

Orissa Sales Tax Rules, 1947

CONTENTS

CHAPTER 1 :- CHAPTER I

1. Short Title
2. Definitions

CHAPTER 2 :- SALES TAX AUTHORITIES

3. Section 3
- 3A. Function And Duties Of The Deputy Commissioner

CHAPTER 3 :- CALULATION OF TAXABLE TURNOVER

4. Deduction Of Turnover Of Sale/Purchase Of Goods In Respect Of Which The Changes Made From Purchase Tax To Sale Tax And Vice Versa
- 4A. Refund Of Sales Tax In Respect Of Goods Purchased And Returned
5. Omitted
- 5A. Grant Of Exemption Certificate In Form I To Producers Co-Operative Societies

CHAPTER 4 :- REGISTRATION OF DEALERS

6. Application For Registration
- 6A. Registration Of Dealers Under Special Circumstances
7. Grant Of Registration Certificate
- 7A. Payment Of Security
- 7B. Application Of Security For Satisfaction Of Tax, Etc
8. Omitted
9. Assignment Of Registration Numbers And Marks
10. Section 10
11. Duplicate Copy Of The Certificate Lost, Destroyed Or Defaced
- 11A. Renewal Of Registration Certificate
12. Deleted
13. False Statement Or Declaration Not To Be Made
14. Amendment Or Cancellation Of Registration Certificate
15. Cancellation Of Registration Under Clause (A) Of Sub-Sec.(6) Of Section 9
16. Cancellation Of Registration Under Clause (B) Of Sub-Section (6) Of Section 9
- 16A. Cancellation Of Registration Under Clause (C) Of Sub-Sec. (6) Of Section 9

- 16B. Cancellation Of Registration Under Sub-Sec. (3-A) Of Sec. 9
- 17. Publication Of Cancellation Of Registration Of Dealers
- 18. Surrender Of Certificate Of Registration For Cancellation
- 19. Publication Of List Of Registered Dealers

CHAPTER 5 :- RETURN OF TAXABLE TURNOVER

- 20. Returns
- 20A. Section 20A
- 21. Penalty For Non-Submission Of Return
- 22. Calling For Returns From Unregistered Dealers
- 23. Calling For Return When Turnover Has Escaped Assessments Or Has Been Under Assessed
- 24. Returns To Be Signed By Dealer
- 25. Exemption From Submitting Returns
- 26. Submission Of Consolidated Return By Dealer Having More Place Of Business Than One
- 26A. Maintenance Of Account Of Moneys 2[Realised Or Stipulated For Realisation By Way Of Tax]
- 26B. Section 26B

CHAPTER 6 :-ASSESSMENT OF TAX UNDER SECTION 12, 2(12-B AND PAYMENT OF COMPOSITION MONEY UNDER SECTION 5)

- 27. Evidence In Support Of Deduction Claimed
- 28. Assessment Of Tax
- 28A. Section 28A
- 28B. Provisional Assessment Of Casual Dealers
- 28C. Final Assessment Of Casual 1[Dealer]
- 29. Deputation Of Inspector To Hear Objection
- 30. Submission Of Report By Inspector
- 31. Order Of Assessment
- 32. Notice Of Demand
- 32A. Notice For Special Mode Of Recovery
- 33. Recovery Of Tax From A Defaulting Dealer
- 34. Deleted
- 35. Assessment Case Record

CHAPTER 7 :- PAYMENT OF TAX AND COMPOSITION MONEY

- 36. Payment Of Tax To Be Made Before Furnishing Return
- 37. Method Of Payment Of Tax, Penalty And Interest
- 37A. Deposit Of The Amount Of Tax Deducted From The Bills Or Invoices Of The Works-Contractors In The Government Treasury
- 37AA. Deposit Of Amount Of Tax Deducted From Bills Or Invoices Of Small Scale Industries In Government Treasury
- 37B. Grant Of Certificate By The Deducting Authority To The Works-Contractor
- 37C. Grant Of Certificate By Deducting Authority To The Small Scale Industry
- 137D. Grant Of Certificate Of No Deduction/ Deduction Of Tax At

Source, By The Commissioner To The Dealer/ Works Contractor
38. Challan Or Postal Money Order Acknowledgment To Be Attached
To The Returns

CHAPTER 8 :- REFUNDS

- 39. Application For Refund
- 39A. Deleted
- 40. Order Sanctioning Refund
- 41. Payment In Cash
- 41A. Section 41A
- 42. Section 42
- 42A. Refund Of Tax In Certain Cases
- 42B. Refund Of The Amount Paid As Security
- 42C. Deleted
- 43. Omitted
- 44. Omitted

CHAPTER 9 :- INSPECTION OF ACCOUNTS

- 45. Notice Of Inspection
- 46. Retention Of Books, Registers Or Documents Seized

CHAPTER 10 :- APPEAL AND REVISION

- 47. Appeal
- 48. Submission Of Appeal Petition
- 49. Summary Rejection Of Appeal
- 50. Hearing Of Appeal
- 50A. Procedure In Case Of Death Of One Of Several Appellants Or
Of Sole Appellant
- 50B. No Abatement By Reason Of Death After Hearing
- 51. Notice To Person Likely To Be Adversely Affected
- 52. Second Appeal Under Sub-Section (3) Of Section 23
- 52A. Application For Reference Under Sub-Section (1) Of Section
24
- 53. Presentation Of Appeals And Applications
- 54. Registration Of Appeal And Application
- 55. Maintenance Of Registers
- 56. Admission
- 57. Filing Memorandum Of Cross-Objections
- 58. Notice Of Hearing
- 59. Procedure At The Hearing
- 60. Hearing In The Absence Of Parties
- 61. Fresh Evidence And Witness
- 62. Adjournment
- 63. Procedure In Case Of Death Of One Of Several Appellants Or
Applicants Or Of Sole Appellant Or Applicant
- 64. Procedure In Case Of Death Of One Of Several Respondents Or
Opponents Or Of Sole Respondent Or Opponent
- 65. No Abatement By Reason Of Death After Hearing

- 66. Determination Of Legal Representative
- 67. Procedure In Case Of Assignment
- 68. Procedure In Case Of Solvency
- 69. Abatement Or Dismissal For Failure Of Legal Representative Etc, To Apply In Time May Be Set Aside
- 70. Passing Of Order
- 71. Certain Matters To Be Specified In The Order
- 72. Statement Of Case Of High Court
- 73. Supply Of Copies Of Order
- 74. Return Of Exhibits
- 75. Copies Of Documents Of Payment Of Fees
- 76. Forms Of Notices
- 77. Service Of Notice On Government
- 78. Officers Of The Tribunal
- 79. Application To Commissioner For Revision
- 80. Revision By The Commissioner Suo Motu
- 81. Order On Appeal Or Revision To Authorise Payment Of Extra Demand Or Grant Of Refund As The Case May Be
- 82. Order On Appeal Or Revision To Be Communicated To The Officer Concerned
- 82 A . Order Of Assessment, Appeal Or Revision To Be Communicated To The Dealer
- 83. Rectification Or Mistakes

CHAPTER 11 :- SERVICE OF NOTICE

- 84. Service Of Notices And Requisitions

CHAPTER 12 :- FEES

- 85. Fees
- 86. No Fee Payable In Certain Cases
- 87. Grant Of Copy Of Order Passed By A Sales Tax Authority
- 88. Payment Of Fees

CHAPTER 13 :- PAYMENT OF COMPOSITION MONEY

- 89. Payment Of Composition Money

CHAPTER 14 :- MISCELLANEOUS

- 90. Deleted
- 90A. Lump Sum Payment Of Tax
- 91. Supply Of Statistics By The Tribunal
- 91A. Submission Of Returns By Banks And Clearing Houses
- 91B. Deleted

CHAPTER 15 :- PENALTY

- 92. Penalty
- 92A. Deleted
- 92B. Deleted

92C. Section 92C

93. Deleted

93A. Taxing Motor Vehicles At The First Point In A Series Of Sales

93B. Taxing Of Mineral And Aerated Water Sold In Bottles Or Sealed Containers At The First Point In A Series Of Sales

93C. Taxing Of Chemical Fertilisers At The First Point In A Series Of Sales

93D. Taxing Of Rice And Broken Rice At The First Point In A Series Of Sales

93F. Taxing Of Petrol, High Speed Diesel, Light Diesel Oil, Powerine And Aviation Spirit At The First Point In A Series Of Sales

93G. Section 93G

93H. Taxing Of Refrigerators

93I. Taxing At The First Point In A Series Of Sale Of

93J. Taxing At The First Point In A Series Of Sale Of

93K. Taxing At The First Point In A Series Of Sale Of

93L. Taxing Gold And Silver Ornaments Whether Or Set With Precious Stones And Gold And Silver Filigree Works At The First Point In A Series Of Sales

94. Check Post

94A. Inspection Of Goods While In Transit At Any Place Other Than A Check-Post Or Barrier

94B. Restriction On Movement Of Goods

94C. Section 94C

94D. Records To Be Maintained By The Transporter/Bailee/Owner Or Lessee Of Warehouse

95. Disposal Of Goods Confiscated By Sales Tax Authorities

96. Enrolment Of Tax Practitioner

CHAPTER 16 :- TAX RECOVERY

97. Procedure To Be Followed While Sending Certificate To Another Tax Recovery Officer

98. Intimation By The Tax Recovery Officer

99. Intimation By The Sales Tax Officer

100. Attachment Subject To Encumbrance

101. Proclamation Of The Sale

102. Reserve Price

103. Custody After Attachment

104. Section 104

105. Return Of Property

106. Sale Of Property In Case Of Default

107. Custody By The Defaulter

108. Procedure In Cases Of Attachment Of Live-Stock

109. Expenses Of Custody And Maintenance

110. Delivery Of Movable Property, Debts And Shares

111. Transfer Of Negotiable Instruments And Shared

112. Vesting Order In Case Of The Other Property

113. Delivery Of Immovable Property In Occupancy Of Defaulter

114. Delivery Of Immovable Property In Occupancy Of Tenant

- 115. Resistance Or Obstruction For Possession Of Immovable Property
- 116. Resistance Or Obstruction By Defaulter
- 117. Resistance Or Obstruction By Bona Fide By Claimant
- 118. Dispossession By Purchaser
- 119. Bonafide Claimant To Be Restored To Possession
- 120. Rules Not Applicable To Transfer Pendente Lite
- 121. Right To File Suit
- 122. Arrest And Detention
- 123. Subsistence Allowance
- 124. Process Fees
- 125. Levy And Scale Of Poundage Fees

Orissa Sales Tax Rules, 1947

(RULES MADE UNDER SECTION 29 OF THE ORISSA SALES TAX ACT, 1947)

CHAPTER 1

CHAPTER I

1. Short Title :-

These rules may be called the Orissa Sales Tax Rules, 1947.

2. Definitions :-

In these rules, unless there is anything repugnant in the subject or context -

1[(a)] "Agent means -

1. In the case of a dealer, a person authorised in writing by the dealer to appear and act on his behalf before any Sales Tax Authority or the Tribunal being -

1.a relative of the dealer, or

2.a person regularly employed by the dealer, or

3.a Barrister-at-law or Solicitor or any other person entitled to plead in any Court of law in India, or

i. a person who has been enrolled as a registered accountant in the Register of Accountants maintained by Central Government under

the Auditors Certificate Rules, 1932, or holds a restricted certificate under the Restricted Certificate Rules, 1932, or has passed any accountancy examination recognized in this behalf by the State Government; or

ii. a person who possesses a degree in Commerce, Law, Economics or Banking including Higher Auditing, conferred by any Indian University incorporated by any law for the time being in force or any foreign University duly approved in this behalf by the State Government; and

iii. in the case of the State Government, the State Representative appointed in this behalf.]

1[(b)] 2[Assistant Commissioner] means an 2[Assistant Commissioner] of Sales Tax appointed by; that designation by State Government under section 3 of the Act, to assist the 2[Commissioner];

3[(c)] "Assistant Sales Tax Officer" means in respect of any place of business of a dealer, the Assistant Sales Tax Officer appointed by that designation by the State Government under section 3 of the Act to assist the 2[commissioner], within whose jurisdiction that place of business is situated;

3[(d)] "Chief place of business" means in relation to a dealer in any area within the jurisdiction of an Assistant Sales Tax Officer or Sales Tax Officer, as the case may be, the place of business mentioned as his Chief place of business in the Certificate of Registration granted under rule.7;

3[(e)] 2[Commissioner] means the 2[Commissioner] of Sales Tax and includes any Officer to whom the Commissioner of Sales Tax may delegate under section 17 his powers and duties under the Act;

3[(f)] "District Collector" means the Chief Officer in charge of the revenue administration of a district and shall include a Deputy Commissioner 4[in charge of such administration];

5[(ff)] "District Industries Centre" means the organization set up at each Revenue District Headquarters to achieve the goals as

envisaged in new Industrial policy such as promotion of small, cottage and village Industries];

3[(g)] "Form" means a form appended to these rules;

3[(h)] "Government Treasury" means in relation to a dealer registered within the jurisdiction of any Assistant Sales Tax Officer or Sales Tax Officer, the treasury or sub-treasury, as the case may be of the district or subdivision where the dealers place of business or, if he has more than one such place, where his chief place of business, within that jurisdiction, is situated;

1[(h-1)] "Nationalized Bank" shall have reference to a corresponding new bank within the meaning of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970);

2[(I)] "Place of business" means any place where a dealer sells 3[or purchases];

4[(ii)] "Principal place of business" means in relation to a dealer who has more than one place of business in the State of Orissa, the place of business mentioned as his principal place of business for the State in his application for registration;

Provided, however, that the principal place of business shall be same as the chief place of business if the dealer has only one chief place of business and in case the dealer has more than one chief place of business the principal place of business shall be one of them]

3[(j)] "Quatter" means a period of three months ending on the 31st March, 30th June, 30th September or 31st December.

4[(jj)] "Registrar" means the person who is for the time being discharging the functions of the Register of the Tribunal;

2[(k)] "return period" means in relation to any particular dealer the period for which return in Form IV

3[or IV-A] are to be furnished by such dealer under Chapter V of these rules;

2[h)] "Sales Tax Officer" means in respect of any place of business of a dealer, the Sales Tax Officer appointed by that designation by the State Government under section 3 of the Act, to assist the Commissioner, within whose jurisdiction that place of business is situated;

4[(11)] "Sales Tax Tribunal" means the person appointed as such by the State Government under section 3 of the Act and includes Additional Tribunal];

1[(111)] "State Representative" means an Officer or Pleader appointed by the State Government to appear and act on their behalf in any proceeding before Tribunal, 2[and includes Additional State Representative], 3[Deputy State Representative] 2[Assistant State Representative or any other Officer] or pleader appointed to act in his absence 2[or along with him].

