

## **Madhya Pradesh Vat Rules, 2006**

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## **Madhya Pradesh Vat Rules, 2006**

Whereas the State Government considers that the following rules under the Madhya Pradesh Vat Act, 2002 (No. 20 of 2002) should be made and brought in to force at once. Now, therefore, in exercise of the powers conferred by section 71 of the said Act and all other enabling powers under that Act, the State Government hereby makes the following rules, namely :-

### CHAPTER 1

#### CHAPTER I

### **1. Short Title And Commencement :-**

- (1) These rules may be called the Madhya Pradesh Vat Rules, 2006.
- (2) They shall come into force on and from the 1st April, 2006.

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

- (1) In these rules, unless the context otherwise requires -
  - (a) Act means the Madhya Pradesh Vat Act, 2002; (No. 20 of 2002)
  - (b) Appropriate Commercial Tax Officer in relation to a dealer means the Commercial Tax Officer of the circle in which the dealer's place of business is situated or if a dealer has more than one place of business in the State, the Commercial Tax Officer of the circle in which his principal place of business is situated;
  - (c) Assessing Authority means an officer appointed under section 3 to whom the Commissioner has delegated all or any of the powers of assessment, imposition of penalty and levy of interest under the Act;
  - (d) Circle means the area comprised within the local limits of the jurisdiction of a Commercial Tax Officer specified in an order issued under sub-section (4) of section 3;
  - (e) Form means a form appended to these rules;
  - (f) Government Treasury in relation to a dealer -
    - (i) having one place of business, means the treasury or any sub-treasury within the district in which his place of business is situated; and

- (ii) having more than one place of business, means the treasury or any sub- treasury within the district in which his principal place of business is situated;
- (g) Inspector means an inspector of Commercial Tax appointed under Section 3
- (h) Inspecting Officer means any officer specified in clause (c) to (g) of sub- section (1) of section 3 to whom the Commissioner has delegated his powers under section 55 ;
- (i) Registering Authority means the appropriate Commercial Tax Officer or any officer appointed under section 3 to whom the Commissioner has delegated his powers for the purposes of section 17;
- (j) Repealed Act means the Madhya Pradesh General Sales Tax Act, 1958 (No. 2 of 1959) repealed by section 81 of Act No. 5 of 1995 and the Madhya Pradesh Vanijyik Kar Adhiniyam, 1994 (No.5 of 1995) repealed by the Act ;
- (k) Revisional Authority means the commissioner or any other officer appointed under section 3 to whom the commissioner has delegated the powers of revision under section 47;
- (l) Section means a section of the Act;
- (m) Warehouse means any enclosure, building or vessel, in which a dealer keeps his stock of goods.
- (2) All other words and expressions used herein but not defined and defined in the Act shall have the meaning assigned to them in the Act.

CHAPTER 2  
CHAPTER II

**3. Appointments :-**

- (1) Officers specified in clause (g) of sub-section (1) of section 3 shall be appointed by the Commissioner.
- (2) An Inspector of an area shall be subordinate to the Assistant Commercial Tax Officer, and the Commercial Tax Officer exercising jurisdiction therein. An Assistant Commercial Tax Officer posted to assist a Commercial Tax Officer of an area shall be sub-ordinate to such Commercial Tax Officer. The Commercial Tax Officer and the Assistant Commercial Tax Officer shall in all matters arising within the area within which he exercises jurisdiction, be sub-ordinate to the Assistant Commissioner exercising jurisdiction over such area.
- (3) All Inspectors, Assistant Commercial Tax Officers, Commercial Tax Officers and Assistant Commissioners shall, in all matters

arising within the area within which they exercise jurisdiction, be sub-ordinate to the Appellate Authority and Deputy Commissioner exercising jurisdiction over such area.

(4) The authorities specified in clauses (c) to (g) of sub-section (1) of section 3 shall be subordinate to the Additional Commissioner and the Appellate Authority ( other than Deputy Commissioner) and the Additional Commissioner and the Appellate Authority shall be subordinate to the Commissioner.

(5) The authorities specified in clause (c) to (g) of sub-section (1) of Section 3, shall, in exercise of the powers and in the discharge of their duties and functions under the provisions of the Act or any rules made thereunder, follow such direction, as the Commissioner may issue from time to time.

#### **4. Constitution Of The Appellate Board And Its Functions :-**

(1) The Appellate Board shall consist of a chairman and such number of members as may be appointed by the State Government.

(2) (a) The chairman of the Appellate Board shall be a serving or retired member of the Indian Administrative Service of the Madhya Pradesh Cadre, who has held the post of Principal Secretary or equivalent in the Government of Madhya Pradesh for at least three years.

(b) At least one member of the Appellate Board shall be an advocate within the meaning of the Advocates Act, 1961 (No.25 of 1961) or a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949 (No.38 of 1949), who has experience of at least ten years of practice in Sales Tax, Commercial Tax or Income Tax. (c) At least one member of the Appellate Board shall be a serving or retired Officer of the rank of Additional Commissioner of Commercial Tax Department.

(3) The salaries, allowances and other conditions of service of the Chairman and members of the Appellate Board shall be such, as the State Government may, by order, specify.

(4) A member of the Appellate Board may at any time tender his resignation from the post and such resignation shall take effect from the date of its acceptance by the State Government.

(5) The State Government may terminate before the expiry of the tenure, the appointment of the Chairman or a member of the Appellate Board, if the Chairman or the member:

(a) is adjudged as an insolvent; or

- (b) is engaged during his term of office in any paid employment outside the duties of his office; or
  - (c) is in the opinion of the State Government, unfit to continue in office by reason of infirmity of mind or body; or
  - (d) is convicted of an offence involving moral turpitude; or
  - (e) has acquired such financial or other interest as is likely to affect prejudicially his functions; or
  - (f) has so abused his position as to render his continuance in office prejudicial to public interest.
- (6) The Headquarters of the Appellate Board shall be at Bhopal.
- (7) (a) The functions of the Appellate Board under the Act and the rules made thereunder may be discharged by any of the members sitting in single Bench, or in a bench of two members or the Full Bench, as may be constituted by the Chairman.
- (b) The Chairman shall be competent to transfer a pending case/proceeding from one Bench to another.
- (c) An appeal against the order of the Commissioner shall be heard and decided either by the Chairman or by a bench presided over by the Chairman.
- (8) In the event of difference of opinion between the two members of a bench, the appeal shall be heard and decided by Full Bench constituted. In case any member of the Appellate Board, in deciding any case pending before him, has a difference of opinion about any earlier judgment passed by a single member or by a bench, then the case shall be referred to Full Bench.
- (9) (a) The State Government shall determine the nature and category of the officers and employees required to assist the Appellate Board in the discharge of its functions and provide the Appellate Board such officers and other employees, as it may think fit.
- (b) The officers and other employees of the Appellate Board shall discharge their functions under the general superintendence of the Chairman.
- (c) The salaries, allowances and conditions of service of the officers and other employees of the Appellate Board shall be such, as the State Government may, by order, specify.

#### CHAPTER 3

#### CHAPTER III

### **5. Section 5 :-**

Limit of turnover under sub-section (1) of section 5 and limit of aggregate amount of purchase prices under clause (b) of sub-

section (2) of section 10

(a) For the purpose of sub-section (1) of section 5, the limit shall be rupees five lacs.

(b) For the purpose of clause (b) of sub-section (2) of section 10 the limit shall be rupees five lacs.

#### **6. Initiation Of Proceedings For Determination Of Liability :-**

(1) The proceeding for determination of liability of a dealer under sub-section (1) of section 6 shall be initiated by issue of a notice in form 1.

(2) The order determining the liability of a dealer under sub-section (1) of section 6 shall be in form 2. A copy of such order shall be served on the dealer within thirty days from the date of passing that order.

#### **7. Manner Of Proving Payment Of Tax By The Contractor :-**

A claim made by a contractor under clause (b) of sub-section (1) of section 7 shall be supported by a declaration in form 3 to be issued by the sub-contractor and shall be admitted in proof of such claim.

#### **CHAPTER 4**

#### **CHAPTER IV**

#### **8. Composition Of Tax :-**

(1) A registered dealer whose turnover in a year does not ordinarily exceed rupees forty lacs may opt to pay a lump-sum under sub section (1) of Section 11.

(2) A registered dealer opting to pay a lump-sum in lieu of tax by way of composition shall give his option in form 4 to the appropriate Commercial Tax Officer within one month of the commencement of year.

(3) The lump-sum shall be payable on the goods specified in Schedule II -other than the goods specified in part III of the said schedule appended to the Act. The lump-sum payable by a registered dealer shall be as under:-

(i) one percent of the turnover of sales of goods purchased; and

(ii) four percent of the turnover of sales of goods manufactured.

(4) Such lump-sum shall be paid for every quarter of the year for which the option has been given and a quarterly return in form 5 along with a copy of challan as proof of such payment shall be furnished to the appropriate Commercial Tax Officer within thirty days of the expiry of the quarter.



(5) A registered dealer opting to pay lump-sum under section 11 and required to issue a bill, cash memorandum or invoice under sub-section

(1) of section 40, shall, for sale of goods to another registered dealer, issue a bill, cash memorandum or invoice specifically stating that the dealer has opted for composition of tax under section 11. The statement shall be recorded by affixing a rubber stamp which read as follows: -"Goods sold by a dealer opting for composition of tax under section 11.

(6) Where an option given by a registered dealer under sub-section (1) of section 11 stands revoked under the provisions of sub-section (2) of the said section, such dealer shall furnish returns for the period from the commencement of the year to the date of revocation of such option within one month from the date of revocation and subsequent returns, in accordance with the provisions of section 18. The lump-sum payment, if any, shall be adjusted towards the tax payable according to such returns and all other provisions of the Act shall, mutatis mutandis, apply to such dealer. Rule

#### **8A. Rule 8A :-**

Restrictions and conditions subject to which permission to make lump sum payment of tax by way of composition may be granted under Section 11-A:

(1) Every registered dealer referred to in Section 11-A desirous of making a lump sum payment by way of composition in respect of the tax payable by him in relation to goods to be supplied in the execution of a works contract or contracts shall give his option in Form 4-A to the appropriate Commercial Tax Officer.

(2) If execution of a works contract or contracts has commenced before the date of issue of this notification, the option for composition shall be submitted on or before 30th June, 2006

(3) On receipt of the option the appropriate Commercial Tax Officer shall verify the correctness of the option and on being so satisfied, the appropriate Commercial Tax Officer shall, by an order in writing, grant permission to the registered dealer to make lump sum payment by way of composition and send a copy thereof to the registered dealer giving the option.

(4) The amount to be paid in lump sum by way of composition shall be determined at the rate mentioned against each type of contract specified below and shall be so determined at such rate on the total monetary consideration received or receivable by the registered dealer in respect of such works contract.

<b>S. No.</b>	<b>Type of contract</b>	<b>Rate at which lump sum shall be determined</b>
(1)	(2)	(3)
1.	Civil works like construction of buildings, bridges, roads, dams, barrages, canals, diversions excluding -	2 per cent
	(i) supply and installation of air-conditioners, air-coolers or air-conditioning equipment;	

	(ii) supply and fitting of electrical goods, supply and fitting of electrical equipment;	
	(iii) Fabrication, supply and installation of elevators (lifts) and escalators.	
2.	Supply and installation of,-	10 per cent
	(i) air-conditioners, air-coolers, air-conditioning equipments including deep freezers, cold storage plant and humidification plants;	
	(ii) weighing machines and weigh bridges;	
	(iii) elevators (lifts) and escalators.	
3.	All other contracts not specified in serial number 1 and 2 above	4 per cent

(5) On the commencement of the execution of works contract or contracts, a registered dealer to whom permission has been granted under sub-rule (3) shall pay within thirty days of the receipt of payment on account of a running bill, into the Government Treasury, that much amount out of the amount payable by way of composition on the amount of the said running bill, which remains after deducting therefrom the amount deducted at source under the provisions of sub-section (2) of Section 26.

