where a works contractor who has opted for payment of compounded tax under item (i) of clause (a) of section 8 becomes ineligible for payment of tax under that item in respect of a contract he shall inform the assessing authority and the awarders within ten days of his becoming so ineligible. The assessing authority shall, if the contractor is eligible for payment of tax under item (ii) of clause (a) of section 8, revise the order issued in form No. 4D accordingly. If the contractor is not so eligible, the assessing authority shall cancel the certificate issued in form no. 4D in respect of that contract and thereupon he shall be liable for payment of tax in accordance with the provisions of sub-section (1) and (2) of section 6 in respect of such contract. In either case the assessing authority shall forward a copy of the revised permission issued in Form No. 4D or the order canceling the permission, as the case may be, to the awarder.

(4) The certificate referred to in the Explanation II to clause (a) of section 8 shall be in Form No. 20H.

(5) (a) Where a dealer in cooked food who became eligible for payment of tax under section 8 by the amendment made by the Kerala Value Added Tax (amendment) Act, 2005 (39 of 2005) had collected tax on the sales prior to the date of submission of the application, the tax collected in excess of the compounded tax payable for the period shall be paid over to Government

(b) Where the actual turnover of a bar attached hotel falling under any of the categories to which the provisions of item (ii) of clause (c) of section 8 applies, in respect of cooked food and beverages prepared by it is more than fifteen percent of its turnover of foreign liquor as estimated under section 7 of the KGST Act, 1963 (15 of 1963), it shall be liable to pay tax on the actual turnover conceded by it.

(6) where any dealer paying tax under section 8 who is also liable to pay tax under sub-section (2) of section 6, fails to pay the tax under sub-section (2) of section 6, the assessing authority shall cancel the permission granted under sub-rule

(2) after affording the dealer a reasonable opportunity of being heard.

(7) Where any additional machinery or machineries are installed by a dealer producing granite metals with the aid of mechanized crushing machine who had opted for payment of compounded tax under clause (b) of section 8, the details thereof shall be furnished to the assessing authority within fifteen days of such installation and the assessing authority shall thereupon revise the permission granted under sub rule

(2).

12. Determination of Input tax credit in respect of opening stock :-

(1) Goods held as opening stock on the date of coming into force of the Act, in respect of which input tax credit is claimed by a dealer under sub-section (13) of section 11 shall be -

(a) those which were taxable under the Kerala General Sales Tax Act, 1963 (15 of 1963);

(b) those purchased within one year preceding such date;

(c) in the case of goods, other than those taxable at the point of first or last purchase as applicable under section 5 and those taxable under section 5A of the Kerala General Sales Tax Act, 1963 and those in respect of which tax under the Kerala Tax on Entry of Goods into Local Areas Act, 1994 (15 of 1994) is paid supported by bills issued by dealers registered under the Kerala General Sales Tax Act, 1963 (15 of 1963);

(d) in the case of goods taxable under the said Act either under section 5A or at the point of purchase, supported by sale bill issued by the seller or purchase bill or bought note, as the case may be, issued by the dealer claiming such input tax credit;

(dd) in the case of goods in respect of which tax under the Kerala Tax on Entry of Goods into Local Areas Act, 1994 (15 of 1994) has been paid, supported by receipt issued by the appropriate authority for the payment of tax;

(e) those which were taxable under the Kerala General Sales Tax

Act, 1963 (15 of 1963) and are also taxable under the Act; and
(f) physically available with the dealer on such date.

Explanation: - For the purpose of sub-section (13) of section 11, -

(a) goods in respect of which bill/invoice was issued by the selling dealer prior to 01.04.2004 shall not be deemed to have been purchased within one year preceding the date of coming into force of the Act even if the goods actually reached the buyer on or after such date; and

(b) goods in respect of which bill/invoice was issued by the selling dealer prior to 01.04.2005 shall be deemed to have been physically available with the buyer on the day preceding the date of commencement of the Act, even though the goods actually reached the buyer on or after 01.04.2005.

(c) Where the goods are supported by bills issued by a dealer registered under the Kerala General Sales Tax Act, 1963 (15 of 1963), the amount of tax computed under sub-rule (3) shall be deemed to have been shown separately in such bills for the purposes of sub-section (13) of section 11

(2) Any dealer claiming input tax credit in respect of such goods shall submit to the Assessing Authority, an application in Form 25A on or before the 31st day of January 2006 along with the opening stock inventory as on the date of coming into force of the Act, separately for goods falling under different Schedules to the Kerala General Sales Tax Act, 1963 (15 of 1963) -

(i) purchased within the State from dealers registered under the said Act-(a) where tax collection is shown separately (b) where such tax collection is not shown separately;

(ii) purchased from outside the State and those in respect of which tax under the Kerala General Sales Tax Act, 1963(15 of 1963) has not been suffered.

Where a particular purchase bill is lost the dealer shall obtain from the seller a duplicate bill showing the particulars included in the original bill, with a certificate of the seller to the effect that the duplicate bill is issued in the context of the loss of the original bill and furnish details thereof in the statement furnished in Form 25A;

(iii) in respect of which tax under section 5A of the said Act had been paid; and

(iv) in respect of which tax under the Kerala Tax on Entry of goods into Local Areas Act, 1994 (15 of 1994) had been paid.

Along with the application in form 25A the dealer shall also submit a statement showing separately the opening stock value of goods

as on 01.04.2004 and 01.04.2003 in respect of goods taxable at the hands of the dealer and those exempted at his hands. The stock inventory and the statement of purchase bills referred to in this sub-rule shall be certified by a Chartered Accountant or a Cost Accountant, where the dealer submitting the statement was covered by the provisions of section 27A of the Kerala General Sales Tax Act 1963 (15 of 1963) during the year 2004-05. The time limit may be extended by the assessing authority by fifteen days in deserving cases.

Provided that in the case of dealers who became eligible for input tax credit under sub-section (13) of section 11 in the light of the Kerala Value Added Tax (Amendment) Act, 2005 (39 of 2005) and submission of an application in Form No. 25A or revisions of the application in Form No. 25A already submitted under this rule has become necessary, such application in Form No. 25A or such revised application in Form No. 25A shall be filed within thirty days from the date of publication of the Kerala Value Added Tax (Amendment) Rules, 2005.

(3) Where in respect of goods taxable at the point of sale the selling dealer has not shown tax collection separately in the bills or, in respect of goods taxable at the point of first purchase in the state, where the dealer claiming input tax credit is not the first purchaser in the state, the amount of tax paid by the dealer to the sellers in respect of which input tax credit is allowable shall, subject to the provisions of sub-rule (6), be determined by applying the following formula:

a) 9 PR

In the case of goods to be of special importance

$10(100+R)$

in inter-state trade or commerce (Declared

Goods) under section 14 of the Central Sales Tax Act 1956.

b) 85 PR

$100(100+R)$ In the case of other goods.

where P is the opening stock value of the goods and R is the rate of tax applicable to the goods, including additional sales tax, if any, under the Kerala General Sales Tax Act 1963, (15 of 1963) (in the case of goods falling under the Fifth Schedule to the Kerala General Sales Tax Act, 1963, (15 of 1963), R shall be the rate of tax, including additional sales tax, if any, applicable on the first sale of the goods in the state)

(4) In In the case of goods which suffered tax at the point of first purchase or last purchase under the Kerala General Sales Tax Act,

1963 (15 of 1963) at the hands of the dealer claiming input tax credit, the tax so suffered on such goods held as opening stock on the date of coming into force of the Act, for the purpose of calculation of the input tax credit shall, subject to the provisions of sub-rule (5), be determined by applying the rate of tax, including Additional Sales Tax, if any, on the purchase value of the goods calculated at the average price of such goods in the month preceding the date of coming into force of the Act.

(4A) In the case of goods in respect of which tax under section 5A of the Kerala General Sales Tax Act, 1963 (15 of

1963) has been paid on its purchase and such goods had been used in the manufacture of other goods and are held as opening stock on the date of commencement of the Act, whether as finished goods or as work in process, the tax paid under section 5A of the said Act in respect of such goods shall be calculated by applying the rate of tax on the purchase value of the goods calculated with reference to the purchase bill or bought note relating to the goods.

(4B) In the case of goods in respect of which tax under the Kerala Tax on Entry of Goods into Local Areas Act, 1994 (15 of 1994) had been paid, the amount of input tax credit shall be the actual tax paid on the goods as supported by the receipts issued by the appropriate authority.

(5)(a) In the case of goods in respect of which tax had been paid by the dealer claiming input tax credit, at the point of first purchase or at the point of last purchase under the Kerala General Sales Tax Act, the input tax credit in respect of such goods under sub-section (13) of section 11 be claimed by the dealer in the return for the month of April 2005.

(b) In the case of goods in respect of which tax was paid by him under section (5A) of the Kerala General Sales Tax Act, 1963, the input tax credit in relation to such tax shall be claimed in the return for the month subsequent to the month in which the application or as the case may be, the revised application is submitted under sub-rule (2).

(6) Where the dealer claiming input tax credit has submitted the statements as required by sub-rule (2), the dealer shall claim input tax credit in three equal monthly instalments commencing from the return for the month of May 2005 onwards or in the return for any subsequent three months. In the case of a dealer who had filed the application in Form No. 25A on any date subsequent to 31st day of May 2005, in accordance with the provisions of sub-rule (2), input tax credit under this sub-rule may be claimed in three equal

monthly installments commencing from the month subsequent to the month in which the application in Form No. 25A is submitted or from the month subsequent to the month in which the assessing authority communicates his approval of the statements made in Form No.25A

Provided that the prior approval of the assessing authority shall not be required in the case of the dealers who submit the application in Form No. 25A or revised application in Form No. 25A under the proviso to sub-rule (2)

(7) Where a dealer who had opted for payment of tax under sub-section (5) of section 6 or under section 8 changes over to the payment of tax under sub-section (1) of section 6, he shall submit an application in Form No.25A along with a stock inventory on the date of change over, duly certified by a Chartered Accountant or a Cost Accountant, where the dealer is covered by the provisions of section 42, and a statement of the purchase bills issued by registered dealers paying tax under sub-section (1) of section 6, within fifteen days from the date of change over.

(7A) Where a dealer becomes liable to tax during the course of an year by reason of his total turnover reaching the limit specified under sub-section (1) of section 6, he shall submit an application in Form No.25A along with a stock inventory as on the date on which his total turnover reaches such limit in the manner specified in sub-rule (7) above and a statement of purchase bills issued by registered dealers paying tax under sub-section (1) of section 6, within fifteen days from the date on which the total turnover reaches the said limit.

(8) Where the dealer referred to in sub-rule (7) or in sub- rule (7A) has submitted the statements as required by the said sub-rule, the assessing authority shall verify the claim and, where it is satisfied that the claim is in order, permit the dealer to claim input tax credit in respect of such goods held as opening stock in three equal monthly installments commencing from the return period subsequent to the date of order allowing such input tax credit.

12A. Determination of input tax credit or special rebate where inputs are used in relation to taxable and exempted goods :-

Where taxable goods are used during a return period partly in relation to taxable transaction and partly in relation to exempted or non-taxable transaction, the input tax paid or special rebate to

which the dealer has become entitled to during such return period shall be apportioned between the taxable and exempted or non-taxable transactions on the basis of the ratio of taxable and exempted turnover during the period in which the input tax credit or special rebate or refund is claimed. The portion of the input tax credit or special rebate allocable to taxable sale including interstate sale shall be allowed in accordance with the provisions of section 11 or section 12, as the case may be, that allocable to stock transfer export shall be dealt with in accordance with the provisions of Rule 46 or 47 and that allocable to exempted sale or transaction shall be disallowed. Where input tax is paid on the purchase of Duty Entitlement pass book or any similar document for the import of any goods which are intended for sale, use in manufacture or use as containers or as packing materials of any taxable goods, it shall be treated as input tax paid on the goods imported and shall be dealt with accordingly.

12B. Procedure for claiming input tax credit or special rebate or refund by agent :-

Where a dealer is making any purchase or sales, including an interstate sale or sale in the course of export, through an agent or through one of its branches or units in respect of which separate registration has been granted in accordance with the provisions of sub-section

(3) of section 20, and the input tax credit, rebate or refund is to be claimed by the agent, the principal shall issue a declaration in form No. 25D to the agent and the agent, in turn, shall issue a certificate in Form No. 25E to the principal.

12C. Procedure for claiming exemption or reduction in rates of tax :-

(1) Every dealer who makes any sale to the Administrator, Union Territory of Lakshadweep, Laccadive Co- operative marketing Federation, Kozhikode or the

Lakshadweep Harbour Works or any registered dealer certified by the Administrator, Union Territory of Lakshadweep under the proviso to sub-section (1) of section 6 shall obtain a declaration in Form No.42, duly signed and sealed by the buyer along with the copy of the shipping Bill, or similar document duly attested by the Port Authorities and file a copy each of the same along with the return filed under Rule 22. The originals shall be retained by the

dealer and shall be provided on demand by any authority under the Act.

(2) Every dealer who makes any sale to an industrial unit in any Special Economic Zone under clause (b) of sub-section

(7) of section 6 shall obtain a declaration in Form No. 43 duly signed and sealed by the buyer and produce, on demand, for verification by any authority under the Act.

(3) Every dealer who makes any sale of goods to any Military, Naval, Air Force or NCC Canteen or canteen stores department under the fifth proviso to sub-section (1) of section 6 shall obtain a declaration in Form No. 45 duly signed and sealed by the buyer and produce, on demand, for verification by any authority under the Act.

(4) Every dealer who makes any sale of fuel and lubricants to foreign-going vessels, other than fishing vessels under sixth proviso to sub-section (1) of section 6 shall obtain a declaration in Form No. 47 duly signed and sealed by the buyer and produce, on demand, for verification by any authority under the Act.

(5) Every dealer who makes any sale of goods, other than petroleum products to Railways under seventh proviso to sub-section (1) of section 6 shall obtain a declaration in Form No. 48 duly signed and sealed by the buyer and produce, on demand, for verification by any authority under the Act.

13. Determination of input tax credit in respect of capital goods :-

(1) Capital goods in respect of which input tax credit is claimed under sub-section (2) of section 11 shall be of the description given in clause (x) of section 2, whether the claim is made by a manufacturer or not.

(1A) Where the goods are of the description given in clause (x) of section 2, the value of which is less than rupees five lakhs, other than those falling under any of the categories notified under clause (x) of section 2, input tax credit shall be claimed in accordance with the provisions of sub-section (3) of section 11.

(1B) Any dealer claiming input tax credit under sub-section (2) of section 11 or refund of input tax under section 13 in respect of capital goods shall apply to the assessing authority in Form 25 within thirty days from the date specified in the said sub-section along with copies of the tax invoice issued by registered dealers.

(2) Where the assessing authority, on receipt of such application, is

satisfied that the application is in order and the claim of input tax credit is admissible, it shall inform the dealer in Form 25 B accordingly, within thirty days from the date of receipt of such application.

(3) Where the assessing authority, is not satisfied that the particulars contained in the application are correct and complete or that the claim of input tax credit is otherwise inadmissible, it shall reject the application, for reasons to be recorded in writing, after affording the dealer an opportunity of being heard.

(4) Deduction of input tax under sub-section (2) of section 11 or refund of input tax under section 13 shall be subject to the following conditions: -

(a) The deduction or as the case may be, refund, shall be allowed in thirty-six equal monthly installments over a period of three years from the date specified in sub-section

(2) of section 11;

(aa) in the case of industrial units including those which have undertaken expansion, diversification or modernization the deduction or refund, as the case may be, shall be allowed in twelve monthly instalments from the date specified in the proviso to sub section (2) of section 11.

(b) No deduction of input tax shall be allowed where the use of capital goods relates wholly to the manufacture of exempted goods and/or goods falling under the fourth Schedule:

Provided that where the capital goods are used in relation to any goods, other than those included in the fourth schedule, sold in the course of export, refund of input tax shall be allowed, subject to the provisions of rule 47, irrespective of whether the goods so exported is exempted from tax or not;

(c) Where the capital goods are used from the commencement of commercial production in relation to taxable and exempted or non taxable goods simultaneously, the monthly installments fixed under clause (a) shall be apportioned between the taxable and exempted or non taxable goods on the basis of the ratio of taxable and exempted turnover during the period in which the input tax credit is claimed. The portion of the input tax allocable to taxable goods shall be allowed and that allocable to exempted goods disallowed and deducted from the input tax credit eligibility of the dealer;

(d) where the capital goods used in relation to exempted or non-taxable goods, is subsequently used in relation to taxable goods wholly or partly, the input tax credit allowable for the capital goods shall be calculated as follows;-

(i) where the capital goods are used subsequently in relation to taxable goods only, the input tax credit for the months in which the capital goods are used in relation to exempted goods shall be disallowed and the input tax

credit for the months during which the capital goods are used in relation to taxable goods shall be allowed;

(ii) where the capital goods are used subsequently for manufacturing exempted or non taxable goods and taxable goods simultaneously, the input tax credit for the period during which such capital goods are used for the manufacture of exempted or non taxable goods shall be disallowed and the input tax credit for the months during which the capital goods are used for the manufacture of taxable goods and exempted or non taxable goods shall be determined in the manner prescribed under clause (c);

(e) Where the capital goods are used partly in relation to goods falling under the first Schedule and/or the fourth Schedule and partly in relation to taxable goods, the input tax credit calculated under clause (a) above shall be apportioned among the goods falling under the first Schedule, fourth Schedule and other goods on the basis of the ratio of the turnover of goods coming under the first schedule and fourth Schedule and that of other goods, and the input tax credit allowed or as the case may be, disallowed in the manner specified in clause (c) above;

(f) The dealer shall claim the deduction in the monthly return.

(g) where refund of input tax is available in respect of capital goods under rule 46 or rule 47 in respect of which input tax credit is also available under section 11, the amount for which refund or input tax credit, as, the case may be is to be allowed, shall be arrived at in the manner specified in clause (c) with suitable modification.

(5)(a) Where there is a change in use of the capital goods, on or after the claim for input tax credit has been allowed, and the dealer is no longer eligible for such input tax credit, the dealer shall inform the assessing authority within ten days of such change in use.

(b) The assessing authority shall inform the dealer that he is no longer eligible for the input tax credit for the capital goods with effect from the end of the month preceding the month in which such change of use has occurred.

(6) Where the capital goods are transferred to an industrial units manufacturing taxable goods in the state by way of sale of business as a whole, input tax credit to the extent of that remaining un-availed by the transferor shall, subject to the other provisions of this rule, be allowed to the transferee with effect from the date

from which the capital goods are put to use by the transferee or the date of sale of goods manufactured using such capital goods, whichever is later.

(7) Where the capital goods are disposed of otherwise than by way of sale within a period of three years as specified in sub-section (2) of section 11, the dealer shall not be eligible for input tax credit in relation to such capital goods subsequent to such disposal.