4[(m)] "The Act" means the Orissa Sales Tax Act, 1947; and

4[(n)] "Warehouse" means any enclosure, building or vessel in which a dealer keeps a stock of goods for sale 2[or after purchase.]

5[(2-A) The Sales Tax Tribunal shall be under the administrative control of the State Government.]

CHAPTER 2

SALES TAX AUTHORITIES

3. Section 3 :-

(i) The authorities to be appointed for assisting the Commissioner shall be of the following designation namely :-

a. Additional Commissioner of Sales Tax;

7[(a-1) Special Additional Commissioner of Sales Tax];

b. Deputy Commissioner of Sales Tax;

c. Assistant Commissioner of Sales Tax;

d. Sales Tax Officer;

8[(d-1) Tax Recovery Officer];

e. Assistant Sales Tax Officers; and

f. Inspectors of Sales Tax].

1[(1-A)] The Commissioner of Sales Tax may, from time to time, by notification, specify the local limits of the jurisdiction of Inspectors appointed under the Act.

1. 2 [The Assistant Commissioner of Sales Tax], the Sales Tax Officers and the Assistant Sales Tax Officers shall be subordinate to the Commissioner of Sales Tax. The Inspector of Sales Tax of an area shall be subordinate to the Sales Tax Officer or the Assistant Sales Tax Officer, as the case may be of that area.

3[(3) The authorities specified in clause (a) 4[(a-1,) (b), (c), (d), 5[(d-1)] (e) and (f) shall be under the administrative control of the Commissioner of Sales Tax.

2 . The State Government may, by notification in the Gazette constitute areas into Circles over which an Assistant Commissioner of Sales Tax, a Sales Tax Officer or an Assistant Sales Tax Officer, as the Commissioner may specify by notification, shall exercise jurisdiction, provided that, a Sales Tax Officer exercising Jurisdiction over any Circle May also exercise concurrent jurisdiction in another Circle, if so directed by the Commissioner in the notification. Provided further that such Circle may likewise be reconstituted at any time by notification in the Gazette.]

(4) The State Government may, by notification in the Gazette constitute areas into Circles over which an Assistant Commissioner of Sales Tax, a Sales Tax Officer or an Assistant Sales Tax Officer, as the Commissioner may specify by notification, shall exercise jurisdiction, provided that, a Sales Tax Officer exercising jurisdiction over any Circle may also exercise concurrent jurisdiction in another Circle, if so directed by the Commissioner in the notification. Provided further that such Circle may likewise be reconstituted at any time by notification in the Gazette.]

6[(5) The State Government may, by notification in the Gazette,

constitute several Circles into ranges over which, an Assistant Commissioner of Sales Tax appointed as such to those ranges shall exercise jurisdiction; provided that such ranges may likewise be reconstituted at any time by notification in the Gazette.

7 [Provided further that an Assistant Commissioner of Sales Tax appointed to any one range shall also exercise jurisdiction over the portion of the area of the Intelligence Circle coming within his range.]

3A. Function And Duties Of The Deputy Commissioner :-

The Deputy Commissioner of Sales Tax shall be subordinate to the Commissioner of Sales Tax and shall assist him generally in the discharge of its functions and duties. He shall also exercise such powers and authority on behalf of the Commissioner as he may by order in writing entrust to him.]

CHAPTER 3

CALULATION OF TAXABLE TURNOVER

4. Deduction Of Turnover Of Sale/Purchase Of Goods In Respect Of Which The Changes Made From Purchase Tax To Sale Tax And Vice Versa :-

Where the State Government in exercise of the powers conferred by Section 3-B has declared goods to be liable to purchase tax or where any goods has been omitted from such declaration as a result of which it became liable to sales tax under the Act, the purchase price or sale price on which tax under the Act, the purchase price or sale price on which tax under the Act, has been paid shall be deducted from the gross turnover on the production of evidence that such tax has been paid;

Provided that the dealer claiming the deduction has on or after the Commencement of such change given a declaration to the satisfaction of the Assessing Authority in respect of the stock at hand, on the date of commencement, on which tax has been paid.]

4A. Refund Of Sales Tax In Respect Of Goods Purchased And Returned :-

The period within which the purchaser shall return to the dealer any goods purchased under explanation to Clause (I) of Section 2 shall be one month from the date of purchase.]

5. Omitted :-

4[(a) Omitted]

5[(b) Omitted]

6[(c) Omitted]

7[(d) Sales of cotton to Co-operative Society, or other Association or an individual engaged in hand-spinning-

i. In calculating his taxable turnover a dealer may deduct from his gross turnover 1[***] his turnover on sales of cotton to any Co-operative Society which; has hand spinning as one of its activities and is not engaged in handling yarn of any other variety or any other association engaged exclusively in hand spinning, or any individual engaged in hand spinning to which (Whom) certificate has been granted in Form 1-A.

ii. Application for certificate in Form 1-A and for its renewal shall be made to the Commissioner through the Director of Industries, Orissa, or any Officer authorised by the later in this behalf. It should contain Inter alia the name of the institution or individual, its or his place of business and the ground on which exemption from sales tax is claimed. The Certificate will be granted by the Commissioner on the recommendation of the Director of Industries or the officer authorised by him in this behalf who should verify that the conditions of exemption as prescribed in (I) above are satisfied.

iii. The certificate will remain valid till the 31st March of the year in which it is granted and will be renewable from year to year on fresh application]

5A. Grant Of Exemption Certificate In Form I To Producers Co-Operative Societies :-

(i) The Commissioner may, on application for exemption from payment of sales tax by any Producers Co-operative society, duly registered as a dealer under the Orissa Sales Tax Act, 1947 and possessing a valid registration certificate, grant a certificate of exemption in Form I, appended to the rule;

Provided that the certificate shall not be granted unless -

a. such society is registered under the Orissa Co-operative Societies Act, 1951;

b. carries on business only in the commodity grown or produced by the members of the Society;

c. eighty per centum of the members of the Society are producers;

d. the produce is sold in the same form in which it is received from the producer member for sale without any further processing; and

1(e) the average sale per member of the society in a year is less than 2[the appropriate limit as specified in sub-section (7) of section 4 of the Act.]

(ii) Application for a certificate of exemption in Form I and for its renewal shall be made to the Commissioner through the Register of Co-operative Societies, Orissa. It shall contain inter alia the name of the Society, its place of business and the date and number of the registration certificate granted under the Orissa Sales Tax Act, 1947. The certificate will be granted or renewed by the Commissioner of the Recommendation of the Registrar of Co-operative Societies, Orissa who shall verify that the conditions of exemption as specified in Clause (I) are satisfied.]

3[Provided that application for a certificate of exemption or renewal thereof in the case of any Handicraft Society shall be made to the Commissioner through the General Managers, District Industries Centers and will recommending such certificate of exemption or renewal, as the case may be to the Commissioner the concerned General Managers, District Industries Centers, shall verify that the conditions specified in clause (I) are satisfied.]

(iii) The exemption certificate shall remain valid till the 31st March of the year in which it is granted and will be renewable from year to year on fresh application made not later than a month before the date on which the certificate is due to expire.

4[Provided that the renewing authority may allow application of renewal after the period herein before specified if he is satisfied that the applicant had sufficient cause of not submitting the application for renewal within the said period.]

(iv) The said Society shall at the beginning of every quarter furnish to the Sales Tax Authority having jurisdiction, particulars of members of the Society and the extent of sales effected during the previous quarter.

(v) The Co-operative society which possesses a certificate in Form I shall maintain proper books of account, registers and others documents including bills and cash memoranda, invoices and vouchers relating to the business carried on by it and they shall be open for inspection by any Sales Tax Authority when required for inspection and produced before such authority on requisition in this behalf.

(vi) The certificate in Form I shall be cancelled by the Commissioner for contravention of any of the provisions of this rule or for failure to fulfil the conditions thereof.

(vii) When a certificate in Form I granted to a Society is cancelled or is rendered invalid the Society shall be liable to pay tax under the Orissa Sales Tax Act, 1947 from the date of cancellation or from the date it is rendered invalid.

1[Omitted]

2[Viii) An applicant under this rule shall produce his certificate of registration if any granted to him under the Orissa Sales Tax Act, to enable the Sales Tax Authority to make the necessary endorsement therein.]

CHAPTER 4

REGISTRATION OF DEALERS

6. Application For Registration :-

(1) An application for registration under section 9 shall be made not less than one month before the date from which the dealer becomes liable to pay tax under the Act.

3[(2) In the case of a dealer to whom sub-section (2) or sub-section (4) of Section 4 applies and who is unable to make an application within the time allowed by sub-rule (1), an application for registration may be made not later than 15 days from the beginning of the 4[month] immediately following a period not exceeding 12 months during which his gross turnover 5[**] first exceeded or again exceeds. 6[the appropriate limit as specified in sub-section (7) of section 4 of the Act.]

Provided that the delay in securing registration in a case falling under this sub-rule shall not be deemed to constitute a contravention of sub-section (1) of Section 9 read with clause (a) of sub-section (1) of Section 25]

1[(2-A) In the case of dealer to whom sub-section (6) of Sec. 4 applies, and application for registration shall be made not later than 15 days from the date of his liability to pay tax under the Central Sales Tax Act, 1956.]

2[(3) An application for voluntary 3[provisional] registration under section 9-A, 3[9-C] may be made at any time of the year.]

4[(4) (i) An application for registration shall be made by a dealer to the Sales Tax Officer in Form II and shall be signed by the proprietor of the business, or, in the case of a firm, by; one of its partners or, in the case of a Hindu Undivided Family, by the Karta

or Manger of the family, or in the case of a Company by a Director managing agent or proprietor, ad the case may be or in the case of a department Government, by an officer authorised by the Head of the Department, or in the case of societies registered or deemed to be registered under the Orissa Co-operative Societies Act, 1962 by the Chairman, or, in the case of any other association of individuals by the Principal Officer managing the business and shall be verified in the manner provided in the form.

(ii) Where a dealer other than a dealer registered under rule 6-A has more than one place of business within the jurisdiction of a Sales Tax Officer, he shall make a single application in respect of all such places, name in such application one of such places as the chef place of business for the purpose of these rules and submit such application to the Sales Tax Officer in respect of the chef place of business so named.

(iii) if a dealer other than a dealer registered under rule 6-A has different places of business within the jurisdiction of different Sales Tax Officers he shall make separate applications to each such Officer in respect of the place or places of business within the jurisdiction of the Officer concerned.]

6A. Registration Of Dealers Under Special Circumstances :-

Where a dealer has no fixed place of business in the State Of Orissabut sells or supplies 6[or purchases] goods 7(**) either direct or through travelling agents of salesmen, or having one or more places of business in the State of Orissa, sells or supplies or purchases goods in Circles other than those in which such places of business are situated, the Commissioner may notwithstanding anything contained in these rules by general or special order, in writing direct that such dealer shall be registered in a Circle constituted by the State Government and specified by him in such order.

7. Grant Of Registration Certificate :-

2(1) When the Sales Tax Officer, after making such enquiry as he may think necessary, and on receipt of such other particulars, information or evidence as he may require the applicant to furnish and on compliance of any direction given by him to the applicant, within such time as may be specified by the Sales Tax Officer, is satisfied, that the applicant is a bonafide dealer and has furnished

the correct particulars or information or evidence as required by him, has duly complied with any other direction given by him, that the particulars contained in the application are correct and complete, that the application is in order, that the applicant has paid the dues payable by him in respect of any business under the provisions of the Act and the rules and that the circumstances and reasons for which any earlier certificate of registration granted to the applicant or to any person associated with the business for which the application is made, do not continue to exist, and the prescribed fee has been paid and that he has also fully paid the security, if any, for good and sufficient reasons demanded under rule 7-A, he shall register the dealer and shall issue a certificate of registration in Form III within a fortnight from the date of receipt of intimation as to the payment of security under rule 7-A.

(2) Copies of certificate of registration granted under sub-rule (1) shall be granted for every additional place of business in the jurisdiction of the Sales Tax Officer enumerated in the certificate.

(3) The registration certificate when granted shall be effective from the date on which an application is made under sub-rule (1) of Rule 6.

2(4) When the Sales Tax Officer is not satisfied that the applicant is a bonafide dealer or the requirements of the provisions of the Act or the rules framed thereunder are duly complied with or the applicant has furnished the particulars, information or evidence required by him or has complied with any direction given by him within the specified time, he shall reject the application for reasons to be recorded in writing.

(5) In the case of dealers who are wholly exempted by the State Government from payment of Sales Tax under section 7 of the Act, the certificate of registration granted to them in Form III shall not, in respect of item 2 or item 2-A thereof, specify any goods.

1. Substituted by Notification No.22029-F., dated 4th May, 1976 w.e.f. 1-6-1976.

2. Sub-rule (1) & sub-rule (4) Substituted by Notification No.2041 CTA 6/978 dated 18-1.1997 w.e.f. 18-1.-1997.

(6) The Sales Tax Officer for good and sufficient reasons to be recorded, may require a dealer in writing who has applied for registration under the Act to pay by a specified date, reasonable security which in his own opinion will be equivalent to tax estimated by him as being payable by the dealer for one year. The demand of security shall be made in Form X-B and the payment of security shall be in the manner as laid down in the Rule 7-A :

1[Provided that in case of a dealer applying for registration, the maximum security to be demanded shall not be more than -

1. one thousand rupees, if the dealers 4(estimated gross turnover) does not exceed one lakh rupees

2 . three thousand rupees, if the dealers 4(estimated gross turnover) exceeds one lakh rupees but does not exceed five lakh rupees

3. five thousand rupees, if the dealers 4(estimated gross turnover) exceeds five lakh rupees but does not exceed ten lakh rupees, and

4 . seven thousand and five hundred rupees, if the dealers 4(estimated gross turnover) exceeds ten lakh rupees, which shall be reviewed after the quarterly return of such dealer is due or any time thereafter.]

2[Provided further that where one or more person(s) associated with the business for which an application for registration has been made by a dealer and such person or persons continues or continue to be associated or was or were associated with one or more business in respect of which certificate or certificates of registration was or were cancelled for non-payment of security or securities demanded under rule 7-A, the Sales Tax Officer may demand security, from the dealer applying for registration, which shall be equivalent to tax as estimated by him, as being payable by the dealer for one year.]

7A. Payment Of Security :-

1. The Sales Tax Officer for good and sufficient reasons to be recorded, may require a registered dealer in writing to pay within a fortnight from the date of receipt of notice in Form X-B reasonable security (which in his opinion shall be

equivalent to the tax) as estimated by him under sub-rule (6) of Rule 7 as being payable by the dealer for one year.