(6) Every such registered dealer shall within thirty days of the close the quarter ending on 30th June, 30th September, 31st December and 31st March send a statement in Form 4-B to the appropriate Commercial Tax Officer enclosing therewith the copies of the challan or e-Receipt as also the certificates issued under sub-section (3) of Section 26 by the person making the deduction of an amount at source under sub-section (2) of the said Section in proof of the payments of lump sum amount by way of composition made during the quarter.

(7) On receipt of the statement in Form 4-B the appropriate Commercial Tax Officer shall verify the correctness of the amounts paid by way of composition by the registered dealer. If he is not satisfied about the correctness of the payments made, he shall, by order in writing, determine the correct amount payable by the registered dealer during the quarter and if the amount so determined is more than the amount paid by the registered dealer the appropriate Commercial Tax Officer shall require the registered dealer to pay the balance of the amount within fifteen days from the date of service of the notice of demand issued by him for this purpose. The registered dealer, on payment of the balance within the specified time, shall send a copy of the challan or e-Receipt to the appropriate Commercial Tax Officer in proof of such payment within seven days from the date of payment.

(8) Where the registered dealer fails to pay the balance of the amount within the time specified in the notice of demand issued under sub-rule (7), or within such further time as may have been granted to him for the purpose on an application made by him in this behalf, the appropriate Commercial Tax Officer may revoke the permission granted to the registered dealer under subrule (3) in respect of the works contract or contracts in relation to which such default has been committed and thereupon the registered dealer shall be liable to be assessed under Section 20 in respect of such works contract or contracts in relation to which the permission has been revoked.

(9) When the permission granted to a registered dealer under sub-rule (3) is revoked under subrule (8), the provisions of Sections 18, 20, 20-A, 39 and 40 shall apply to such registered dealer in relation to the works contract in respect of which such permission had been granted to him.

(10) The registered dealer who has been granted permission to make lump sum payment by way of composition in respect of a works contract or contracts under the repealed Act and the execution of the contract or contracts is continuing after 31st March, 2006, shall continue to avail the facility of composition till the completion of the contract or contracts in accordance with the permission granted.

## **9. Claiming By Or Allowing To A Registered Dealer Or A**

## **Person Other Than A Dealer Rebate Of Input Tax Under Section 14 :-**

(1) Any claim in respect of input tax rebate that may be made by a registered dealer under sub-section (1) of section 14, shall be qualified by a bill, invoice or cash memorandum issued by the selling registered dealer indicating therein separately the amount of tax under section 9 collected by him. Any such claim in respect of the input tax rebate shall be made by such registered dealer in his return in Form 10. No such claim shall be made or be allowed if the said bill, invoice or cash memorandum does not indicate separately the amount of tax under section 9 collected by the selling registered dealer.

(2) A person other than a dealer, who is eligible to claim input tax rebate under sub-section (2) of section 14, shall make an application in form 5 A along with the copy of the bill, invoice or cash memorandum issued by the selling registered dealer, to Commercial Tax Officer of any circle within sixty days from the date of purchase and the Commercial Tax Officer shall, after making such verification as he deems fit, allow input tax rebate to the person.

### CHAPTER 5

### CHAPTER V

## **10. Period For Making An Application For Grant Of Registration Certificate Under Section 17 :-**

(1) A dealer required to get himself registered under sub-section (1) of section 17 shall apply for grant of a registration certificate in the manner laid down in rule 11.

(2) A dealer required to get himself registered under clause (a) or clause (b) of sub-section (2) of section 17 shall apply for grant of registration certificate in the manner laid down in rule 11, within thirty days of the date specified in the said clause.

## **11. Application For Grant Of Registration Certificate (1) An Application For Grant Of A Registration Certificate Under Section 17 Shall Be Made In Form :-**

6 in duplicate to the Registering Authority and shall be -

(i) signed by the proprietor of the business or in case of a partnership by a partner or director of the firm or in case of a Hindu undivided family business by the manager or karta of the Hindu undivided family or in case of a company incorporated or deemed

to be incorporated under the Companies Act, 1956 (1 of 1956), or any other law for the time being in force by the principal officer managing the business or in case of a society, club or association by the president or secretary responsible for the management of such society, club or association or in case of the Central or a State Government or any of their departments, by the officer-in-charge of the business of selling or supplying or distributing goods and in case of a dealer who resides outside the State but who has place of business in the State, by his manager or agent;

(ii) verified in the manner provided in the said form;

(iii) accompanied by passport size photograph(s) of the proprietor or each of the adult partners of the firm, or of each adult coparcener of the Hindu undivided family, as the case may be, duly attested by a lawyer or a Tax Practitioner or a Gazetted Officer ; and

(iv) accompanied by self certified copies of the documents required to be furnished alongwith the application.

(2) The Commissioner may, on an application made by a dealer having more than one place of business in the State and on being satisfied about the genuineness of the grounds put forth in the application, grant him permission in writing to apply to the Registering Authority for grant of registration certificate separately for each place of business : Provided that for the purpose of determining the liability of such dealer for payment of tax under the Act, his turnover in respect of all the places of business in the State shall be taken into consideration.

## **12. Grant Of Registration Certificate :-**

(1) On the day, the application for grant of a registration certificate is received, the Registering Authority shall grant to the applicant a registration certificate in form 7.

(2) After the issue of the registration certificate, the Registering Authority or an official not below the rank of Commercial Tax Inspector authorised by him, shall, with a view to verify the correctness of the particulars given in the application, visit the place of business and ask for the applicants accounts and require him to produce evidence and documents in support of the particulars given in the application. On verification of the accounts and the documents furnished to him, if the Registering Authority is satisfied that the particulars given in the application are incorrect or the applicant has misrepresented the facts, he shall proceed to

cancel the registration certificate in accordance with the provisions of clause (c) or clause (e) of sub-section (4) of section 17. Such cancellation shall take effect from the date of issue of the registration certificate.

(3) The requirement to furnish the evidence and documents under sub-rule (2) shall be limited to the particulars given in the application in form 6 for grant of a registration certificate.

**13. Grant Of Duplicate Copy Of Registration Certificate :-**

If a registration certificate granted under these rules is lost, destroyed, defaced or becomes unintelligible, the Registering Authority shall on application and on payment of a fee of rupees fifty per copy, grant a duplicate registration certificate. Such certificate shall be stamped "Duplicate" in red ink.

**14. Supply Of Certified Copies Of Registration Certificate And Its Exhibition :-**

(1) The Registering Authority shall issue to the dealer a certified copy of the registration certificate and where the dealer has more than one place of business in the State, he shall issue to the dealer two certified copies of the registration certificate for every additional place of business enumerated therein.

(2) Every registered dealer shall conspicuously display at each place of his business the registration certificate or the certified copy thereof.

**15. Information Under Sub-Section (8) Of Section 17 :-**

(1) Every dealer or if he dies, his legal representative, who is required to furnish information under sub-section (8) of section 17, shall, within thirty days of the occurrence of any event specified therein furnish the information relating to such event in writing together with his registration certificate, if any, to the Registering Authority for cancellation, amendment or replacement thereof, as the case may be.

(2) If a dealer enters into partnership in regard to his business, he shall report the fact to the Registering Authority within thirty days of entering into such partnership.

(3) If a partnership is dissolved, every person who was a partner shall send a report of the dissolution to the Registering Authority within thirty days of such dissolution.

**16. Amendment Of Registration Certificate :-**

(1) Where any registered dealer on the occurrence of any event referred to in sub-section (8) of section 17 or in pursuance of any other provision of the Act makes an application for amendment of his registration certificate, the Registering Authority, if it is satisfied after making such enquiry as it may think necessary, that the information furnished by the applicant is correct, shall amend the registration certificate of the applicant within the period specified in clause (a) of sub-section (9) of section 17.

(2) If on enquiry made in respect of the application made by a registered dealer, the Registering Authority is not satisfied about the correctness of the information given in the application, it shall, for reasons to be recorded in writing, reject the application of the applicant within the period specified in clause (a) of sub-section (9) of section 17. An intimation regarding the rejection of the application for amendment, stating reasons therefore, shall be sent to the applicant within seven days of the date of the order rejecting the application.

#### **17. Information On The Death Of A Dealer :-**

When any dealer dies, his legal representative shall, within thirty days of his death, inform the Registering Authority about it in writing.

#### **18. Cancellation Of Registration Certificate Under Sub-Section (10) Of Section 17 :-**

(1) When a registration certificate issued to a dealer becomes liable for cancellation under clauses (a), (b) or (c) of sub-section (10) of section 17 the Registering Authority shall after making such enquiry as it thinks necessary, cancel the registration certificate of the dealer.

(2) A dealer may apply to the Registering Authority in form 8 for the cancellation of his registration certificate on any of the grounds mentioned in clauses (a), (b) or (c) of sub-section (10) of section 17. If the application is on the ground mentioned in clause (a) of sub-section (8) of section 17 he shall also tender along with the application the registration certificate together with certified copies thereof and blank statutory forms issued by the commercial tax department, if any. On the receipt of such application, the Registering Authority shall, if it is satisfied after making such enquiries, as it deems necessary, that the application is correct, cancel the registration certificate. (3) If in the opinion of the

Registering Authority there are reasons for cancellation of the registration certificate of a dealer under clause (c) or clause (d) or clause (e) of sub-section (10) of section 17, it shall, after giving the dealer a reasonable opportunity of being heard, pass such order, as it deems fit : Provided that if a dealer has not submitted his returns for two consecutive quarters, it shall be considered as sufficient reason for initiating the process for cancellation of registration under clause (d) of sub-section (10) of section 17.

(4) The cancellation of the registration certificate under sub-rule (2) or sub-rule (3) shall take effect from -

(i) the date of discontinuance or transfer of business, if the case falls in clause (a) of subsection (10) of section 17; and

(ii) the date of communication of order to the dealer if the case, other than those covered in sub-rule (2) of rule 12, falls in clause (b), clause (c), clause (d) or clause (e) of subsection (10) of section 17 .

(5) Where an application in form 8 has been made by the dealer under sub-rule (2) for the cancellation of his registration certificate on the ground mentioned in clause (b) or clause (c) of sub-section (10) of section 17 and no orders are passed and communicated to the dealer within a period of six months from the date of receipt of such application, it shall be deemed that his registration certificate is cancelled with effect from the date immediately following the date of expiry of a period of six months from the date of receipt of such application.

(6) The list of registration certificates cancelled during a year shall be exhibited on the notice board of the office of the Registering Authority and be given wide publicity, in such manner, as the Commissioner may, by general order, direct.

### **19. Submission Of Registration Certificate For Cancellation :-**

(1) A dealer whose registration certificate is cancelled by an order of the Registering Authority under sub-rule (3) of rule 18 shall within seven days from the date of communication to him of such order, submit his registration certificate together with certified copies thereof and the blank statutory forms issued by the Commercial Tax Department, if any, to the Registering Authority.

(2) If any such dealer dies before submitting his registration certificate along with the certified copies thereof and blank statutory forms, if any, under sub-rule (1), his legal representative

shall submit the said certificate along with the certified copies thereof and blank statutory forms, if any, to the Registering Authority within the period mentioned in sub-rule (1).

## **20. Furnishing Of Security Under Clause (A) Of Sub-Section (12) Of Section 17 :-**

(1) The amount of security that may be demanded from a dealer under clause (a) of sub-section (12) of section 17 shall be -

(i) the highest amount of tax payable by such dealer in any quarter of the previous year subject to maximum of rupees one lac ;

(ii) where there is no previous year, rupees ten thousand.