14. Procedure for claiming special rebate :-

(1) Any dealer who pays tax under sub-section (2) of section 6 of the Act or entry tax under section 3 of the Kerala Tax on Entry of Goods into Local Areas Act, 1994 (15 of 1994) in respect of any goods intended for sale or for use in manufacture of taxable goods in the State shall claim it in the return for the month in which the tax specified under clause (a) or (b), as the case may be, of the said section is paid.

(2) Where the special rebate allowed under sub-rule (1) is not fully set off during the month in which it is allowed, the rebate so remaining unadjusted shall be dealt with in accordance with the provisions of sub-section (3) of section 12.

(3) The procedure prescribed under rule 13 for claiming input tax credit in respect of capital goods shall, with necessary changes, apply to special rebate in respect of capital goods.

15. Determination of reverse tax :-

(1) In the case of purchase of goods for which input tax credit has been availed of and such goods remain unsold at the closure of business or are used for any purpose, which attracts reverse tax under sub-section (7) of section 11, the entire input tax for such purchase shall be the reverse tax, if separately ascertainable.

(2) Where any portion of goods in respect of which input tax credit has been availed of and such goods remain unsold at the closure of business or are used for any purpose for which reverse tax is leviable and the quantum of reverse tax is not ascertainable then the quantum of reverse tax in relation to such portion of goods shall be calculated by applying the rate of tax applicable to such goods on the purchase value of the goods as disclosed from the immediate previous purchase bill in respect of such goods.

(3) Where a dealer who has availed of input tax credit in respect of any goods which remain unsold at the closure of his business and the business is transferred as a whole to any dealer other than a

dealer paying tax under sub-section (1) of section 6, the entire input tax credit availed of in respect of the goods so transferred shall be the reverse tax.

(3A) If the goods in respect of which input tax credit has been claimed are sent as such or after being partially processed, for further processing, testing, repair, re-conditioning, or any other similar purpose and are not received back within a period of ninety days, the input tax credit attributable to such goods shall be reverse tax for the month in which the period of ninety days expires except where goods so sent are sold in the course of interstate trade and tax is paid on such interstate sale in Kerala or are exported out of the territory of India, after such processing, if any.

(3B). If the goods in respect of which input tax credit has been availed of are subsequently used, fully or partially, for purposes in relation to which no input tax credit is allowable under section 11, the input tax credit availed of in respect of such goods shall be reverse tax for the return period.

(4) Where a dealer is liable for the reverse tax under sub rules (1) or sub-rule (2) or sub-rule (3) or sub-rule (3A) for any return period, the sum of the reverse tax calculated under the said sub-rules shall be the reverse tax for that return period.

16. Net tax payable :-

(1) The net tax payable by a registered dealer for a return period shall be (a) the amount arrived at after deducting the input tax under section 11 and special rebate under section 12 from the sum of the output tax, tax on the purchases under sub-section (2) of section 6 and reverse tax under sub-section (7) of section 11 for that return period:

Net tax payable = (Output tax + Tax on purchase + Reverse Tax) - (input tax credit + special rebate)

OR (b) Presumptive tax under sub-section (5) of section 6 and tax under sub-section (2) of section 6 OR (c) Compounded Tax under section 8 and where the compounded tax is paid under sub-clause(i) of clause(a) of section 8, tax under sub-section (2) of section 6, wherever applicable.

(2) Where for any return period the input tax and special rebate is more than the output tax, the difference shall be carried forward to the succeeding return period after making adjustments as provided under sub-section (6) of section 11.

(3) For the purpose of this rule, input tax for a return period shall be the sum of input tax for that return period and the input tax carried forward from the previous return period or periods.

(4) A dealer paying presumptive tax under sub-section

(5) of section 6 or compounded tax under section 8 shall pay tax as provided under rule 24.

CHAPTER 4 REGISTRATION AND PERMIT

17. Application for registration :-

(1) Every dealer required to be registered under section 15 as on the date of commencement of the Act, other than a dealer registered under the Kerala General Sales Tax Act, 1963 (15 of 1963), shall submit to the registering authority of the area in which his principal place of business is situated, an application for registration within thirty days from the date on which these rules shall come into force.

(2) Every dealer registered under the provisions of the Kerala General Sales Tax Act, 1963 (15 of 1963) shall submit his application on or before 15th day of February, 2006.

(3) Every dealer who becomes liable to get registered after the commencement of the Act shall submit to the registering authority of the area in which his principal place of business is situated an application for registration within thirty days of his total turnover reaching the limit specified in section 15.

(4) Every casual trader referred to in clause (xi) of Section 2 shall within twenty four hours of his arrival in the jurisdiction of the Registering authority concerned, intimate to such Registering authority, his name, address and residence in the State, if he is a resident of the State or his name and address in the State as well as his address outside the State, if he is a non-resident, the nature of the goods in which he intends to deal and the period within which he intends to leave the jurisdiction of the said authority. He shall also submit to the registering authority concerned an application in Form No. 1 B for registration within five days of his arrival or prior to twenty four hours from the last working day preceding the date on which he intends to leave the jurisdiction of the said authority, whichever is earlier,

(5) Any dealer who is not liable to get registered under sub-rule (1) may, at his option, apply for registration under Section 15 to the registering authority of the area in which his principal place of business is situated.

(6) Every non-resident dealer shall submit the application for registration to the Commissioner or any Officer authorized by him in this behalf.

(7) Every application for registration under sub-rules (1) to (6) shall be made in Form No 1, in the case of dealers other than presumptive tax payers and in Form No. 1A, in the case of dealers opting payment of presumptive tax the application shall specify the full address of the place or places of business, the godown or godowns and other place or places in which the goods relating to the business are stored and the details of goods to be bought or sold. Such applications shall be duly attested and signed and verified in the manner provided in the said form, in the case of a business carried on by--

(a) an individual, by the proprietor or by a person having due authority to act on behalf of such proprietor;

(b) a firm, by a partner thereof;

(c) a joint family, by the Kartha or an adult member thereof;

(d) a company or an association or body of person whether incorporated or not or an artificial juridical person, by a Director, Manager, Secretary or the Principal Officer, thereof; or by a person duly authorised to act on its behalf.

(7A) In the case of Central or state Government or Government of any Union Territory or any department thereof or any Local Authority or Autonomous body, the application for registration shall be in Form 1E and shall be signed and verified in the manner specified therein by the officer authorised by the respective Government or the Head of the Department concerned or by the Chief Executive of the institution or authority, as the case may be.

(7AA). in the case of Banks the application form for registration shall be in Form No.1H.

(7B). In the case of others who are liable to take out registration, the application form for registration shall be in Form No.1G.

(8) Every application for registration shall be accompanied, -

(i) by an attested copy of the documents to prove the identity of the applicant such as Passport or Electoral Identity Card. (where the applicant is having a PAN card, he shall invariably furnish a copy of the same.) ;

(ii) by a declaration stating the name of the person who shall be deemed to be the manager of such dealers business and all returns signed and statements so made by such manager shall be binding on the dealer. (Such declaration may be revised from time to time.)

(iii) where fee is payable under section 16, by a chalan receipt from a Government Treasury or demand draft drawn in favour of the registering authority, payable at his headquarters for--

(a) the fee specified in sub-section (1) of S.16 (in the case of a dealer other than a dealer registered under the Kerala General Sales Tax Act 1963.(15 of 1963); or

(b) the fee specified in sub-section (7) of section 16 (in the case of a dealer registered under the Kerala General Sales Tax Act.1963 (15 of 1963);

(iv) in the case of a partnership firm, by an attested copy of the partnership deed and a declaration in Form No 2, signed by all the partners stating the names and addresses of all the partners and their respective shares in the business and a certified copy of the resolution to apply for registration and authorizing a partner to file application on its behalf ;

(v)(a) in the case of a company or association of persons or body of individuals, by a copy of the Memorandum of Association and Articles of Association an attested copy of the certificate of incorporation.

(b) a certified copy of the resolution of its Board of Directors to apply for registration and authorizing a Director/Manager/Secretary to apply on its behalf.

(vi) in the case of an individual or a partnership firm, by two passport size photographs of such individual or of all the partners as the case may be.

(vii) in the case of a company or association of persons or body of individuals or a partnership firm, by a statement showing the details of authorized signatories in Form No. 2A.

(viii) In the case of dealer holding a PAN Card, a copy of the latest income tax return.

(ix) by proof of payment of a fee of five hundred rupees for Electronic Identity Card and two hundred and fifty rupees for each add-on cards in such manner as Government may

direct from time to time (in the case of a dealer who has applied for Electronic Identity Card under section 16 Dealer to whom Electronic Identity Card had already been issued under the Kerala General Sales Tax Act, 1963 shall not be required to make any payment under these rules. Those dealers who have made the payment and awaiting issue of the card furnish the details of payments.

(x) A notarized statement on stamp paper of value of rupees one hundred in the following format.

BEFORE THE REGISTERING AUTHORITY,

(Name of office) COMMERCIAL TAXES DEPARTMENT.

(On stamp paper of Rs.100)

AFFIDAVIT

Iaged. Son of/Daughter of/Wife of
residing at (full postal address with pin code).do
hereby solemnly affirm and state as follows:

I am the sole proprietor /Managing Partner /Managing Director
/Director /Manager /Authorised Signatory for the dealer (full name
and address with pin code.

I/We have started a business in the name and style of
with effect fromI/We would like
to deal with item/s.Manufacture/ Processing/
Trading /Import/Export/Purchase /Sales both Local/ Inter- State.
(Here enter the nature of business operation)

I/We have myself signed in the application for registration under
the Kerala Value Added Tax Act 2003/Central Sales Tax Act 1956. I
am*/We are* not a benami of anybody else.

I / we / company own Hectare Are of land comprised
in survey No..... of Village,
.....Taluk in District and a building worth about
Rs..... *(separate statements may be given if there are
more than one plot /building) *There is no encumbrance on the
above land /building/ *The land/building has been pledged for a
loan of.....(here furnish particulars of loan) Nobody else
has conducted any business/industry. / *A business/ industry in the
name was being run in the premises where the
business/industry in presently situated. I was /We were not in any
way connected with that business/ industry.

I/We hold the following bank accounts:

Bank with Branch Address	Nature of Account	Account No.

I/We will intimate any change in the bank account to the Registering Authority.

*I/We have no sister concerns./ *The following are our sister concerns

Name of business/industry	Nature and Address	Registration No.

No amount is due to Government by the above business by way of tax/ penalty./
An amount of Rs.....is outstanding from these business(es) to Government
by the above business by way of tax/ penalty.

I/We have not applied for Registration under Kerala Value Added Tax Act, 2003
anywhere else in the State. I/We have no Sales Tax Registration under Kerala
Value Added Tax Act, 2003/Central Sales Tax Act, 1956 in the State of Kerala.

I/We am conversant with the provisions of the Kerala Value Added Tax Act, 2003,
Kerala Value Added Tax Rules, 2005, Central Sales Tax Act, 1956 and Central Sales
Tax (Registration and Turnover) Rules, 1957 and undertake to comply with them.

I/We agree to keep correct and complete books of accounts of the business as
prescribed under the above Act and Rules relating to the business transaction of
the dealer.

I/We agree to produce the books of accounts whenever it is called for and also
show the same before any Inspecting Authorities on demand. I agree to file
statutory returns and pay tax regularly without default.

I/We are ready to remit the required Security Deposit demanded by the officer for
registration under the Kerala Value Added Tax Act, 2003 and the Central Sales Tax
Act, 1956.

I affirm that the information furnished above is true and that I am giving the
statement voluntarily and not under the influence or pressure from any body else.

Dated this the day of

Name and signature of the deponent.

Solemnly affirmed and signed before me by the above deponent at my office at . .
. . . on this the day of . . .

Notary Public

(xi) Attested copy of Lease Deed valid as on date of application or document
proving ownership of premises for which registration is requested. Attestation is to
be done by Bank Manager of the applicant.

(xii) Self-attested copy of Licence from Corporation/ Municipality/ Grama Panchayat
for running the business excepting in the case of industrial estates/areas/ zones run
by the Industries Department/Small Industries Development Corporation /Kerala
Industrial Infrastructure Development Corporation and other State/ Central
Government Departments/Agencies.

In case licence has not been received, a copy of the application fee remitted in this
regard will suffice.

(xiii) Self-attested Copy of Provisional SSIRegistration Certificate /IEM/Letter of
Permission, if any.

(xiv) One self-addressed envelope of size 5x11 stamped for Rupees twenty five.

(xv) In the case of an application submitted by any Government or other institution
specified in clause (x) of sub- section (2) of section 15, by an authorization issued
by the appropriate authority where the application is not signed by the Chief
Executive. None of the documents specified in clause

(i) to (ix) shall be required in the case of an application submitted by the central or
any state Government, Government of any Union Territory or any department
thereof or any Local Authority. In the case of an autonomous body, only the chalan
receipt mentioned in clause (iii) above shall be required.

(9) If a partner retires without the partnership being dissolved thereby, he shall
send to the registering authority a declaration in Form No 3, within 30 days of his
retirement, along with a copy of the deed of retirement.

(10) Every dealer, including a joint family entering into or forming a partnership in
regard to his business shall, within 30 days of such event happening, send to the
registering authority of the area in which his principal place of business is situated,
fresh application for registration in Form No 1, as provided in sub-rule (7) along
with copies of the partnership deed and declaration in Form No 2, as provided in
sub-rule (8).

(11) If any Partnership Firm is dissolved and the business is taken over by an
individual, he shall apply for fresh registration as provided for in sub-rule (7).

(12) The person signing and verifying an application for registrations shall specify

the capacity in which he does so and shall give particulars of the authority vested in him for signing and verifying the application.

(13) In the case of business carried on by an individual or joint family or other association or body of persons, whether incorporated or not, the name and permanent residential address of such individual, each of the 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 etc., shall be stated in the application for registration.

(14) The registering authority receiving the application, after making such enquiries as it may consider necessary and after satisfying itself that the prescribed fee has been paid, that the application is in order, that the particulars furnished therein are correct and complete, and that the security, if any, demanded has been paid, register the dealer and grant him a certificate of registration in Form No 4, in the case of a dealer, other than a presumptive tax payer or casual trader, in Form No. 4A, in the case of a dealer who has opted for payment of presumptive tax under sub section 5 of section 6 and in Form No. 4 B, in the case of a casual trader. In the case of dealers registered under the provisions of the Kerala General Sales Tax Act, 1963(15 of 1963), the certificate of registration shall be issued within thirty days from the date of coming into force of these rules. The registration granted under the Kerala General Sales Tax Act 1963(15 of 1963), which was in force on the day preceding the date of commencement of the Act, shall remain in force until registration is granted under this sub- rule. In the case of a dealer who applies for registration as a dealer under sub-section (5) of section 6, the certificate of registration shall be issued as expeditiously as possible where the dealer has complied with the requirements of sub-rule (7) and sub rule (8).

(14A) The application for registration shall be disposed within the time limit specified under sub section (3) of section 16. The registration granted in accordance with sub rule (14) shall have effect from the date of filing of the application.

(15) Where a dealer has more than one place of business (other than a place used merely for the storage of goods) the registration certificate shall cover all such places of business. The registering authority, on application by the dealer and on payment of the fee specified in sub-section (4) of section 16 for each copy, shall issue copies of the registration certificate to the dealer for exhibition at each of his place of business.

(16) If the registering authority finds that, the application is not in order or that the particulars contained in the application are incorrect and incomplete or that the security demanded has not been paid, it shall refuse the application after affording the applicant an opportunity of being heard. However, no application shall be refused merely on technical grounds without giving the applicant an opportunity to correct mistakes.

(17) Every registered dealer shall file an application for renewal of the registration in Form No.5 in the case of a dealer other than presumptive tax payer and in Form No. 5A, in the

case of a dealer paying presumptive tax under sub section (5) of section 6, not later than 30th day of April of the year for which the renewal of registration is sought. Along with the application he shall also file a Chelan receipt from a Government Treasury for the fee specified in sub-section (7) of section 16, wherever applicable.

(18) No registration shall be cancelled under sub-section

(9) or sub-section (10) of section 16 without giving an opportunity to the dealer of being heard. For the purposes of sub-section (1) of section 10, the following shall constitute good and sufficient reasons, namely:

(i) Where the registration has been obtained in the name of a fictitious persons or where the place of business shown in the application is non-existent or the owner of such places has not given his consent in writing to the applicant for running the business; or

(ii) Where the applicant has obtained the registration by the exercise of fraud or misrepresentation of facts; or

(iii)Where the dealer is found to have claimed input tax credit or refund of input tax on the strength of any forged or bogus document; or

(iv)Where the dealer has not been paying the tax collected by him to Government as required by the Act or these rules consecutively for a period of three returns periods and /or has failed to furnish any security or addl. security demanded by the registering authority; or.

(v)Where the dealer is found to have obstructed the officers conducting audit visit or inspection or search at his business place or residence in accordance with the provisions of the Act or these rules; or

(vi)Where the registration is continued without any business being transacted for a continuous period of two years, or

(vii)Where there is any other act or omission of a like nature on the part of the dealer.

(19)Where a certificate of registration is cancelled, the registering authority shall issue to the dealer concerned a notice in Form No. 5 B and shall publish the details in at least two leading dailies in the state and also in the website of the Commercial Taxes Department.

(20)The cancellation of registration shall be effective only from the date on which a copy of the order is served on the dealer or from the date of publication of such cancellation as specified under sub-rule (19), which ever is later.

(21)Where a certificate of registration is cancelled, the said cancellation shall not affect the liability of the dealer to pay the tax, including any penalty or other amounts due for any period prior to the date of cancellation whether such tax including any penalty or other amounts is assessed before the date of cancellation but remains unpaid, or is assessed thereafter.

(22)Where a certificate of registration issued is lost or destroyed, a duplicate of the certificate shall be issued by the registering authority on application and on payment of a fee of one hundred rupees

(23)Every registration certificate granted under sub-rule

(14)shall be deemed to have been granted personally to the dealer specified therein. No registration certificate issued or renewed shall be sold or transferred.

(24)Where a dealer transfers his business to another dealer, the transferee shall within 30 days of such transfer apply for and obtain fresh certificate of registration, with copy for each of the places of business, if any, on payment of the fees specified in sub-sections (1) and (4) of section 16 as applicable.

(25)Every registered dealer shall keep the certificate of registration or the copy of it, as the case may be, in each of his places of business and produce the same on demand by any officer empowered under section 43. When a registered dealer changes any place of business, he shall intimate the fact to the registering authority within seven days of such change and get his certificate of registration amended accordingly.

(26)A certificate of registration granted to a dealer under sub-section (2) of section 16 may, either on the application of the dealer to whom it has been granted, or where no such application has been made, after due notice to the dealer, be amended by the authority granting it if he is satisfied that by reason of the registered dealer having changed the name, place or nature of his business or the class of goods in which he carries on the business or for any other reason the certificate of registration granted to him requires to be amended.