2. Such security may be furnished by the dealer in any of the following ways, namely:-

a. By depositing as security in the Government Treasury the amount fixed by the said authority, or

b. By depositing security amount in the Post Office Savings Bank and pledging the Pass Book to the depositing it with the said authority, as the case may be or

3. 1st provision substituted by Notification No.20012 CTA 22/98F dated 12-5-88 w.e.f. 16-5-1988.

4. 2nd provision by Notification No.2041 CTA 67/91F datd 18-1-1997 w.e.f. 18-1-1997.

5. Substituted by Notification No.22029-F., dated the 4-5-1976, w.e.f. 1-6-1976.

6. Substituted for gross turnover by Notification No.43796 CTA 95/92Fdt.14-10-92 w.e.f. 15-10-1992.

a. By pledging with said authority, National Savings Certificate for the amount of the security fixed; or

b. By furnishing to the said authority, a guarantee from a Scheduled bank agreeing to pay to the state Government, on demand the amount of security fixed by the said authority, or

c. By mortgaging immovable property free from all encumbrances whatsoever, in favour of the Government for the amount fixed by the said authority,

Provided that the immovable property so mortgaged can be further mortgaged subject to the encumbrance for security of tax payable under the Act.

7B. Application Of Security For Satisfaction Of Tax, Etc :-

The Assistant Sales Tax Officer or the Sales Tax Officer, as the case may be, may at any time, apply the security paid under sub-rule (1-a) of Rule 7 or under rule 7-A for satisfaction of any amount of tax or composition money together with penalty or interest, if any, payable under the Act in respect of which the dealer is in default.]

8. Omitted :-

9. Assignment Of Registration Numbers And Marks :-

1. The Assistant Sales Tax Officer or the Sales Tax Officer as the case may be, shall assign to each registration certificate a number and a registration mark.

3 [(2) The registration mark to be assigned by Assistant Sales Tax Officer or the Sales Tax Officer, as the case may be, shall consist of the following letters and figures representing the area over which

he has jurisdiction as shown below :-

Designation of Officer Registration Mark

4 (Assistant Sales Tax Officer or Sales Tax Officer, Sambalpur I ...
SA-I

Assistant Sales Tax Officer or Sales Tax Officer, Sambalpur II ...
SA-II)

5 (Assistant Sales Tax Officer or Sales Tax Officer, Sambalpur III ..
SA-III)

6(Assistant Sales Tax Officer or Sales Tax Officer, Cuttack I West ...
CU.I.W

Assistant Sales Tax Officer or Sales Tax Officer, Cuttack I East ...
CU.I.E.)

7 (Assistant Sales Tax Officer or Sales Tax Officer, Cuttack I Central
... CU.I.C)

1. Inserted by Notification No.20097-F., dated the 7th May, 1962.
Heading added and the rule renumbered by not fn. No.6257, F.,
dated the 4th March, 1964.(6257)

2. Omitted by Notification No.23054-F., dated the 27th July 1964.

3 . Substituted by Notification No.14219-F., dated the 26th
September, 1951.

4. Substituted by Notification No.40034-F., dated the 31st
December, 1958.

5. Inserted by Notification No.18433-F., dated the 4th May, 1965.

6. Substituted by Notification No.36000-F., dated 30-11-1964.

7. Substituted by not fn. No.1188-CTA-4/83-F. D/12-1-1983 w.e.f.
1-4-1983.

Assistant Sales Tax Officer or Sales Tax Officer, Cuttack II ... CU.II)

Assistant Sales Tax Officer or Sales Tax Officer, Cuttack III ...
CU.III)

1(Assistant Sales Tax Officer or Sales Tax Officer, Balasore ... BA)

Assistant Sales Tax Officer or Sales Tax Officer, Bhadrak ... BD)

Assistant Sales Tax Officer or Sales Tax Officer, Puri-I ... PU.I

Assistant Sales Tax Officer or Sales Tax Officer, Puri-II ... PU.II

2(Assistant Sales Tax Officer or Sales Tax Officer, Bhubaneswar I ...
BH.I

Assistant Sales Tax Officer or Sales Tax Officer, Bhubaneswar II ...
BH.II)

Assistant Sales Tax Officer or Sales Tax Officer, Ganjam-I ... GA.I

Assistant Sales Tax Officer or Sales Tax Officer, Ganjam-II ... GA.II

9(Assistant Sales Tax Officer or Sales Tax Officer, Ganjam-III ...
GA.III)

3(Assistant Sales Tax Officer or Sales Tax Officer, Koraput-I ... KO.I

Assistant Sales Tax Officer or Sales Tax Officer, Koraput-II ...
KO.II)

4(Assistant Sales Tax Officer or Sales Tax Officer, Bolangir-I ... BP.I

Assistant Sales Tax Officer or Sales Tax Officer, Bolangir-II ...
BP.II)

Assistant Sales Tax Officer or Sales Tax Officer, Mayurbhanj ... MB

5(Assistant Sales Tax Officer or Sales Tax Officer, Rourkela-I ...
RL.I

Assistant Sales Tax Officer or Sales Tax Officer, Rourkela-II ...
RI.II)

6(Assistant Sales Tax Officer or Sales Tax Officer, Dhenkanal ... DL.)

7(Assistant Sales Tax Officer or Sales Tax Officer, Kalahandi ... KA.)

8(Assistant Sales Tax Officer, Keonjhar ... KJ

Assistant Sales Tax Officer, Phulbani ... PH)

10. Section 10 :-

[Deleted by Notification No.22029-F., dated 4th May 1976.]

11. Duplicate Copy Of The Certificate Lost, Destroyed Or Defaced :-

In case of loss, destruction or defacement of a registration certificate issued to him, a dealer may obtain a duplicate copy thereof on application to the Assistant Sales Tax Officer or Sales Tax Officer concerned, as the case may be.

11A. Renewal Of Registration Certificate :-

1. Application for renewal of certificate of registration granted under section 9 or 9-A shall be made not less than one month before the expiry of the year proceeding that for which such renewal is required and shall be made in Form II-A accompanied by the prescribed fee to the Sales Tax Officer.

Provided that the renewing authority may allow application of renewal after the period herein before specified if he is satisfied that the applicant had sufficient cause for not submitting the application for renewal within the said period.

2. When the Sales Tax Officer, after making such enquiries, as he may think necessary, is satisfied that the application is in order and that the fee prescribed for renewal of registration certificate has been duly paid and the dues payable up to the end of the quarter preceding the 2 [*] date of application has been paid he shall renew such certificate or registration and endorse the same accordingly :

Provided that before an application for renewal of registration is rejected for any reason under this sub-rule, the dealer shall be given an opportunity of being heard.

2[Provided further that the Sales Tax Officer may, for reasons to be recorded in writing, allow renewal of registration where the dues payable, as hereinbefore provided have not been paid by the dealers.]

4[(3) Order of the renewal or order refusing renewal shall ordinarily be passed by the Sales Tax Officer within one month from the date of receipt of application for

renewal or within one month from the date of receipt of application for renewal or within a week from the date of hearing, whichever is later :

Provided that the Sales Tax Officer may, for reason to be recorded in writing, pass an order of renewal or refusing renewal after the period hereinbefore specified.]

12. Deleted :-

1. Inserted by Notification No.22029-F., dated the 4th May, 1976, w.e.f. 1-6-1976.

2. The word "prescribed" omitted by notification No.20721-F., dated the 22nd April, 1978 w.e.f. the 26th April, 1978.

3. Inserted by Notification No.20721-F., dated the 22nd April, 1978, w.e.f. 26th April, 1978.

4. Substituted by Notification No.20721-F., dated the 22nd April, 1978, w.e.f. 26-4-1978.

5. Deleted by Notfn. No.22029-F., dated the 4th May, 1976, w.e.f. the 1st June, 1976.

13. False Statement Or Declaration Not To Be Made :-

No registered dealer shall make a false statement or declaration as to the goods included in his certificate or registration for the purpose of 1 [item (ii) of sub-clause (a) of Clause (A) of sub-section (2) of Section 5.]

14. Amendment Or Cancellation Of Registration Certificate :-

1. If a registered dealer -

A. sells or otherwise disposes of his business or any part of his business or effects or comes to know of any other change in the ownership of the business, or

B. discontinues his business or changes his place or business or opens a new place of business, or

2(bb) has knowledge of or effects any change in any of the particulars in the list of immovable properties, if any, furnished in an application made in clause (a) of sub-section (2) of Sec.9, or]

C . changes the name or nature of his business or effects any change in the classes of goods in which he carries on business (he shall within one month of the date on which any of the aforesaid events have taken place, inform the Assistant Sales Tax Officer or the Sales Tax Officer, as the case may be, of the fact and shall at the same time send his certificate of registration to the Assistant Sales Tax Officer or the Sales Tax Officer for cancellation or amendment as the case may be.

When any such dealer dies, his legal representative shall inform the Assistant Sales Tax Officer or the Sales Tax Officer as the case may be likewise and send the certificate of registration to the Assistant Sales Tax Officer or the Sales Tax Officer within one month of the death of the dealer.

3[(3) When a dealer or his legal representative applies for cancellation of the registration Certificate for any reason the Sales Tax Officer shall cancel the certificate on the same date specifying the date on which such cancellation shall take effect.]

15. Cancellation Of Registration Under Clause (A) Of Sub-Sec.(6) Of Section 9 :-

1. The Assistant Sales Tax Officer or the Sales Tax Officer as the case may be shall under clause (a) of sub-sec. (6) of Section 9 cancel the registration of dealer whose business has been discontinued or entirely transferred to other person with effect from the date of such discontinuance or transfer of business.

1. Substituted by Notification No.40034-F., dated the 31st December, 1958.
2. Inserted by Notification No.23054-F., dated the 27th July, 1964.
3. Inserted by Notification No.22029-F., dated the 4th May, 1976, with effect from the 1st June, 1976.
4. Substituted by Notification No.31003-F., dated the 2nd December, 1957.

By the last day of May and November each year, every Assistant Sales Tax Officer or Sales Tax Officer, as the case may be, shall send to the Commissioner a list of registered dealers whose registration has been cancelled under sub-rule (1) for publication in the 1[Orissa Commercial taxes] Gazette.

2. On receipt of the list the Commissioner shall after such verification and modification as he may consider necessary, publish under rule 17, the name of every dealer whose registration has been cancelled and the date with effect from which the registration has been cancelled.]

16. Cancellation Of Registration Under Clause (B) Of Sub-Section (6) Of Section 9 :-

1. If the Assistant Sales Tax Officer or the Sales Tax Officer as the case may be, on application by any dealer for cancellation of registration or on information based on assessment records finds that the gross turnover of any dealer has during each of three consecutive years failed to exceed 3[the appropriate limit as specified in sub-section (7) of section 4 of the Act], he shall after such enquiry as he may consider necessary and on being satisfied that registration has to be cancelled under clause (b) of sub-section (6) of Section 9, cancel the registration with effect from the date to be specified by him and subject to any modification under sub-rule (3), the liability of the dealer to pay tax under sub-section (3) of Section 4 shall be deemed to have ceased from such date.

2. By the last of May and November each year every Assistant Sales Tax Officer or Sales Tax Officer, as the case may be, shall send to the Commissioner a list of dealers whose registration has been cancelled under sub-rule (1) for publication in the 1[Orissa Commercial Taxes] Gazette.

3. On receipt of the lists the Commissioner shall after such verification and modification as he may consider necessary, publish under rule 17 the name of every dealer whose registration has been cancelled and the date with effect from which the registration has been cancelled;

16A. Cancellation Of Registration Under Clause (C) Of Sub-

Sec. (6) Of Section 9 :-

5[(1) If the Sales Tax Officer for any good and sufficient reason, finds that the registration of any dealer is required to be cancelled under clause (c) of sub-section (6) of Section 9 he may, after giving the dealer a reasonable opportunity of being heard, wherever practicable, may, order cancellation of the registration with effect from a date to be specified in the order.

1. Inserted by Notification No.6257-F., dated the 4th March, 1964.
2. Substituted by Notification No.31003-F., dated the 2nd December, 1957.
3. Substituted by Notification No.42713-CTA-89/91-F., dt.18-11-91 w.e.f. 20-11-1991.
4. Inserted by Notification No.40034-F., dated the 31st December, 1958.
5. Substituted by Notfn. No.12921 CTA-3/79-F., D/16-31979 w.e.f. 1-4-1979.

(2) By the last date of May and November each year, every Sales Tax Officer shall send to Commissioner a list of dealers whose registration has been cancelled under sub-rule (1) for publication in the 1[Orissa Commercial Taxes Gazette].

1. On receipt of the lists the Commissioner shall publish under rule 17 the name of every dealer whose registration has been cancelled.]

16B. Cancellation Of Registration Under Sub-Sec. (3-A) Of Sec. 9 :-

1. If a registered dealer fails to make payment as required under rule 7-A the Assistant Sales Tax Officer or the Sales Tax Officer, as the case may be, after giving the dealer a reasonable opportunity of being heard, may order cancellation of registration with effect from a date to be specified in the order.

2. Every Assistant Sales Tax Officer or the Sales Tax Officer as the case may be, shall simultaneously with the passing of the order or as soon thereafter as possible send a report to the Commissioner giving particulars of the registration of the dealer which has been cancelled under sub-rule (1) for publication in the Gazette.

3. On receipt of the report, the Commissioner shall take steps to publish the same]

17. Publication Of Cancellation Of Registration Of Dealers :-

The Commissioner shall publish the name of every dealer whose name is reported to him under rule 15, 16, 16-A and 16-B and whose registration certificate is cancelled in the Orissa Commercial Taxes Gazette every month or as and when necessary.

18. Surrender Of Certificate Of Registration For Cancellation :-

An application for cancellation under rule 15 or Rule 16 shall be

accompanied by the registration certificate. The certificate shall be cancelled by the Sales Tax Officer or the Assistant Sales Tax Officer simultaneously, with the passing of the order of cancellation. In other cases falling under rules 15. 5[16, 16-A and 16-B] the dealer shall surrender within fifteen days of the order of cancellation his certificate of registration to the Assistant Sales Tax Officer or the Sales Tax Officer, as the case may be, for cancellation.]

1. Inserted by Notification No.6257-F., D/4-3-1964.
2. Inserted by Notification No.20077-F., dated 7th May, 1962.
3. Substituted by Notification No.33132-F., dated 16-8-1975.
4. Substituted by Notification No.31003-F., dated the 2nd December, 1957.
5. Substituted by Notification No.20077-F., dated 7-5-1962.