(2) Security shall be in the form of FDR or security bonds.

(3) The security obtained from dealer under sub rule (1) shall be held for a period of 2 years.

(4) If the dealer complies with the requirement of the Act during the said period, security shall be released.

### CHAPTER 6

### CHAPTER VI

## **21. Returns :-**

(1) Any dealer, other than a registered dealer, required to do so by the commissioner by issue of a notice in form 9 shall furnish to the appropriate Commercial Tax Officer within thirty days from the date of service of such notice a return or returns in form 10.

(2) Subject to the provisions of sub-rules (3), (4) and (5) every registered dealer other than a registered dealer who opts for composition of tax under section 11 and every dealer whose registration certificate has been cancelled under clause (d) or clause (e) of sub-section (10) of section 17 of the Act on or after the date of commencement of the Act shall furnish to the appropriate Commercial Tax Officer for each quarter of a year a quarterly return in form 10 within thirty days from the date of expiry of the quarter to which the return relates. In the returns furnished, the dealer shall mention correctly the TIN of self and the dealers from whom the goods have been purchased. Every such return shall be accompanied by a Challan in form 26 or e-Receipt in form 26 A in proof of the full payment of tax payable according to such return.

(3) A registered dealer having more than one place of business in the state shall furnish a consolidated quarterly return in form 10 for all the places of business and also returns in the same form separately for each of such places of business in the state within



the period specified in sub-rule (2). Each consolidated return shall be accompanied by a Challan in form 26 or e-Receipt in form 26 A in proof of the payment of tax payable according to such consolidated quarterly return.

(4) If a dealer becomes liable to pay tax during any quarter of a year, other than the last quarter of that year, the return in form 10 for the subsequent month or quarter shall include the broken period relating to the preceding month or quarter, as the case may be.

(5) Where the commissioner permits under the provisions of rule 25 a registered dealer specified in sub-rule (2) to file a return for a different period he shall furnish such return in form 10 by such date as the commissioner may direct.

(6) Where any business is in the charge of a guardian, trustee or agent of a minor or other incapacitated person, or is carried on, as a guardian, trustee or agent on behalf and for the benefit of such minor or other incapacitated person, such guardian, trustee or agent shall, in respect of the turnover of the said business furnish the returns in accordance with the provisions of sub-rule (1) or sub-rule (2) or sub-rule (3), as the case may be.

(7) Notwithstanding anything contained in the provisions of sub-rule (3), if on the application of any registered dealer having more than one place of business in the state, the commissioner is satisfied that submission of separate returns under the said sub-rule is not necessary, he may, by an order in writing exempt such dealer from submitting such returns with effect from such date as may be specified in the order.

(8) For the purpose of clause (a) and clause (b) of sub-section (4) of section 18, the rate shall be 1.5 percent per month.

(9) The returns required to be furnished, may be furnished by a dealer through internet or any other electronic device, in accordance with such procedure and accompanied by such processing fee as may be notified by the State Government.

## **22. Monthly Returns :-**

(1) The Commissioner may, for reasons to be recorded in writing, fix monthly returns for any dealer or class of dealers. Every such dealer or class of dealers shall furnish the return in form 10 for each month within fifteen days of its expiry. Every such return shall be accompanied by a Challan in form 26 or e-Receipt in form 26 A in proof of the payment of tax payable according to such return.

(2) The provisions of rule 21 shall, as far as may be, apply to returns furnished under this rule.

### **23. Revised Return :-**

(1) A registered dealer who desires to submit a revised return under sub-section (2) of section 18, in respect of any quarter or quarters of a year, shall do so at any time before -

(i) 31st July of the subsequent year, in case of such dealer whose annual turnover does not exceed rupees forty lacs;

(ii) 31st October of the subsequent year, in other cases.

(2) A revised return referred to in sub-rule (1) shall be furnished in form 10 and shall be accompanied by-

(a) an explanatory note specifying the omission, error or wrong statement by reason of which it has become necessary to furnish a revised return and indicating the difference between the original and the revised return.

(b) a copy of Challan in form 26 or e-Receipt in form 26 A in proof of payment of the amount of tax, if any, payable in addition to the tax already paid along with the original return and interest payable on such amount.

### **24. Terms And Conditions Subject To Which Exemption To Any Dealer From Furnishing :-**

returns may be granted:-

(1) A registered dealer required to furnish quarterly returns under sub-rule (2) of rule 21 may make an application in form 11 for exemption from furnishing of quarterly returns to the Commissioner so as to reach him not later than thirty days after the commencement of the year for which the exemption is applied for, and if the Commissioner is satisfied that the dealer is not likely to make any taxable purchases or sales during any year, he may grant him an exemption certificate in form 12 for that year. (2) The exemption granted under sub-rule (1) shall be subject to the following terms and conditions, namely:-

(i) If the registered dealer makes during the period of exemption any sale or purchase which is taxable, he shall, within fifteen days from the date of such sale or purchase give information thereof to the appropriate Commercial Tax Officer.

(ii) The registered dealer shall furnish the returns by the date (s) and in the manner prescribed under these rules, beginning with the period commencing with the quarter during which the sale or purchase aforesaid takes place.

(3) An exemption certificate granted under sub-rule (1) may, on an application made in form 11 by the dealer in this behalf at least one month before the date of expiry of the period of exemption, be renewed for one year.

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

**25. Terms And Conditions Subject To Which Permission To Furnish Return For Different Period May Be Granted :-**

(1) A registered dealer required to furnish quarterly returns under sub-rule (2) of rule 21 may make an application to the Commissioner in form 13 for grant of permission under the proviso to sub-section (1) of section 18 to furnish an annual return. Such application shall be made within thirty days of the commencement of the year in relation to which the permission is sought and the Commissioner shall pass order on every such application before the expiry of the first quarter of the said year.

(2) Permission under sub-rule (1) shall not be granted to a registered dealer who -

(a) is required to furnish monthly returns under rule 22; or

(b) fails to pay any tax payable by him under the Act or under any repealed Act or under the Madhya Pradesh Sthaniya Kshetra Me Mal Ke Pravesh Par Kar Adhiniyam, 1976 (No.52 of 1976) or under the Central Sales Tax Act, 1956 (74 of 1956); or

(c) fails without sufficient cause to furnish returns under the Act; or

(d) is convicted of an offence punishable under the Act, or under any earlier law; or

(e) has not submitted all the returns for the year immediately preceding the year in respect of which the permission is sought.

(3) Nothing contained in sub-rule (2) shall restrict the Commissioner from permitting a registered dealer to furnish an annual return where such dealer is the Central or a State Government or any of their departments.

(4) The permission shall be granted in form 14 and shall be subject to the following terms and conditions:

(i) the registered dealer shall pay within thirty days of the expiry of each quarter, tax equal to one third of the amount of tax to which he has been assessed for the latest preceding year or one third of the amount of tax payable according to his returns for the latest preceding year, whichever is greater;

- (ii) the registered dealer shall furnish the return within ninety days of the expiry of the year in respect of which such permission is granted and shall pay along with the return the balance of tax, if any, representing the difference between the tax payable according to such return and the tax already paid by him;
- (iii) the annual return shall be accompanied by a copy of Challan in form 26 or e-Receipt in form 26 A in respect of tax paid for the quarter or quarters of the period to which such return relates; (iv) the permission shall stand automatically revoked if the dealer is convicted of an offence punishable under the Act or under any earlier law and in that case he shall furnish all the returns normally due from him in accordance with the provisions of section 18 within a period of thirty days from the date of such conviction; and
- v) the permission granted under this rule shall be liable to be cancelled for breach of any of the terms and conditions subject to which it has been granted.

**26. Notice Under Sub-Section (5) Of Section 18 :-**

- (a) The notice under clause (a) of sub-section (5) of section 18 shall be in form 15.
- (b) The notice under clause (b) of sub-section (5) of section 18 shall be in form 16.

**27. Production Of Documents :-**

A dealer who desires to claim deduction from his turnover under the provisions of clause (x) of section 2, shall produce at the time of assessment the cash memoranda, invoices or bills or purchase vouchers or other relevant documents in support of such claim.

**28. Manner Of Tax Audit :-**

- (1) A registered dealer, who is selected for tax audit under section 19 shall be intimated by issue of a notice, as far as may be in Form 17, specifying the date and place for audit.
- (2) The tax audit report under sub-section (5) of section 19 shall be prepared and if required, the notice under sub-section (6) of section 19 shall be issued in form 18.
- (3) For the purpose of sub-section (6) of section 19, the rate of interest shall be the rate specified in sub-rule (8) of rule 21.

**29. Notice Under Sub-Section (4) Of Section 20 :-**

The notice required to be issued under sub-section (4) of section 20

shall, as far as may be, in form 19 and the date fixed for compliance therewith shall not ordinarily be less than thirty days from the date of service thereof.

**30. Selection Of Dealers For Reassessment Under Sub Section (2) Of Section 20-A :-**

The Commissioner shall direct every year that such dealers in each circle, deemed to have been assessed under sub-section (1) of section 20-A as may be selected under a system that may be evolved by him, shall be reassessed under sub-section (3) of the said section.

**31. Manner Of Assessment, Re-Assessment And Imposition Of Penalty :-**

(1) The Notice required to be issued under sub section (4) of section 18, sub section (5) and (6) of section 20, sub section (1) of section 21, sub section (2) of section 52 shall be in Form 20 and the date fixed for compliance therewith shall not ordinarily be less than 30 days from the date of service thereof. (2) On the date fixed in the notice issued under sub-rule (1), the assessing authority shall, after considering the objections raised by the dealer and examining such evidence as may be produced by him and after taking such other evidence as may be available, assess or reassess, the dealer to tax and/or impose penalty or pass any other suitable order.

(3) In making an assessment to the best of his judgment under sub-section (5) or sub-section (6) of section 20 the assessing authority shall, as far as practicable, have due regard to the extent of the business carried on by the dealer, the surrounding circumstances and all other matters which may be of assistance in arriving at a fair and proper estimate of the taxable turnover of the dealer.

**32. Notice Under Sub-Section (6) Of Section 17, Sub-Section (8) Of Section 24, Sub-Section (2) Of Section 40 Sub-Section (6) Of Section 55 And Rule 84 :-**

(1) The Notice required to be issued under sub-section (6) of section 17, sub-section (8) of section 24, sub-section (2) of section 40 and rule 84 shall be in Form 21 and the date fixed for compliance therewith shall not ordinarily be less than 30 days from the date of service thereof.

(2) On the date fixed in the notice issued under sub-rule (1), the assessing authority or the authority competent to impose penalty, as the case may be, shall, after considering objections raised by the dealer and examining such evidence as may be produced by him and after taking such other evidence as may be available, impose a penalty or pass any other suitable order.

### **33. Form Of Order Of Assessment And/Or Penalty :-**

(1) The order of assessment, re-assessment and/or penalty shall be in form 22.

(2) An order imposing a penalty under any of the provisions of the Act, or of the rules made thereunder in respect of any period shall be incorporated in the order of assessment relating to that period unless it is instituted separately.

(3) An authenticated copy of the order of assessment, re-assessment or penalty shall be served on the dealer.

### **34. Assessment Case Record :-**

(1) The papers relevant to the making of an assessment in respect of any particular dealer shall form an assessment case record, and shall be arranged in two separate classes of files A and B which shall be kept together. The A class file shall contain important papers such as order sheets, returns, challans, notices, assessment orders, documents, copies of decisions on appeal or revision. The B class file shall contain the declarations and all other papers like rough calculations, enquiries from other sources.

(2) The A and B" class files shall be preserved for 8 years from the date of the final disposal of the case.