(27)Every registered dealer who discontinues or transfers his business or whose certificate of registration is otherwise cancelled shall, forthwith, surrender to the registering authority the certificate of registration and the copies thereof, if any, granted to him along with any unused statutory forms issued to him.

(28)No registered dealer shall keep his goods in any place or godown not mentioned in the registration certificate.

(29)Any dealer seeking permission under sub-section

(13)of section 16 shall make an application to the assessing authority in form No.1 C. The application shall be accompanied by a chalan receipt from a Government Treasury for the fee specified in sub-section (13) of section 16 and consent from the owner of the premises where the exhibition, mela or other schemes are

conducted. The assessing authority shall, if he is satisfied that the application is genuine and that the required fee has been remitted, issue the permission in Form No. 4 C

(30) Any dealer who has opted for payment of presumptive tax under sub-section (5) of Section 6 may, opt to come out of the system of payment of presumptive tax by filing an application in Form No. 1

(31) Where a dealer who has opted for payment of presumptive tax under sub-section (5) of section 6 is likely to become ineligible for the payment of tax under that sub-section such dealer shall intimate the facts to the registering authority and the assessing authority at least thirty days prior to the date from which he expects to so become ineligible and he shall be liable for payment of tax in accordance with the provisions of sub-section (1) and (2) of that section from the day following the day on which he has become ineligible.

(32) Any dealer paying tax in accordance with the provisions of sub-section (1A) of section 6 may opt for payment of tax under section (5) of section 6 subject to the conditions of the said sub-section from the next year onwards. Such dealer may file application in Form No. 5A.

17A. Compulsory Registration :-

(1) Where a dealer liable to be registered under the Act failed to get himself registered, the assessing authority shall register such persons under the Act compulsorily.

(2) The assessing authority shall conduct such survey and enquiry as regards the liability of such persons under the Act, before proceeding under sub-rule (1).

(3) The persons who are given registration under section 15A, shall be given a registration number under a separate District-wise series, and thereupon all provisions of the Act and Rules shall be binding on such person, but such persons shall not be entitled to any benefits accruing from such registration.

(4) Any person who has been granted registration under this Rule and subsequently applies for registration under section 15 of the Act may be granted registration under that section on fulfilling the conditions prescribed after canceling the registration granted under section 15A.

18. Use of Electronic Identity Card :-

(1) Every dealer to whom an Electronic Identity Card has been issued shall keep it in safe custody and take appropriate steps to ensure that it is used only by persons duly authorized by him.

(2) Where an Electronic Identity Card issued to a dealer is lost, the dealer shall, as soon as practicable, inform the registering authority and the assessing authority concerned, either through e-mail or in writing or in person, about such loss.

(3) The registering authority or the assessing authority, as the case

may be, receiving the information shall verify the identity of the informant and, on being satisfied that the information of loss is furnished by the dealer or his duly authorised representative, take immediate steps to lock the Electronic Identity Card. However, the dealer shall be responsible for any misuse of the card from the time of loss to the time of locking of the card.

(4) The dealer referred to in sub-rule (2) may file an application for the issue of a duplicate identity card in Form No. 25 C before the registering authority.

(5) The registering authority shall after conducting such enquiry as he may deem fit, and on being satisfied that the request is genuine, issue a duplicate identity card.

19. Security to be furnished by certain dealers :-

(1) Where the registering authority decides to demand security or additional security under section 17, it may direct the dealer, in writing, to furnish, within a period, which shall not be less than fifteen days, as may be fixed by the said authority, security for such amount as may be specified in the notice in Form No. 6 D. In making the estimate of turnover for the purpose of fixing the quantum of security the said authority shall take into account the taxable turnover of the dealer, if any, during the preceding year, the trend of business at the time the estimate is made, the nature of the goods dealt in by him, and such other factors as may, in the opinion of the said authority, assist it in making a proper estimate.

No security

shall, however, be demanded from a dealer who applies for registration as a dealer under sub-section(5) of section 6.

(2) The security or additional security may be furnished by the dealer in any of the following ways, namely: -

(a) by depositing as security in the Government Treasury the amount fixed by the said authority and pledging the pass book to and depositing it with the said authority; or

(b) by depositing with the said authority Government securities for the amount fixed by the said authority; or

(c) by depositing security amount in the Post Office Savings Bank and pledging the pass book to and depositing it with the said authority; or

(d) executing a security bond for such amount in Form No.6 with two sureties, solvent enough for the amount assured and acceptable to the said authority; or

(e) by a bond prescribed under rule 85 for the amount fixed by the said authority in Form No. 6A, duly registered, along with title, possession and valuation certificates obtained from the Tahsildar concerned and the value of property shall not be lower than the amount, shown in the bond, or

(f) by means of a bank guarantee in form No.6 C, from a nationalized or scheduled bank, or of any bank authorised under Rule 26 or of any branch thereof located in the state; or

(g) by depositing the amount in the National Savings Certificate and pledging the same to and depositing it with the said authority; or

(h) by depositing with the said authority the title deeds relating to any property owned by the assessee sufficient to cover the amount of security demanded by such authority.

(3) The security or additional security furnished shall be maintained in full so long as the registration certificate continues to be in force and may, in the event of default of payment of any tax or any other amount due under the Act be

liable to adjustment towards such tax or other amount due, after due intimation to the dealer.

(4) Where a person who stood as surety by signing the bond in Form 6 furnished under sub-rule (2) desires to withdraw from the bond, he shall duly serve on the dealer who had executed the bond and to the registering authority, of his desire to do so. Thereupon the dealer shall within sixty days furnish fresh security in any of the manner specified under sub-rule (2) for the amount of the bond and the withdrawal shall be operative from the date on which such fresh security is furnished.

(5) In the case of death or insolvency of any of the sureties furnished by a dealer in the form of a surety bond under clause (d) of sub-rule (2), the dealer shall within fifteen days of the occurrence of any of the aforesaid events, inform the registering authority and shall within sixty days of such occurrence furnish a fresh surety bond or furnish other security as prescribed under sub-rule (2).

20. Suspension of Registration :-

(1) The Deputy Commissioner shall, before passing an order under Section 18, issue a notice to the dealer concerned stating therein the reasons for such suspension and afford him an opportunity of being heard. The Deputy Commissioner shall communicate such order to the dealer.

(2) Any registered dealer whose registration is suspended shall be considered to be a dealer having no registration from the date of communication of the order till the expiry of the period of suspension.

(3) The period of suspension under sub section (2) of section 18 shall be for a period as specified below:

Amount of tax evaded for an year	Period of suspension
Exceeding One lakh but not exceeding three lakhs rupees	Six Months
Exceeding Three lakhs but not exceeding ten lakhs rupees	Nine Months
Exceeding ten lakhs	One year

(4) Where the registration certificate of a dealer is suspended, the matter shall be published in not less than two daily newspapers having wide circulation in the state and shall also be put in the Department Website. The suspension shall take effect from the date of publication.

21. Issue of permit :-

(1) Every application for a permit under sub-section (1) of section 19 shall be in Form No. 7, and shall be submitted to the Registering Authority before transacting the business at places other than his registered place of business or employing a Traveling Sales man or Representative to transact business.

(2) Every such application shall specify the name and address of the registered dealer, the number and date of his registration certificate, and the numbers of permits required.

(3) Every application for the grant or renewal of a permit shall be accompanied by the receipt from a Government Treasury, crossed cheque, or crossed demand draft in favour of the registering authority for the fee specified under section

(4) The registering authority receiving the application may, after satisfying itself that the prescribed fee has been paid and that the application is otherwise in order, issue a permit in Form No. 7 A within three days from the date of application.

(5) Every permit granted under this rule shall expire on the thirty first day of March of the year in respect of which it is granted and may be renewed for periods not exceeding one year at a time. The application for such renewal shall be in form No. 7 and shall be filed before the assessing authority on or before fifteenth day of April of the year preceding the year to which the renewal relates. The provisions of sub-rule (2) to (4) shall apply to such application.

(6)The authorization referred to in subsection (1) of section 19 shall be in Form No. 7AA.

(7)Every dealer to whom the permit is issued or his traveling salesman/representative, duly authorized by him, shall carry the permit with him and shall produce it on demand by any officer not below the rank of an Assessing authority.

(8)The stock book specified under sub-section (3) of section 19, the purchase invoice and/or sale invoice, shall, before making any entries therein, be duly authenticated by the assessing authority by affixing its seal thereon. The stock book shall be maintained continuously for the whole period covered by the permit.

Provided that where the permit holder is not the dealer effecting first taxable sales of goods within the state or where the permit holder issues computer generated bills for the purchase or sales made under the permit, it shall not be necessary to affix the seal on such purchase or sale bills as provided under this sub-rule but such dealer shall furnish the details of the sales effected as per computer generated bills along with the return in form No. 10. He shall also furnish the following certificate in the stock register, duly signed by him, namely: -

Certified that I am not a dealer effecting first taxable sales of goods, as per the explanation to sub-rule (8) of rule 21. Certified that I am issuing computer-generated bills, details of which have been intimated to the assessing authority.

Explanation:- For the purpose of this sub-rule, the term "first taxable sale" shall have the same meaning as assigned to it by the Explanation to sub-section (5) of section 6.

(9) Where a permit granted or renewed under this rule is lost or is destroyed, duplicate of the permit shall be issued by the registering authority on application and on payment of a fee of fifty rupees.

21A. Issuing Green Card :-

(1) Every dealers satisfying the following criteria may be issued Green Cards by the Commissioner of Commercial Taxes under section 19A of the Act, namely:-

(a) Dealers with annual net tax remittance of minimum rupees fifty lakhs in the previous financial year.

(b)Dealers who have filed all returns in time without incurring any delay for the previous year

(c)Dealers who have submitted their statutory forms like Delivery

Notes, and F Form within the stipulated period for the previous year.

(d) Dealers who have not been penalized by the Commercial Taxes Department for any offence for the previous three years.

(2) Every Green Card holder shall be entitled to the following facilities; namely:-

(a) Clearance of all their consignments at all Check Posts within two hours.

(b) Priority in issue of statutory forms like Delivery Note, C Form, F Form.

(c) Grant of statutory forms like Delivery Note, C Form, F Form, and Salesman Permit in one hour of application.

(d) Grant of Branch Registration in one day within the same district and within three days in areas outside the district where the principal office is situated.

(e) Grant of Value Added Tax refund without pre-audit.

(f) Exemption from collection of advance tax.

(3) The Green Card shall be valid for a period of one year.

(4) The Green Card shall be invalidated, on penalizing the green card holder for violation of any provisions under the Kerala General Sales Tax Act, 1963, Kerala Value Added Tax Act, 2003 or the Central Sales Tax Act, 1956.

(5) The dealers who qualify the requirements under sub rule (1) may file application for getting Green Cards in Form No.46, in duplicate, to the Commissioner through the assessing authority, duly recommended by the concerned Deputy Commissioner.

CHAPTER 5 SUBMISSION OF RETURNS, ASSESSMENT AND COLLECTION OF TAX AND PENALTY

22. Submission of Monthly and Annual returns :-

(1) Every dealer registered under the Act and every dealer liable to get registered under the Act other than a dealer to whom rule 24 applies or a dealer who deals exclusively in goods included in the first schedule to the Act, and every dealer who is required to do so by the assessing authority shall, for every return period, submit to the concerned assessing authority, a return in Form No. 10, showing the details of total turnover, turnover on which exemption is claimed, taxable turnover, output tax due, tax collected, input tax credit availed of, tax due including reverse tax, if any, and the tax paid separately for that return period on the following dates:

(a) Every dealer whose	On or before the tenth day of the month following
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(a) Every dealer whose annual tax liability for the preceding year was ten lakh rupees or more	On or before the tenth day of the month following the return period
(b) Any other dealer	On or before the fifteenth day of the month following the return period.

(2) Every dealer registered under the Act and every dealer liable to get registered under the Act and every dealer who is required to do so by the assessing authority, irrespective of the quantum of his total turnover, shall, on or before the 30th day of April every year, submit to the assessing authority of the area in which his principal place of business is situated, a return in Form No.10 showing the details of total turnover, turnover on which exemption is claimed and taxable turnover, input tax credit availed of, output tax, tax due, including reverse tax, if any, and the tax paid separately for the preceding year. Where the details furnished in the annual return vary from those furnished in the monthly returns, the dealer shall, along with the return, file a reconciliation statement.

(3) Along with the return in Form No. 10 the following records also shall be submitted:

(i) Statement regarding the purchase invoices/bills and sale invoices/bills in Form No 52.

(ii) Statement regarding purchase returns and/or sales returns,

(iii) Statement regarding goods sent on branch transfer,

(iv) Photocopies of the Delivery Note in Form No. 15 used during the period for which the return relates. Originals of the Delivery Note shall be submitted along with the annual return.

(v) Copy of the stock inventory as 31st March, in Form No 53 in the case of annual return.

(vi) A statement regarding the declarations in Form No. 41 obtained from any institution referred to in serial No 98 of the third schedule, along with the photocopies of such declaration.

(vii) A Statement regarding the declarations in Form No. 42 obtained from the persons to whom goods are sold under the proviso to sub-section (1) of section 6,

(viii) A statement regarding the declaration in Form No. 43 obtained from the persons to whom goods are sold under clause (b) of sub-section (7) of section 6, along with the photocopies of such declarations.

(ix) A statement regarding the declaration in Form No. 44 obtained from the persons to whom goods are sold in the course of interstate trade or sent out side the state otherwise than by way of sale in the course of interstate trade

(x) A statement regarding the declarations in Form No. 45 obtained from the persons to whom goods are sold under the fifth proviso to sub-section (1) of section 6

Provided that statement submitted along with the monthly return need not be submitted again along with the annual return submitted under sub-rule (2).

(xi) Copy of the balance sheet with trading/manufacturing and profit and loss account drawn up for the year where the dealer is not liable to file audit certificate as provided in section 42.

(xii) Statements regarding the details of statutory forms issued during the return period, such as the number and date of issue, to whom issued, turnover involved and commodities covered.

Explanation: For the purpose of this rule and rule 58 "VAT dealer" means a dealer who is liable to pay tax in accordance with sub-section (1) of section 6 on his sales and does not include a dealer paying tax under sub-section (5) of that section or under section 8

(4) Every dealer who discontinues his business during the course of a year shall submit to the concerned assessing authority a return for the period up to and inclusive of the date of discontinuance of the business within fifteen days from the date of such discontinuance.

(4A) Where any dealer detects any omission or mistake in the return submitted by him under sub-rule (1), he shall file a revised return rectifying the mistake or omission within two months from the last day of the return period to which the return relates or within one month from the date on which the Kerala Value Added Tax (Amendment) Rules 2005 is notified, whichever is later. Where, as a result of such revised return, the tax payable by the dealer increases, the dealer shall furnish along with such revised return proof of payment of tax, interest due thereon under sub-section (5) of section 31 and penal interest calculated at twice the rate specified under sub-section (5) of section 31, in any of the methods specified in sub-rule (6):

Provided that this sub-rule shall not apply to a dealer against whom any penal action is initiated for the same materials under any of the provisions of the Act.

(5) The notice referred to in sub-section (1) and sub-section (4) of section 22 shall be in Form No. 10G. Any dealer who receives such notice shall, within fifteen days from the date of receipt of such notice file a fresh return rectifying the defects as pointed out by the assessing authority in the notice.

(6) Every dealer liable to submit a return in Form No. 10 under sub rules (1) or (4) and any dealer filing a fresh return under sub-rule (5) shall submit along with the return a receipt from a Government Treasury or any designated Bank or self attested copy of the receipt from the government treasury or any designated bank or crossed cheque or crossed demand draft in favour of the assessing authority for the full amount of tax or taxes due for the return period on the basis of the return and, in the case of a fresh return under sub-rule (5), in addition to the tax so payable, the interest payable under sub-section (5) of Section 31, failing which the assessing authority shall serve upon the dealer a demand notice in Form No. 12 and the dealer shall pay the sum demanded within the time and in the manner specified therein.

(7) If the return is submitted without a treasury receipt, crossed cheque or crossed demand draft for the full amount of the tax payable in favour of the assessing authority, the assessing authority shall serve upon the dealer a notice in Form No. 12 and the dealer shall pay the sum demanded along with interest, if any, within the time and in the manner specified therein.

(8) Where on account of any sale return or purchase return made within the time allowed therefore under these rules a revision of the turnover has become necessary, the dealer may file a revised return on or before the tenth day of the month succeeding that in which the sales return or purchase return, as the case may be, is made along with a statement showing the particulars of the sales return or purchase return, as the case may be.

(9) Where any dealer registered under the Kerala General Sales Tax Act 1963, (Act 15 of 1963) had paid any amount towards 90 % of the estimated tax for the month of March 2005 under sub-Rule (7) of Rule 21 of the Kerala General Sales Tax Rules, 1963, which is later found to be in excess of the actual tax payable for the said month based on the monthly return for the said month, the assessing authority shall adjust the amount so paid in excess towards the tax payable by the dealers under sub-rule (6) above for the month of April 2005.

23. Submission of return by casual traders :-

(1) Every casual trader shall submit to the assessing authority concerned on or before the tenth of every month a return in Form No. 10 E showing total turnover, turnover on which exemption is claimed, taxable turnover, input tax credit availed of, output tax and the tax due including reverse tax and tax paid separately for goods for the preceding month. Along with the return he shall submit a receipt from a Government Treasury or self attested copy

of the receipt from the government treasury or crossed demand draft in favour of the assessing authority for the full amount of the tax or taxes payable on the taxable turnover for the month to which the return relates. The casual trader may, if he so desires, pay to the assessing authority in cash the tax due, and obtain a receipt therefore.

(2) (i) Where a casual trader stops his occasional transactions during the course of a month he shall submit to the assessing authority concerned a return in Form No. 10 E showing the total turnover and taxable turnover up to the stoppage of such transaction within the jurisdiction of the said authority within twenty four hours of the completion of the last transaction. Along with the return he shall produce before the said authority proof of having paid the tax due, in the manner specified in sub-rule (1).

(ii) Where a casual trader conducts occasional transaction or transactions of a business nature in the jurisdiction of an assessing authority and leaves such jurisdiction, he shall, before leaving and immediately following the closure of the said transaction, submit to the assessing authority concerned a return in Form No. 10 E in the manner prescribed in sub- rule (1).

24. Submission of quarterly returns :-

(1) Every dealer who has opted to pay presumptive tax under sub-section (5) of section 6 or compounded tax under section 8, other than those paying tax under item(ii) of clause (c) or under clause(e) of section 8 or under clause (f) of section 6, every dealer dealing exclusively in goods included in the First Schedule, every Central or State Government or any Union Territory and any Department thereof, Local Authority and any Autonomous Body and every works contractor shall file quarterly returns in Form Nos.10, 10A, 10D or 10F, as the case may be, for the quarter ending the 30th June, 30th September, 31st December and 31st March to the assessing authority on or before the 15th of the month following the respective quarter.