19. Publication Of List Of Registered Dealers :-

(1) As soon as possible after the commencement of the Act the Commissioner shall publish in the 1[Orissa Commercial Taxes] Gazetted the list of registered dealers as required by Section 10 arranged in alphabetical order, 2[Circle by Circle in the following form.

2[Circle.....]

Sl.No.	Name and address of the registered dealer	Location of place of places of business	Date of registration	Registration mark and number	Goods covered by the dealer's certificate of registration		
					Goods in tended for resale 3[inOrissa	Other goods	Remarks
1	2	3	4	5	6	7	8

2[2) In the first 1[Orissa Commercial Taxes] gazette in August each year except the year in which fresh alphabetical list is published or as soon thereafter as possible the 4[Commissioner] shall publish particulars of subsequent registration, amendments and cancellations corrected up to the 30th June of that year and in the first 1[Orissa Commercial Taxes] Gazette in August every second year or as soon thereafter as possible, the 4[Commissioner] shall publish a fresh consolidated alphabetical list of registered dealers as prescribed in sub-rule (1).]

20. Returns :-

5[(1)] Within one calender month of the expiry of each quarter of a year, every registered dealer, 6[other than those who are permitted to compound their tax under rule 90-A] shall furnish to the Assistant Sales Tax Officer or the Sales Tax Officer, as the case may be within whose jurisdiction his place or places of business are located a return in Form IV showing particulars in respect of the 7[x x x] tax payable by him for that quarter.

1[(2)] Within one calendar month of the expiry of each quarter of a year every dealer permitted to compound his tax under rule 90-A shall so long he holds a valid certificate for such compounding, furnish to the Assistant Sales Tax Officer or Sales Tax Officer, as the case may be, within whose jurisdiction his place or places of business is or are located, a return in form IV-A];

Provided that the Commissioner may in the case of any dealer, by order in writing, direct that such dealer shall furnish a return 1[under this rule] for a period shorter or longer than a quarter and may at any time modify or annual his order.

20A. Section 20A :-

.
Subject to the provision of Rule 20 every registered dealer 3[*] shall within one calendar month of the expiry of each year furnish to the Assistant Sales Tax Officer or the Sales Tax Officer, as the case may be, within whose jurisdiction his place or places of business are located a return in 4[Form IV-AA showing particulars in respect of the tax payable by him for that year.]

21. Penalty For Non-Submission Of Return :-

(1) If a registered dealer fails to furnish a return within a fortnight of the due date as provided in Rule 20 5[or Rule 20-A] the Commissioner may serve on such a defaulting dealer a notice in Form V calling on him to show cause by a date to be specified in the notice why a penalty should not be levied on him under sub-section (3) of Section 11.

(2) If after considering the explanation of the dealer and giving him a personal hearing if necessary, the Commissioner is satisfied that the default was due to reasonable cause he shall pass an order levying a penalty in accordance with the provisions of sub-section (3) of Section 11 and serve it on the dealer together with a notice of demand in Form X.

22. Calling For Returns From Unregistered Dealers :-

In the case of any dealer other than a registered dealer whose gross turnover 6[*] in the year immediately preceding the commencement of the Act or any period not exceeding 12 months thereafter was, in the opinion of the Commissioner, in excess of 7[the appropriate limit as specified in sub-section (7) of section 4 of the Act] the commissioner may serve upon him a notice in Form VI requiring him to furnish within one calendar month of the receipt of the notice a return in form IV for such periods as may be specified in the notice.

23. Calling For Return When Turnover Has Escaped Assessments Or Has Been Under Assessed :-

(1) If for any reason the turnover 1[of sales or the turnover of purchases] of a dealer has escaped assessment or has been underassessed 1[or has not been assessed due to the tax having been compounded when composition is not permissible under the Act and these rules] and it is proposed to assess it, the Commissioner shall serve on the dealer a notice in Form VI calling upon him to furnish a return in Form IV within one calendar month from the date of receipt of such notice.

(2) Such notice may also require the dealer to attend in person or by his agent at the office of the authority issuing the notice on the date specified therein and to produce or cause to be produced the accounts and documents specified in the notice.

24. Returns To Be Signed By Dealer :-

A return in Form IV or 1[IV-A] shall be signed by the proprietor of the business or in the case of a firm, by one of its partners, or in the case of a Hindu Joint Family, by the Karta or Manager of the

family, or in the case of company incorporated under the Indian Companies Act, 1956, by a Director, Managing Agent or Principal Officer thereof, or in the case of any other association of individuals, by the Principal Officer managing the business, 1[or in the case of a department of the Government by an officer duly authorised by the Head of the Department] shall be verified in the manner indicated therein and submitted to the Assistant Sales Tax Officer or the Sales Tax Officer, as the case may be, within the time allowed.

25. Exemption From Submitting Returns :-

(1) If any registered dealer shows to the satisfaction of the Commissioner that no sales 1[or purchases] effected by him, are liable to tax under the Act and makes an application in this behalf the Commissioner may direct that it shall not be necessary for such dealer to furnish a return in Form IV and may grant him a certificate in Form-VII:

Provided that if during the continuance of the aforesaid certificate such dealer effects on sale 1[or purchase] which is taxable under the Act he shall immediately intimate the fact to the Assistant Sales Tax Officer or the Sales Tax Officer concerned, as the case may be, and shall furnish a return in Form IV within one calendar month from the end of the quarter and the certificate in Form VII shall thereupon be cancelled.

(2) A certificate granted to any dealer under sub-rule (1) shall unless cancelled under the provision to that sub-rule, be valid up to the end of the year of issue and may thereafter be renewed for one year at a time on application from the dealer accompanied by a verified statement that his business continues to be such that no sales 1[or purchase] effected by him are liable to tax under the Act.

(3) An application for renewal under sub-rule (2) shall be made not later than a month before the date on which the certificate is due to expire and any application received after such period shall be liable to be rejected.

(4) An application for issue or renewal of certificates under this rule shall be made to the Assistant Sales Tax Officer or the Sales Tax

Officer, as the case may be, of the area in which the dealer has his place of business.

26. Submission Of Consolidated Return By Dealer Having More Place Of Business Than One :-

(1) Where a dealer has places of business within the jurisdiction of more than one Sales Tax Authority, the Commissioner may by order in writing direct that such dealer shall instead of submitting return in Form IV 1[or in Form IV-A, as the case may be] in respect of each place of business submit one consolidated return in 3[Form IV or form IV-A, as the case may be], to such Sales Tax Authority and in respect of such places of business of the dealer as may be specified in the order and may, likewise, modify or annul such orders.

(2) The dealer in respect of whom an order, has been passed under sub-rule (1) shall be deemed to be a dealer of the Circle in which he has been permitted to submit a consolidated return for the purposes of the Act and the Rules made there under.]

26A. Maintenance Of Account Of Moneys 2[Realised Or Stipulated For Realisation By Way Of Tax] :-

3[(1) In the account books maintained for the business a separate page shall be set apart and 2[all moneys realised and or stipulated for realisation by way of tax on each] day shall be shown therein as also the payment out of the above into Government Treasury.

4[(2) Every registered dealer shall maintain the books of account, registers and other documents including bills, credit and cash memoranda, invoices and vouchers relating to the business of any year for 2[a period of three years thereafter or for a period of twelve months after the finalisation of order of assessment or penalty in appeal, revision, review or reference, if any, as the case may be, for the year to which it relates, whichever is lagter)].

5[(3) Every dealer liable to maintain accounts under the proviso to sub-section (2) of Section 9-B shall maintain a true and correct account of all moneys realised or stipulated for realisation showing the serial number, date, number of the cash or credit memo, sale price and sales tax realised or stipulated for realisation, if any.]

6[(4) No dealer shall remove the books of account prescribed under the Act and Rules out of his business premises except for purpose of producing the same before any court of law, any statutory authority in connection with any taxation proceedings and any Sales Tax Practitioner for consultation in connection with such proceedings. Such books of account shall at all reasonable times be open for

inspection by the authorities specified in sub-rule (1) of Rule 3].

26B. Section 26B :-

The penalty imposed under sub-section (3) of Section 9-B shall be deposited in the Government Treasury within one month from the date of service of demand notice under sub-section (4) of Section 13 of the Act.]

CHAPTER 6

ASSESSMENT OF TAX UNDER SECTION 12, 2(12-B AND PAYMENT OF COMPOSITION MONEY UNDER SECTION 5)

27. Evidence In Support Of Deduction Claimed :-

3[(1) Deleted]

4[(2) (i) A dealer who wishes to deduct from his gross turnover the amount of a sale on the ground that he is entitled to make such deductions under item (ii) of sub-clause (a) of Clause (A) of sub-section (2) of Section 5 of the Act shall furnish a declaration in Form XXXIV to the Sales Tax Officer before the completion of the assessment of the period to which the claim relates.

5[(ii) A registered dealer who wishes to purchase goods specified in his certificate of registration for re-sale by him in a manner that such re-sale shall be subject to levy of tax under the Act, shall submit an application affixed with a fee of Rupees twelve for every twenty five declaration forms, prescribed under this Sub-rule, or part thereof before the Sales Tax Officer, under whose jurisdiction he is registered, for issuing to the selling dealer and such Sales Tax Officer may supply him as many declaration forms as appears to him to be reasonable at any one time:

Provided that no single declaration shall cover more than one transaction of sale except in cases where the total amount of the sale transaction made under several purchase memos, during a quarter is equal to or less than Rupees 50,000/-(fifty thousand) or such other amount as the State Government may, by a general order notify, in the official Gazette :

Provided further that such Sales Tax Officer may refuse issue of such forms to a dealer who has failed to comply with the order requiring payment of additional security under rule 7-A or who has failed to file returns under rule 20 and as are due on the date of

submission of the application for supply of the forms or who has not paid the dues payable under the Act and rules made thereunder :

Provided also that no second or subsequent supply of declaration forms shall be made to any such dealer unless he furnishes a true copy of account, certified by him under his signature, of the forms last supplied to him as maintained in Form VII-A referred to in clause(v) and evidences as the Sales Tax Officer may require to ascertain the correctness of this statement.

6[(iii) Before furnishing declaration to the selling dealer the purchasing dealer or a person authorised by him in this behalf shall fill in all required particulars in the Form, affix his usual signature in the space provided in the Form for this purpose. Thereafter, the portion marked "Original" shall be made over by him to the selling dealer and the portion marked "duplicate" shall be submitted to the Sales Tax Officer, who issued the Forms, while rendering accounts regarding use of Declaration Forms before him. The purchasing dealer shall only retain the counterfoil of each Declaration Form].

(iv) Every declaration Form obtained from the Sales Tax Officer by a registered dealer shall be kept by him in safe custody and he shall be personally responsible for the loss, destruction or theft of any such form or the loss of Government revenue, if any, resulting directly or indirectly from such theft or loss.

(v) Every registered dealer to whom any Declaration Form is issued by Sales Tax Officer shall maintain a true and complete account of every such Form received from the Sales Tax Officer in a register in Form No.VII-A. If any such blank Form before it is filled in signed and despatched to the selling dealer is lost, destroyed or stolen, the dealer shall report the fact to the Sales Tax Officer immediately, make appropriate entry in Remarks Column of the Register and take such other steps to issue public notice of loss, destruction or theft as the Sales Tax Officer may direct and in respect of each such Form shall furnish to the Sales Tax Officer an indemnity bond in Form VII-B against any possible loss to Government.

(vi) Any unused declaration Forms remaining in stock with a registered dealer on the connection of his registration certificate shall be surrendered to the Sales Tax Officer.

(vii) Any registered dealer to whom a declaration form is issued by the Sales Tax Officer shall not either directly or through any other person transfer the same to another person except for the purpose mentioned in clause (ii)

(viii) The Sales Tax Officer shall on receipt of a report of theft, loss or destruction of declaration Form immediately report the fact to the Commissioner. The Commissioner, who shall after such enquiry, if any as he may think necessary publish in the Commercial Taxes Gazette, the particulars of the declaration forms in respect of which a report is received under clause (v).

(ix) The Commissioner may by notification in the Commercial Taxes Gazette, declare that the declaration Forms of particular series, design or colour shall be deemed as obsolete and invalid, with effect from such date as may be specified in the notification, and when a notification declaring such Forms as obsolete and invalid is published all registered dealers shall on or before the date with effect from which the forms are so declared obsolete and invalid surrender all such unused forms.]

1[(x) Declaration Form (Form XXXIV) in force before the commencement of Orissa Sales Tax (Sixth Amendment) Rules, 1976 may also be used up to the 31st December, 1976.]

1[2-A) claim for deduction under Explanation II below the second proviso to item (ii) of sub-clause (a) of clause (A) of sub-section (2) of section 5 of the Act :

(i) A dealer who wishes to deduct from his gross turnover the amount of sales on the ground that he is entitled to make such deductions under Explanation II below the second proviso to item (ii) of sub-clause (a) of clause (A) of sub-section (2) of section 5 of the Act shall furnish a declaration in Form XXXIX to be Sales Tax Officer before the completion of assessment to which the claim relates.

2[(ii) [x x x x]

3[(iii) Before furnishing the declaration to the purchasing dealer, the authorised person shall fill in all the required particulars in the

form and affix his usual signature in the space provided in the form for this purpose and make over the signed declaration to the purchasing dealer :

Provided that a single declaration may cover sale of goods during a period of one financial year :

Provided further that in the column (2) of Form XXXIX prescribed for commodity in the details of goods sold, the broad classification of goods may be indicated.]

2[(iv) x x x x x]

4[(3) claims for deduction of purchases under sub-clause (d) (i) of clause (A) of sub-section (2) of section 5 of the Act.

(i) In support of the claim for deduction of the amount of purchase made from a registered dealer of goods declared under section 3-B, a dealer shall produce before the Sales Tax Officer a declaration in 3(Form XL) before completion of assessment to which the claim relates.

2[(ii) x x x x]

1[(iii) Before furnishing the declaration to the purchasing dealer, the authorised person shall fill in all required particulars in the form and affix his usual signature in the space provided in the form for this purpose and make over the signed declaration to the purchasing dealer :

Provided that a single declaration may cover sale of goods during period of one financial year;

Provided further that in the column (2) of Form XL prescribed for commodity in details of goods sold, the broad classification of goods may be indicated;]

2[(iv) x x x x].

28. Assessment Of Tax :-

(1) The notice required by sub-section (2) or (4) of section 12 shall be in Form VIII. The Commissioner shall fix a date for the production of such accounts and documents as he may require and for considering any objections which the dealer may prefer.

(2) The notice required by sub-section (5) of section 12 shall be in Form VI.

3[*]

28A. Section 28A :-

Every dealer liable to pay tax under section 4 of the Act shall be assessed for the year and not for any part or parts of the year;

Provided the dealer may be assessed for any part or parts of a year for sufficient reasons to be recorded in writing by the Commissioner.]