### **35. Enrolment Of Tax Practitioners :-**

(1) Every person who is eligible to appear as a Tax Practitioner in any proceeding under the Act shall make an application in form 23 with a self attested photograph to the Commissioner.

(2) Every person making an application for enrolment under sub-rule (1) shall deposit a fee of rupees one thousand.

(3) On receipt of the application under sub-rule (1), the Commissioner shall, after satisfying himself about the correctness of the particulars given in the application, enroll the name of the applicant as Tax Practitioner in the register in form 24 and grant to the applicant a certificate in form 25.

- (4) An intimation about each person enrolled as tax practitioner shall be sent by the Commissioner to such person.
- (5) No person shall be entitled to appear as tax practitioner on behalf of any dealer before any authority appointed under section 3 in any proceeding under the Act unless he is enrolled as a tax practitioner.
- (6) If any tax practitioner is disqualified under the provisions of sub-section
- (7) of section 23, the name of such person shall be removed from the register in form 24

### **36. Payment Of Tax :-**

- (1) Every registered dealer, other than a dealer to whom the provisions of sub-rule
- (2) apply, shall pay tax quarterly within thirty days of expiry of the quarter to which the tax to be paid relates.
- (2) Every registered dealer who is required to furnish quarterly returns,-
- (a) if he is liable to pay tax ordinarily of rupees fifteen thousand per quarter or rupees sixty thousand per annum or above but less than rupees twenty five lacs shall pay,-
- (1) an amount equal to the actual amount of tax payable by him for the first and second month of every quarter of a year or one third of the tax deposited in respect of quarter of the previous year corresponding to such quarter on or before the 10th of the second and third month of the quarter,
- (2) (i) the balance of the amount of tax due from him according to the return for the first , second and third quarter respectively on or before the date prescribed for furnishing the return for such quarter, and
- (ii) the actual amount of tax payable for the first twenty five days of the month of March or one third of the tax deposited in respect of the last quarter of the preceding year on or before 31 st March of the year and the balance of the amount of tax due from him according to the last return for such quarter, on or before the date prescribed for furnishing that return,
- (b) if he is liable to pay tax ordinarily of rupees 6.25 lacs per quarter or above or rupees twenty five lacs per annum or above, shall pay,-
- (1) an amount equal to the actual amount of tax payable by him for the first and second month of every quarter of a year before the

10th of the second and the third month of the quarter,

(2) (i) balance of the amount of tax due from him according to the return of the first, second and third quarter respectively on or before the date prescribed for furnishing the return for such quarter; and

(ii) the actual amount of tax payable for the first twenty five days of the month of March of a year on or before the 31 st March and the balance of the amount of tax due from him according to the return for such quarter, on or before the date prescribed for furnishing the return for that quarter.

### **37. Method Of Payment :-**

(1) Every dealer or person shall pay the amount of tax, penalty, fee, interest, security or any other amount, direct into the Government Treasury or at the designated branch of a scheduled Bank which for the time being, is transacting treasury business of the Government of Madhya Pradesh, either in cash or by a cheque or bank draft drawn on any scheduled bank. Subject to the provisions of sub-rule (7), no payment of any such amount shall be accepted at the office of the Commercial Tax Officer or any other authority appointed by or under the Act: Provided that where the dealer is the Central or a State Government or any of their departments, the payment may be made by book adjustment and intimation thereof sent to the appropriate Commercial Tax Officer within thirty days of such payment.

(2) Where payment of any amount payable under the Act other than the amount of tax deducted at source under section 26 is to be made in cash every such payment shall be made by a challan in form 26 and the amount of tax deducted at source under section 26 shall be made in form 27. The challan in form 26 or form 27 shall be filled in five copies.

(3) Where payment is made by cheque or bank draft,-

(a) the cheque or bank draft shall be crossed and made payable to the Government of Madhya Pradesh with the following endorsement : Pay to Government of Madhya Pradesh under head 1 040-tax on sales, trade etc.

(110)- trade tax, (0678)-tax under the Madhya Pradesh Vat Act, 2002; 1

(b) the cheque or bank draft shall be tendered to the bank along with challan in form 26 or form 27, as the case may be, in five copies duly filled in. Encashment of the cheque or bank draft and



crediting of the amount of such cheque or bank draft into Government account shall be governed by the rules of the bank for the time being in force;

(c) the cheque or bank draft shall be payable on the date of presentation and shall not be post-dated;

(d) the date on which adjustment is made and the amount covered by the cheque or bank draft is credited by the bank into Government account by challan, shall be deemed to be the date of payment of the amount to which the cheque or bank draft relates.

(4) Where payment of any amount under sub-rule (2) or sub-rule (3) is made into the bank directly, the challan presented by the dealer need not be passed by the Treasury Officer or the Commercial Tax Officer concerned and it shall be directly accepted by the bank.

(5) On crediting the amount to Government account, the bank shall return to the dealer the original and second copy of the challan duly signed and forward the third copy directly to the Commercial Tax Officer concerned and retain fourth and the fifth copy, to be forwarded to the Treasury Officer with the daily account. The fifth copy shall be sent by the Treasury Officer to the Accountant General, Madhya Pradesh. 1

(6) The tax or any other amount may be accepted as deposited by a dealer or person through internet in the branch of a bank authorised by the Finance Department of the Government of Madhya Pradesh for the purpose in accordance with the procedure laid down in Madhya Pradesh Treasury Code-Volume II-Appendix-25, subject to the following conditions:-

(a) Appropriate Commercial Tax Officer verifies it with the digitally signed daily scroll sent electronically by the bank or alternatively, the deposits may be verified using challan identification number (CIN) on the web-site

(b) The e-receipt of such deposit shall be in Form 26-A in case of an amount other than the amount of tax deducted at source under section 26 and in form 27- A in case of an amount of tax deducted at source under section 26. 1

(7) Notwithstanding anything contained in sub-rule (1) any amount upto such a limit that the Commissioner with the previous approval of the State Government, notify, may be paid in the office of the appropriate Commercial Tax Officer.

### **38. Fraction Of A Rupee To Be Rounded Of :-**

If the amount of tax and/or penalty or interest includes a fraction

of a rupee, a fraction of a rupee of and above fifty paise shall be rounded to the nearest rupee and a fraction of a rupee below fifty paise shall be omitted.

**39. Reconciliation Of Payments :-**

In the first week of each month, the appropriate Commercial Tax Officer shall prepare a statement of the collections of revenue in the previous month and shall forward it to the Treasury Officer for verification. If any discrepancy is discovered at the time of verification, the appropriate Commercial Tax Officer shall send the necessary records to the Treasury Officer for reconciliation of accounts.

**40. Notice Of Demand For Payment Of Any Sum Due Under The Act :-**

Subject to the other provisions of these rules, if any sum is payable by a dealer or a person under any of the provisions of the Act or these rules, a notice in form 28 shall be served on him specifying a date, not less than thirty days from the date of service of the notice on which payment shall be made, and specifying a date on or before which the dealer or the person, as the case may be, shall produce or send the Challan in form 26 or e-Receipt in form 26 - A in proof of payment of such sum : Provided that, -

(i) where an order has been passed under section 46 or section 47 the sum payable by the dealer or person as a consequence of this order shall be paid by the dealer or person within thirty days from the date of service of such order on him and he shall within the said period produce or send the Challan in form 26 or e-Receipt in form 26 A in proof of payment of such sum to the appropriate assessing authority :

(ii) where a dealer is the Central or a State Government or any of their departments, the payment may be made in the manner provided in rule 37.

**41. Recovery Of Tax, Penalty, Interest Or Any Other Sum Payable Under The Act :-**

If after the expiry of the date fixed under rule 40 or when the date is extended under subsection (7) of section 24 after the expiry of the extended date, any amount of tax, penalty, interest, fee or any other sum payable under the Act by a dealer or person assessed or reassessed, imposed or computed or payable, as the case may be, or any part thereof remains unpaid, the assessing authority shall apply to the competent authority to recover such amount as an

arrear of land revenue.

**42. Notice For Recovery Of Modified Amount Under Sub-Section (12) Of Section 24 :-**

The intimation required to be given to the dealer or the person, as the case may be, and the authority by whom or under whose order the recovery is to be made, shall as far as possible, be in form 29.

**43. Report Of Recovery Of Tax, Penalty Or Any Other Amount :-**

After recovery of any tax, penalty, interest or any other amount due under the Act, the authority by whom or under whose order the recovery has been made under sub-section (11) of section 24 shall report to the assessing authority the amount so recovered and the number and date of the challan under which it is credited into the treasury.

**44. Notice Of Demand And Payment Of Tax In Advance Of Assessment And The Manner Of Its Payment :-**

(1) The notice under sub-section (3) of section 25 shall be in form 30.

(2) The amount of the tax payable under section 25 shall be paid in the manner laid down in rule 37.

(3) The tax demanded in the notice in form 30 shall be payable within seven days from the date of the service of the notice.

**45. Payment Of Sums Deducted Under Section 26, And Issue Of A Certificate Under Section 27 :-**

(1) The amount deducted under sub-section (1) of section 26 by a purchaser and the amount deducted by a person under sub-section (2) of the said section shall be deposited by him in the Government treasury by Challan in form 27 or e-Receipt in form 27 A before 10th day of the next month following the month in which such deduction has been made. Provided that the amount deducted may be deposited through internet in accordance with the provisions of sub-rule (6) of rule 37.

(2) (a) For the amount deducted under sub-section (1) of section 26, the purchaser shall issue a certificate in form 31 in duplicate to the dealer supplying goods to the Central Government or the State Government within ten days of the deposit of such amount under the provision of sub--rule(1).

(b) For the amount deducted under sub-section (2) of section 26,

the person shall issue a certificate in form 32 in duplicate to the contractor within ten days of the deposit of such amount under the provisions of sub-rule (1).

(3) Notwithstanding anything contained in sub-rule (2) of rule 21, the dealer supplying or selling goods to the Central Government or the State Government or the contractor supplying goods in the execution of a works contract let out by a person shall, unless the contrary is proved, be deemed to have paid tax on the turnover of goods sold to the Central Government or the State Government or the person, if he furnishes one copy of the certificate in form 31 or form 32 as the case may be as if he had credited the amount of tax in the treasury by challan. The certificate shall be filed along with the return in form 10.

(4) The statement required to be furnished under sub-section (8) of section 26 shall be in form 35 and shall be furnished for every year by the person referred to in sub-sections (1) and (2) of section 26 to the Commercial Tax Officer of the Circle in whose jurisdiction the Office of the deducting person / agency / authority is situated, within thirty days of the expiry of the year.

#### **46. Notice For Recovery From Third Parties :-**

Where the Commissioner or any Officer other than an Inspector appointed to assist him under section 3 proceeds under section 28 to recover any tax, interest, penalty or any other amount outstanding against a dealer from any other person from whom any amount is due to such dealer or who holds or may hold any money for or on account of such dealer, he shall issue a notice in form 36.

#### **47. Procedure For Forfeiture Of The Amount Collected By Way Of Tax In Contravention Of The Provisions Of Sub-Section (1) Of Section 35 And For Refund Of Such Amount :-**

(1) The notice under sub-section (3) of section 35 shall be in form 37.

(2) Where an order for forfeiture is made the authority passing the order therefore shall, by a notice placed on the notice board of its office, publish the following details for information of the persons concerned, namely -

(i) The name and address of the dealer and the registration certificate number, if any, in whose case the order is passed;

(ii) Date of order;

(iii) The amount forfeited;

- (iv) Description of goods in respect of which the amount forfeited was collected;
  - (v) The period to which the order passed relates;
  - (vi) Reasons for forfeiture.
- (3) The person from whom the forfeited amount had been collected shall make an application in form 38 for claiming the refund of such amount.