(1A) Where a contractor is having dealings in goods other than works contract involving transfer of goods not in the form of goods but in some other form falling under clause (f) of sub- section (1) of section 6 and is liable to pay tax on such goods under sub-section (1), he shall, notwithstanding anything contained in this rule, file return in form 10B for such goods in accordance with Rule 22 and the turnover in relation to works contract shall be included

in such return on a quarterly basis in accordance with this rule.

(2) Where, in the case of a works contractor, the actual turnover for the quarter is not ascertainable, the contractor may file the return showing the estimated turnover and pay tax on the taxable turnover declared, provided that where estimated turnover is reported in the return, the labour charges in respect of which deduction is claimed from the

gross receipts shown in the return shall not exceed the maximum percentage given under clause (b) of sub-rule (2) of rule 10 and the dealer shall furnish the particulars of actual turnover in the annual return to be filed for the relevant year under sub-Rule (2) of Rule 22.

(3) All the provisions of sub-rules (2) to (8) of Rule 22 shall, with necessary changes, apply to a dealer filing such quarterly return.

24A. Submission of returns by Government Contractors :-

Contractors who undertake only works awarded by Government and who have opted for compounding under section 8 shall file return on an annual basis for the year ending on 31st March, to the assessing authority on or before 15th of April.

24B. Contractors to file Declaration :-

(1) Every contractor or / promoter / developer or by whatsoever name called who undertakes construction or development of flats or apartments or villas shall file a declaration in Form No. 49 along with returns containing the details of ongoing projects, transfer of apartments/flats/villas made and the works contract tax paid under the Act etc. in respect of every purchaser/ intending purchaser.

(2) Where such contractors are holding flats or apartments or villas the contract of which was undertaken prior to 1st April, 2007 but pending to be transferred as on the 1st April, 2007 and a portion of or full tax for its construction under the Act has already been paid by them, such contractors shall have to file the declaration in Form No 49 on an annual basis relating to the years in which such payment of tax have been made.

24C. Filing of returns by dealers holding registration under Central Sales Tax Act, 1956 :-

(1). The dealers holding registration under Central Sales Tax Act, 1956 and who are liable to file returns in accordance with sub rule

(1) and (1A) of

rule 6 of Central Sales Tax (Kerala) Rules, 1957 shall submit their return in Form No 10 in duplicate superscribing one copy as Kerala Value Added Tax Copy and other as Central Sales Tax Act, Copy.

(2) The return superscribed as Central Sales Tax Act, Copy shall be treated as the return under Central Sales Tax (Kerala) Rules, 1957 and shall contain such enclosures prescribed therein.

24D. Electronic filing of returns :-

(1) Every dealer whose output tax liability per annum is rupees twenty five lakhs or more and every wholesale dealer, distributor, and dealers holding van sale permit shall file the returns as well as purchase and sale lists electronically.

(2) The dealers liable to file returns as per sub rule (1) shall apply to the concerned Deputy Commissioners and get their password etc. for enabling to enter in the KVATIS for filing such returns.

(3) The dealer may enter the different data in accordance with the instructions available in the KVATIS in this regard. After uploading the data the dealer shall take a printout of the return with enclosures and file the same before the assessing authorities with the instrument for payment of tax.

(4) The assessing authority shall approve the entries made by the dealer after which the return will be registered in KVATIS.

(5) The dealer may if necessary modify the entries before approving the same by the assessing authorities:

Provided that wholesale dealers, distributors and dealers holding van sale permit who are not holding registration under Central Sales Tax Act, 1956 whose turnover per annum is less than fifty lakhs and those holding registration under

Central Sales Tax Act, 1956 having turnover less than twenty five lakhs per annum need not file returns as per this rule.;

25. Returns to be submitted by the Head office and Branches :-

(1) in the case of dealers having more than one place of business, all returns prescribed by these rules shall be submitted by the Head Office in the State and shall include the total turnover of all branches of the business in the State.

(2) Each branch shall also submit to the concerned assessing authority of the area in which it is situated a return of the turnover of the branch in the manner provided under sub- rules (1) and (2)

of rule 22 and intimate to such authority, the fact that the return of turnover of its business is included in the return submitted by its Head office and specify the name and address of such Head Office.

(3) For the purposes of determining whether a dealer is liable to pay the tax under Section 6, the total turnover of all his places of business in the State shall be taken into consideration.

26. Authorizing banks for receipt of tax or other amounts :-

The Government may, by order, notify any Bank as responsible for receipt of payment of tax or any other amount due under the Act, subject to such conditions as may be specified in such order.

27. Procedure where the payment is made by cheque or Demand Draft :-

Where payment of any tax or other amount due under the Act is made by means of cheque or Demand Draft, it shall be accompanied by a duly filled up tax Chelan in quadruplicate in Form No. 8 G.

28. Procedure where a cheque is dishonored :-

If a cheque presented by a dealer towards payment of tax or other amount due under the Act is dishonored the assessing authority shall issue a notice to the dealer in Form No. 10 H. On receipt of the notice, the dealer shall make the payment of the amount within the time specified therein, but not later than ten days from the date of receipt of the notice, along with interest under sub-section (5) of section 31. The dealer shall not be permitted to make payment by means of cheque for a period of six months as specified in the notice, which may be extended by the assessing authority, with due notice to the dealer, for good and sufficient reasons to be recorded in writing. However, if the dealer pays the amount covered by the cheque and makes prompt payment of tax or other amount due under the Act for a period of six months, the assessing authority shall restore the facility of payment by means of cheque.

29. Submission of records by owners of vehicles and vessels etc :-

Owners of vehicles or vessels shall submit to the assessing authority having jurisdiction over the area in which the goods are

delivered, copies of bill of sale, invoice, delivery- note, or certificate of ownership as the case may be with a certificate written on the back of such copies of bill of sale, invoice, delivery note, or certificate of ownership, by the person to whom the goods were delivered, to the effect that the goods as per description given were actually delivered to him and taken delivery of by him and duly signed by the purchaser/consignee or his duly authorized agent as the case may be mentioned in such bill of sale, invoice, delivery note, or certificate of ownership. Such copies of bill of sale, invoice, delivery note, or certificate of ownership along with a return in Form No. 11 shall be submitted so as to reach the assessing authority on or before the 10th day of the month following that to which they relate.

30. Submission of returns by forwarding agency, clearing house, etc :-

The return mentioned in section 52 shall be in Form No. 11 A and shall be submitted every month so as to reach the assessing authority of the area on or before the 10th day of the month following that to which it relates.

31. Banks to submit returns :-

(1) The return mentioned in Section 53 shall be in Form No. 11 B and shall be submitted so as to reach the assessing authority of the area on or before

the 10th day of the month following the quarter to which it relates. Banks which do not have transactions of the nature mentioned in section 53 during a quarter shall submit nil return for such quarter.

(2) Bills relating to sale of shares and stocks need not be included in the returns.

32. Awarder to submit return :-

Every awarder, including a Department of the State or Central Government, shall forward a return to the assessing authority showing the details of works contract awarded during every quarter, in Form No. 10 C, so as to reach the assessing authority on or before the 10th day following the quarter ending 30th June, 30th September, 31st December and 31st March every year.

33. Signing and verifying of returns :-

All returns prescribed under these rules shall be signed and verified in the manner provided therein, in the case of a business carried on by

(a) an individual, by the proprietor or by a person having due authority to act on behalf of such proprietor;

(b) a firm, by a partner thereof or by authorised signatory.

(c) a joint family, by the Kartha or an adult member thereof;

(d) a company or an association or body of person whether incorporated or not or an artificial juridical person, by a Director, Manager, Secretary or the Principal Officer, thereof; or by a person duly authorised to act on its behalf.

34. Mode of submission of returns :-

(1) Where any return or statement is required to be filed under these rules, any person filing such return or statement may render or make available the same in the required form which may be written typewritten, printed or in electronic form. Where such return or statement is rendered or made available in an electronic form it shall be accessible so as to be usable for a subsequent reference and shall be authenticated by the secure digital signature of the person signing the return or statement, as the case may be, and the public key is made available to the authority before whom the document is filed. Every dealer, other than a dealer to whom an electronic identity card is issued, who desires to file return through electronic means shall pay an annual fee of two hundred rupees which shall be paid to the assessing authority in the same manner as a registration fee payable under the Act is paid.

(2) Any return under these rules may be submitted either in person, or by registered post with acknowledgement due, or by courier service, or through electronic means.

(3) If the return is submitted in person, the officer receiving the return shall acknowledge the receipt of the same by affixing his dated signature with seal on the duplicate copy of such return. If the return is submitted through electronic means the officer receiving the return shall send an acknowledgement in Form No.10J. If the return is submitted by any other means the acknowledgement shall be in Form No 10 K.

(4) If the return is submitted in electronic form, the officer receiving such return shall not acknowledge the receipt of the same unless he is satisfied that it contains all the required information and the

same is not a read only copy and the details contained in it are transferable to another computer and is duly signed by the dealer.

(5) Any acknowledgement under sub-rule (3) or sub-rule

(4) in relation to a return period shall be issued not later than the due date for the filing of the return for the subsequent return period:

Provided that the acknowledgement in respect of any return for any period prior to the date on which the Kerala Value Added Tax (Amendment) Rules, 2005 is notified shall be issued within thirty days from the date of such notification.

35. Recording of reasons for rejection of return :-

(1) If, in any case, a return submitted under the provisions of these rules is rejected by the assessing authority, it shall record the reasons for such rejection in writing and shall furnish to the assessee a copy of such record not later than the due date for the filing of the return for the subsequent return period, and where the return is submitted after the due date for the submission of the return for the subsequently return period within fifteen days from the date of receipt of the return which ever is later.

Provided that any such communication in respect of any return period prior to the date on which the Kerala Value Added Tax (Amendment) Rules, 2005 is notified shall be given within 30 days from the date of such notification.

(2) Where the return is rejected for non-submission of any of the documents specified under sub-rule (3) of rule 22, and the dealer submits such documents within fifteen days from the date of receipt of the notice under sub-rule (1), the return originally submitted shall be accepted and the assessment shall be deemed to have been completed, provided the submission of the documents does not necessitate revision of the return.

(3) Where the reason specified in the notice is not correct and the dealer offers satisfactory explanation within the time specified in sub-rule (2), the dealer shall not be required to furnish any revised return and the return originally submitted shall be accepted and the assessment shall be deemed to have been completed on the date of receipt of such explanation.

36. Self Assessment :-

Where any return filed by any dealer is in accordance with these rules, and the assessment is deemed to have been completed

under section 21 or sub -section (2) or sub-section (5) of section 22, the assessing authority shall not be required to give intimation to the dealer.

37. Procedure for audit visit :-

(1) The authorization referred to in sub-section (3) of section 23 shall be in Form No.18

(2)The officer authorised under sub-section (3) of section 23 shall issue a notice to the dealer concerned in Form No.18 A. for conducting an audit visit on a date which shall not be within fifteen days from the date of the notice.

(3)On completion of the audit visit the officer mentioned in sub-rule (1) shall issue a certificate of audit in form No.18 B to the dealer.

(4)Any audit visit under section 23 during a period of one year from the date of commencement of the Act shall be done only under the directions of the Commissioner.

(5)Where a particular purchase bill is irrecoverably lost the dealer shall obtain from the seller a duplicate bill showing the particulars included in the original bill, with a certificate of the seller to the effect that the duplicate bill is issued in the context of the loss of the original bill and furnish the same for audit.

38. Best judgment Assessment :-

(1) Where an assessing authority resorting to best judgment assessment under section 22 or section 23 or section 24 deems it necessary to verify the books of accounts of the assessee, such authority may serve on the dealer a notice in Form No. 17 calling upon him to produce the books of accounts or other records or evidences, if any, to prove his turnover and tax liability, and also the correctness of the stock statement, goods or the turnover reported or the input tax credit or the refund claimed, at a time and place to be specified in the notice and shall scrutinize them, if produced, as specified in the notice.

(2) Where the dealer proves the correctness of the above claims with reference to the records produced, the assessing authority shall not proceed to complete best judgment assessment.

(3) Where the dealer fails to prove the correctness of the turnover, stock etc as above, the assessing authority shall proceed to make the best judgment assessment. The dealer shall be given a reasonable opportunity of being heard before completing the best judgment assessment.

(4) Where the turnover of a dealer is determined and the tax or taxes payable for any return period is assessed under section 22, 23 and 24, a notice in Form No. 12 shall be served upon the dealer and the dealer shall pay the sums demanded within the time and in the manner specified in the notice.

(5) Where the taxable turnover of a dealer is determined resorting to best judgment assessment, proportionate special rebate to the tax liability fixed on the turnover under sub-section (2) of section 6 consequent to any addition made in the turnover may be given while fixing the tax liability in respect of such assessment.

39. Audit assessment :-

(1) Audit officer authorized under sub-section (3) of section 23 shall submit a report to the designated officer on the audit conducted at the business place of the dealer and the designated officer shall take appropriate decision whether to proceed under section 24 or not. The audit officer shall also issue a certificate of audit in Form No. 18 B to the dealer.

(2) Notwithstanding that a certificate has been issued under sub-rule (3), if the designated officer considers that any further information is required, he may direct the dealer to furnish the required information or direct the audit officer(s) to obtain the required information.

(3) Where any dealer is required to submit any of the books of accounts or other records for the purpose of audit assessment under Section 24, the assessing authority shall serve upon the dealer a notice in Form No. 18A specifying therein the details of the records to be made available, the date on which and the time at which the dealer has to make available the books of accounts or other records at the business place at the time of audit.

(4) On receipt of the notice in Form No. 18A the dealer or any other person assisting him in carrying on business, shall make available the books of accounts and other records, stock statements and goods at the business place on the date and time specified in the notice.

(5)(i) Where in an audit under section 23, any irregularity as specified under sub-section (1) of section 24 is detected and such irregularity relates to one return period only and does not disclose any pattern of suppression, the best judgement assessment shall be limited to the return period to which the irregularity relates.

(ii) Where the irregularity detected is the failure to prove the claim

of input tax credit or refund claimed, the best judgement assessment shall be limited to the disallowance of the claim of input tax credit or refund, as the case may be. Where any such claim of input tax credit or refund is disallowed, in addition to the demand of the input tax credit or refund illegally claimed, interest under section 31 and penalty at the rate specified under sub-section (5) of section 22 shall be demanded or levied.

(iii) Where the irregularity relates to suppression of taxable turnover and a pattern of suppression is clearly made out, the best judgement assessment shall be in respect of all the return periods to which the pattern is applicable.

(iv) Where the best judgement assessment is done after the expiry of the year in which the relevant return periods fall, and the best judgment relates to more than one return period, the assessment shall be made by a single order. However assessment relating to return periods falling under different years shall not be made by a single order.

(v) The assessing authority making the best judgement assessment shall serve on the dealer a notice clearly specifying the irregularities or defects noticed and the manner in which the best judgement assessment is proposed to be completed. Where a pattern of suppression is detected, the pattern and the relation borne by such pattern of suppression to the estimate proposed shall be clearly made out in the notice.

40. Assessment of legal representative :-

(1) Where a dealer dies and the business is continued, the person running the business after the death of the dealer or executor or administrator, as the case may be, shall notify the death to the assessing authority within fifteen days of the death and file details of the legal heirs. Thereupon, the assessing authority shall conduct such enquiry as he may deem fit to ascertain the particulars of the legal heirs, executor or administrator, as the case may be.

(2) When a dealer dies without having furnished the return or returns prescribed under the provisions of the Act or the rules or after having furnished the returns, the assessing authority may require the executor, administrator or other legal representative, as the case may be, of the deceased person, to perform all or any of the obligations which he might under the provisions of the Act have required the deceased to perform. The tax or fee or other amount due from the deceased for the period up to the date of death,

which had already become due or which may be assessed, shall be payable by the executor, administrator or other legal representative of the deceased to the extent of the assets of the deceased in his hands.

(3) The Assessing Authority, before making an assessment on such executor, administrator or other legal representative, shall give every such executor, administrator or other legal representative, as the case may be, an opportunity of being heard.

41. Collection and payment of tax :-

(1) Where a registered dealer collects tax under section 30 he shall show it separately in each bill, invoice or cash memorandum, as the case may be

and pay it over to Government in the manner specified under sub-rule (6) of Rule 22.

(2) If the assessing authority is satisfied that any amount or amounts collected by the dealer by way of tax or taxes or any other amount due under the Kerala Value Added Tax Act, 2003, have not been paid by him to the Government, it shall issue a notice to the dealer in Form No.12 A specifying therein the total sum so withheld by the dealer or due from the dealer and the dealer shall pay such sum within the time and in the manner specified in the notice along with the interest as applicable.

42. Deduction of tax by awarder :-

(1) The declaration specified in sub-section (2) of section 10 shall be in Form No. 20, the quarterly certificate in Form No. 20 A and the liability certificate shall be in Form No. 20 B

(2) Every awarder making deduction from the payments made to a contractor under sub-section (1) of Section 10 shall pay the amount so deducted to the assessing authority, with whom the contractor is registered as a dealer, and if he is not so registered, to the assessing authority having jurisdiction over the area where the works contract is executed, by means of cheque or by a crossed demand draft in favour of the assessing authority or by remitting the amount in the treasury in the name of the contractor and producing the Chelan before such authority, along with a statement in Form No. 20C, within the time limit specified under section 10:

Provided that no amount shall be deducted under sub-section (1) of section 10 if there is no transfer of goods involved in the execution of the works contract or the goods which are transferred

in the execution of the works contract are only those falling under the First Schedule or where the payment relates to that portion of a contract which relates to transfer of goods involved in the execution of works contract other than those executed in the state.

(3) Where a contractor has opted for payment of tax at compounded rates in respect of a works contract in accordance with the provisions of section 8, the assessing authority shall specify, in the permission granted in Form No. 4D, the rate of compounded tax to be paid in respect of each contract. No certificate in Form No. 20A or Form No. 20B shall be required in respect of a contract for which the assessing authority has permitted payment of tax under section 8. The tax so recovered shall be remitted to government as provided for under sub-rule (2) above.

(4) Where an awarder deducts tax under sub-rule (2) or sub-rule (3) from the payment due to any contractor, he shall issue a certificate to such contractor in Form No. 20F and the contractor shall issue a certificate in Form No. 20G to the awarder.

(5) Notwithstanding anything contained in sub-rule (2) or sub-rule (3), any contractor who pays tax regularly in accordance with the rules, on production of a certificate issued to that effect by the assessing authority in Form No. 20E, shall be entitled to payment of the contract amount without deduction of sales tax due on the contract for a period of six months, to the extent of the works contract specified in the certificate, provided that final payment shall not be made unless the contractor produces a liability certificate issued by the assessing authority in Form No. 20B.

(5A) Where any contractor, to whom a certificate in Form No. 20E had been issued, makes default, either in the filing of any return or in the payment of any tax due, the assessing authority shall cancel the certificate, with due notice to the contractor, and direct the awarder to deduct tax payable by the contractor in accordance with the provisions of section 10.