28B. Provisional Assessment Of Casual Dealers :-

(1) A casual dealer shall furnish to the assessing authority including the Officer-in-charge of check-post or barrier referred to in section 16-A, when called upon to do so, by a notice in Form VI-A, a return of estimated turnover in Form IV-B immediately.

(2) The assessing authority or the Officer-in-charge of check-post or barrier referred to in section 16-A, shall, if he is satisfied after making such scrutiny of the accounts of the casual dealer and such enquiry as he may consider necessary that the return furnished under sub-rule (1) is correct and complete, provisionally assess the amount of tax due from him on the basis of such return.

(3) If a casual dealer does not furnish the return as required by the notice referred to in sub-rule (1) or if the return furnished by him appears to the assessing authority or the officer-in-charge of check-post or barrier to be incorrect or incomplete, such authority or the officer-in-charge shall, after giving the casual dealer a reasonable opportunity of being heard, assess him to the best of his judgement.]

28C. Final Assessment Of Casual 1[Dealer] :-

(1) Every casual 1[dealer] shall within 24 hours of arrival in any place in the State intimate to the assessing authority of the area, the address of his residence in the State, the nature of goods in which he intends to deal and the period within which he intends to leave the place in the State.

(2) The casual 1[dealer] shall submit a return to the assessing authority of the area concerned, in Form IV-C accompanied by treasury receipt for the tax or taxes

payable by him under section 12-B on the basis of the return on or before the last day on which he intends to leave the place where he has been carrying on business. The assessing authority shall thereupon assess such 1[dealer] after satisfying himself as to the correctness and completeness of the return submitted by him and after making such enquiries as he deems fit.

(3) If no return is submitted by the casual 1[dealer] as required by sub-rule (2) or if the return submitted by him appears to the assessing authority to be incorrect or incomplete, the assessing authority shall, assess the tax payable according to the best of his judgement and issue a notice of demand in 2[Form X-AA] for the tax due. The casual 1[dealer] shall thereon pay the sum demanded within the time and in the manner specified in the notice.]

29. Deputation Of Inspector To Hear Objection :-

If the Commissioner so desires, he may depute an Inspector to hear the dealers objections and to record any evidence furnished in support thereof.

30. Submission Of Report By Inspector :-

An Inspector deputed under rule 29 shall report to the Commissioner, by such date as he may direct-

1. a summary of the points argued in support of the dealers objections,
2. a record of any evidence taken in this behalf, and
3. if so directed by the Commissioner, his opinion on the contention of the dealer as regards the amount of tax, if any, to which the dealer should be assessed.

31. Order Of Assessment :-

After considering any objection raised by the dealer either personally or through an agent or by means of a representation in writing and also any evidence produced in support thereof and the report, if any, of the Inspector deputed under rule 29, the Commissioner shall assess the amount of tax and penalty, if any, payable by them dealer and shall record an order of assessment in form IX.

32. Notice Of Demand :-

(1) In respect of any amount found payable by a dealer under sub-section (4) of section 13, the Commissioner shall serve on the dealer a notice of demand in Form X 2[with a direction to the dealer to pay the amount within thirty days from the date of service of the notice and to produce before him the receipted challan in proof of payment of such amount within 7 days from the date of payment.]

2[(2) If the dealer has not paid the amount due or has failed to produce the evidence of payment by the due date in accordance with the notice in Form X, the Commissioner may impose a penalty under sub-section (5) of section 13 and serve a notice in Form X-A, directing the dealer to pay the penalty within thirty days from the date of service of the notice and the outstanding tax immediately and to produce the receipted challan in proof of payment of such amount within seven days from the date of such payment.]

3[Provided that in cases of continuing default if the penalty is levied in installments under the first proviso to sub-section (5) of section 13, notice in Form X-A shall be served on the dealer in the manner provided in this sub-rule on the levy of such installment of penalty:]

1[Provided 2(further) that if collection of the sum specified in notice of demand in Form X or any part thereof has been stayed on appeal or revision, penalty under section 13(5) may be levied if the sum is not paid and proof of such payment is not produced before the Sales Tax Officer, or the Assistant Sale Tax Officer, as the case may be, within a fortnight after the expiry of the stay period.

Explanation- Where stay of collection until disposal of appeal or revision has been ordered, the stay period will be deemed to have expired on the date of disposal of such appeal or revision and where in such cases, the appeal or revision results in a reduction or increase in the sum demanded, a revised notice of demand in Form X will issue and no penalty under section 13(5) shall be levied until expiry of the time limit specified in the said revised notice.]

3[(3) In respect of any amount found payable by a dealer under section 12-B, the Commissioner shall serve on the dealer a notice of

demand in Form X-AA with a direction to the dealer to pay the amount in cash immediately after the service of the notice failing which the goods shall be seized.]

32A. Notice For Special Mode Of Recovery :-

The notice required by sub-section (1) of section 13-A shall be in Form X-C.]

33. Recovery Of Tax From A Defaulting Dealer :-

If on the date fixed under rule 26-B or 32 or on the date fixed in the notices issued under sub-section (1) of section 13-A, the defaulting dealer has not paid the amount due or such instalment thereof as may be due and where no step has been taken under the Schedule provided under the Act, for recovery of tax the Sale Tax Officer shall, subject to the provisos to sub-section (5) of section 13, apply to the Certificate Officer under the Orissa Public Demand Recovery Act, 1962 within whose jurisdiction the dealers place or places of business are located for the recovery of the amount together with the interest, if any, payable under sub-section (6) of section 13 as an arrear of public demand.]

34. Deleted :-

35. Assessment Case Record :-

(1) All the papers relevant to the making of any assessment in respect of any particular dealer shall be kept together and shall form an assessment case record.

(2) Assessment case records shall be preserved for 12 years.

CHAPTER 7

PAYMENT OF TAX AND COMPOSITION MONEY

36. Payment Of Tax To Be Made Before Furnishing Return :-

Before furnishing to the Sale Tax Officer or Assistant Sales Tax Officer a return or a revised return in Form IV 3[or return in Form IV-A] for any return period, the 3[***] dealer shall pay into the

Government Treasury or by Postal Money Order to the 5[Sales Tax Officer or Assistant Sales Tax Officer, as the case may be] 6[or through a crossed 7(chèque or crossed) Bank Draft drawn in favour of the 5[Sales Tax Officer or Assistant Sales Tax Officer, as the case may be,] on the branch of the State Bank of India 8[or the branch of any nationalised bank] of that place where the Government Treasury is situated] the amount of tax 3[or composition money] 9(and surcharge) shown in the return as payable by him for that period :

10[Provided that the Commissioner may by order in writing direct any dealer liable under the Act to pay the tax 9(and surcharge) due from him for periods less than the return period at such intervals as may be specified in the order and may likewise at any time modify or annul such order :]

11[Provided further that a dealer shall adjust from the admitted tax payable by him under this rule a sum equivalent to the amount paid by him while effecting purchase of the stock of goods which he holds on the date of his registration and for this purpose he shall obtain and attach to the return a certificate from the Sales Tax Officer to the effect that the said stock of goods were purchased not before 12 months of the date of registration and specified amount of tax on such goods has actually been paid by the dealer at the time of effecting purchases thereof :

Provided also that if any tax is paid to any officer-in-charge of check-post or barrier, receipt for such payment of tax issued by the officer-in-charge of check-post or barrier, shall be adjusted against the admitted tax payable by a dealer before furnishing a return if a certificate to that effect is obtained from the Sales Tax Officer]

37. Method Of Payment Of Tax, Penalty And Interest :-

2[(1) The amount of penalty imposed 3[under sub-section (3) of section 9B], under sub-section (3) of section 11 and the amount of tax, 4[including the surcharge, if any]

- a. due where the returns are furnished without receipt showing full payment thereof, or
- b. assessed under sub-section (1),(2),(3) and (4) of section 12 of

the Act less any sum already paid by the dealer in respect of the return period, or

c. assessment under sub-section (5) or sub-section (8) of section 12 together with the penalty if any, directed to be paid under that sub-section, or

d. penalty if any, levied under sub-section (5) of section 13 5(**) or

e. composition money payable under section 5 3[or

f. interest charged under section 12(4-a)]

shall be paid by the dealer into the Government Treasury or by postal money order to the 1[Sales Tax Officer or Assistant Sales Tax Officer as the case maybe], or through a crossed cheque or crossed bank draft drawn in form of the 1(Sales Tax Officer or Assistant Sales Tax Officer as the case may be) on the branch of the State Bank of India 6[or the branch of any nationalized bank] of that place where the Government Treasury is situated within thirty days from the date of service of the notice of demand :

Provided that the amount of tax 4[including the surcharge, if any] due under section 12-B of the Act shall be paid in cash to the Assessing Officer including the Officer in-charge of the check-post or barrier referred to in section 16-A.

Explanation-For the purpose of calculating interest and penalty, if any, under the Act and under these rules, the date of receipt of the crossed cheque or crossed bank draft, as the case may be by the Sales Tax Officer or the Assistant Sales Tax Officer, shall ordinarily be deemed to be the date of payment by a dealer save in the case of a crossed cheque or crossed bank draft which is dishonored].

(2) No payment of any tax 1[including the surcharge, if any] or 2[composition money or] penalty 3[or interest] shall be accepted at the office of the Commissioner of Sales tax or the Sales Tax Officer or the Assistant Sales Tax Officer.

4[Provided that where payment is made by a crossed 5[cheque or crossed] Bank draft and the said crossed

5[cheque or crossed] Bank draft is along with the return in form IV or IV-A such crossed cheque or crossed bank draft shall be accepted].

(3) Payment into the treasury shall be accompanied by a challan in

Form XI, copies of which are obtainable at any Government treasury or at the office of any Sales Tax Officer or Assistant Sales Tax Officer.

(4) Challans shall be filled up in quadruplicate. One part of the challan shall be retained by the Treasury, one part of the challan shall be sent by the Treasury to the Sales Tax Officer or the Assistant Sales Tax Officer and the other two parts shall be returned to the dealer duly signed, as proof of payment.

37A. Deposit Of The Amount Of Tax Deducted From The Bills Or Invoices Of The Works-Contractors In The Government Treasury :-

(1) The amount deducted from the bills or invoices of the works contractors shall be deposited by the person, (deducting authority) into the Government Treasury within one week from the date of deduction by a challan in Form XI.

(2) The challan in form XI shall be filled up in quadruplicate, one part of the challan shall be retained by the Treasury, one part of the challan shall be sent by the Treasury to the concerned Sales Tax Officer and other two parts shall be returned to the depositor (deducting authority). The deducting authority shall retain one part of the challan and shall send one part of the challan to the Sales Tax Officer within whose jurisdiction the works-contract is executed.

Provided that deducting authority may make payment of the tax deduct from the bills or invoices of the works-contractors by a crossed Bank Draft, Bankers cheque, Managers cheque issued by a Scheduled Bank or a cheque marked or certified by such Bank as good for payment.

37AA. Deposit Of Amount Of Tax Deducted From Bills Or Invoices Of Small Scale Industries In Government Treasury :-

(1) The amount deducted from the bills or invoices of small scale Industries for supplies made by it to the State Government shall be deposited by the respective deducting authorities into the Government Treasury under the appropriate Head of Account within one week from the date of such deduction by challan in Form XI:

Provided that the deducting authority may deposit the tax deducted from the bills or invoices of the small scale Industry by paying it through a crossed Bank draft, Bankers Cheque, Managers cheque, issued by a Scheduled Bank or a cheque marked or certified by such Bank as good for payment.

(2) The challan referred to in sub-rule (1) shall be in quadruplicate of which one part shall be retained by the Treasury, one part shall be sent by the treasury to the concerned Sales Tax Officer and the remaining two parts shall be returned to the deducting authority, after which the deducting authority shall retain one part of the

challan and shall send the other part to the Sales Tax Officer within whose jurisdiction the small scale Industry is situated].

37B. Grant Of Certificate By The Deducting Authority To The Works-Contractor :-

While making deduction of tax from the bills or invoices of the works-contractor, the deducting authority shall grant a certificate to the works-contractor in Form XI-A and shall send a copy thereof to the Sales Tax Officer within whose jurisdiction the works-contract is executed.]

37C. Grant Of Certificate By Deducting Authority To The Small Scale Industry :-

After making the deduction of tax from the bill or invoice of any small scale Industry, the deducting authority shall, as soon as may be after depositing the amount deducted, grant a certificate to the small scale Industry in Form-XI-B and shall send a copy thereof to the Sales Tax Officer within whose jurisdiction the small scale Industry is situated.]

137D. Grant Of Certificate Of No Deduction/ Deduction Of Tax At Source, By The Commissioner To The Dealer/ Works Contractor :-

(1) The application for grant of certificate of no deduction or deduction or deduction of tax at source under Sub-section (5) of Section 13-AA shall be made in duplicate in Part-I of Form-XI-C.

(2) The application shall be accompanied by copies of the relevant contract, tender quotation and other documents on the basis of which the contractor relies his claim for no deduction or deduction of tax at source, as the case may be.

(3) If the particulars and documents furnished by the contractor are correct and complete in respect and after making such other enquiry as deemed necessary, the Commissioner is satisfied that the concerned works contract involves both transfer of property in goods and labour or service, or involves only labour or service and justifies deduction of tax or no deduction of tax, as the case may be, he shall after giving the applicant a reasonable opportunity of being heard, may grant a certificate in Part-II of Form XI-C within a period of one month from the date of receipt of the application and shall forward copy of such certificate to the deducting authority under whom the work is executed.

38. Challan Or Postal Money Order Acknowledgment To Be Attached To The Returns :-

In respect of payment referred to 2[in the rule 26-B or 36] every

dealer shall attach one of the two parts of receipted challan or the postal money order acknowledgement to his return in Form IV, 3[or in form IV-A, as the case may be,] before submitting it to the Sales Tax Officer or the Assistant Sales Tax Officer :

4[Provided that where payment is made by crossed 5(chèque or crossed) bank draft for the said crossed 5(chèque or crossed) bank draft together with a challan in Form XI duly filled up shall be submitted along with the return in Form IV or IV-A.]

CHAPTER 8

REFUNDS

39. Application For Refund :-

1[(1) An application from a 2(**) dealer for a refund of any amount of 3[4(tax, penalty or interest), if any] paid by him in excess of the amount 3(and interest) due 5(or security paid) shall be made to the Commissioner in Form XII and shall clearly specify the grounds upon which the refund is claimed.

6[(2) If the refund application is found to be incorrect, incomplete or otherwise not in order, the Assistant Sales Tax Officer or the Sales Tax Officer, as the case may be, after making such enquiry as he considers necessary, and after giving the dealer an opportunity of being heard, pass such orders thereon as he thinks fit.]