CHAPTER 7  
CHAPTER VII

**48. Refund Payment Order :-**

- (1) (a) When an order directing the refund of any amount has been made by an Assistant Commercial Tax Officer or a Commercial Tax Officer, the Commercial Tax Officer and when such order is made by an Assistant Commissioner, the Assistant Commissioner shall, if the dealer desires payment in cash, issue to him a refund payment order in form 39 for such amount as may remain after deducting any amount in respect of which a notice under subsection (5) of section 24 has been issued or which has to be adjusted under rule 49.
- (b) where the amount for which the refund payment order is issued exceeds rupees five thousand, such refund payment order shall be crossed and made "Account Payee".
- (2) The refund payment order and a copy thereof for use in the treasury shall be delivered to the dealer for presentation to the treasury for obtaining the payment.

**49. Refund Adjustment Order :-**

- (1) The Commercial Tax Officer or the Assistant Commissioner as the case may be, may issue a refund adjustment order in form 40 for the adjustment of the refundable amount towards the amount of tax payable according to the return or returns for any period following the date on which the refund is sanctioned.
- (2) If the authority empowered to grant a refund is required under sub-section (4) of section 37 to apply the refundable amount or part thereof towards the recovery of tax, penalty, interest or any other amount or part thereof due under the Act or the repealed Act or the Central Sales Tax Act, 1956 (No. 74 of 1956) or under the Madhya Pradesh Sthaniya Kshetra Me Mal Ke Praves Par Kar Adhiniyam, 1976 (No. 52 of 1976) it shall issue a refund adjustment order in respect of such amount.

(3) The refund adjustment order shall be made out in triplicate, one copy shall be issued to the dealer, second copy marked at top as for use in treasury only shall be sent to the Treasury Officer and the third copy shall be retained by the authority issuing such order. Provided that if the refundable amount is to be adjusted towards the tax liability of any other registered dealer, a fourth copy of the refund adjustment order shall be prepared and issued to the dealer in whose favour the refundable amount is adjusted.

**50. Submission Of Refund Adjustment Order With The Return :-**

In support of any claim for payment of tax payable according to any return by adjustment under rule 49, the dealer shall attach a copy of the refund adjustment order to such return to be furnished by him under the Act or under the Central Sales Tax Act, 1956 (No. 74 of 1956) or under the Madhya Pradesh Sthaniya Kshetra Me Mal Ke Pravesh Par Kar Adhiniyam, 1976 (No. 52 of 1976).

**51. Intimation Of Book Numbers :-**

Every Commercial Tax Officer and Assistant Commissioner issuing refund payment order or refund adjustment order shall intimate the numbers of the books thereof in use for the time being to the Treasury and Sub-treasury Officer within his jurisdiction.

**52. Order Sanctioning Interest On Delayed Refund :-**

Where a refund payment order is issued under rule 48 the authority issuing such order shall simultaneously pass an order sanctioning the interest payable under sub-section (5) of section 37, if any, on such refund specifying therein the amount of refund, the payment of which was delayed, the period of delay for which such interest is payable and the amount of interest payable by the State Government and shall communicate the same to the dealer to whom the interest is payable.

**53. Interest Payment Order :-**

(1) Where an order for the payment of interest on delayed refund under rule 52 has been made, the sanctioning authority shall issue to the dealer an interest payment order in form 41.

(2) The interest payment order and a copy thereof for use in the treasury shall be delivered to the dealer for presentation to the treasury for obtaining payment.

**54. Furnishing Of Audit Report By Certain Dealers And Conditions For Requiring A Dealer Or Class Of Dealers To Maintain Accounts In Different Form And Manner :-**

(1) Every dealer required to furnish audit report under sub-section (2) of section 39 shall furnish the audit report prepared by a chartered accountant for the purpose of income tax, to the appropriate Commercial Tax Officer by 31st October of the succeeding year. Separate details pertaining to the business done in the State of Madhya Pradesh shall be included in the audit report. Provided that a dealer who is an industrial unit having annual turnover of ten crore rupees or less may furnish the audit report prepared by a member of Institute of Cost and Works Accountants.

(2) If the Commissioner considers it necessary that a dealer or class of dealers shall maintain accounts including records of sale or purchase in a particular form, he shall, after recording reasons therefore in writing -

(i) by issue of an order to such dealer, direct him; or

(ii) by issue of a notification under sub-section (3) of section 39, direct such class of dealers, to maintain accounts in the form appended to the order/notification after the expiry of the month following that in which such order or notification is made or issued, as the case may be.

**55. Particulars Required In A Bill, Invoice Or Cash Memorandum :-**

(1) Every registered dealer who is required under sub-section (1) of section 40 to issue a bill, invoice or a cash memorandum shall specify in the bill, invoice or cash memorandum name and style, the address of his place of business and his registration certificate number (TIN), the particulars of goods sold, the sale price thereof, the amount of tax collected under section 9 and shall for each year serially number such bill, invoice or cash memorandum, and where the sale price is rupees one thousand or more, the dealer shall enter in the bill, invoice or cash memorandum the full name and address of the buyer and his TIN, if any ; Provided that the tax collected may not be shown in the sale bill, cash memorandum or invoice, where sale is made to a person other than a registered dealer.

(2) A registered dealer who opts for composition under section 11 shall not show the lumpsum element separately in the bills or invoice or cash memorandum issued by him to purchaser and accordingly shall not collect any amount by way of lump-sum or tax

## CHAPTER 9

### CHAPTER IX

#### **56. Delegation Of Commissioners Powers :-**

The Commissioner may delegate the powers conferred and the duties imposed upon him under the section or, as the case may be, rule framed under the Act as specified in column (2) of the table below and described in corresponding entry in column (3), to the officer not below the rank specified in column (4) thereof: -

<b>S.No.</b>	<b>Section/Rules</b>	<b>Description of Power</b>	<b>Designation of Officer and conditions of delegation</b>
(1)	(2)	(3)	(4)
1.	6	To determine liability to pay tax	Assistant Commercial Tax Officer
2.	17	(i) To grant registration certificate under section 17	Assistant Commercial Tax Officer
		(ii) To impose penalty under subsection (6) of section 17, and	Assistant Commercial Tax Officer
		(iii) To amend or cancel a registration certificate	Assistant Commercial Tax Officer
3.	18	(i) To require any dealer to furnish returns	
		(ii) To exempt a dealer from furnishing returns or to permit a dealer to furnish returns for different period (iii) To exempt a registered dealer having more than one place of business from submitting separate returns in respect of each place of business	Deputy Commissioner
		(iv) To impose penalty	Assistant Commercial Tax Officer
4.	19	(i) To select dealers for audit	Deputy Commissioner
		(ii) To undertake tax audit	Assistant Commercial Tax Officer



5.	20,21 and 24	To make an assessment or reassessment of tax for any period in respect of turnover and/or to impose penalty or to levy interest or to grant further time to pay such tax, interest and/or penalty or to allow the payment of tax, interest or penalty in instalment and to exercise all other powers under sections 20, 21 and 24.	(i) Assistant Commercial Tax Officer-up to a turnover and/or aggregate of purchase price of Rs. one crore (ii) Commercial Tax Officer upto a turnover and / or aggregate of purchase price of Rs. five crores (iii) Assistant Commissioner in respect of every dealer
6.	20-A	(i) To select dealers for reassessment	Deputy Commissioner
		(ii) To make re-assessment	Assistant Commercial Tax Officer
7.	25	To require a registered dealer to pay tax in advance of assessment on failure to furnish returns.	Assistant Commercial Tax Officer
8.	26	To impose penalty	Assistant Commercial Tax Officer
9.	35	To pass an order including an order of forfeiture of any amount collected by any dealer or person in contravention of the provisions of sub-section (1) of section 35, publication of notice thereof and refund of such amount to the person from whom it was so collected.	Assistant Commercial Tax Officer
10.	37	(i) To sanction refund of excess tax or penalty, interest , input tax rebate, or any other amount (ii) To sanction payment of interest on delayed refunds	Commercial Tax Officer
11.	39	To require a registered dealer to keep accounts in a particular form and manner	Deputy Commissioner
		To impose penalty for not issuing a bill, invoice or cash memorandum or for not maintaining counterfoil or duplicate of such bill, invoice or cash memorandum or for not preserving the	Assistant Commercial

12.	40	counterfoils thereof for a period of not less than five years from the date of issue of the bill, invoice or cash memorandum or till the completion of assessment whichever is earlier	Tax Officer
13.	42	To transfer any proceeding or any class of proceedings under any provision of the Act	Deputy Commissioner
14.	44	Power to call for information in certain cases	Assistant Commercial Tax Officer
15.	47	Power of revision	Deputy Commissioner
16.	52	To impose penalty	Assistant Commercial Tax Officer
17.	54	To rectify mistake under subsection (I) of section 54	Assistant Commercial Tax Officer
18.	55	(i) Powers under sub-sections (3) to (5)	Inspector of Commercial Tax
		(ii) Powers under sub-section (6)	Assistant Commissioner
19.	73	To determine input tax rebate	Assistant Commercial Tax Officer
20.	Rule 84	To impose penalty in respect of contravention of any rule	Assistant Commercial Tax Officer

### **57. Service Of Notice, Summons And Orders :-**

(1) Notice or summons or order under the Act or any rules made thereunder may be served by any of the following methods -

(i) by delivering or tendering to the addressee or his agent by hand of a copy of the notice, summons or order, or

(ii) by post , or

(iii) by courier, or

(iv) by e-mail with digital signature: Provided that if upon an attempt having been made to serve any such notice, summons or order by any of the above mentioned methods, the authority issuing it is satisfied that the addressee is avoiding the notice or summons or order or that for any other reason, the notice, summons or order can not be served by any of the above mentioned methods, the said authority shall cause such notice, summons or order to be served by affixing a copy thereof -

(a) if the addressee is a dealer, on some conspicuous part of the

dealers office or the building in which his office is located or upon some conspicuous part of any place of the dealers business last notified by him; and

(b) if the addressee is not a dealer, on some conspicuous part of his residence or office or the building in which his residence or office is located, and such service shall be deemed to have been made on the addressee personally. Provided further that if addressee is not traceable, the said authority shall cause notice, summons and orders to be published in two news papers having circulation in the local area in which he has shown his residence or office in the registration/records available with the department.

(2) When the officer serving a notice or summons delivers or tenders a copy of the notice or summons to the addressee personally or to his agent, he shall obtain the signature with date on the original notice or summons of the person to whom it is so delivered or tendered as an acknowledgment of service: Provided that where the addressee or his agent refuses to sign the acknowledgment, the serving officer shall affix a copy of the notice or summons on the outer door or some other conspicuous part of the house in which the addressee ordinarily resides or carries on business or personally works for gain.

(3) When the notice or summons is served by affixing a copy thereof in accordance with the proviso to sub-rule (1) or sub-rule (2), the officer serving it shall return the original to the authority which issued the notice or summons with the report endorsed thereon or annexed thereto, stating that he so affixed the copy, the circumstances under which he did so and the name and address of the person, if any, by whom the addressees office or residence or the building in which his office or residence is located or his place of business, was identified and, in whose presence the copy was affixed. The said officer shall also obtain the signature or thumb impression of the person identifying the addressees residence or office or building or place of business, to his report: Provided that the officer serving the notice or summons may also record the process of affixing a copy thereof in accordance with the proviso to sub-rule (1) or sub-rule (2), by digital camera and enclose the photograph with the report.

(4) When service is made by post or courier, the service shall be deemed to have been effected by properly addressing, prepaying and posting by registered post with acknowledgment due or courier the notice or summons or order and, unless the contrary is proved, the service shall be deemed to have been effected at the time at

which the notice or summons or order would be delivered in the ordinary course by post.