(6) Any contractor may apply to the assessing authority in Form No. 20D for the issue of such certificate. The assessing authority, if it is satisfied that the applicant complies with the requirement of sub-rule (5), may issue a certificate in Form No. 20E

(7) [Omitted]

(8) The amount deducted by the awarder from the payments due to the contractor and remitted under sub-rule

(2) shall be adjusted against the tax or other amount due from the contractor for the return period during which such deduction is

made.

(9) Where the awarder supplies any material to the contractor for use in the works contract and the price of the goods is deducted from the payment made to the contractor, the awarder shall furnish the details to the assessing authority along with the return filed under Rule 32.

(10) Notwithstanding anything contained anywhere, contractors who undertake only work awarded by Government and filing returns in accordance with Rule 24A shall not be entitled to payment of contract amount without deduction of the compounded tax due thereon.

43. Notice for further mode of recovery :-

The notice referred to in sub-section (1) of Section 35 shall be in Form No. 23 B

44. Calculation of turnover when goods are sold for consideration other than cash :-

(1) Every dealer who buys or sells goods for valuable consideration other than cash shall separately specify in the return of turnover which he is required to submit under these rules, the quantity of goods so bought or sold and the description, in sufficient detail, of the valuable consideration for which the goods were bought or sold.

(2) Every dealer referred to in sub-rule (1) shall, in the sale bill or purchase bill, as the case may be, issued under sub-rule (10) of Rule 58 show the details of valuable consideration received or given for such sale or purchase and its cash equivalent separately.

45. Declaration in respect of sales deemed to be in the course of export under Section 5(3) of the Central Sales Tax Act, 1956 :-

(1) A dealer who purchases goods from another dealer in circumstances in which the sale to him is to be deemed to be in the course of export under sub-section (3) of Section 5 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956) shall furnish to the selling dealer the original and duplicate portions of the declaration in form H prescribed under the Central Sales Tax (Registration and turnover) Rules, 1957 duly filled in and signed by him or by any responsible person duly authorized by him in this behalf and shall

retain the counterfoil .

(2)A dealer who claims that a sale is to be deemed to be in the course of export under sub-section (3) of section 5 of the Central Sales Tax Act, 1956 (central Act 74 of 1956) shall obtain from the buyer of the declaration specified in sub-rule

(1) and produce before the assessing authority in the manner prescribed under Rule 47.

(3) The supply, use, custody, maintenance of account, validity and due date for submission of the declaration in Form H shall be in accordance with the provisions of the Central Sales Tax (Registration and turnover) Rules 1957 and the Central Sales Tax (Kerala) Rules, 1957, as the case may be.

(4) [Omitted]

46. Refund of input tax in case of sale of goods in the course of interstate trade or commerce or transfer to outside the state otherwise than by way of sale in the course of interstate trade :-

(1) Refund of input tax under section 13 in respect of sale of goods in the course of inter- state trade or commerce or transfer to outside the state otherwise than by way of interstate trade shall be made, in the manner and subject to the conditions prescribed in this rule,

to the dealer who has made the inter-state sale and has paid tax under the Central Sales tax Act, 1956 (Central Act 74 of 1956) in respect of such sale or has effected such transfer to outside the state, as the case may be.

(2) Every dealer who claims a refund under this rule shall submit an application in Form No. 21B, along with-

(i) a statement of the interstate sale or transfer to outside the state made during the period to which the claim relates, in the following form:

Invoice No & Date or Delivery Note & Date	Value Rs.	Name & Address of Consignee	Check post through which the goods crossed the states border (in the case of transport through Road)	Name of Transporting agency	No & date of LR/RR/Air way bill Etc.

(1)	(2)	(3)	(4)	(5)	(6)

(ii) copies of the transport document (L.R, R.R, air way bill or delivery note as the case may be) , to the assessing authority concerned within thirty days from the end of the month in which the dealer paid the Central Sales tax on the transaction in relation to which he claims refund of the input tax:

Provided that the assessing authority may condone, for reasons to be recorded in writing, any delay in the filing of the application or other documents aforesaid.

(iii) declaration in form No 21J from the dealer who collected the tax in respect of which refund is claimed.

(iv) a declaration in Form No. 44 obtained from the consignee.

(3) The burden of proving that a dealer is entitled to the refund under this rule shall be on the dealer who claims the refund.

(4) (i) On receipt of the application in Form No. 21B the assessing authority shall, if it is satisfied after such enquiry as it considers necessary, that input tax credit has not been availed of in respect of such goods and that the claim of refund is otherwise admissible, pass an order refunding the tax within three months from the date on which the dealer submitted all the relevant records rectifying the defects, if any, pointed out.

(ii) Where the dealer claiming refund under sub-rule (2) had claimed input tax credit in respect of any purchase in relation to which refund is claimed, which could not be set off till date, refund shall be allowed under clause (i) and the input tax credit carried over shall be reduced by the amount of refund allowed.

(iii) If the application submitted by the dealer appears to the assessing authority to be incorrect or incomplete or otherwise not in order, it shall, after making such enquiry as it considers necessary and recording the reasons in writing, pass such orders as it thinks fit. The Assessing Authority shall, before passing any such order, give the dealer an opportunity of being heard.

(5) Notwithstanding anything contained in the foregoing sub-rules, the assessing authority may issue refund of the input tax claimed in Form No. 21B, without pre-verification, where the dealer claiming such refund furnishes security in the manner specified in clause (f) of sub-rule (2) of Rule 19 covering the amount for which refund is claimed.

(6) Where a dealer eligible for refund under this rule is liable to pay any tax or other amount under the Act or where he is found to be in arrears of tax or other amount under the KGST Act 1963, Central Sales Tax Act, 1956, or the Kerala tax on Entry of Goods into Local Areas Act, 1994, the assessing authority shall adjust the amount to be refunded towards tax or other amount due from the dealer under any of the said

enactments and the balance remaining after making such adjustment shall be refunded to the dealer

47. Refund of input tax in case of sale or purchase of goods in the course of export :-

(1) Every dealer who claims a refund under section 13 shall submit an application in Form No. 21C to the assessing authority concerned not later than one year from the date on which the goods have been exported. Along with the application the dealer shall also submit the following, -

(i) a copy of the Exporters copy or Export Promotion copy of the shipping Bill, Air way Bill or similar document evidencing export of the goods, duly certified by the Customs authorities,

(ii)a certificate from the Bank to prove receipt of payment from the foreign buyer.

(iii)Declarations in form No.21 J from the dealer who collected the tax in respect of which refund is claimed except where such refund is in respect of input tax in relation to goods held as opening stock on the date of commencement of the Act and goods purchased from unregistered dealers in the state. A single declaration shall be sufficient for all purchases made from a dealer during a month.

(iv)Declarations in Form H prescribed under the Central Sales Tax (Registration and turnover) Rules, 1957 where the sale by the dealer claiming refund falls under sub-section (3) of section 5 of the Central Sales Tax Act, 1956(Central Act 74 of 1956)

Provided that the assessing authority may condone, for reasons to be recorded in writing, any delay in the filing of the statement or other documents aforesaid.

(2) The burden of proving that a dealer is entitled to the refund under this rule shall be on the dealer who claims the refund.

(3) (i) On receipt of the application in Form No. 21C the assessing authority shall, if it is satisfied after such enquiry as it considers necessary, that input tax credit has not been availed of in respect of such goods and that the claim of refund is otherwise admissible, pass an order refunding the tax within three months from the date on which the dealer submitted all the relevant records rectifying the defects, if any, pointed out.

(ii)Where the dealer claiming refund under sub-rule (1) had claimed input tax credit in respect of any purchase in relation to which refund is claimed, which could not be set off till date, refund shall be allowed under clause (i) and the input tax credit carried over shall be reduced by the amount of the refund allowed.

(iii)If the application submitted by the dealer appears to the assessing authority to be incorrect or incomplete or otherwise not in order, it shall, after making such enquiry as it considers necessary and recording the reasons in writing, pass such orders as it thinks fit. The Assessing Authority shall, before passing any such order, give the dealer an opportunity of being heard.

(4) Notwithstanding anything contained in the foregoing sub-rules, the assessing authority may issue refund of the input tax claimed in Form No. 21 C without pre-verification where the dealer claiming such refund furnishes security, in the manner specified in clause (a), (b), (c) or (f) of sub-rule (2) of Rule 19, covering the amount for which refund is claimed.

Provided that where the security is furnished in the form prescribed

under clause (b) of sub-rule (2) of rule 19, the dealer claiming refund shall obtain and produce a permission from the authority concerned to adjust, at any time, the amount which, on subsequent scrutiny, is found to be inadmissible for refund.

(5) Where a dealer eligible for refund under this rule is liable to pay any tax or other amount under the Act or where he is found to be in arrears of tax or other amount under the KGST Act 1963, Central Sales Tax Act, 1956, or the Kerala tax on Entry of Goods into Local Areas Act, 1994, the assessing authority shall adjust the amount to be refunded towards tax or other amount due from the dealer under any of the said enactments and the balance remaining after making such adjustment shall be refunded to the dealer.

Explanation:- For the removal of doubt it is hereby clarified that input tax which is eligible for refund under this rule or rule 46 shall include input tax paid on the purchase of Duty Entitlement pass book or any other similar document for the import of any goods in relation to which refund of input tax is claimed.

47A. Refund of input tax remaining unadjusted at the end of the year :-

(1) Every dealer claiming refund of input tax in accordance with the proviso to sub-section (6) of section 11 shall, within three months after the expiry of the year to which the input tax relates, submit an application in Form No. 21 CC to the assessing authority along with the closing stock inventory in respect of Value Added Tax suffered goods locally purchased during the respective year and held as closing stock as on 31st March, in Form No 54.

(2) Sub-rules (2) to (5) of rule 47, except clause (ii) of sub-rule (3) shall, mutatis mutandis, apply to the refund under this rule.

Provided that the date of submission of application under the sub-rule (1) for the year 2005-06, shall be 28th February , 2007.

48. Issue of refund adjustment order :-

Whenever any excess tax refundable to a dealer is adjusted towards any amount due from him under the Act or under any other law referred to in sub-section (3) of section 13, the assessing authority shall issue a refund adjustment order in Form No. 21 A

49. Reimbursement of tax to Foreign Diplomatic Missions, United Nations Agencies :-

(1) Foreign Diplomatic Mission or Consulate in India, Agencies of the United Nations Organisation, any consular or diplomatic agent of any such mission or agency claiming reimbursement under section 14, shall file an application in Form No. 21 E before the assessing authority having jurisdiction over the area in which the office of such agency is situated, along with the invoice or sale bill evidencing collection of tax.

(2) On receipt of the documents mentioned in sub-rule (1) the assessing authority shall pass an order refunding the tax within two weeks from the date of receipt of such documents.

50. Refund payment order :-

Where a refund is made under rule 46 or under rule 47 the assessing authority may issue either a crossed cheque or demand draft for the amount or a refund payment order in Form No. 21K to the assessee to whom the refund is due along with the order refunding the input tax. Where a refund is made under section 89 or where any other amount paid under provision of the Act is refundable or a reimbursement is made under rules 49 or 56, the assessing authority shall issue a refund payment order in Form No. 21K to the person to whom the refund or reimbursement is due. Where a refund payment order is issued in Form No. 21K, the assessing officer shall give due intimation to the treasury officer concerned regarding the issue of refund payment order.

51. Granting of installments by Assessing Authority :-

(1) Any authority under the Act who issues a notice of demand under these rules for the payment of any tax or other amount may, on request by the dealer in form No. 21 H, allow such amount to be paid in not more than six monthly installments. Interest under sub-section (5) of section 31 shall, however, be payable on the amount remaining unpaid.

(2) The assessing authority shall not decline any such request filed as per sub-rule (1) without giving the applicant an opportunity of being heard.

52. Mode of payment of Interest :-

(1) The interest payable under sub-section (5) of section 31 shall be paid in the same manner as the tax or other amount due under the Act, in relation to which such interest is charged, is payable.

(2) The assessing authority concerned may calculate the interest payable under sub-section (5) of section 31 from time to time and may issue a notice in Form No. 12 On receipt of the notice the dealer shall pay the interest due in the manner specified in sub-rule (1).

Explanation: - The dealer or other person concerned shall be liable to pay the interest under sub-section (5) of Section 31 whether he receives a notice under this sub-rule or not.

53. Payment of penalty :-

The assessing authority imposing the penalty under sections 67, 68, 69, 70 or 72 of the Act shall serve a notice of demand on the dealer in Form No. 12 On receipt of the notice, the dealer shall pay the penalty due either by remitting it to the Government Treasury or by means of crossed cheque or crossed demand draft in favour of the concerned assessing authority or in cash to the said assessing authority on or before the day specified in the notice of demand.

54. Mode of recovery of tax and other amounts due :-

(1) Any officer proceeding to recover any amount under clause (a) of sub-section (4) of section 31 may forward a requisition under the provisions of the Kerala Revenue Recovery Rules along with a certificate in form No. 23

(2) On receipt of an application from an assessing authority for realization of tax or other amounts due under clause (b) of sub-section (4) of Section 31, the Magistrate shall issue a warrant in Form No. 23A to a Police Officer or any Officer subordinate to him, authorizing such officer to recover such tax or other amount referred to in the application, by attachment and sale of any movable property belonging to the defaulter. The application as per clause (b) of sub section (4) of section 31 shall be in Form No 23C.

55. Payment of amount forfeited :-

(1) Any sum ordered to be forfeited to the Government by an order issued by the assessing authority under sub-section (1) of Section 72 shall be paid either by cash to the assessing authority or by remitting into the Government Treasury or be paid by means of crossed cheque or crossed demand draft in favour of the assessing

authority concerned.

(2) The assessing authority ordering forfeiture under sub-section (1) of Section 72 shall serve a notice of demand on the dealer in Form No. 12. On receipt of the notice, the dealer shall pay the amount due in the manner specified in sub-rule (1) on or before the day specified in the notice of demand.

56. Reimbursement of forfeited amount :-

(1) Any person who claims reimbursement under sub-section (3) of section 72, of any amount forfeited to Government under sub-section

(1) of that section shall furnish to the assessing authority which ordered such forfeiture, within a period of one year from the date on which the order of forfeiture was passed under sub-section (1) of section 72, a statement in Form No. 21 D, duly filled up and certified by the dealer who realized the excess or illegal tax, along with the original of the bill or bills evidencing such collection;

(2) If the assessing authority which forfeited the amount is satisfied that the statement submitted is correct and complete, it shall refund the amount within ninety days of receipt of the statement in Form No. 21 D as provided in rule

57. Refund of interest :-

Where, as a result of any order under sub-section (8) or sub-section (9) of section 31, the interest levied on any dealer or other person is cancelled or is reduced, the excess amount of interest, if any, collected, shall be refunded to the dealer or other person as provided in rule 50, after adjusting towards any arrears of tax or other amount, if any, due under the Act or under the Kerala General Sales Tax Act, 1963(15 of 1963) or the Central Sales Tax Act 1956(Central Act 74 of 1956) or under the Kerala Tax on Entry of Goods into Local Areas Act, 1994(15 of 1994) within three months from the date on which a copy of the order in appeal, revision or rectification is received by the assessing authority or where the order giving rise to refund is an order issued by the authority issuing the refund, within three months of such order.

57A. Issue of certificate for claiming deduction in stamp duty :-

(1) Where in pursuance to the provisions of the Kerala Stamp Act,

1959 (17 of 1959) for claiming reduction in the duties, with which all instruments of conveyance relating to flats/apartments/villas are chargeable on the value of the consideration for such conveyance to the extent of four rupees for every one hundred rupees or part thereof or the actual amount paid, whichever is less, being Tax under Kerala Value Added Tax Act, 2003 in respect of the works contract entered into between a promoter or developer or by whatsoever name called for construction or development in any manner whatsoever of any immovable property, the assessing authority shall issue a certificate of payment containing the details of tax paid under Kerala Value Added Tax Act, 2003 in respect of the works contract relating to such flats or apartments.

(1) Only those promoters or developers or by whatsoever name called for construction or development of such flats or apartments or villas who are registered under Kerala Value Added Tax Act, 2003 shall be entitled for getting the certificate under sub-rule (1).

(2) Every application for the certificate as prescribed under sub rule (1) shall be in Form No.50 and shall be filed before the assessing authority by the promoter or developer or by whatsoever name called for construction or development of such flats or apartments.

(3) Along with the application the applicant shall file the details of tax paid in respect of the flats or apartments/ villas.

(4) On receipt of an application as per sub rule (3) the assessing authority may, after verifying the genuineness of the details furnished in the application, issue the certificate in Form No 51.

CHAPTER 6 INSPECTION OF BUSINESS PLACES AND ACCOUNTS AND ESTABLISHMENT OF CHECK POSTS

58. Maintenance and preservation of accounts :-

(1) Every person registered under the Act, every dealer liable to get himself registered under the Act and every other dealer who is so required by an assessing authority, shall keep and maintain the following books of accounts disclosing true and complete accounts of his daily transactions in Malayalam or in English together with the vouchers and bills: -

(i) a daily cash book, that is to say, a record of all cash receipts and payments, kept and maintained from day to day indicating the cash balance in hand at the end of each day;

(ii) a journal, if the accounts are maintained according to mercantile system of accounting;

(iii) a ledger;

(iv)a purchase register showing date wise details of the person from whom goods are purchased indicating the registration number, if the purchase is from a registered dealer, details of goods, quantity and value of goods purchased, freight, delivery charges or cost of installation which are separately charged, other charges, if any, paid, and input tax for such purchases.

(v)a sales register showing date wise details of sales effected to registered dealers indicating the registration number of the purchasing dealer, quantity and value of each class of goods sold, freight, delivery charges or cost of installation separately charged, other charges, if any, received and output tax for such sales.

(vi)a stock register showing date wise details of in-out- balance position of goods indicating opening stock, goods purchased, goods received otherwise than by way of purchase, goods received on stock transfer, goods sold or used for manufacturing, goods disposed of otherwise than

by way of sale or manufacturing, consignment or stock transfer, goods bought or sold in the course of inter state trade or commerce or in the course of export out of or import into the territory of India, and the closing stock. Where goods are disposed of in different ways, local sales, interstate sale, export, use in manufacture etc, the quantitative details of goods disposed of under each category shall be separately furnished in the register.

(vii) a dealer who is a whole saler-cum-retailer, shall maintain a day-to-day stock register as specified under clause (vi) only in respect of the wholesale transactions which shall show clearly the quantitative details of goods taken from the wholesale section to the retail section each day. In respect of the retail section the dealer shall maintain a closing stock inventory for the year.;

(viii) a dealer who is having only retail business and is paying tax under sub-section (5) of section 6 need maintain only the records mentioned in clause (i), (ii), (iii) and (iv) and a closing stock inventory for the year.