39A. Deleted :-

40. Order Sanctioning Refund :-

When the Commissioner is satisfied that a refund is due, he shall record an order sanctioning the refund 3[and payment of interest, if any, as provided under section 14-C] and communicate the order to the applicant.

41. Payment In Cash :-

Refund payment orders 8[where no amounts are due against the

9(applicant) the Commissioner shall issue a Refund Payment Order in Form XIII and shall make it over to the 9(applicant) for encashment at the Government Treasury. A copy of the Refund Payment Order shall also be forwarded simultaneously to the Treasury Officer concerned.]

41A. Section 41A :-

(1) Refund payment order issued under rule 41 shall remain valid for a period of three months from the date of issue.

(2) If any refund payment order issued under rule 41, is not encashed within the prescribed time the refunde may apply to the authority who issued the orders along with the order for its revalidation stating the reasons for its non-cashment :

1[Provided that if it is proved to the satisfaction of the authority who issued the refund payment order that the refund order issued under rule 41 is lost and that the refund payment order is not encashed, the authority may issue fresh refund payment order after cancellation of the refund payment order previously issued.]

(3) If the said authority is satisfied that the order has not been encashed, he shall revalidate the same which shall remain in force for a further period of three months from the date of such revalidation.

(4) The time limit prescribed under this rule shall be applicable to the refund payment order issued under rules 42-A,42-B and 42-C.

42. Section 42 :-

42A. Refund Of Tax In Certain Cases :-

4[(1) The tax levied and realised under section 5 in respect of sale or purchase inside the State of any goods which are declared under section 14 of the Central Sales Tax Act,1956(74 of 1956) shall if such goods are sold in the course of interstate trade or commerce, be refunded in the manner and subject to the conditions prescribed in this rule to the dealer who has made the inter-state sale and has paid the tax under the aforesaid Act, in respect of such sale.

5[(2) Every such dealer who claims a refund under this rule, shall within twelve months from the date on which the tax was paid on the sale of such goods in the course of inter-state trade or commerce or on sale or purchase of such goods under the Act, which ever is later, submit to the Assistant Sales Tax Officer, or Sales Tax Officer, as the case may be, a statement in Form-XII-A.]

(3) The burden of proving the claim preferred shall be on the dealer.

(4) On receipt of the statement in Form XII-A, the Assistant Sales Tax Officer or the Sales Tax Officer, as the case may be, shall, if he is satisfied after such scrutiny of the accounts and after such enquiry as he considers necessary that the claim is admissible, pass an order refunding the tax subject to the provision under rule-42.

(5) (i) In case where an order is passed for refund is cash a Refund Payment Order shall be issued in Form XIII-A and made over to the dealer for encashment at the Government Treasury. A copy of the Refund payment order shall also be forwarded simultaneously to the Treasury Officer concerned.

(ii) In case where an order is passed for refund by adjustment, a refund adjustment order in Form XIV-A accompanied by a challan for adjustment shall be issued.

(6) If the statement submitted is found to be incorrect, incomplete or otherwise not in order, the Assistant Sales Tax Officer or the Sales Tax Officer, as the case may be, after making such enquiry as he considers necessary and after giving the dealer an opportunity of being heard pass such orders thereon, as he thinks fit.

42B. Refund Of The Amount Paid As Security :-

(1) The security paid shall be maintained in full so long as the registration certificate continues to be in force and in the event of the dealers ceasing his liability to pay tax or discontinuance of the business or entire transfer of the business to other persons shall be refunded by the Assistant Sales Tax Officer, or Sales Tax Officer, as the may be, after applying the said security for any amount of tax or composition money together with penalty, or interest, if any, payable under the Act, in respect of which the dealer is in default.

Provided that the Commissioner on application by the dealer may allow refund of the amount paid as security in part or full at any time before the dealer ceases his liability to pay tax or discontinues the business or entirely transfers the business to other persons.

(2) The refund under this rule shall be made in Form XIII.

42C. Deleted :-

43. Omitted :-

44. Omitted :-

CHAPTER 9

INSPECTION OF ACCOUNTS

45. Notice Of Inspection :-

Unless the Commissioner, in his discretion, deems it necessary to make a surprise visit, he shall give reasonable notice in writing to the dealer of his intention to inspect the accounts, registers, documents or stocks of goods of such dealer and shall, in fixing the date, time and place of inspection as far as possible, give due regard to the convenience of the dealer.

46. Retention Of Books, Registers Or Documents Seized :-

If the Commissioner seizes any books of account, registers or documents under section 16, he shall not retain them for more than 21 days without recording in writing his reason for doing so :

1[Provided that where an officer below the rank of Assistant Commissioner of Sales Tax in charge of a Range constituted under sub-rule (5) of rule 3 seizes any books, registers or documents of any dealer by virtue of power of the Commissioner under section 16 delegated to him, he shall not retain them or cause them to be retained for a period exceeding six months unless the Assistant Commissioner of Sales Tax in charge of the Range having jurisdiction over the local area in which place of business of the dealer is situated, has for reasons to be recorded in writing authorises the retention of the books, registers or documents so seized for a longer period :

Provided further that such longer period shall not be more than six months at a time.

CHAPTER 10

APPEAL AND REVISION

47. Appeal :-

3[1]4[An appeal against an order of assessment with or without penalty under section 12, 12-A or 12-B or an order imposing penalty under sub-section (3) of section 9-B or under sub-section (3) of section 11 or an order directing payment of interest under sub-section (4-a) of section 12 shall lie to the following authorities :-

5[(1)

If the order is passed by an Assistant Sales Tax Officer or Sales Tax Officer

To the Assistant Commissioner of Sales Tax

(2)

If the order is passed by the Assistant Commissioner of Sales Tax

To the Additional Commissioner of Sales Tax]

6[(2) Notwithstanding anything contained in sub-rule (1) of the

rule and sub-rule (5) of rule 3, if the order is passed by the Assistant Commissioner of Sales Tax, Intelligence Circle, 7(or any other Circle), the appeal shall lie to the Additional Commissioner of Sales Tax.]

48. Submission Of Appeal Petition :-

1[A memorandum of appeal against a penalty imposed under sub-section (3) of section 9-B or under sub-section (3) of section 11 shall be presented in Form XV. A memorandum of appeal against an assessment to tax under sections 12, 12-A and 12-B with or without penalty and against an order under section 12(4-a) shall be presented in Form XVI. It shall be signed by the dealer or his agent and may be presented in person at the office of the appellate authority or sent by registered post.]

2[Omitted]

49. Summary Rejection Of Appeal :-

(1) If the memorandum of appeal is not in the specified form or if all the requirements of the form are not fully complied with, the appellate authority may reject the appeal summarily, after giving the appellant such opportunity as it may think fit to rectify the defects.

(2) The appeal may also be summarily rejected on other grounds which shall be reduced to writing by the appellate authority.

Provided that before an order rejecting an appeal is passed the appellant shall be given a reasonable opportunity of being heard.

50. Hearing Of Appeal :-

(1) If the appeal is not summarily rejected, the appellate authority shall fix a day and place for hearing the appeal and may from time to time adjourn the hearing.

(2) The appellate authority may, before disposing of any appeal, make such further enquiry as it thinks fit or cause further enquiry

to be made by the Assistant Sales Tax Officer or the Sales Tax Officer as the case may be.

(3) The appellate authority shall not enhance an assessment or a penalty unless the appellant has had a reasonable opportunity of showing cause against such enhancement ;

50A. Procedure In Case Of Death Of One Of Several Appellants Or Of Sole Appellant :-

If the appellant dies while the appeal is pending and it cannot be proceeded with unless his legal representative is made a party to the appeal the appellate authority shall adjourn the hearing to enable his legal representative to appear and apply for being made a party. If the legal representative fails to do so within sixty days from the date on which the appellant dies, the appeal shall abate as regards the deceased.]

50B. No Abatement By Reason Of Death After Hearing :-

Notwithstanding anything contained in rule 50-A, there shall be no abatement of appeal by reason of the death of any appellant between the conclusion of the hearing and the passing of the order but the order may in such case, be passed notwithstanding the death and shall have the same force and effect as if it had been passed before the death took place. No legal representative need be made party in such case.]

51. Notice To Person Likely To Be Adversely Affected :-

Before an order passed on appeal if such order is likely to affect any person other than the appellant adversely, such other person shall be given a reasonable opportunity of being heard.

52. Second Appeal Under Sub-Section (3) Of Section 23 :-

(1)(a) A memorandum of appeal of appeal against an appellate order made under sub-section (2) of section 23 shall be in Form XVIII. It shall be verified in the manner prescribed therein.

(b) A memorandum of appeal or memorandum of cross-objections to be filed before the Sales Tax Tribunal for and on behalf of the State Government shall be signed and verified by the Commissioner of Sales Tax or such other officer who may be authorised in this

behalf by the Commissioner of Sales Tax.

(c) A separate Form shall be used to appeal against each other.

(2) The memorandum of appeal shall be in 2(duplicate) accompanied by 2(two) copies (one of which should be the original or an authenticated copy) of the order appealed against and two copies of the order of the assessing authority.

(3) When in any case the dealer or the State Government, as the case may be fails to file a memorandum of cross-objections within the time provided for in clause (b) of sub-section (3) of section 23, the appeal shall be disposed of on its merits by the Sales Tax Tribunal.

52A. Application For Reference Under Sub-Section (1) Of Section 24 :-

An application for reference to be filed before the Sales Tax Tribunal for and on behalf of the State Government shall be signed by the Commissioner of Sales Tax or such other officer who may be authorised in this behalf by the Commissioner of Sales Tax.]

53. Presentation Of Appeals And Applications :-

(1) An appeal or an application for reference shall be presented in person by the appellant or applicant or by his agent to the Registrar during office hours or sent to him by registered post.

(2) Every appeal or application for reference presented by an authorised agent on behalf of a dealer shall be accompanied by a letter of authority appointing him as such.

(3) Every appeal or application for reference 1 [**] shall be accompanied by the fees specified under the Act or Rules.

(4) An application for reference shall clearly set out the question of law required to be referred to the High Court and the manner in which it arises and give concisely the reasons for urging that the Tribunal has ignored it or wrongly decided it.

(5) Every appeal or application for reference filed by a person other than the State Government shall specify the name and address of the appellant or the applicant and specify the State of Orissa represented by Commissioner of Sales Tax as the respondent or the opponent as the case may be. Where an appeal or application for reference is filed by the State Government, the name and address of the respondent or the opponent, as the case may be, shall be specified so far as they can be ascertained.

54. Registration Of Appeal And Application :-

(1) On receipt of an appeal or application for reference the Registrar shall endorse on it the date of receipt. The Registrar shall thereafter, as soon as possible, examine-

1. whether the persons presenting it has the authority to do so; and

2. whether it conforms to the provisions of the Act the Rules and if he is satisfied on these points, he shall cause it to be registered in the appropriate register maintained under rule 55.

(2) If the Registrar finds that the appeal or application for reference does not conform to the requirements of the Act and Rules, he shall call upon the appellant or applicant by a notice in Form XIX appended to these rules to remedy the defects within a reasonable period not exceeding fifteen days to be specified by him. The Registrar may for good and sufficient cause extend the period provided the aggregate period allowed does not exceed a month. If the defect or defects are remedied within the period allowed, the Registrar shall cause the appeal or application to be registered.

(3) If the defect or the defects are not remedied within the period allowed, the Registrar shall make a report to that effect to the Tribunal who may reject the appeal or application or fix a date for hearing the matter and give due notice of such hearing to the appellant or applicant or his agent in Form XX appended to these rules.

(4) On the date so fixed, the Tribunal shall, after hearing the

appellant or his agent, pass orders directing either the registration of the appeal or application for reference or its rejection. Where the appeal or application for reference is rejected, the Tribunal shall record its reasons for doing so.

55. Maintenance Of Registers :-

The Registrar shall maintain separate registers for-

- a. Appeal in Form XXI; and
- b. Appeal received by transfer in Form XXI-A; and
- c. Application for reference in Form XXII.]

56. Admission :-

(1) On registration of an appeal the Tribunal shall go through the memorandum of appeal and enclosure, if any, and if it is prima facie of the opinion that there is substance in the appeal, it shall admit it.

(2) If the Tribunal is prima facie of the opinion that there is no substance in such appeal it shall fix a date for a preliminary hearing of which notice in Form XXIII shall be given to the appellant or his agent. The notice shall state that if the appellant or his agent does not appear before the Tribunal on the date so fixed or any other date to which the hearing may be adjourned the appeal will be dismissed on the date so fixed. The Tribunal shall after hearing the appellant or his agent either admit the appeal or dismiss it. Where the appeal is dismissed, the Tribunal shall record reasons for doing so.

57. Filling Memorandum Of Cross-Objections :-

(1) When an appeal is admitted under rule-56 the Tribunal shall forthwith serve a notice in Form XXIV on the respondent calling for filling of memorandum of cross-objection, if any, within of the date of receipt of the notice by the respondent.

(2) The memorandum of cross-objections, if any, shall be filed in duplicate duly signed by the respondent or his agent.

(3) Soon after the filling of the memorandum of cross-objection by the respondent, the duplicate copy thereof shall be endorsed by the Tribunal to the appellant.

58. Notice Of Hearing :-

After an appeal or application for reference has been admitted , a notice of the date fixed for hearing in Form XXV shall be delivered or sent by registered post with acknowledgment due to the appellant or applicant and to the respondent or opponent or their agents. The notice shall also state that if they do not appear before the Tribunal either in person or through an agent on the date specified in the notice or on any subsequent date to which the hearing may be adjourned. The Tribunal shall hear and decide the appeal or application ex-parte.

Provided that in the case of an appeal the date of hearing to be fixed in the notice in Form XXV shall not be earlier than thirty days of the date of receipt of notice in Form XXIV by the respondent.

59. Procedure At The Hearing :-

On the date of fixed or on any other date to which the hearing may be adjourned, the appellant or applicant or his agent shall ordinarily be heard first in support of his appeal or application for reference. The respondent or the opponent or his agent shall, if necessary be heard next and in such case the former shall be entitled to reply.

60. Hearing In The Absence Of Parties :-

(1) If, on the date fixed for hearing or any other date to which the hearing may be adjourned the appellant or applicant does not appear either in person or by his agent when the appeal or application for reference is called for hearing, the Tribunal 1[**] may decide it on merits, after hearing the respondent or opponent or his agent, if present.

(2) If on the date fixed for hearing or on any other date to which

the hearing may be adjourned the respondent or opponent does not appear either in person by his agent when the appeal or application for reference is called for hearing, the Tribunal may decide the same on merits after hearing the appellant or applicant or his agent, if present.