(5) The authority at whose instance the notice or summons or order was issued, shall, if it is satisfied from the report of the messenger or the postal acknowledgment or by taking such evidence it deems proper that the notice, summons or order has been served in accordance with this rule, record an order to that effect. If it is not satisfied that the notice or summons or order has been properly served, it may, after recording an order to that effect, direct the issue of a fresh notice or summons or order.

(6) Summons under the Act or rules made thereunder shall be in form 41-A.

(7) After a Hindu undivided family is partitioned, notice, summons or order, shall be served on the person who was last manager (Karta) of the Hindu undivided family immediately before the partition or if service of notice, summons or order on him is not possible for any reason, then on any adult who was a member of the Hindu undivided family immediately before the partition.

(8) Where a firm or an association of persons is dissolved, notice, summons or order may be served on any person who was a partner (not being a minor) of the firm or member of the association, as the case may be, immediately before its dissolution.

(9) Where any assessment is to be made in respect of a business which has been discontinued, a notice shall be served in the case of a firm or an association of persons, on any person who was a partner of such firm or member of such association at the time of its discontinuance or in the case of a company, on the principal officer thereof. Explanation - For the purpose of this rule, agent means a person entitled to appear in accordance with the provisions of section 23 of the Act and includes a Manager, Clerk or Mukhtiar of the dealer or a Secretary, Director or Accountant of a company or an adult member of a Hindu undivided family, or any literate employee of a dealer, unless the dealer has informed in writing the name of a person authorised to receive notice, summons or order on his behalf as an agent.

#### CHAPTER 10

#### CHAPTER X

### **58. Filing Of Memorandum Of Appeal :-**

(1) Every first appeal shall be filed in form 42 and every second appeal shall be filed in form 43.

- (2) Memorandum of first appeal and second appeal shall be signed and verified by the appellant or an agent duly authorized by him in writing in this behalf in the following form, namely:- I.....the appellant named in the above memorandum of appeal do hereby declare that what is stated therein is true to the best of my knowledge and belief. .... Signature (3) The memorandum of first and second appeal shall be accompanied by:
- (i) an authenticated copy of the impugned order ; and
  - (ii) a copy of the Challan in form 26 or e-Receipt in form 26- A in proof of payment of the amount required to be paid, in accordance with the provisions of sub-section (5) of section 46 in case of first appeal and sub section(6) of section 46 in case of second appeal;
- (4) The memorandum of first appeal shall be in duplicate and shall either be presented to the appellate authority or to such authority as the Commissioner may, by order, specify, by the appellant or his agent or sent to such authority by registered post. When appeal is presented by a person duly authorized by the appellant as required by sub-section (1) of section 23 it shall be accompanied by a duly stamped letter of authority appointing him as such.
- (5) The memorandum of second appeal and appeal to High court shall be in duplicate and shall be presented by the appellant or by his agent to the Registrar or Clerk of the Court of the Appellate Board or the Registrar of the High Court during office hours at the Appellate Boards or the High Courts Headquarters or sent to it by registered post.
- (6) An Appellate Authority or the Appellate Board shall, ordinarily within thirty days of the presentation of the appeal, either admit or reject it after proper examination of the impugned order and/or the record relating to such order.

### **59. Stay Of Recovery Of The Remaining Amount :-**

An Appellate Authority or the Appellate Board on admitting an appeal, having satisfied about the correctness of the payment of tax, interest and penalty, if any, made by the appellant in accordance with the provisions of sub-section (5) or sub-section (6), as the case may be, of section 46, shall stay the recovery of the remaining amount pending the decision of the appeal and send an intimation thereof to the authority whose order is appealed against as also to the appellant, ordinarily within seven days from the date of the admission of the appeal.

### **60. Summary Rejection :-**

(1) If the memorandum of appeal does not comply with all or any of the requirements of rule 58 or the appellant fails to pay in accordance with the provisions of sub-section (5) or subsection (6), as the case may be, of section 46 the tax and/or penalty in respect of which the appeal has been preferred, the appeal may be summarily rejected: Provided that no appeal shall be summarily rejected under this sub-rule, unless the appellant is given an opportunity to amend such memorandum of appeal so as to bring it into conformity with the requirements of rule 58.

(2) An appeal may also be summarily rejected on any other ground which should be reduced in writing: Provided that before an order summarily rejecting an appeal under this sub-rule is passed, the appellant shall be given a reasonable opportunity of being heard.

(3) Where an appeal is summarily rejected under sub-rule (1) on the ground that the appellant had failed to pay in accordance with the provisions of sub-section (5) or sub-section (6), as the case may be, of section 46 or sub-section (5) of section 53 the amount of tax and/or penalty in respect of which the appeal has been preferred, the Appellate Authority, the Appellate Board or the High Court may, where, it is subsequently brought to its notice that the said amount was paid before filing the memorandum of appeal but the proof of payment was not furnished therewith, readmit the appeal subject to the provisions of sub-section(8) of section 46.

#### **61. Hearing :-**

(1) If the Appellate Authority or the Appellate Board does not reject the appeal summarily, it shall fix a date for hearing the appellant or his duly authorized agent.

(2) The said authority may, at any stage, adjourn the hearing of an appeal to any other date.

(3) If on the date fixed for hearing or any other date to which the hearing may be adjourned, the appellant does not appear before the said authority either in person or through a person duly authorized by the appellant, as required by sub-section (1) of section 23, the said authority may dismiss the appeal or may decide it ex-parte, as it thinks fit.

#### **62. Notice To Person Likely To Be Affected Adversely :-**

Before any Appellate Authority, the Appellate Board or the High Court passes any order against any dealer in appeal enhancing an assessment or penalty or both, it shall send or if he is present, deliver to the dealer a notice in form 44 and give him a reasonable opportunity of being heard.

### **63. Supply Of Copy Of Order To The Appellant And The Officer Concerned :-**

A copy of the order passed by the Appellate Authority or the Appellate Board in appeal shall be supplied free of cost, to the appellant and one copy shall be sent to the officer, whose order forms the subject matter of the appeal, and to the commissioner .

### **64. Fees :-**

(1) The fees payable in respect of appeal under section 46 or 47, and miscellaneous application and petition for any relief shall be as follows :

(i) on a memorandum of appeal under section 46 to the Appellate Authority - Rs. Ten or 0.1 percent of the extra demand as per the order appealed against, 1 Whichever is more, but not exceeding Rs. 100 1 ;

(ii) on a memorandum of appeal under section 46 or sub-section (3) of section 47 to the Appellate Board - Rs. Thirty or 0.1 percent of the total balance due after the order passed in first appeal, 1 Whichever is more, but not exceeding Rs. 100 1 ;

(iii) on any other miscellaneous application or petition for relief - Rs. Five.

(2) Any officer appointed under section 3 before whom any proceeding against a dealer under the Act or the rules made thereunder is pending may, in his discretion, allow such dealer on his application to inspect the whole or any part of the record of such proceeding. If an application for inspection is made within three hours of the opening hours of office, the inspection shall, as far as possible, be allowed on the same day otherwise on the next working day. If the application is allowed, an inspection fee of rupees five for the first hour or part of first hour and one rupee for any subsequent hour or part thereof shall be charged. Inspection in the same manner and on the payment of same charge may be allowed of the record of any proceeding before any officer appointed under section 3 which have been closed: Provided that no inspection fee shall be charged for the inspection of the record of a pending proceeding by a dealer on any day fixed for the hearing of the case or for inspection of a record by Government Officers or other persons duly authorised in this behalf for Government purposes. Explanation - For the purpose of this proviso, the record of a pending proceeding includes the record of a closed proceeding which is called for a reference in the pending

proceeding.

(3) The dealer shall inspect the record in the presence of such official and between such hours, as may be appointed for the purpose by the officer appointed under section 3. He shall not be allowed to use pen or ink during inspection nor shall he be allowed to remove the record or any part thereof from the place of inspection, or to make any mark upon the record or in any manner mutilate it. He shall also not be allowed to take a copy of any part of the record beyond taking down brief notes with a pencil for reference.

(4) For the purpose of sub-rules (2) and (3) the word dealer shall include any person duly authorised by the dealer under sub-section (1) of section 23.

(5) Copying fee shall be charged at the following rates for grant of certified copies of documents or orders : Ordinary Urgent for every three hundred and sixty words or less Five rupees Ten rupees

(6) All court-fee stamps affixed to petitions filed before any officer appointed under section 3 other than a Commercial Tax Inspector shall be punched immediately in the presence of the officer concerned.

(7) Any party to a proceeding under the Act or any rules made thereunder may apply to the appropriate authority having jurisdiction in respect of such proceeding or the custody of the records pertaining thereto for a certified copy of any document produced or filed in such proceeding or any order passed by such authority.

(8) The application under sub-rule (7) shall be affixed with a court-fee stamp of the value specified in sub-rule (5) and shall be accompanied by a deposit of an amount to cover the cost of preparing certified copies according to the rate of fees specified in sub-rule (5). The amount calculated according to the said rate shall be retained by the said authority as copying fees and the surplus amount, if any, deposited by the party shall be refunded to it at the time of supplying the copy : Provided that the party shall, if the amount deposited by it is not sufficient to cover the copying fees, pay the deficit before taking delivery of the copy.

(9) All fees payable under this rule shall be paid in court fee stamps.

(10) No fee shall be payable in respect of any argument or objection in writing or in respect of any application which asks only for information and which does not seek any specific relief or in respect of any application for adjournment of hearing or in respect



of any application for inspection of records.

**65. Notice For Rectification Of Mistake Under Section 54 :-**

The notice required to be given under sub-section (1) of section 54 shall be in form 45.

**CHAPTER 11**

**Chapter XI**

**66. Production Of Documents And Furnishing Of Information By Dealers :-**

The inspecting Officer other than a Commercial Tax Inspector appointed under section 3, for requiring a dealer for the production of his accounts under clause (a) of sub-section (3) of section 55 may, by serving a notice in form 46 require such dealer to produce before him any accounts or documents or registers or to furnish any information relevant to his business or relating to profits derived from the business of any firm or the stocks of goods or purchase, manufacture, sales and deliveries of goods by the dealer, as may be necessary for the purpose of the said section.

**67. Request Requisitioning The Services Of A Police Officer :-**

The request requisitioning the services of a police officer under sub-section (7) of section 55 shall be in form 47.

**68. Retention Of Seized Books Of Accounts, Registers And Documents :-**

(1) If the inspecting officer seizes any books of accounts, registers or documents under sub-section (4) of section 55, he shall give a receipt therefor specifying in brief the particulars of the records so seized.

(2) The regular accounts that is to say cash book and ledger of a dealer seized by the inspecting officer shall be scrutinized and returned to the dealer within a period of 120 days. If the scrutiny is not completed within the aforesaid period, the said authority may retain such accounts for further period, as may be required after recording reasons in writing therefor and after obtaining permission in writing from the Deputy Commissioner. Other books of accounts, registers and documents shall be retained as evidence till a final decision in the case of the dealer.

**69. Form Of Notice And Procedure For Release Or Disposal By Way Of Sale Of Goods Seized Under Sub-Section (6) Of**

## **Section 55 :-**

(1) The form of notice under clause (b) of sub-section (6) of section 55 shall be in form 48.

(2) Where any goods are released under clause (d) or clause (e) of sub-section (6) of section 55, the officer releasing the goods shall obtain a receipt therefor from the dealer or person from whom the goods were seized.

(3) The goods required to be disposed of by way of sale under clause (f) of sub-section (6) of section 55 shall be so disposed of in the manner laid down under the Madhya Pradesh Land Revenue Code, 1959 (No.20 of 1959) (4)(a) Where any goods stored or kept by a dealer or person in any of the premises referred to in clause (a) of sub-section (5) of section 55 and disowned by such dealer or person are seized under clause (a) of sub-section (6) of the said section the particulars of such goods and the information about the seizure thereof shall be published in the form of a notice in the local news papers.