(ix)where any dealer sends any goods to any place within the state or outside the state for processing repairs, maintenance, testing or any other similar purposes and return, he shall maintain separate accounts showing the particulars of the goods, documents accompanying the consignment, name and address of the person to whom sent, purpose for which the goods are sent, the date on which the goods are received back, the quantity and nature of goods received back and document accompanying the consignment.;

(x)where a dealer is undertaking job works in relation to any goods received from any other person, he shall keep accounts showing the particulars of the goods received from such other person nature of job works undertaken, the quantity and nature of the goods returned and the date of return.

(2)Every dealer shall keep separate purchase and sales accounts for different goods liable to tax at different rates of tax. Separate accounts shall be kept for the purchases in respect of which the dealer is eligible to claim input tax credit showing the purchase price and the tax paid on such purchase separately. Purchase price shall not include the tax collection on such purchase.

(3)Every registered dealer, every dealer liable to get himself registered under the Act and every other dealer who is required so to do by the assessing authority shall keep the books of accounts, in the case of a registered dealer, at the place or places of business entered in the certificate of registration and in the case of others at the place where the dealer carries on his business. Every purchase and every sale shall be brought to account as soon as the purchase or sale, as the case may be, is effected. Every contractor, including a contractor who has opted for payments of tax at compounded rate, shall keep the books of accounts relating to each contract at the work site.

(4)Every dealer shall keep separate accounts in respect of sales or purchases in the course of export or import and in respect of inter-State sales or purchases.

(5)Every commission agent, broker, del credere agent, auctioneer or any other mercantile agent shall maintain accounts showing:-

(a)particulars of authorization received by him to purchase or sell goods on behalf of each principal separately and the date on which a copy of such authorization in each case was sent to the assessing authority.

(b)particulars of goods purchased, or of goods received for sale on behalf of each principal each day;

(c)details of purchases or sales effected on behalf of each principal each day,

(d)details of account furnished to each principal each day;

(e)the tax paid on purchases or on sales effected on behalf of each principal and the Chelan No. and date of remittance of the tax into Treasury.

(6)Every dealer who sells goods to a purchasing agent shall keep particulars of the name and address of the purchasing principal on whose behalf the agent buys.

(7) Every purchasing agent shall keep particulars of the names and addresses of dealers or persons from whom he purchases the goods and the selling agent shall keep particulars of the names and addresses of the dealers or persons to whom he sells the goods.

(8) Every wholesale dealer, importer and manufacturer shall maintain day-to-day stock accounts of each class of goods dealt in by him. The stock account shall contain particulars of purchases or receipts, sales or deliveries and balance stock.

(9) Every dealer liable to pay tax under the Act, other than a dealer paying presumptive tax under sub-section (5) of S.6 or compounded tax under section 8, shall maintain, shall maintain a register showing month wise details of input tax, output tax, purchase tax, Central Sales Tax, Entry Tax, reverse tax, tax due, tax paid and input tax, if any, carried forward to the subsequent return period together with credit and debit notes issued.

(10) Every dealer shall compulsorily issue a bill or an invoice or cash memorandum in respect of every sale. Where the sale is subject to approval by the purchaser, such dealer shall issue bill or invoice or cash memorandum specifying therein that the sale is subject to approval within a stated period of time. Every such bill, invoice or cash memorandum of a dealer shall, in the case of-

(i) a manufacturer, and a trader who effects sale to a person other than an end customer be in Form No. 8;

(ii) a trader effecting sale to an end customer be in Form No. 8B;

(iii) every works contractor paying tax under clause (f) of sub section (1) of section 6 be in Form No. 8 C;

(iv) every works contractor paying tax under clause

(a) of section 8 be in Form No. 8 CA;

(v) every dealer paying presumptive tax under sub section (5) of section 6 issue be in Form No. 8 D;

(vi) every dealer liable to tax under sub-section (2) of section 6 a purchase invoice in Form No. 8 E;

(vii) every dealer in medicines or drugs paying tax under clause (e) of section 8 be in Form No. 8 H;

(viii) every dealer in jewellery be in Form No. 8 J.

Where any central legislation requires any dealer to issue bills with any specific information, such dealer may issue bills as required by such legislation incorporating the details prescribed by the relevant forms under this rule. Where a dealer who is paying tax under sub-section (1) of section 6 has opted for paying tax under section 8 for a part of his transactions he shall issue separate invoice for sales of goods covered by the said sub-section and also for goods in respect

of which he is eligible for payment of tax under section 8. Where any particular column or details prescribed in any of the forms is not applicable to any dealer, such dealer will be at liberty to omit those columns or details from the bill, invoice or cash memorandum maintained by him, provided that where the column in respect of discount is omitted, the dealer shall not claim any deduction in respect of discount thereafter. Every dealer may also re-arrange the columns in the form prescribed, provided the bill, invoice or cash memorandum, as the case may be, contains the particulars prescribed by these rules.

(11) Every such bill or invoice or cash memorandum, shall be prepared in duplicate unless a different procedure is prescribed by the Central Excise Law or any other Central legislation, as applicable to such dealer, and shall be serially machine numbered. Where the goods sold are transported in a vehicle or vessel or where the goods are transported through any check post, such bills, invoice or cash memorandum shall be issued in quadruplicate. Where the bill is issued in duplicate original shall be issued to the purchaser in the case of sale bill, and to the seller in the case of purchase bill, and the other copy shall be retained by the dealer. In the case of quadruplicate bills, the duplicate shall be used as transport copy, triplicate shall be filed at the check post, in the case of transport of goods across the check post and the quadruplicate shall be retained by the seller. The serial numbers assigned to the bills, invoice or cash memoranda shall run consecutively for the whole year. The dealers may use the same or different series of bills, invoice or cash memoranda for goods subject to different rates of tax, provided that the dealer shall use a separate series for the bills issued for sales under a permit under sub-section (1) of section 19. The dealer shall intimate the series and the opening numbers of bills or invoices or cash memoranda intended to be used by him in a year to the assessing authority during the month of April and the number of the first and last bills or invoices or cash memoranda issued during the month, quarter or year, under different series shall be noted in the monthly, quarterly or annual return, as the case may be, filed by the dealer. If a new series of bill, invoice or cash memoranda is started after having furnished the details to the assessing authority in April, the dealer shall intimate the details thereof within fifteen days from the date on which such new series is started.

(11A) Where different series of bills, invoices or cash memoranda are maintained it shall be in alpha numerals only and the alphabets

shall precede the numerals. The maximum alphabets and numerals that can be used in a series shall be limited to three and seven respectively. The invoice number shall not contain any special characters like coma, star, slash, full stop, hyphen or any symbols and shall be written continuously without blank spaces.

(12) Every manufacturer of goods shall, in addition to the daily stock register in respect of raw materials and finished goods prescribed under sub-rule (8), maintain a monthly manufacturing account in Form No. 14. Separate account shall be maintained for goods of different grades or quality.

(13) Every manufacturer in jewellery of gold, silver and platinum group of metals, shall maintain a manufacturing account in Form No. 14A

(14) Every dealer who is required to maintain stock accounts shall maintain subsidiary accounts for each godown if there is more than one godown for keeping his stock. However no separate stock register will be required if such godown is situated in the same premises where the principal place of business is also situated.

(15) Where the accounts or records are maintained by means of computer or any other electronic device, the dealer shall intimate the assessing authority in advance. Such dealer shall also keep a printout of the monthly summary of the purchases, sales, the stock position as on the last day of the month, in respect of each class of goods.

(16) Every wholesale dealer while delivering goods to retail dealer in pursuance of sale where no sale bill is issued or every person who consigns goods by any vehicle or vessel or any other means in pursuance of a sale, where a sale bill is not issued, or consigns goods through the said means from one godown to another or from one of his shops to another for the purpose of storage or sale, shall issue a delivery note in Form No. 15 Delivery Note shall also be used for the transport of such goods as may be notified by Government from time to time even where such goods are accompanied by sale bill, invoice or cash memorandum, as the case may be. Where goods are transported from a dealers business place to any parcel agency or transporting agency for onward transport in a different vehicle or vessel, the time of commencement of the journey from the business place of the dealer and the particulars of the vehicle vessel and the driver at that time shall be noted in the delivery note and the fact that the goods are being sent through a parcel agency or transporting agency shall be noted in column 8, along with the name of such agency. The parcel agency or

transport agency shall note the number and date of the delivery note in the R.R/L.R or similar documents. Where goods are transported using a delivery note to any dealer for sale and the consignee rejects the goods, the goods may be re-transported back to the consignor using the same delivery note with an endorsement thereon to that effect under the name and seal of the consignee who rejects the goods. In such cases the duplicate copy of the delivery note used for the transport shall be filed along with the return. Where goods are sent to a dealer under instruction from another dealer, the name of the former shall be shown in the delivery note as the consignee on account of such another dealer. Where a dealer sends any goods to any place within the state or outside the state for processing, repairs, maintenance, testing or any other similar purposes and return, the consignment shall be accompanied by delivery note in Form No. 15. Where the goods are returned after processing, the goods shall be accompanied by the invoice or bill of the processor and also the delivery note of the dealer. A blank book of Delivery Note of Form No. 15 shall be obtained from the assessing authority, on payment of a fee at the rate of seventy-five rupees per book of fifty forms.

(17) Every such delivery note shall be prepared in triplicate, the duplicate and triplicate being carbon copies of the original. Where the details of the goods covered by the delivery note cannot be incorporated in the column provided there for, a separate statement (which shall be prepared in triplicate as in the case of delivery note) incorporating such details may be attached to the delivery note. Where a dealer uses such separate statement it shall be assigned separate serial numbers, which shall run consecutively for the whole year. The opening number shall be intimated to the assessing authority in advance and the copies of the statements used

during a month shall be submitted in the same manner as in the case of delivery note. The number of the statement used along with a delivery note shall be noted in the column of the delivery note provided for noting the details of goods. The delivery notes shall be serially machine numbered, shall be kept in book form and shall be duly signed and dated by the consigning dealer or his manager or authorized agent. The original of it shall be furnished to the concerned Assessing Authority along with the annual return in Form No. 10 and the duplicate shall be retained by the purchasing dealer or the person to whom the goods are delivered for transporting and the triplicate shall be retained by the consigning dealer.

(18) Every person, other than a registered dealer, who consigns goods by any vehicle or vessel, where the transport is not in pursuance of a sale, shall issue a certificate of ownership in Form No. 16

(18A) Where a dealer is transporting goods in small quantities from one of his shops or godown to another shop or godown in any vehicle other than a heavy vehicle within a distance of less than 25 K.M within the state and transport is not in pursuance of any sale, the dealer may, instead of using a delivery note in Form No. 15, use a delivery chalan which shall be serially machine numbered and shall contain the name, address, Tax Pays Identification Number (TIN) or registration number of the dealer, the particulars of the commodity under transport, its quantity and value, place from which goods are consigned and place to which they are consigned and the vehicle number and name of the driver with his driving licence number. It shall be prepared in triplicate in the same manner as delivery note in form No. 15 and the copies shall be used in the same manner as a delivery note in form No. 15. Such delivery chalan shall not be used where the goods are transported across a boarder check post. A dealer intending to use the delivery chalan shall intimate the assessing authority in advance the serial numbers which are proposed to be assigned to the delivery chalan and shall file

photocopies of such delivery chalan along with the return filed under rule 22.

(19) Where a dealer allows trade discount in terms of quantity, he shall show it separately in the tax invoice or sale bill, as the case may be, issued by him. The sale value of the goods shown in the tax invoice or sale bill shall be deemed to include the sale value of the quantity allowed as discount. The purchasing dealer who receives such discount shall show it in his account as purchase and pay tax, as applicable, on the sales of such goods.

(20) Accounts and other records maintained by a dealer shall be preserved by him for a period of five years from the expiry of the year to which the assessment relates or two year from the date of disposal of the appeal or revision arising out of such assessment or from the date of completion of any other proceeding under the Act connected with such assessment or appeal or revision, whichever is later, and shall be kept at the place of business mentioned in the certificate of registration. Every dealer who maintains accounts by electronic means shall intimate the concerned assessing authority in advance along with the password. Such dealer shall also retain

them in the electronically readable format for the retention period specified in this sub-rule.

(21) In the case of dealers in ornaments or wares or articles of gold, silver or platinum group metals who had not exercised option under clause (f) of section 8, the Commissioner may, if found necessary, for reasons recorded in writing post officers not below the rank of an assessing authority in the business premises of such dealers to watch compliance of section 40 and on such posting the dealer shall provide such facilities to the officers for the discharge of their duties.

(22) When an officer is posted in the business premises of a dealer in accordance with sub rule (21), the officer shall ensure that the dealer is complying with the provisions of the Act and shall furnish a daily report to the Deputy Commissioners concerned.

59. Credit notes and debit notes :-

The credit note and debit note specified in section 41 shall be in Form No. 9, bear separate consecutive serial numbers and shall contain the following details-

(1) Nature of the document (whether debit note/credit note)

(2) Date of issue:

(3) Name and address of the selling dealer (With registration number)

(4) Name and address of the buying dealer (With registration number if any)

(5) Number and date of the invoice in relation to which the credit note or debit note is issued

(6) Amount credited or debited

(7) Tax due on the amount credited or debited

The dealer issuing the credit note shall claim deduction in respect of turnover and output tax relating to such credit note in the month in which such credit note is issued, provided it is within the time limit prescribed and the deduction is in the same year in which the related sale was made. Where the sales return is after the expiry of the year in which the sale was made, the dealer shall claim such deduction in the last month of the year in which the sale, in relation to which such credit note is issued, was effected. Deduction under section 41 will be allowed only in respect of credit notes, which contain the above details.

Provided further that in the case of sales return by a purchaser

other than a dealer, the credit note of the dealer shall be accepted on the basis of filing an acknowledgement given by the purchaser.

60. Procedure for Audit of accounts and certification :-

The certificate referred to in section 42 shall be in Form No. 13 and shall be furnished to the assessing authority, in the case of a company on or before the 31st day of December and in other cases on or before the 31st day of October of the year succeeding the year to which it relates. The certificate shall be accompanied by audited statement of accounts for the year and a statement in Form No.13A.

Provided that a dealer registered under the Act having the head office situated outside the State shall file statement of accounts in respect of the activities in the State separately along with the consolidated Balance Sheet and Profit and Loss Account, if not drawn up separately in the Audit report.

Provided further that the date of filing of the certificate for the year 2005-06 shall be 30th June, 2007.

61. Name boards etc. in front of godowns :-

Every dealer possessing godown or godowns shall put up in front of such godown or godowns, name board(s) showing the building number allotted by the Local Authority, name of the dealer, his Registration Certificate number and the number as well as the total number of the godown or godowns. The number of godown should be shown as the numerator and the total number of godowns as the denominator in the board exhibited. The board shall either be in Malayalam or in English and the letters and figures shall be not less than 2.5 c. m. in size.

62. Safe custody and procedure on loss etc., of statutory forms or declarations :-

(1) The statutory forms or declarations obtained from the assessing authority by a dealer shall be kept in safe custody and shall maintain separate registers in Form No. 26 for such declarations and he shall be personally responsible for the loss, destruction or theft of any such forms or declarations or the loss of revenue to government, if any, resulting directly or indirectly from such theft, loss or destruction.

(2) Every dealer who has obtained any form or declaration from the

assessing authority shall maintain, in appropriate registers, a true and complete account of every such form or declaration. If any such form or declaration is lost, destroyed or stolen, the dealer shall report the fact to the assessing authority immediately, make appropriate entries in the remarks column of the said registers, and take such other steps to issue public notice of the loss, destruction or theft and indemnify the Government from the loss, as the assessing authority may direct. The dealer shall also execute an indemnity bond in Form No. 6B

(3)Where the assessing authority has reasons to believe that the forms or declarations issued to a dealer has been misused, the assessing authority shall, after recording the reasons in writing and affording an opportunity to the dealer of being heard , order the dealer to surrender all the unused forms or declarations issued to him and the dealer shall, on receipt of such an order, surrender the unused forms or declarations.

(4)Any unused forms or declarations remaining in stock with a dealer shall be surrendered to the assessing authority on discontinuance of the business by the dealer or suspension or cancellation of his certificate of registration or on his ceasing to be an assessee.

(5)No dealer to whom any form or declaration is issued by the assessing authority shall, either directly or through any other person, transfer the same to another person except as specifically provided in these rules.

(6)A form or declaration in respect of which a report has been received by the assessing authority under sub-rule (2) shall not be valid for the purposes for which it is intended.

(7)The Deputy Commissioner shall, from time to time, publish in the Gazette, the particulars of the forms or declarations in respect of which a report has been received under sub-rule (2).

(8)The Commissioner may by notification in the Gazette, declare that forms or declarations of a particular description shall be deemed to be obsolete and invalid with effect from such date as may be specified in the notification.

(9)On the publication of the notification referred to in sub-rule (8), all dealers shall, on or before the date, with effect from which the forms or declarations are so declared to be obsolete and invalid, surrender to the assessing authority, all unused forms or declarations of the said description, as may be in their possession and obtain in exchange such new forms or declarations as may be

substituted for the forms or declarations declared obsolete and invalid:

Provided that new forms or declarations shall not be issued to a dealer until he has rendered account of the old forms or declarations notes already issued to him and returned the balance, if any, in his hand to the assessing authority.

63. Search and seizure of documents :-

(1) The authorization under the proviso to section 43 or under the proviso to sub-section (3) or under clause (b) of sub-section (7) of Section 44 shall be in Form No. 19. Every such authorization shall be in writing under the signature of the authority issuing it and shall bear the seal of such authority.

(2) Any person in charge of any building, place, godown, vessel or vehicle or box or receptacle shall, on demand by an authority not below the rank of an assessing authority, and any person in charge of any residential accommodation shall, on demand by the authority authorized under sub-section (3) of Section 44 and on production of authorization, allow such authority free ingress thereto and access to the contents of any box or receptacle and afford all reasonable facilities for a search therein.

(3) If ingress to such building, place, godown, vehicle, vessel or residential accommodation or access to the contents of any box or receptacle cannot be so obtained it shall be lawful for such authority with such assistance of the police or other officers of the State Government as may be required, to enter such building, place, godown, vehicle or residential accommodation or to have access to the contents of any box or receptacle or any outer or inner door or window or any building, place, vehicle or vessel or residential accommodation, whether that of the person to be searched or of any other person if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance or access:

Provided that if any such vehicle, vessel, building, place or residential accommodation is occupied by a woman, who according to custom does not appear in public, the Officer or authorized officer, as the case may be, shall, before entering such vehicle, vessel, building, place or residential accommodation, give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing.

(4) The Officer or the authorized officer as the case may be, may, if

the owner or any other person in occupation or in immediate possession or control of any box, or receptacle, godown, building or residential accommodation in which any goods, accounts, registers, records or other documents are or reasonably believed to be kept leaves the premises or refuses to open the box or receptacle, godown, building, or residential accommodation or is not available and such officer considers it not practicable to exercise the power of breaking open immediately, seal such box, receptacle, godown, building or residential accommodation and serve an order on the owner or the person who is in the immediate possession or control thereof that he shall not open, remove, part with or otherwise deal with such box, receptacle, godown, building or residential accommodation.