61. Fresh Evidence And Witness :-

1 . No party to an appeal or application for reference shall be entitled to adduce fresh evidence whether oral or documentary, before the Tribunal:

Provided that-

a. if the authority from whose order the appeal is preferred has refused to admit evidence which ought to have been admitted, or

b. 1[if any party including] the State Government seeking to adduce additional evidence satisfies the Tribunal that such evidence notwithstanding the exercise of due diligence was not within 1[its] knowledge or could not be produced by 1[it] at or before the time when the order under appeal was passed or

C. If the Tribunal requires any documents to be produced or any witness to be examined to enable it to pass order or for any other substantial cause, the Tribunal may allow such evidence or document to be produced or witnesses examined and in such case the other party shall be entitled to produce rebutting evidence, if any.

When fresh evidence has been adduced the parties may, if they so desires, address the Tribunal on points arising out of the fresh evidence.

62. Adjournment :-

The Tribunal may on such terms as it thinks fit, at any stage adjourn the hearing of any appeal or application for reference. An application for adjournment shall ordinarily be presented in person or through his agent before the Tribunal. Where the party other than the State Government sends the application by post or

otherwise, he shall make his own arrangements for obtaining intimation of the date of adjournment at his own cost by enclosing postage stamp or reply paid telegram voucher.

63. Procedure In Case Of Death Of One Of Several Appellants Or Applicants Or Of Sole Appellant Or Applicant :-

If an appellant or applicant dies while the appeal or application for reference is pending and it cannot be proceeded with unless his legal representative is made a party to the appeal or application, the Tribunal shall adjourn further proceedings to enable his legal representative to appear and apply for being made a party. If the legal representative fails to do so within ninety days from the date on which the appellant or applicant dies, the appeal or the application shall abate as regards the deceased.

64. Procedure In Case Of Death Of One Of Several Respondents Or Opponents Or Of Sole Respondent Or Opponent :-

If a respondent or opponent dies while the appeal or application for reference is pending and it cannot be proceeded with unless his legal representative is made a party to the appeal or application, the appellant or the applicant shall apply to the Tribunal for making the legal representative of such respondent or opponent a party to the appeal or application for reference within ninety days from the date on which the respondent or opponent died. If the appellant or applicant fails to do so, the appeal or application for reference shall abate as regards the deceased.

65. No Abatement By Reason Of Death After Hearing :-

Notwithstanding anything contained in rules 63 and 64 there shall be no abatement by reason of the death of any party between the conclusion of the hearing and the passing of the order, but the order may in such case be passed notwithstanding death and shall have the same force and effect as if it had been passed before the death took place. No legal representative need be made party in such case.

66. Determination Of Legal Representative :-

If a question arises in any appeal or application for reference whether a person is or is not the legal representative of a deceased party, such question may be determined by the Tribunal in a summary way after taking evidence, if necessary.

67. Procedure In Case Of Assignment :-

If during the pendency of an appeal or application for reference before the Tribunal the business of any dealer who is a party thereto is assigned to or devolves upon some other person either wholly or in part, the Tribunal may on application of such assignee or such person on whom the business devolves, add such a person as a party to the appeal or application for reference.

68. Procedure In Case Of Solvency :-

If a person who is a party to an appeal or application for reference becomes insolvent and his estate become vested in the assignee or receiver, the latter may, by leave of the Tribunal, be made a party to the appeal or application.

69. Abatement Or Dismissal For Failure Of Legal Representative Etc, To Apply In Time May Be Set Aside :-

A person claiming to be the legal representative of a deceased appellant or applicant or the assignee or receiver of an insolvent appellant or applicant may apply within sixty days from the date of abatement or dismissal of the appeal or application for reference to have the abatement or dismissal set aside and if it is proved to the satisfaction of the Tribunal that he was prevented by sufficient cause from appearing within time, the Tribunal shall set aside the abatement or dismissal and proceed with the appeal or application for reference.

70. Passing Of Order :-

When the hearing of an appeal or application is complete, the

Tribunal shall pass its order in writing for with or shall fix a date for the same and inform the parties concerned.

71. Certain Matters To Be Specified In The Order :-

The Tribunal shall in the order state at the end whether the appeal or application for reference is dismissed, or allowed, wholly or in part and in the case of appeal mention the relief granted if any.

72. Statement Of Case Of High Court :-

In an order on an application for reference, the Tribunal shall give a concise but clear statement of the facts leading to the application and shall formulate with precision the question of law to be referred to the High Court for decision.

73. Supply Of Copies Of Order :-

1(Three) copies of every order under section 23 or under section 24 passed by the Tribunal shall be forwarded to the Commissioner as soon as practicable. A copy of it shall also be supplied free of cost and without application to the other party to the appeal or application for reference.

74. Return Of Exhibits :-

a. The parties other than the State Government may apply for the return of the documents filed by them within three months from the date of the communication of the Tribunals order under section 23 or section 24, as the case may be, and if no such application is made within such period, the Tribunal shall not be responsible for any loss or damage to the documents.

b. The record of the case and such other documents as may be produced by the State representative shall, after the disposal of the case, be returned to him along with the order of the tribunal on the case and his acknowledgement obtained.

75. Copies Of Documents Of Payment Of Fees :-

(1) Any party to the appeal or application for reference before the Tribunal or his agent may apply to the Registrar for a certified copy of any document (including the order) in the record of the appeal or application to which he is a party.

(2) The application shall be accompanied by deposit of an amount to cover the cost of preparing copies according to the scale laid down in rule 87 of the said rules.

(3) If the Registrar feels any doubt about the propriety of granting a copy of any such document, he shall place the application before the Tribunal and act in accordance with the orders of the Tribunal.

76. Forms Of Notices :-

Forms XIX, XX, XXIII, XXIV and XXV with suitable modifications wherever necessary shall be used for the purpose of the notices to be issued by the Tribunal.

77. Service Of Notice On Government :-

Notwithstanding anything contained in these rules, all notices required to be served on the state Government shall be served on the State Representative.

78. Officers Of The Tribunal :-

The powers and the authorities which, under the rules or the practice of the Tribunal are exercisable by the Registrar (except such as may, from time to time be expressly exempted by the Tribunal) may be exercised by the Senior 1[Section Officer] of the office of the Tribunal.

79. Application To Commissioner For Revision :-

The application to the Commissioner for revision of an order passed by an Assistant Sales Tax Officer or a Sales Tax Officer, or an Assistant Commissioner, as the case may be filed by the dealer within thirty days from the date of receipt by him of such order.

Provided that no such application shall be entertained by the Commissioner in respect of any order against which the applicant has a right of appeal under sub-section (1) or sub-section (3) of section 23 :

Provided further that the Commissioner may admit an application for revision received after the said period if it is shown to his satisfaction that the appellant had reasonable cause for not preferring the application in time.

80. Revision By The Commissioner Suo Motu :-

The Commissioner may on his own motion at any time within three years from the date of passing of any order by the Sales Tax Officer or within two years from the date of passing of any order by the Additional Commissioner, Special Additional Commissioner or Assistant Commissioner, as the case may be call for records of the proceedings in which such order was passed and if he considers that any order passed therein is erroneous in so-far-as it is prejudicial to the interest of the revenue he may after giving the dealer an opportunity of being heard and after making or causing to be made such enquiry as he deems necessary revise any such order :

Provided that the Commissioner shall not revise any order under this rule-

- 1 . Where and appeal against the order is pending before the appellate authority under section 23, or
2. Where time-limit for filing an appeal under section 23 has not expired]

81. Order On Appeal Or Revision To Authorise Payment Of Extra Demand Or Grant Of Refund As The Case May Be :-

(1) If an order on appeal or revision results in the enhancement of an assessment, 1[with or without penalty under section 12 or an order of penalty under sub-section (3) of section 11], the authority passing the order shall direct the Assistant Sales Tax Officer, or the Sales Tax Officer, as the case may be, to serve a notice of demand

on the dealer 2[to pay tax within a period], not being less than thirty days from the date of service of the notice, by which the additional amount to tax so assessed 3[and the penalty, if any] shall be paid by the dealer.

(2) If an order on appeal or revision results in a reduction of the 2[tax or penalty] the authority passing the order shall direct the grant by the Assistant Sales Tax Officer or the Sales Tax Officer, as the case may be, of the refund of the excess amount, if any, paid by the dealer on an application by him made within the time 4(***) specified in section 14 and rules 41 and 42 shall, so far as may be, apply in respect of such refund.

82. Order On Appeal Or Revision To Be Communicated To The Officer Concerned :-

A copy of the order on appeal or revision shall be sent to the officer whose order forms the subject matter of appeal or revision proceeding and also to the Assistant Sales Tax Officer or the Sales Tax Officer concerned, as the case may be. The date of receipt of the order by the Sales Tax Officer or the Assistant Sales Tax Officer, as the case may be, shall be deemed to be date of receipt by the State Government.

82A. Order Of Assessment, Appeal Or Revision To Be Communicated To The Dealer :-

A copy of the order of assessment, appeal or revision shall be supplied to the concerned dealer free of cost and without application for the same].

83. Rectification Or Mistakes :-

Any taxing authority appointed under section 3 may at any time correct any arithmetical or clerical mistake or any error apparent on the face of the record arising or occurring from accidental slip or omission in an order passed by it.]

CHAPTER 11 **SERVICE OF NOTICE**

84. Service Of Notices And Requisitions :-

(1) A notice or requisition under the Act or the Rules may be served on the person therein named either by registered post or as if it were a summons issued by Court under the Code of Civil Procedure, 1908 (V of 1908)

(2) Any such notice or requisition may, in the case of a firm or a Hindu Joint Family, be addressed to any partner of the firm or to the manager or any adult male member of the family, and in the case of any company, society, club or other association to the manager or the principal officer thereof.

CHAPTER 12

FEES

85. Fees :-

Subject to the provision of rule 86, the following fees shall be payable, namely-

(i)

On an application for the issue of a duplicate copy of a certificate of registration under rule 11.

.....

Rupees five

(ii)

(a) On a memorandum of appeal under section 23 against an order of assessment or penalty or both.

.....

Five percent of the amount in dispute calculated to the nearest rupee subject to a minimum of Rs. 1 and maximum of Rs. 25.

(b) On memorandum of appeal under section 23 against any order other than an order of assessment or penalty or both.

.....

Rupees one and twenty-five paise.

(iii)

On an application for registration of each place of business of a dealer under rule 6.

.....

Rupees five.

(iv)

On an application for renewal of registration certificate under rule 11-A

.....

Rupees five

(v)

On an application for revision of any other order or any other miscellaneous petition or petition for relief including the following;

.....

Rupees one twenty-five paise.

(a) Application for a certificate under rule-5

(b) Application for amendment or cancellation or certificate of registration under rule 14.

(c) Application for the revision of return period.

(d) Application under rule 25 for exemption from the submission of return in Form IV.

(e) Application for extension of time for payment of tax and penalty assessed under section 9.B(3), II or 12.

(f) Application for extension of time fixed for payment of composition money under section 26.

(g) Application for adjournment in a proceeding before any Sales

Tax Authority.

Explanation- In this rule "the amount in dispute" means the different between the amount of tax or penalty, if any, or both demanded and the amount admitted by the dealer to be payable.]

86. No Fee Payable In Certain Cases :-

No fee shall be payable in respect of any objection whether written or verbal made in reply to a notice issued under section 12 or in respect of any application which asks only for information and which does not seek any specific relief or in respect of any memorandum of cross objection filed in response to notice issued under section 23.]

87. Grant Of Copy Of Order Passed By A Sales Tax Authority :-

(1) If any 3(***) dealer requires a certified copy of any order concerning him passed by any Sales Tax Authority he shall make an application to the Sales Tax Authority concerned. The application should bear a court-fee stamp of 4(twenty-five naya paise) for an ordinary and 4(fifty naya paise) for an urgent copy.

(2) On receipt of the application the dealer will be informed of the Court fee stamps that will be required under the provisions of sub-rule (3) for the supply of the copy. After the necessary court-fee has been paid by the dealer, a certified copy of the order will be prepared and granted to him.

(3) The following is the scale of court-fee payable for the grant of copies-

Ordinary copy

Urgent copy

(i)

For every 150 words or less of type written documents

1[Twentyfive naya paise.]

1[Fifty naya paise]

(ii)

Authentication fees

1[Fifty naya paise]

1[sixty-five naya paise.]

88. Payment Of Fees :-

(1) Fees payable under the Act and the Rules shall be paid in courtfee stamps or by postal money order or in cash into the Government Treasury or in the office of the Sales Tax Authority.

4[Provided that fees payable on a memorandum of appeal filed in Orissa High Court shall be paid in shape of court-fee stamps only.]

(2)(i) The payment into the Treasury shall be accompanied by a challan in Form XI, copies of which are obtainable from the Government Treasury or from any Sales Tax Officer free of cost. The challan shall be filled in quadruplicate. One part of the challan shall be retained by the Treasury, one part shall be sent by the Treasury to the Sales Tax Officer, Assistant Commissioner of Sales Tax, Commissioner of Sales Tax or the Sales Tax Tribunal, as the case may be, and the other two parts shall be returned to the dealer duly signed as proof of such payment.

(ii) The dealer shall attach one copy of the receipted challan or cash receipt granted by the office or the Sales Tax Authority or copy of postal money order acknowledgement, to his application.

(iii) All court-fees stamps affixed to the memoranda or applications filed before the Sales Tax Authorities or Tribunal shall be punched immediately in the presence of the authority concerned.]

CHAPTER 13

PAYMENT OF COMPOSITION MONEY

89. Payment Of Composition Money :-

(1) When the Commissioner accepts under section 26 of the Act, a sum from any dealer by way of composition of any offence, he shall issue an order in Form XVII directing the Officer in-charge of the

Government Treasury to receive on his behalf the sum specified in the order and he shall make over the order to the dealer for presentation at the Treasury at the time of payment, forwarding a copy to the officer-in-charge of the Treasury for his information.

(2) The composition money may also be paid by Postal money order addressed to the Treasury Officer.

(3) The Commissioner shall fix a date on which the dealer shall produce before such authority as he may direct a receipted challan or the postal money-order acknowledgement in proof of payment.

CHAPTER 14

MISCELLANEOUS

90. Deleted :-

90A. Lump Sum Payment Of Tax :-

(1) A dealer shall be eligible to pay a lump sum tax during the year, as determined by the Sales Tax Officer in the manner set out in the succeeding sub-rule, in lieu of tax assessable on his taxable turnover, if-

- a. he has been registered for the whole of the preceding year.
- b. he has submitted all the quarterly or monthly returns, as the case may be, for the preceding year before the expiry of a fortnight of the due date for submission of the last of such returns; and
- c. his gross turnover during the preceding year does not exceed 4[three lakh rupees.]