(b) If no person claims the ownership of goods referred to in clause (a) within fifteen days of the date of publication of the notice, such goods shall be put up for sale in auction by issue of a public notice. On the sale of such goods, the sale proceeds shall be deposited in the government treasury as miscellaneous receipt.

(5) A dealer or person claiming ownership of the goods seized under clause (a) of sub-section (6) of section 55 or the person from whom the goods are seized shall file his objection, if any, under clause (h) of the said sub-section within fifteen days of the seizure of the goods or of the publication of notice referred to in clause (a) of sub-rule (4) whichever is later. (6) Where the officer seizing the goods, at any time during the pendency of the proceeding, is of the opinion that the goods are subject to speedy and natural decay or when the expenses of keeping them in custody are likely to exceed their value, he may cause them to be sold without waiting for the completion of the proceedings and keep the sale proceeds thereof in deposit till the completion of said proceedings.

## **70. Establishment Of Check Posts And Erection Of Barriers** **:-**

(1) A check post shall be set up at a place notified by the State Government or by the Commissioner under sub-section (1) of section 57 by erecting a barrier across the road or thoroughfare to

enable vehicles being intercepted, detained or searched.

(2) Every transporter transporting goods notified under sub-section (2) of section 57 (hereinafter referred to as the notified goods) shall carry with him an invoice, bill or challan or any other document indicating the name of the consignor and consignee, the place of dispatch, the place of destination and the description, quantity and value of the goods and shall be signed by the consignor.

(3) Every transporter transporting the notified goods beyond a check post or barrier, shall file all the documents including a true and complete declaration in form 49 obtained in the manner specified in sub-rule (1) and (2) of rule 75 or in form 50, as the case may be, duly signed and verified by the consignor/consignee, in duplicate, before Check Post Officer or the official assisting him. If the check post officer or the official assisting him is satisfied that the particulars furnished in the documents including declaration are correct, he shall sign with date in each copy of the documents and / or declaration and mark it with seal of the check post. He shall then return one copy of the documents including declaration to the transporter: Provided that in case of emergent purchases, photocopy of the form 49 permitted in the manner specified in sub-rule (11) of rule 75 by the appropriate Commercial Tax Officer, can be filed before the Check Post Officer or the official assisting him. Provided further that the Form 88 prescribed under the Madhya Pradesh Vanijyik kar Niyam, 1995 may be used for the purpose of these rules for a period of three months from the date of commencement of these rules or the date of issue, whichever is later, with suitable modifications.

(4) The transporter shall produce the documents including declaration duly signed and dated by the said official for inspection and checking at any other check post which may fall on the route.

(5) The copy of the documents including declaration retained at the check post shall be forwarded to the Commercial Tax Officer in whose circle the place of business of the consignor or consignee, as the case may be, is situated.

### **71. Submission Of Declaration In Case Of A Person :-**

When the goods, as are notified under sub-section (2) of section 57 belonging to a person other than a dealer are carried in a vehicle coming from any place outside the State or going to a place outside the State, the driver or any other person in-charge of the vehicle shall submit a declaration in form 50. 72. Records to be maintained

and particulars to be furnished by the person transporting any goods notified under sub-section (2) of section 57 (1) Every person transporting any notified goods shall keep and maintain true and correct record in respect of such goods transported by him showing the following particulars, namely,-

- (i) Full name and address with TIN under the Madhya Pradesh Vat Act, 2002, if any, of the consignor,
- (ii) Full name and address with TIN under the Madhya Pradesh Vat Act, 2002, if any, of the consignee,
- (iii) Place from which goods dispatched
- (iv) Destination  
(including district)
- (v) Description of goods
- (vi) Quantity or weight
- (vii) Value of the goods
- (viii) Consignors invoice No. and date,
- (ix) Name of the person to whom goods to be delivered,
- (x) Name and full address of the carrier
- (xi) Details of the vehicle transporting goods
- (xii) Name and address of the driver of the vehicle,
- (xiii) Name and address of the person

(if any) in-charge of the goods; and shall, if so required by an officer not below the rank of Assistant Commercial Tax Officer, furnish such particulars, as he may require in respect of any transaction so far as it relates to the goods referred to above.

(2) Where the goods have been dispatched by a consigning dealer to self and are delivered to any person other than the consignor himself, the person transporting the goods shall ascertain and keep record of the full name and address with TIN if any, under the Madhya Pradesh Vat Act, 2002 of the dealer taking the delivery or on whose behalf delivery is taken.

(3) Every person who transports any goods notified under sub-section (2) of section 57 shall if so required by an officer not below the rank of Assistant Commercial Tax Officer, furnish to such officer particulars in respect of such goods transported by him in form 51. While calling for such information the officer shall allow reasonable time to the person transporting the goods.

(4) All accounts, records, registers and documents relating to the above transactions shall at all reasonable times be open to inspection by an officer not below the rank of Assistant Commercial Tax Officer with a written permission of the Commercial Tax Officer.

### **73. Inspection And Search Of The Vehicle :-**

(1) The check post officer for ensuring that any vehicle is not being used for evasion of tax payable under the Act, require the transporter to stop the vehicle, and such person shall forthwith comply with such requirement and keep the vehicle stationary for so long as is required by that officer.

(2) The said officer may, thereupon, enter and search such vehicle and inspect all goods and documents concerning the goods or the vehicle which are being carried on such vehicle. In carrying out such search or inspection, the said officer may take assistance of any Inspector of Commercial Tax appointed under section 3 of the Act or any other staff subordinate to the said officer. The transporter shall forthwith furnish such particulars of goods and vehicle as may be required and shall render all possible assistance to the said officer in making the search or inspection.

### **74. Procedure For Seizure And Release Of Goods/Vehicle And Disposal Of Goods By Sale :-**

(1) Where any goods or the vehicle alongwith the goods are seized under sub-section

(6) of section 57 by the check post officer or the officer empowered under sub-section (5) of the said section, he shall prepare a list in duplicate of all such goods and / or vehicle bearing his own signature, and signature of the transporter and shall take all the measures necessary for their safe custody. One copy of the list shall be given to the transporter.

(2) The notice under sub-section (8) or (10) of section 57 shall, as far as may be, be in form 52.

(3) Where any goods or goods along with the vehicle or vehicle are released under subsections (6),(8) and (11) of section 57 by the check post officer or the officer empowered, he shall, on payment by the transporter of the goods expenses, if any, incurred by the check post officer or the officer empowered for the safe custody of the goods and the incidental charges (which shall be specified in the order) order release of the goods and obtain a receipt thereof from the transporter.

(4) If the amount of penalty imposed under sub-section (8) or (10) of section 57 is not paid within thirty days of the service of the order, the check post officer or the officer empowered shall serve on the transporter a notice in form 53 to show cause why the goods

or the vehicle along with the goods should not be disposed of by way of sale.

(5) On being satisfied that the amount of penalty imposed under sub-section (8) or (10) of section 57 has not been paid by the transporter, the check post officer or the officer empowered shall proceed to dispose of the goods or the vehicle along with the goods by way of sale.

(6) The order of disposal of the goods or the vehicle along with the goods by way of sale shall be in form 54 and a copy of the order shall be served on the transporter.

(7) The goods and / or vehicle required to be disposed of by way of sale under sub-section (12) of section 57 shall be disposed of by way of sale in the manner laid down by or under the Madhya Pradesh Land Revenue Code, 1959 (No.20 of 1959).

## **75. Procedure For Obtaining And Keeping Record Of The Declaration Form - 49 :-**

(1) A registered dealer, shall obtain blank declaration form-49 from the appropriate Commercial Tax Officer or any other officer as may be authorized by the Commissioner in this behalf. The counterfoil of the declaration forms shall be maintained by the dealer for a period of five years or such other period, as may be specified by the Commissioner.

(2) (a) The blank declaration form referred to in sub-rule (1) shall be in any color determined by the Commissioner and shall be available in book form, each book containing fifty or one hundred of such forms in triplicate and may be obtained from the authority mentioned in sub-rule (1) on payment of a fee of rupee two per form.

(b) For obtaining the declaration forms referred to in sub-rule (1), every registered dealer shall apply in writing in form 55 to the appropriate Commercial Tax Officer stating his requirement of such forms and shall furnish such other particulars, statements and information and produce such other documents, as the Commercial Tax Officer may require for the purpose of satisfying himself about his bonafide use of such forms issued to the applicant on previous occasions and the bonafide nature of his requirement of forms on the present occasion.

(c) The application in Form 55 shall be accompanied by a copy of the Challan in form 26 or e-Receipt in form 26 A in respect of the fee payable therefor under clause (a) : Provided that where the fee

payable does not exceed rupees two hundred at any one time, the payment may be made in cash in the office of the appropriate Commercial Tax Officer;

(d) On receipt of the application under clause (b), the Commercial Tax Officer shall, with due regard to the requirements of the dealer supply the declaration forms before the end of next working day to the dealer on furnishing an acknowledgment thereof.

(e) If for reasons to be recorded in writing, the Commercial Tax Officer is not satisfied that the applicant has made bonafide use of the declaration forms previously issued to him or that the requirements of the declaration forms applied for are not bonafide, he shall reject the application.

(f) If for reasons to be recorded in writing, the Commercial Tax Officer is not satisfied that the applicant requires the books of declaration forms in such numbers, as he has applied for, he may issue such forms in such lesser number as, in his opinion, would satisfy the reasonable requirements of the applicant : Provided that the new forms shall not be issued to a dealer until he has rendered account of the old forms lying with him and returned the balance, if any, in his hand to the appropriate Commercial Tax Officer.

(g) If the fee paid for the declaration forms is more than the fee payable for the number of forms issued, the balance shall be credited to the account of the dealer to be adjusted against any further issue or may be refunded to him on making an application by him.

(3) Every such registered dealer to whom declaration in form 49 is issued shall maintain in a register in form 56 a true and correct account of every such form. If any such form is lost, destroyed or stolen, the dealer shall report the fact to the said authority immediately, shall make appropriate entries in the remarks column of the register in form 56 and take such other steps to issue public notice of the loss, destruction or theft.

(4) Where a declaration form either blank or duly completed is lost while it is in his custody before dispatch or lost in transit, the dealer shall, besides taking action prescribed under sub-rule (3), furnish to the said authority, from whom the said forms were obtained, a reasonable security by way of an indemnity bond in form 57 separately for each form so lost, against any possible misuse of the said form.

(5) The said authority shall, from time to time, publish in the official Gazette, the particulars of the declaration form in respect of which a report is received under sub-rule (3).

(6) Any unused declaration forms remaining in stock on the date of closure of business or on the date of making an application for cancellation of his registration certificate or on the date his registration certificate is cancelled otherwise, as the case may be, shall be surrendered to the issuing authority by such dealer within seven days of such date.

(7) The Commercial Tax Commissioner may, by notification, declare that declaration forms of a particular series, design or colour shall be deemed as obsolete and invalid with effect from such date, as may be specified in the notification.

(8) When a notification declaring forms of a particular series, design or color as obsolete and invalid is published under sub-rule (7), all registered dealers shall, on or before the date with effect from which the forms are declared as obsolete and invalid, surrender to the appropriate Commercial Tax Officer all unused forms of that series, design or colour, which may be in their possession and obtain in exchange such new forms as may be substituted for the forms, declared obsolete and invalid.

(9) The officer to whom the declaration forms are supplied for distribution to the registered dealers, shall keep them in safe custody and maintain a proper account thereof in a register in form 58.

(10) The Commissioner may, from time to time, by order specify the procedure regarding printing and distribution of the declaration forms, issue of transit pass as required, presentation and collection of declaration forms and other documents at the check post and proper functioning of the check post.