(5) Where any person has got out of or is about to get into or is in, any place referred to in clause (a) or clause (b) of sub-section (3) of Section 44 or, any vehicle of any dealer and the officer has reason to suspect that such person has secreted about his person any goods, accounts, registers, records or other documents, such person may be searched by such officer with such assistance as he may consider necessary. If such person is a woman the search shall be made by another woman with strict regard to decency.

(6) Where any officer or authorized officer conducts a search of any person, office, shop, place of business, residential accommodation, godown, vessel, receptacle, vehicle or any premises or place where any books of accounts of a dealer may be, or are reasonably suspected to be kept, he shall as far as may be, follow the procedure prescribed in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

(7) If on search, such officer finds any accounts, registers or other documents which he has reasons to suspect that the dealer is maintaining with a view to evading the payment of any tax or fee due from him under the Act, he shall, for reasons to be recorded in writing, seize such accounts, registers and documents of the dealer as may be necessary and shall give the dealer a receipt for the same. The records seized shall be signed by the offices seizing them and a note to that effect shall be made in the receipt given to the dealer. The accounts and registers so seized shall be returned to the dealer within 30 days and, in cases where permission of the next higher authority under sub-section (6) of section 44 has been obtained, within 60 days from the date of seizure, unless they are required for a prosecution.

(8) When any accounts, registers or documents of a dealer seized

by any officer empowered in this behalf have to be returned to the dealer, such return may be made after taking such extracts there from as may be considered necessary. The authority making the return shall affix its

signature or official seal or both on such accounts, registers or documents and the dealer shall give a receipt in acknowledgement, which shall mention the details of the records returned and the number and particulars of the places where the signature or the seal, or both, have been affixed on the accounts, registers or documents returned to him.

(9) When any accounts, registers or documents are inspected or examined by any authority empowered in this behalf, such authority shall affix his signature or official seal or both, at one or more places therein.

(10) If any officer or authorized officer while inspecting or searching any place finds therein any goods not accounted for by the dealer in his accounts and other records such officer shall prepare a list of all such goods and get it signed by two respectable witnesses. One copy of such list shall be given or tendered to the dealer or the person in charge of the place.

(11) The officer directing payment of penalty under sub-section (8) of section 44 shall issue a notice of demand on the dealer in Form No. 12. On receipt of the notice, the dealer shall remit the amount of penalty specified in the notice into a Government Treasury or pay the same by means of crossed cheque or crossed demand draft in favour of the assessing authority concerned and intimate the fact to the officer directing payment of penalty.

64. Mode of disposal of seized properties :-

(1) An Officer seizing the goods under sub-section (9) of Section 44 or under sub-section (16) of section 47 shall cause to be published in the notice board of his office, a notice under his signature specifying the details of goods seized and intended for sale, the place and the day and hour at which the seized goods will be sold and shall display copies of such list and notice in more than one public place in or around the place in which the goods were found.

(2) No sale shall take place before the expiry of a period of fifteen days from the date on which the notice is affixed.

(3) The Officer who seized the goods or any other Officer authorized in this behalf by the Deputy Commissioner shall conduct the auction in person and the goods shall be made available at the

place of sale.

(4) At the appointed time the goods shall be put in one or more lots as the officer conducting the sale may consider advisable and shall be knocked down in favour of the highest bidder subject to confirmation of sale by the Deputy Commissioner.

(5) The auction purchaser shall pay the sale value of the goods including sales tax applicable, in cash immediately after the sale and he shall not be permitted to carry away the goods unless the amounts are paid in full.

(6) Where the purchaser fails to pay the sale value of the goods in cash, the goods shall be resold at once and the defaulting purchaser shall be liable for any loss arising there from as well as the expenses incurred on the resale.

(7) Notwithstanding anything contained in the foregoing sub-rules, if the goods seized are of a perishable nature or subject to speedy and natural decay or when the expenses of keeping them in custody are likely to exceed their value, the goods shall be sold by the Officer seizing them immediately after such seizure.

(8) Where the appellate or revisional authority orders any refund of the sale proceeds of the goods seized and sold in auction, the same shall be made after deducting any tax to be collected and remitted to Government in accordance with section 30 and any charges incurred in connection with the auction sale.

65. Procedure for the purchase of goods to prevent under valuation :-

No order under section 45 shall be passed without giving the person from whom such goods are purchased or the owner or driver or other agent or representative a reasonable opportunity of being heard.

66. Establishment of Check Posts and documents to be carried with the goods :-

(1) When a check post is set up on a thoroughfare or road under sub section (1) or under subsection (2) of section 46, barriers may be erected, across the road or thoroughfare, in the form of a contrivance to enable vehicle or vessel being intercepted, detained and searched.

(2) No person shall transport within the State, across or beyond the notified area any consignment of goods if the value thereof exceeds five thousand rupees by any vehicle or vessel unless he is in

possession of the records specified in sub- section (3) of section 46.

(3)No person shall transport within the State across or beyond the notified area or within two kilometers from the border area the following goods exceeding the weight as given against it, by head load or animal load, unless he is in possession of the records and documents prescribed in sub- rule (2)

Sl.No.	Description of goods	Quantity
1	Arecanut	20 Kg.
2	Raw Cashew nut	20 Kg.
3	Rubber	20 Kg.
4	Pepper	15 Kg.
5	Cardamom	2 Kg.
6	Coffee	15 Kg.
7	Iron & steel	50 Kg

(4)At any place within the area notified by Government under Sub-section (1) of section 46, the driver or any other person in charge of any vehicle or vessel specified in sub- section (3) of section 46, shall keep the vehicle or vessel stationery and any person referred to in sub-section (4) of Section 46 shall remain stationery or as the case may be keep the animal stationery as long as may be required by the Officer in charge of the notified area or any other Officer of the Commercial Taxes Department not lower in rank than an assessing authority and allow and enable the officer to inspect the goods under transport and to examine the records specified in sub-rule (2).

(5)When the officer in charge of the Check Post or barrier within the notified area is not at the Check Post or barrier, the driver or any other person in charge of any vehicle or vessel specified in sub-section (3) of section 46 shall keep the vehicle or vessel stationery and any person referred to in sub-section

(4)of Section 46 shall remain stationery or as the case may be keep the animal stationery at the Check Post or barrier when required by the Peon on duty at the Check Post or barrier for a period not exceeding fifteen minutes in order to enable the Officer in charge of the Check Post or the barrier or the other Officer specified in sub-rule (4) to come and examine the goods and the records connected with the goods under transport.

(6)(a) The declaration referred in clause (d) of sub-section

(3) of section 46 shall be in Form No 8F.

(b)The delivery note and the certificate of ownership referred to in sub-section (3) of section 46 shall be in Form No. 15 and Form No. 16 respectively:

Provided that when rubber is transported across the States border, a declaration in Form No.1 or Form No.2 or Form No.3 or Form No.4 as prescribed under rule 43B of the Rubber Rules, 1955 shall also accompany the transport.

(c)Where goods are transported interstate either by vehicle or vessel under the cover of certificate of ownership by agriculturists, as owners of such goods produced by them, such certificate shall be got countersigned by the Commercial Tax Officer/Agricultural Income Tax Officer, as the case may be.

(d)The permit for notified goods referred to under sub-section (3) of section 46 shall be in Form No. 7 C. The permit shall be issued, in the case of out going goods, by the assessing authority with whom the dealer is registered, and in the case of incoming goods, by the Commercial Tax Officer or Commercial Tax Inspector in charge of the Check post through which the goods enter the state. In cases where it is not practicable to obtain the permit, in the former case, from the assessing authority concerned, the permit may be issued by the Commercial Tax Officer or

Commercial Tax Inspector in charge of the first check post through which the notified goods passes or by such other officer authorised by the Commissioner. The permit shall be prepared in triplicate and the copies shall bear the superscription original, duplicate and triplicate, as the case may be. Where the assessing authority issues the permit, the original and duplicate shall be issued to the dealer and the assessing authority shall retain the triplicate. The dealer shall surrender duplicate at the last check post. Where the officer in charge of the check post issues the permit, such officer shall forward the duplicate to the assessing authority concerned. The original of the permit shall accompany the consignment.

(7) Any person referred to in sub section (3) or sub section (4) of section 46 shall file a copy each of the document mentioned therein along with the declaration before the officer in charge of the check post or barrier.

67. Procedure for inspection of goods in transit :-

(1) If on examination of goods and the records connected therewith, the officer in charge of the notified area or the officer empowered by the Government under sub-section (1) of section 47 finds that any consignment of goods, the value of which exceeds rupees one thousand or the entire goods are not covered by proper documents or that the documents carried by the driver or any other person in charge of the vehicle or vessel are defective or suspects that the documents are bogus or false, or that the person transporting the goods is attempting to evade payment of the tax due under the Act, the said officer shall immediately issue a notice to the said person to show cause why further steps should not be taken against him under section 47. If the officer inspecting the goods is satisfied as to the reason or reasons for the omission or the defects, as the case may be, he may, after recording his findings there for, allow the goods to be transported. Where a dealer holding electronic identity card owns the goods either in person or through the e-mail ID Furnished by the dealer or the one allotted to the dealer along with the Electronic Identity Card and requests that the further proceedings be conducted at the place where his principal place of business is situated, the officer in charge of the notified area or the officer empowered by the Government under sub-section (1) of Section 47 may transfer the records of the case to the officer of the area where the principal place of business of the dealer is situated who is empowered under sub-section (1) of section 47, for proceeding further in accordance with the provisions of section 47 and this rule. If he is not satisfied with the reasons, he may pass an order for the unloading and detention of the goods and thereupon the owner of the goods or his representative or the driver or other person in charge of the vehicle or vessel shall unload the goods Before issuing the order for such unloading and detention the officer shall issue a notice in Form No.

17 A

(2) Where on the basis of a mobile alert received by a dealer holding an Electronic Identity Card issued under sub-section (14) of section 16 or on the basis of a telephonic information received from the officer in charge of the notified area, a dealer intimates such officer using the e-mail I.D. furnished by the dealer or the one allotted to the dealer along with the Electronic Identity Card issued under sub-section (14) of section 16, that the consignment in respect of which such information is received by him is bogus or that it does not relate to him or that the name of the consignor or consignee, as the case may be, shown in the documents accompanying the consignment is not genuine, such officer shall treat the goods as not covered by the documents prescribed, or the consignment as bogus and proceed accordingly under these rules.

(3) The Officer recording the statement under sub-section

(5) of section 47 shall obtain, from the person in charge of the goods or vehicle or vessel, the name and address of the owner of the vehicle or vessel and the name and address of the owner of the goods if he is not present in the vehicle or vessel. Such Officer shall also record the details of the consignor as well as the consignee as ascertained from the person in charge of the goods or vehicle or vessel. For this purpose such officer may direct the driver or the person in charge of the vehicle or vessel to produce the registration certificate of the vehicle or vessel, driving license of the driver or permits, as may be required.

(4)(a) The security referred to in sub-section (2) of section 47, other than that referred to in the first proviso to the said sub-section, shall be furnished in any of the ways specified in clauses (a) to (c) and (f) of sub-rule (2) of Rule 19 or by depositing the amount with the officer referred to in sub-rule

(b) The security referred to in the first proviso to sub-section

(2) of section 47 shall be in Form No.6. Where such bond is required to be furnished with sureties, the sureties shall be identifiable and solvent enough for the amount assured.

(5) The Officer accepting the security shall, after giving proper cash receipt where security is furnished by deposit of cash or an acknowledgement where security is furnished in any other form and pass an order in writing releasing the goods and allowing the same to be transported.

(6) In cases where the consignor or consignee, as the case may be, in the state is a registered dealer, the officer authorised under sub-section (5) of section 47 shall be one having jurisdiction over the

area where the principal place of business of such dealer is situated.

(7)(a) If the officer to whom proceedings are submitted under sub-section (5) of section 47 is satisfied after inquiry that there has been no attempt to evade the tax due under the Act on the transaction in pursuance of which the goods are transported, he shall, for reasons to be recorded in writing;

(i) Order the release of the goods detained or seized, on the owner of the goods paying the expenses, if any, incurred by the officer concerned for the safe custody of the goods and incidental charges including charges for the service and publication, of the notice under sub-sections (6) and (10) of section 47 and the order under clause (d) of this sub-rule (which shall be specified in the order).

(ii) Release the security (including any bond) furnished by the owner of the goods or any other person.

(b) If, after conducting the enquiry, the officer finds that there has been an attempt to evade payment of tax due under the Act on the transaction, in pursuance of which the goods are transported, he shall pass an order in writing imposing on the owner of the goods a penalty not exceeding twice the amount of tax attempted to be evaded as estimated by him.

(c) In an order under clause (b), the officer shall also specify, in cases where goods have been seized, that the goods are liable to be sold in public auction as provided in sub-sections (8) and (11) of section 47 without any further notice, in case the penalty is not paid within thirty days from the date of the order.

(d) An order under clause (a) or clause (b) shall be communicated to the owner of the goods in the same manner as a notice under sub-section (6) of section 47 is to be served, and also on the person who was in charge of the vehicle or vessel at the time of detaining the goods.

(8) Where an order imposing penalty has been passed and the owner of the goods or his representative or the driver or other person in charge of the vehicle or vessel has paid the amount of penalty together with the expenses and other incidental charges for keeping the goods seized in custody and for the service and publication of the notice under sub-sections (6) and (10) of Section 47 and the order under clause

(d) of sub-rule (7) of this rule to the Officer imposing the penalty, such officer shall pass an order directing the release of the goods seized or of the security or bond furnished, as the case may be.

(9) Where the penalty is not paid within the time specified in sub-

section (8) of section 47 -

(a)if cash security has been furnished or when the goods seized have been sold under sub-section (12) of Section 47 and the amount deposited in Government Treasury, the officer authorized under sub-section (5) of Section 47 shall adjust the amount towards the penalty imposed and the expenses and incidental charges to be recovered and refund the excess if any;

(b)if any other security or a bond has been furnished, the officer shall take steps to realize the amount of penalty imposed from the security and adjust the same towards the penalty and expenses and incidental charges.

(10)(a) when the goods seized are to be sold in public auction as provided in sub-sections (8) and (11) of section 47 the officer who imposed the penalty shall cause to be published in the notice board of his office, a list of the goods seized and intended for sale with a notice under his signature specifying the place and the day and hour at which the seized goods will be sold and shall display copies of such list and notice in more than one public place in the notified area or in or around the place in which the goods were detained as the officer may consider necessary to give wide publicity to the sale.

(b)If the value of the goods exceeds rupees one thousand, copies of the list and notice shall be published in the office of the concerned Deputy Commissioner also.

(c)No sale shall take place until after the expiration of a period of fifteen days from the date on which the notice is affixed.

(d)The officer who imposed the penalty or any other officer authorized in this behalf by the Deputy Commissioner shall conduct the sale in person and the goods seized shall be made available at the place of sale:

(e)At the appointed time, the goods shall be put up in one or more lots as the officer conducting the sale may consider advisable and shall be knocked down in favour of the highest bidder subject to the confirmation of the sale by the Deputy Commissioner.

(f)Where the amount fetched in auction is more than the amount of the penalty due from the owner of the goods, the surplus after realizing the penalty imposed, the charges for the service and publication, if any, of the notice under sub-sections (6) and (10) of Section 47 and the order under clause (d) of sub-rule (7) of this rule, the expenses for the conduct of the sale and the expenses and other incidental charges referred to in sub-section

(14)of section 47, shall be refunded.

(g)The auction purchaser shall pay the sale value of the goods, in ready cash immediately after the sale and he will not be permitted to carry away any part of the goods until he has paid for the same in full.

(h)Where the purchaser fails to pay the sale value of the goods in ready cash the goods shall be re-sold at once and the defaulting purchaser shall be liable for any loss arising there from as well as the expenses incurred on the re-sale.

(i)Where on re-sale, the property is sold at a higher price than at the first sale, the excess amount remaining available after adjusting the penalty and other expenses as provided in clause (f) shall be returned to the owner of goods as provided in sub-section (15) of section 47

(11)The provisions of clauses (a), (b) and (d) to (h) (both inclusive) of sub-rule (10) shall, so far as may be, apply to a sale falling under sub-section (12) of section 47.

67A. Collection of Advance Tax :-

(1) The Commissioner may for the purpose of sub-section (16A) of Section 47 of the Kerala Value Added Tax Act, 2003 from time to time identify evasion- prone commodities for which advance tax shall be collected while importing such goods into the state.

(2)The advance tax as per sub-rule (1) may be collected at the Check Posts at the time of import into the State at rates applicable under the Act.

(3)The advance tax so collected shall be treated on par with the tax paid on purchase of such goods for the purpose of giving credit to such payments, and shall be eligible for input tax credit which may be adjusted against the output tax due for the respective return period.

68. Issue of transit pass :-

Every transit pass issued under Section 48 shall be in Form No. 7 B

69. Procedure for confiscation of goods and vehicles :-

(1) The officer authorized under sub-section (2) of Section 49 shall issue a notice as required by sub-section (3) of the said section not later than 5 days from the date of production of the goods and/or vehicle before him by the officer seizing them.

(2)The officer authorized to release the goods and the vehicle or

the vessel under the proviso to sub-section (2) of section 49 may estimate the value of the goods on the basis of the market value of the goods on the day of confiscation and the value of the vehicle or vessel on the basis of a valuation certificate issued by an engineer of any department of Government not below the rank of an Assistant Executive Engineer qualified to assess the value of vehicle or vessel. For this purpose the authorized officer may give a request in writing to such Engineer who shall issue the valuation certificate not later than five days from the date of receipt of such request.

70. Procedure for disposal of goods and vehicles confiscated :-

- (1) Where an order of confiscation under Section 49 has become final, the authorized officer, shall sell the goods and/or the vehicle confiscated in public auction and the procedure prescribed in sub-rule (10) of rule 67 shall, so far as may be, apply to such sale.
- (2) The sale under this rule shall be subject to confirmation by the Deputy Commissioner.

71. Safe custody of vehicle detained :-

The officer detaining any vehicle or vessel under any of the provisions of the Act shall keep the same in safe custody at the nearest police station or check post or office of the Commercial Taxes Department.

CHAPTER 7 APPEALS, REVISIONS, SETTLEMENT AND REFUNDS

72. Filing of appeal to the Deputy Commissioner (Appeals) :-

- (1) Every appeal under section 55 shall be in Form No. 29 and shall be verified in the manner specified therein.
- (2) It shall be in duplicate and shall be accompanied by the original or a certified copy of the order appealed against and the original of the demand notice.
- (3) The appeal may be sent to the Appellate Authority by post or may be presented to that authority by the appellant or his authorized agent or a legal practitioner.