(11) (a) in case of emergent purchases, a registered dealer shall make an application in writing along with form-49 in triplicate containing name and address of the selling dealer and particulars of the commodity to the Commercial Tax Officer.

(b) The Commercial Tax Officer shall record on the left hand corner of the duplicate and triplicate copy of the declaration " Allowed to fax / Valid upto.....(date after 7 days to be specified)" in hand writing with seal and signature and return these to the dealer after getting acknowledgement thereof.

(c) The Commercial Tax Officer shall record on the original copy of the declaration " Allowed to fax / Used " in hand writing with seal and signature and file it in the assessment case of the dealer.

## **76. Transit Of Goods By Road Through The State And Issue Of Transit Pass :-**



(1) When a vehicle coming from any place outside the State and bound for any other place outside the State, carrying goods as are notified under sub-section (2) of section 57 passes through the State, the driver/any other person in-charge of the vehicle shall submit a challan or any other document, containing following particulars, issued by the transporter, in triplicate to the Check Post Officer of the check post located at / near the point of entry into the State (hereinafter referred to as the Entry Check Post):-

1. Name and complete address of the consignor- with TIN (if any)
2. Name and complete address of the consignee with TIN (if any)
3. Name and complete address of the person to whom goods will be delivered in case his consignee is described as self
4. Place from which goods dispatched.
5. Destination (including District)
6. Brief description of goods
7. Total quantity
8. Total weight
9. Total value
10. Consignors invoice No. and date
11. a) name and address of the carrier (transport company or owner of the vehicle) b) Details of the vehicle with its number c) name and address of the driver of the vehicle d) name and address of the person in-charge of the goods. e) Bilty / L.R.No. and date
12. In case of transshipment of goods in transit- a) name and address of the carrier (transport company or owner of the vehicle) b) Details of the vehicle with its number c) name and address of the driver of the vehicle d) name and address of the person in-charge of the goods. e) Bilty / L.R.No. and date f) Name of the exit check post through which the vehicle would cross the State border.

(2) The Check post Officer of the entry check post shall, after examining the documents and after making such enquiries as he deems necessary, issue to the transporter the transit pass by affixing a seal in form 59 on the challan or the document, specifying the check post or the barrier of the State to be crossed by the vehicle

(hereinafter referred to as the exit check post) and the time and date up to which it should be so crossed. The challan or the document may be authenticated by affixing a bar code or by any other method, as may be decided by Commissioner.

(3) The Check Post Officer shall retain first copy of the challan or the document and hand over the duplicate and triplicate copies duly sealed or authenticated to the person carrying the goods.

(4) The driver/any other person in-charge of the vehicle shall stop at the exit check post, submit the duly sealed or authenticated duplicate copy of the challan or the document and allow the check

post officer to inspect the challan or the document and goods in order to ensure that the consignments being taken out of the State are the same for which challan or the document has been submitted at the entry check post. The exit check post officer shall issue a receipt on the triplicate copy of the challan or the document.

(5) The Check post Officer of the exit check post shall have powers to detain, unload and search the contents of the vehicle for the purpose mentioned in sub-rule (3).

### **77. Furnishing Of A Declaration Under Sub-Section (1) Of Section 61 :-**

The declaration required to be furnished under sub-section (1) of section 61 shall be in form 60.

### **78. Intimation To Be Given By Clearing, Forwarding, Booking Agent, Dalal And Person :-**

transporting goods

(1) Every clearing, forwarding and booking agent, dalal and person transporting goods shall send an information in form 61 about the business carried on by him to the appropriate Commercial Tax Officer within thirty days from the date of coming into force of this rule or the commencement of business whichever is later and obtain an acknowledgment therefor from the Commercial Tax Officer.

(2) The Commercial Tax Officer shall, on receipt of any intimation under sub-rule (1), enter in a register in form 62 the particulars given therein.

(3) Where any goods handled by any agent or person referred to in sub-section (1) of section 62 have been consigned by the consignor to self and such goods are delivered by such agent or person to any person other than the consignor, the agent or person shall ascertain and keep the record of full name and address of the person taking delivery of the goods, the name of the dealer with his registration certificate number under the Madhya Pradesh Vat Act, 2002, if any, and if the person taking delivery is not a dealer but taking delivery for and on behalf of a dealer the name and address of such dealer and his registration certificate number under the said Act. (4) All accounts, records, register and documents maintained by any agent or person referred to in sub-section (1) of section 62 shall at all reasonable times be open for inspection by any officer above the rank of an Assistant Commercial Tax Officer and by the Assistant Commercial Tax Officer with the written permission of the

**79. Issue Of Tax Clearance Certificates :-**

(1) Any dealer required to produce a tax clearance certificate under section 65 shall make an application in form 63 to the appropriate commercial tax officer for grant of such certificate and shall obtain a written acknowledgment therefor from the said officer .

(2) (a) On receipt of the application, the appropriate commercial tax officer shall grant a tax clearance certificate in form 64 to the dealer or reject the application within one month from the date of receipt of the application. An application for a tax clearance certificate shall be rejected, if the dealer is either in arrears of tax or has not furnished a return for any period.

(b) Where an application is rejected, the appropriate commercial tax officer shall specify the amount of arrears outstanding against the dealer. If the arrears are paid, the tax clearance certificate shall be granted to the dealer. The certificate shall be prepared in duplicate. One copy shall be given to the dealer and the other copy shall be retained by the appropriate commercial tax officer for his record. Where an application is rejected the appropriate commercial tax officer shall immediately intimate this fact to the officer specified in serial number

(7) of the application in form 63.

(3) The tax clearance certificate granted under clause

(a) of sub-rule (2) shall be valid for a period of one year from the date of its issue.

(4) Where facility to pay any amount in instalments has been granted to a dealer under subsection (7) of section 24 or where the recovery of any amount due has been stayed by any competent authority, such amount shall not be treated as an amount in arrears for the purpose of this rule unless the dealer has failed to pay any instalment due from him.

**80. Procedure For Determination Of Disputed Questions Under Section 70 :-**

(1) (a) Every dealer desirous of raising a question for determination of the rate of tax on any goods, shall make an application to the Commissioner.

(b) Every dealer making such application shall deposit a fee of

rupees one hundred and enclose with the application a copy of Challan in form 26 or e-Receipt in form 26 A in proof of the payment of such fee.

(2) Every application made under clause (a) of sub-rule (1) shall, -

(i) be in duplicate,

(ii) clearly state the facts relating to the goods in respect of which determination is sought, that is to say, their description, the use to which the goods are put to, specification thereof, raw material used in the manufacture of such goods and give a detailed description of the process of manufacture of the goods in question,

(iii) be accompanied by a sample, a copy of the sale voucher, purchase order and purchase voucher, if any ;

(iv) contain the dealers contention regarding the rate of tax and the entry of the schedule by which the goods are claimed to be covered.

(3) Separate application shall be made for each of the goods in respect of which determination of the rate of tax is sought.

(4) On receipt of the application, the Commissioner shall, after making such enquiry and calling for such additional information from the dealer as he deems necessary and after giving the dealer an opportunity of being heard, pass an order determining the rate of tax in respect of the goods covered by the document referred to in clause (iii) of sub-rule (2) received with the application.

(5) A copy of the order passed under sub-rule (4) shall be served on the dealer.

### **81. Option To Pay A Lump-Sum Amount In Lieu Of Penalty Levied Under Section 21, 52, 55 And 57 :-**

(1) A dealer on whom a penalty has been imposed under sub-section (2) of section 21 or subsection (2) of section 52 or clause (c) of sub-section (6) of section 55 may, if he so desires, give an option under sub-section (4) of section 21 or sub-section (4) of section 52 or clause (ea) of sub-section (6) of section 55 respectively to the authority imposing such penalty, after payment of the lump-sum amount specified in the sub-section. Such option shall be given in form 65, before the expiry of the period specified in the notice of demand for the payment of the penalty imposed.

(2) A transporter on whom a penalty has been imposed under sub-section (8) of section 57 may, if he so desires, give an option under sub-section (17) of section 57 to the authority imposing such penalty, after payment of the lump-sum amount specified in the

sub-section. Such option shall be given in form 65, before the expiry of the period specified in the notice of demand for the payment of the penalty imposed.

**82. Claiming By Or Allowing To A Registered Dealer Rebate Of Input Tax Under Section 73 :-**

(1) A registered dealer shall furnish a statement in form 66 in respect of goods, specified in schedule-II held in opening stock by him on the date of commencement of the Act and such statement shall be furnished by him to the appropriate Commercial Tax 1 on or before 30th June, 2006 1 . 2 Provided that the statement in Form 66 can be furnished on or before 10th August, 2006 with a late fee of rupees 1000.

(2) If such stock statement is not filed within the time allowed under sub-rule (1), the registered dealer shall not be entitled to input tax rebate on the goods so held in stock.

(3) The aforesaid stock statement shall be subject to verification by the assessing authority. Such verification shall be taken up in such number of cases as may be determined by commissioner.

(4) If the assessing authority is not satisfied with the stock so declared and input tax rebate claimed on that stock, he shall, after affording an opportunity of being heard to the registered dealer by issue of a notice in form 67, pass an order within 2 150 2 days from the date of commencement of the Act determining the rate wise value of eligible stock for input tax rebate as also the input tax rebate available on that stock.

(5) If no notice for verification is issued within 2 150 2 days from the date of commencement of the Act, the input tax rebate claimed on the stock shall be deemed to have been allowed.

(6) (a) For the purpose of computation of the input tax rebate to be claimed by or be allowed to a registered dealer under section 73 in respect of goods,-

(i) referred to in sub-section (2) or clause (b) of sub-section (3) of the said section ;

(ii) used or consumed in respect of the goods referred to in clause (a) of sub-section

(3) of the said section, turnover of such goods which have borne tax under the repealed Act, shall be,-

(1) arrived at by deducting from purchase Value of such goods the element of tax calculated by applying the following formula, if tax separately charged by the selling dealer :- Purchase Value x rate of

tax under the repealed Act 100 + rate of tax under the repealed Act

(2) 75% of the purchase value, if tax separately not charged by the selling dealer. Explanation:- Purchase Value means the amount paid to the selling dealer for purchase of such goods.

(b) On the turnover so computed under clause (a), tax shall be calculated at the rate specified in sub-section (2) or clause (a) or clause (b) of sub-section (3) of section 73, as the case may be, and an input tax rebate equal to the amount of tax so calculated shall be claimed by or be allowed to the registered dealer. (7) The amount of input tax rebate to the credit of a registered dealer computed in accordance with the provisions of sub-rule (6), shall be claimed or be allowed in three equal instalments within a period of nine months from the date of commencement of the Act. The input tax rebate shall be adjusted towards the tax payable under the Act.

### **83. Acceptance Of Declaration Or Certificate :-**

(1) No selling registered dealer shall refuse to accept any declaration or certificate furnished by a purchasing registered dealer in accordance with any provision of the Act or rules made or any notification issued thereunder.

(2) Any declaration or certificate required to be filed under the Act or the rules or any notification issued thereunder, shall not be rejected as invalid on the ground that it lacks in certain material particulars or is defective until the dealer is given a reasonable opportunity to supply the omission or to remove the defects occurring in such declaration or certificate or to furnish a fresh declaration or certificate.

### **84. Imposition Of Penalty For Breach Of Rules :-**

The Commissioner may impose a penalty not exceeding rupees five hundred on a dealer or a person, as the case may be, committing a breach of any of the provisions of these rules.

### **85. Repeal :-**

The Madhya Pradesh Vanijyik Kar Niyam, 1995 are hereby repealed: Provided that such repeal shall not affect the previous operation of the said rules or anything done or any action taken thereunder.