73. Filing of application under Sections 49, 57 or 59 :-

Every application under section 49, section 57 or section 59 shall be in Form No. 29 and shall be verified in the manner specified therein.

74. Payment of fees on interlocutory application :-

(1) Fees at the rates mentioned in section 65 shall be paid on the following interlocutory applications: -

(a) Application for staying the collection of any tax or other amount, which is disputed in appeal, revision or other proceedings, as the case may be.

(b) Application for advancing the hearing of the appeal, revision or other proceedings, as the case may be.

(c) Application for condonation of any delay in the filing of any appeal, revision or application as the case may be.

(2) The interlocutory applications mentioned in sub-rule

(1) shall be in Form No. 30 in cases where no form has been prescribed separately.

75. Filing of appeal to the Appellate Tribunal :-

(1)(a) Every appeal under sub-section (1) of section 60 shall be in Form No. 31 and shall be verified in the manner specified therein.

(b) It shall be in quadruplicate and accompanied by four copies (one of which shall be the original or authenticated copy) of the order appealed against and also three copies of the order of the assessing authority.

(2)(a) Every application for review under sub-section (8) of section 60 shall be preferred in Form No. 32 and shall be verified in the manner specified therein.

(b) It shall be in quadruplicate and shall be accompanied by four copies of the order of the Appellate Tribunal.

(3) If an appeal or an application for review filed by an assessee under Section 60 is allowed by the Appellate Tribunal, or if such appeal or application is disposed of by the Appellate Tribunal without going into the merits, or if such appeal or application is rejected under the Sales tax Appellate Tribunal Regulations the Appellate Tribunal may in its discretion, by order, refund either wholly or partly, the fee paid by the assessee under sub-section (3) or sub-section (8) of Section 60.

(4) The memorandum of cross-objections referred to in sub-section (3) of section 60 shall be in Form No. 33 and shall be verified in the manner specified therein.

(5) When in any case the Officer empowered by Government under Section 60 or the other person referred to in Section 60, as the case may be, fails to file a memorandum of cross objections within the time provided for in sub section

(2) of section 60 the appeal shall be disposed of on its merits by the Sales tax Appellate Tribunal.

(6) The notice referred to in sub-section (2) of section 60 shall be in Form No. 34

(7) After the final hearing of the appeal, cross objection or application for review, the Appellate Tribunal shall notify a date, which shall not be later than thirty days from the date of such final hearing, for the pronouncement of the orders in such appeal, cross objection or review and on such notified date the Appellate Tribunal shall pronounce the order.

(8) The order in appeal, cross objection or review shall be communicated to the appellant and respondents within sixty days of the pronouncement of such order.

76. Procedure in case of death of appellant or revision petitioner pending proceedings :-

(1) If a person who has filed an appeal or revision or against whom any appeal or revision is pending before any authority under the Act, other than the High Court, dies before the conclusion of the final hearing of the same, the authorized representative appearing for the party or any of the legal representatives, shall, as soon as he comes to know of the death, inform the appellate or revisional authority, as the case may be, about it. The authority concerned shall, thereupon, adjourn further proceedings to enable the impleading of the legal representatives of the deceased. The application for impleading may be filed either by the party interested in getting final orders passed on the proceedings or by any legal representative of the deceased, even though not so interested. The Application shall be in Form No. 35

(2) If the application for impleading is not made within sixty days of the date of death of the party, the proceedings shall abate as regards the deceased.

(3) The proceedings referred to in sub-rule (1) shall not abate by reason of the death of any party between the conclusion of the final hearing, and the passing of the order, but the order may, in such case, be passed notwithstanding the death of the party and shall have the same force and effect as

if it had been passed before the death took place.

(4) If a question arises in any such proceedings as to whether a person is or is not the legal representative of a deceased party, the appellate or revisional authority, as the case may be, may determine the question summarily after taking such evidences as it deems necessary or direct the person asserting to be the legal representative, to produce an order of a competent court to establish his assertion and adjourn the proceedings for the purpose.

(5) Where a pending proceedings referred to in sub-rule

(1) abates, no fresh proceedings shall be started on the same cause of action.

(6) If during the pendency of any proceedings referred to in sub-rule (1) before any appellate or revisional authority specified in the said sub-rule, the business of any party thereto is assigned to or devolves upon some other person, either wholly or in part, the appellate or revisional authority may, on the application of such assignee or other person, add him as a party to the proceedings.

(7) If a party to a proceedings referred to in sub-rule (1) becomes insolvent and his estate becomes vested in a Receiver, the latter may, at the instance of the assessing authority, be made, by leave of the appellate or revisional authority, a party to the proceedings.

77. Setting aside of abatement :-

(1) (i) Any person bound to apply for impleading legal representatives of a deceased party in any proceedings referred to in sub-rule (1) of rule 76 may apply, within sixty days from the date of abatement, for an order to set aside the abatement, and if it is proved that he was prevented by sufficient cause from continuing the proceedings, the appellate or revisional authority, as the case may be, may set aside the abatement.

(ii) The provisions of section 5 of the Limitation Act, 1963 shall apply to an application made under clause (i).

(2) The application shall be in Form No. 35 A and shall be verified in the manner specified therein.

78. Filing of application seeking clarification :-

(1) Every application under section 94 shall be in Form No. 24 and shall be verified in the manner specified therein.

(2) The application shall be accompanied--

(a) where clarification in respect of rate of tax on any commodity is sought, by any literature giving details of the process of

manufacture, ingredients, classification under Central Excise Tariff or other relevant material which will aid in arriving at a decision;

(b) where clarification in respect of the nature of any transaction is sought, by copies of any document with reference to which the clarification is sought;

(c) where clarification whether a particular person is a dealer is sought, by the details of the activities undertaken by the person; and

(d) in other cases by such details as would help in arriving at a decision on the issue.

(3) The Commissioner may, if he deems it necessary for taking a decision under section 94, consult the Empowered Committee.

79. Filing of Application before the Settlement Commission :-

(1) Every application under sub-section (1) of section 61 shall be in quadruplicate, in Form No. 36 and shall be verified in the manner specified therein and accompanied by a fee of one thousand five hundred rupees.

(2) Along with the application under sub-section (1) of section 61, the applicant shall submit the following documents or records:

(i) copy of the original order against which the appeal or revision had been filed,

(ii) copy of the order(s) of the appellate or revisional authority if the settlement is preferred not at the stage of proceedings pending before the first appellate or revisional authority, and

(iii) copy of the books of accounts or any other document or record on which the assessee relies upon to prove the genuineness of his claim.

(3) The applicant shall submit all other documents, records or details, which the Settlement Commission may require him to furnish.

80. Filing of Appeal, Petition etc., to the High Court :-

(1) Every appeal under sub-section (1) of section 62 shall be in Form No. 37 and every petition under sub-section (1) of section 63 shall be in Form No. 38 and shall be verified in the manner specified therein.

(2) The appeal or petition to the High Court shall be accompanied by a certified copy of the order of the Commissioner or the Appellate Tribunal, as the case may be.

(3) Every application for review under sub section (7) of section 62 and under sub section (8) of section 63 to the High Court shall be in Form No. 39 and shall be verified in the manner specified therein.

81. Jurisdiction of Appellate or revisional authority :-

The jurisdiction of Appellate or Revisional authority shall be decided -

(a) in the case of an appeal or revision filed by or against a registered dealer, with reference to the place where the principal place of business of the dealer is situated; and

(b) in the case of appeal or revision filed by or against any other person, with reference to the officer passing the order against which such appeal or revision is filed.

82. Transfer of appeal :-

The Commissioner may, either suo motu or on application, for reasons to be recorded in writing, transfer an appeal pending before a Deputy Commissioner (Appeals) to another Deputy Commissioner (Appeals). The order of transfer shall be communicated to the appellant, to every other party affected by the order, to the assessing authority against whose order the appeal was preferred and to the concerned Deputy Commissioner (Appeals).

83. Transfer of revision petition :-

The Commissioner, may, either suo motu or on application for reasons to be recorded in writing transfer a revision petition pending before a Deputy Commissioner of Commercial Taxes to another Deputy Commissioner of Commercial Taxes. The order of transfer shall be communicated to the petitioner, to every other party affected by the order and to the concerned Deputy Commissioner of Commercial Taxes.

84. Disposal of the appeal or revision petition irrespective of jurisdiction :-

The authority, to which the appeal or revision petition is transferred under Rules 82 or 83, as the case may be, shall proceed to dispose it of irrespective of the local limits of jurisdiction.

85. Furnishing of Security :-

(1) Where it is provided in the Act that an appellant (or an applicant in revision proceedings) shall furnish security in regard to the payment of tax or fee or other amount, the appellant (or applicant) or any person on his behalf shall furnish security in any of the ways specified in sub-rule (2) of rule 19 or furnish personal property as security as the authority, before which the appeal or application is

preferred, may, in its discretion, direct. The security bond shall be in Form No. 6 A, with suitable modification wherever necessary.

(2) Where the order of the appellate or revisional authority does not specify the form in which and the authority before which the security is to be furnished, the security shall be furnished before the authority passing the original order under appeal or revision, in such form as such authority may direct.

(3) Where the security is furnished in the form of a security bond, the sureties furnished shall be solvent for the amount of security furnished.

86. Communication of order, etc :-

(1) Every order of an appellate or revising authority other than the Appellate Tribunal and the High Court shall be communicated to the appellant or petitioner, to every other party affected by the order, to the assessing authority against whose order the appeal was filed and also to any other authority concerned within sixty days of the date of final hearing.

(2) Where an order passed by the assessing authority is modified in appeal or revision, the assessing authority shall give effect to the order in such appeal or revision and communicate the modified order to the dealer within ninety days from the last date fixed for the filing of any further appeal or revision against such order.

(3) Where, as a result of such modified order, any refund is due to the dealer, the assessing authority shall either refund or adjust such amount(s) as provided in section 89 and an order thereof shall be issued along with the modified order.

(4) If such modification ordered by the appellate or revisional authority results in any enhancement of tax or other amount payable by the dealer, the assessing authority shall collect such additional tax or other amount in the same manner as a tax assessed by it.

87. Orders to be given effect to :-

Every order passed by the Appellate Tribunal or the High Court shall, on authorization by the Appellate Tribunal or the High Court, as the case may be, be given effect to by the assessing authority, who shall either refund or adjust within ninety days of the receipt of the authorization as provided in Section 89, any excess tax found to have been collected and shall also collect any additional tax which is found to be due in the same manner as a tax assessed by it.

88. Interest payable by Government :-

The interest payable under sub-section (4) of Section 89 shall be calculated from the date following the expiry of the period specified therein only up to the date on which the refund order is issued

CHAPTER 8 MISCELLANEOUS

89. Burden of proof :-

The burden of proving that any transaction of a dealer is not liable to tax under the Act or entitled for input tax credit or refund of input tax shall be on such dealer. Such dealer claiming exemption or input tax credit or refund of input tax shall produce on demand by the assessing authority concerned such documents and other particulars as may be required by it.

90. Sending of report in case of death of a dealer :-

When a dealer dies, his executor, administrator or other legal representative shall, within thirty days of the death of the dealer or within thirty days of his taking charge as such executor, administrator or other legal representative, whichever is later, send a report of his having done so to the assessing authority and the registering authority concerned and shall apply for registration as provided in sub-rule (7) of rule 17.

91. Report of dissolution of partnerships :-

If a partnership is dissolved, every person who was a partner at the time of dissolution of the partnership shall send within thirty days of such dissolution a report of the dissolution to the registering authority concerned along with a copy of the deed of dissolution.

92. Sending of report in certain cases :-

If, at any time a dealer (a) discontinues or sells or otherwise disposes of, the whole or any part of any business carried on by him, or (b) acquires any business or part of any business whether by purchase or otherwise, (c) changes his place of business or any of his place of business or (d) effects any other change in the ownership or constitution of the business or (e) opens a new place of business or (f) changes the name, style or nature of his business or effects any change in the class or description of goods which he sells or (g) starts a new business

singly or jointly with other persons, (h) death or insolvency of the sureties, (i) creating any charge on the property which is kept as security, he shall intimate the fact to the registering authority within thirty days thereafter.

93. Liability of guardian, trustee, etc :-

In the case of any guardian, trustee, or agent of any minor or other incapacitated person carrying on business on behalf of and for the benefit of such minor or other incapacitated person, the tax shall be levied upon and recoverable from such guardian, trustee or agent, as the case may be, in like manner and to the same extent as it would be leviable upon and recoverable from any such minor or other incapacitated person, if he were of full age or sound mind and if he were conducting the business himself, and all the provisions of the Act and the Rules made there under shall apply accordingly.

94. Liability of Court of Wards, Official Trustee etc :-

In the case of business owned by a dealer whose estate or any portion of whose estate is under the control of the court of wards, the Administrator-General, the official trustee or any Receiver or business on behalf of the dealer appointed by, or, under any order of a court, the tax shall be levied upon and recoverable from such Court of Wards, Administrator General, Official Trustee, Receiver or Manager in like manner and on the same terms as it would be leviable upon and recoverable from the dealer if he were conducting the business himself, and all the provisions of the Act and Rules made there under shall apply accordingly.

95. Payment of traveling allowance and batta :-

A person other than the assessee or his agent or representative appearing before an assessing authority or before an appellate or revisional authority to give evidence in an enquiry under the Act or the rules made there under shall be paid traveling allowance and batta at such rates as may be fixed by the State Government from time to time.

96. Production of authorization :-

The person specified in clauses (a), (c) and (d) of Section 86 of the Act appearing on behalf of a dealer or other person in any proceedings before any Sales Tax authority other than the High Court shall produce before such authority an authorization given by the dealer or such person in Form No. 27

97. Chartered Accountant, Cost Accountant and Sales Tax Practitioner :-

(1) The Chartered Accountant referred to in section 4 and in clause(c) of section 86 shall be a Chartered Accountant as defined in Chartered Accountants Act, 1949 (Central Act XXXVIII of 1949).

(2)The Cost Accountant referred in section 42 and in clause © of section 86 shall be a Cost Accountant as defined in Cost and Works Accountants Act, 1959 (Central Act 23 of 1959).

(3)A person shall not be eligible to appear as a Sales Tax Practitioner under clause (d) of Section 86 of the Act unless his name has been included in the list in Form No 28 A in the manner provided in sub-rule (4) and unless he is a person.-

(a)who has passed the accountancy examination recognized by the (Central Board of Direct Taxes) under rule 50 of the Income Tax Rules 1962, for the purpose of clause (v) of sub-section (2) of section 288 of the Income Tax Act, 1961 (Central Act 4 of 1961,) ;
or

(b)who has acquired such educational qualifications as are prescribed by the Central Board of Direct Taxes in rule 51 of the Income Tax Rules, 1962, for the purpose of clause (VI) of sub-section (2) of section 288 of the Income-tax Act, 1961 (Central Act 43 of 1961) ; or

(c)who has enrolled as sales tax practitioner under sub-rule (2)of Rule 60 of the Kerala General Sales Tax Rules, 1963;
or

(d)who:-

(i)has retired from the Commercial Tax Department of the

Government of Kerala and a period of two years has elapsed since his retirement; and

(ii)during his service under the Government, had worked in a post not lower in rank than that of an assessing authority for a period of not less than three years:

Provided that no person shall be disqualified for appearance before the Commissioner or the Appellate Tribunal merely on the ground that two years have not elapsed since his retirement;

(e)who has passed the Post Graduate Diploma in Taxation awarded by the Centre for Taxation Studies constituted by the Government of Kerala vide G.O. (MS) - 46/91/TD. Dated 19-3-1991.

(4)If any Sales tax Practitioner is found guilty of misconduct in connection with any Sales Tax Proceedings by the Deputy Commissioner of Sales tax, having jurisdiction or by the Sales Tax Appellate Tribunal, the Deputy Commissioner of Sales tax or Sales tax Appellate Tribunal may direct that he shall be thence forward disqualified to represent any person under Section 86 of the Act;

Provided that:-

(a)no such direction shall be made in respect of any Sales tax Practitioner unless he is given a reasonable opportunity of being heard;

(b)any Sales tax Practitioner against whom such direction is made by the Deputy Commissioner of Sales tax, may within one month of the receipt of the orders containing such direction, appeal to the Commissioner to have the directions cancelled;

(c)any Sales tax Practitioner against whom such a direction is made by the Sales tax Appellate Tribunal, may, within one month of the receipt of the orders containing such

direction, appeal to the High Court to have the direction cancelled.

(5)The Deputy Commissioner of Sales Tax shall maintain a list in Form No. 28 A containing the names of all the Sales Tax Practitioners who possess any of the qualifications prescribed in sub-rule (3) and every Sales Tax Practitioner possessing any such qualifications shall be entitled to have his name entered in the said list on an application in Form No. 28 made by him in that behalf to the Deputy Commissioner of Commercial Taxes Department having jurisdiction. The name of any such Practitioner against whom a direction is made under sub-rule (4), shall be removed from the list, provided that the Deputy Commissioner of Commercial Taxes shall re- enter his name in the list if, on an appeal made by him to the Commissioner or to the High Court under proviso (b) o r(c) to the said sub-rule, as the case may be, such direction is cancelled.

(6)The Deputy Commissioner of Commercial Taxes may, suo-motu or upon any information received, effect such amendments in the list as may be necessary from time to time by reason of any change of address or death of any practitioner whose name is entered therein or any other cause, and if such practitioner requests for the omission of his name from the list, the Deputy Commissioner of Sales Tax shall delete the relevant entry in the list accordingly.

(7)Any Sales Tax Practitioner whose name has been included in the list maintained by the Deputy Commissioner of Commercial Taxes under sub-rule (5) shall be entitled to appear before any authority under the Kerala General Sales Tax Act, 1963(15 of 1963)

98. Payment by cash, cheque or demand draft :-

(1) Where any payment by cheque or demand draft is permitted by these rules the cheque or demand draft shall be of a bank or branch of a bank, which is a member of the clearing house, situated in the headquarters of the authority before whom it is presented, crossed and drawn in favour of such authority and shall be such as may be received by the treasury concerned.

(2) Tax or any other amount due under the Act shall be accepted by the appropriate Authority wherever payment by cash is permitted under these rules and such authority shall, on acceptance of such amount issue a receipt for the same.

99. Procedure for seeking Police assistance :-

Any officer seeking police assistance under section 49A shall give a requisition in Form No. 40 to the City Police Commissioner or the Superintendent of Police or the Station House Officer having jurisdiction over the area.

100. Use of forms :-

(1) Where a price has been fixed for the issue of any form prescribed by these Rules, only the appropriate form printed under the authority of the Government shall be used for the purpose.

(2) The forms prescribed in these Rules may be used with such variation in matters of details as may be directed by the Commissioner from time to time.

101. Issue of notice or summons for the production of accounts :-

An assessing authority shall issue a notice in Form No. 17 for production of accounts or a summons in Form No. 22 where personal appearance of any person with certain documents is required by it.