(2) (a) (i) The amount of tax to be paid by the dealer during the year shall be determined by increasing the tax admitted by the dealer during the preceding year by fifteen percent.

Provided that in the case of a dealer who has been permitted to pay tax by way of compounding prior to the commencement of the Orissa Sales Tax (Amendment) Rules, 1978, the amount of tax payable by the dealer by way of compounding during the preceding year shall be increased by fifteen percent to determine the tax payable by the dealer during the year.

(ii) All certificates of compounding issued prior to the commencement of the Orissa Sales Tax (Amendment) Rules, 1978 shall cease to be valid on and from the first day of April, 1978.

(b) The amount so determined for the first year shall be increased by fifteen percent which shall be the tax to be paid by the dealer during the second year. The determination of tax payable by the dealer during subsequent year shall also be made following the above principle.

(3) (a) The Sales Tax Officer shall issue notice in Form XXIX requiring the dealer to pay the tax as determined by him for each year in accordance with clause (a) or (b), as the case may be, of sub-rule (2). Such notice shall ordinarily be issued by the 30th June of each year.

(b) The amount of tax shall be paid by the dealer in equal quarterly installments.

(4) Notwithstanding anything contained in any of the provisions of this rule, the Sales Tax Officer may, with the prior approval of the Assistant Commissioner of Sales Tax in charge of the range, assess the tax to be paid by a dealer in accordance with the provision of section 12 of the Act, for any year for which the dealer has been directed to pay a fixed sum in lieu of tax assessable on his taxable turnover.

i) If he is satisfied on the basis of the materials in his possession that-

- a. the gross turnover of the dealer during the preceding year, on the basis of which he has been directed to pay fixed sum, exceed 1[three lakh rupees.]
- b. the gross turnover of the dealer during the year in which he has been directed to pay a fixed sum exceeds 1[three lakh twenty-five thousand rupees.]
- c. the dealer has suppressed his gross turnover or taxable turnover or the amount of tax payable by him during the preceding year; or

ii) for any other good and sufficient reason.

(5) (a) A dealer who has been directed to pay a fixed sum in lieu of tax assessable on his taxable turnover during a year, may by a written application in Form XXX to the Sales Tax Officer, opt for being assessed in the usual manner as provided under section 12 of the Act for the said year. Such application shall be submitted within three months from the date of receipt of the notice from the Sales Tax Officer as provided under clause (a) of sub-rule(3).

(b) On receipt of such application, the Sales Tax Officer shall assess the dealer in accordance with the provisions of section 12 of the Act. The dealer shall be required to pay excess tax, if any determined on assessment and excess tax, if any, paid by the dealer shall be refunded to him.

(6) A dealer directed to pay a fixed sum in lieu of tax assessable on his taxable turnover under this rule shall maintain a true and correct account of all purchases with all supporting vouchers and shall also maintain the account of his annual gross turnover with total daily transactions of purchase and sale in the following simplified Form, namely;-

PURCHASE REGISTER

Date	Name of goods purchased	Quantity	Value	No and date of purchase voucher, if any, with the name and address of the seller
1	2	3	4	5

Provided that if a dealer fails to comply with the provisions of this sub-rule, he shall be liable to be assessed in the usual manner as provided under the Act.]

91. Supply Of Statistics By The Tribunal :-

The Tribunal shall, within fifteen days of the expiry of each quarter or at such shorter or longer intervals as the State Government may direct to furnish to the State Government information relating to the receipt, disposal and pendency of appeals and application for reference to High Court filed before him under the Act in Form XXVI and XXVII.]

91A. Submission Of Returns By Banks And Clearing Houses :-

Every Bank including any branch of bank and/or clearing house in the State shall, if so required by an officer not below the rank of an Assistant Sales Tax Officer furnish any such particulars as he may require in respect of the transactions of any dealer with such bank or from such clearing house (which during the course of its business handles or transports goods liable to tax under the Act.)

91B. Deleted :-

CHAPTER 15
PENALTY

92. Penalty :-

Any person contravening any provisions of these rules shall be punishable with fine which may extend to seven hundred and fifty rupees and when the offence is a continuing one, with a daily fine not exceeding twenty-five rupees during the continuance of the offence.

92A. Deleted :-

92B. Deleted :-

92C. Section 92C :-

Every dealer who has ceased to become liable to pay tax under sub-section (3) of section 4 shall nevertheless be liable to pay tax for such further period during which he continues to sell goods purchased by him from another registered dealer under the provisions of item (ii) of sub-clauses (A) of sub-section (2) of section 5 in respect of sales of such goods.

93. Deleted :-

93A. Taxing Motor Vehicles At The First Point In A Series Of Sales :-

(1) In a series of sales by successive dealers all motor vehicle shall be taxed at the point at which the first of such sales is effected by a dealer liable under the Act.

(2) Notwithstanding that motor vehicles are specified in the purchasing dealers certificate of registration the sales of such motor vehicles at the aforesaid point shall be included in the computation of the taxable turnover of the dealer who sells them at that point.

(3) Dealers other than those by whom the sales of motor vehicles are effected at the aforesaid point, may for the purpose of computing their taxable turnover under sub-section (2) of section 5 of the Act deduct from their gross turnover, the turnover in respect of the sales of such motor vehicles.

93B. Taxing Of Mineral And Aerated Water Sold In Bottles Or Sealed Containers At The First Point In A Series Of Sales :-

(1) In a series of sales by successive dealers all aerated or mineral water sold in bottles or sealed containers shall be taxed at the point at which the first of such sales effected by a dealer liable under the Act.

(2) Notwithstanding that aerated or mineral water sold in bottles or sealed containers are specified in the purchasing dealers certificate of registration, the sales of such aerated or mineral water sold in bottles or sealed containers at the aforesaid point shall be included in the computation of the taxable turnover of the dealer who sell them at that point.

(3) Dealer other than those by whom the sales of aerated or mineral water sold in bottles or sealed containers are effected at the aforesaid point, may for the purpose of computing their taxable turnover, under sub-section (2) of section 5 of the Act deduct from their gross turnover, the turnover in respect of the sales of such aerated or mineral water sold in bottles or sealed containers.]

93C. Taxing Of Chemical Fertilisers At The First Point In A

Series Of Sales :-

(1) In a series of sales by successive dealers chemical fertilisers shall be taxed at the point at which the first of such sales is effected by a dealer liable under the Act.

(2) Notwithstanding that chemical fertilisers are specified in the purchasing dealers certificate of registration, the sales of such chemical fertilisers at the aforesaid point shall be included in the computation of the taxable turnover of the dealer who sells them at that point.

(3) Dealers other than those by whom the sales of chemical fertilisers are effected at the aforesaid point may, for the purpose of computing taxable turnover under sub-section (2) of section 5 of the Act, deduct from their gross turnover, the turnover in respect of the sales of such fertiliser.]

93D. Taxing Of Rice And Broken Rice At The First Point In A Series Of Sales :-

(1) In a series of sales by successive dealers rice and broken rice shall be taxed at the point at which the first of such sales, is effected by dealer liable under the Act.

(2) Notwithstanding that rice and broken rice are specified in the purchasing dealers certificate of registration, the sales of such rice and broken rice at the aforesaid point shall be included in the computation of the taxable turnover of the dealer who sells them at that point.

(3) Dealer other than those whom the sales of rice and broken rice are effected at the aforesaid point may, for the purpose of computing their taxable turnover under sub-section (2) of section 5 of the Act , deduct from their gross turnover, the turnover in respect of such rice and broken rice by them.

93F. Taxing Of Petrol, High Speed Diesel, Light Diesel Oil, Powerine And Aviation Spirit At The First Point In A Series Of Sales :-

(1) In a series of sales by successive dealers, Petrol, High Speed diesel, Light Diesel Oil, Powerine and Aviation Spirit shall be taxed at the point at which the first of such sales is effected by a dealer liable under the Act.

(2) Notwithstanding that Petrol, High Speed Diesel, Light Diesel Oil, Powerine and Aviation Sprit as specified in the purchasing dealers certificate of registration, the sales of such Petrol, High Speed diesel Light diesel Oil, Powerine and Aviation Spirit at the aforesaid point shall be included in the computation of the taxable turnover of the dealer who sells them at that point.

(3) Dealers other than those by whom the sales of Petrol, High Speed Diesel, Light Diesel Oil, Powerine and Aviation Spirit are effected at the aforesaid point may, for the purpose of computing their taxable turnover, under sub-section (2) of section 5 of their Act, deduct from their gross turnover, the turnover in respect of sales of such Petrol, High Speed Diesel, Light Diesel Oil, Powerine and Aviation Spirit by

them.]

93G. Section 93G :-

Taxing of Drug as defined in clause (b) of section 3 of the Drugs and Cosmetics Act, 1940 (23 of 1940) at the first point in a series of sales -

(1) In a series of sale by successive dealers, Drug, as defined in clause (b) of section 3 of the Drugs and Cosmetics Act, 1940 (23 of 1940), shall be taxed at the point at which the first of such sales is effected by a dealer liable under the Act.

(2) Notwithstanding that Drug as defined in clause (b) of section 3 of the Drugs and Cosmetics Act, 1940 (23 of 1940), is specified in the purchasing dealers certificate of registration, the sales of such drug at the aforesaid point shall be included in the Computation of the taxable turnover of the dealer who sells them at that point.

(3) Dealers other than those by whom the sales of drug as defined in clause (b) of section 3 of the Drugs and Cosmetics Act, 1940 (23 of 1940) are effected at the aforesaid point may, the purpose of computing their taxable turnover under sub-section (2) of section 5 of the Act, deduct from their gross turnover, the turnover in respect of sales of such drug as defined in clause (b) of section 3 of the Drug and Cosmetics Act, 1940 (23 of 1940) by them.]

93H. Taxing Of Refrigerators :-

Air Conditioning and cooling appliances and appliances and apparatus including room cooler and water cooler, (all kinds of Asbestos Cement Sheets including ridges), Gramophones, Record Players, Record changers and record, dewing machines, Typewriters, Tabulating, Calculating, Cash registering, Indexing, Card punching, Franking and Addressing machines, Teleprinters, Duplicating machines, Arms including rifles, revolvers, pistols and ammunition, motor Cycles, Motor Cycle Combinations, Motor Scooters and Motoresses and Cement at the First point in a series of sales -

(1) In a series of sales by successive dealers the aforesaid goods shall be taxed at the point at which the first of such sales is effected by a dealer liable under the Act.

(2) Notwithstanding that the aforesaid goods are specified in the purchasing dealers certificate of registration the sales of such goods at the aforesaid point shall be included in the computation of the taxable turnover of the dealer who sells them at the point.

(3) Dealers other than those by whom the sales of such aforesaid goods are effected at the aforesaid point may, for the purpose of computing their taxable turnover under the sub-section (2) of section 5 or the act deduct for their gross turnover aforesaid goods by them.]

93I. Taxing At The First Point In A Series Of Sale Of :-

(1) Lubricants, (2) Pesticides, Insecticides, Fungicides, Herbicides, Weedicides.
(3) Tractor and its trailer, (4) Ice, (5) Pressure cooker (6) Dry cell batteries, (7)

Electric Fans, (8) Clocks, Time pieces, Watches, Electrical Time Switches and Mechanical Timers and component parts, spare parts and accessories there of, (9) Cycle, cycle Rickshaw and component parts, (10) Coal including coke in all its forms but excluding charcoal, (11) Baby foods, such as Amul, Amul spray, Vijay spray, Lever spray, Bal Amul, Glaxo, Farex, Casilan, Lactodex, Lactogen, Nespray, (12) Mustard Oil, (13) Ground-nut oil including refined Ground-nut oil, (14) Hydrogenated oil, (15) Kerosene, (16) Cooking gas such as Burshane, Calgas, Indane, (17) Iron and steel furniture, (18) Surgical instruments and apparatus, (19) Electric motors, (20) Pumps, Pump sets used for lifting water (21) Automobile tyres/ tubes flaps, (22) Match Box, (23) Tooth paste, Tooth Powder and tooth brush and (24) Torch lights.

(1) In a series of sales by successive dealers the aforesaid goods shall be taxed at the point at which the first of such sales is effected by a dealer liable under the Act.

(2) Notwithstanding that the aforesaid goods are specified in the purchasing dealers certificate of registration the sales of such goods at the aforesaid point shall be included in the Computation of taxable turnover of the dealer who sells them at that point.

(3) Dealers other than those by whom the sale of such aforesaid goods are effected at the aforesaid point may, for the purpose of computing their taxable turnover under sub-section (2) of section 5 of Act deduct from their gross turnover, the turnover in respect of sales of such aforesaid goods by them.

93J. Taxing At The First Point In A Series Of Sale Of :-

(1)Wheat, (2) Atta, (3) Maida, (4) Suji, (5) Tea, (6) Coffee, (7) Milk Power, (8) Biscuit, (9) Gur and Molases, (10) Ghee, (11) Butter, (12) Coconut oil, (13) Til oil, (14) Caster oil, (15) Niger oil, (16) Toiler powder, (17) Snow and cream, (18) Electric bulb and Tubes, (19) Petromax light, (20) Wireless reception instruments and apparatus, (21) Radio and components thereof, (22) Radiograms and components thereof, (23) Amplifiers, Loudspeakers, Accumulators and parts thereof, (24) Cushions, mattress, Pillow and such other articles made wholly or partly of rubber, foam or synthetic resin and plastic foam.

(1) In a series of sales by successive dealers the aforesaid goods shall be taxed at the point at which the first of such sales is effected by a dealer liable under the Act.

(2) Notwithstanding that the aforesaid goods are specified in the purchasing dealers certificate of registration, the sales of such goods at the aforesaid point shall be included in the computation of the taxable turnover of the dealer who sells them at that point.

(3) Dealers other than those by whom the sales of such aforesaid goods are effected at the aforesaid point may, for the purpose of computing their taxable turnover under sub-section (2) of section 5 of the Act, deduct from their gross turnover, the turnover in respect of sales of such aforesaid goods by them.

93K. Taxing At The First Point In A Series Of Sale Of :-

(1)Aluminium Furniture, (2) Air circulators, Electrical heaters and exhaust fans, (3) Binoculars, Telescopes and Operaglasses and components and accessories thereof,

(4) Food and beverages in sealed containers such as Maltodex, Maltova, Horlicks, Viva, Complian, Bournvita, Condensed milk, (5) Glucose and Glucose-D, Dextrose, (6) Gudakhu, (7) Perambulators, (8) Refined oil, (9) Refractories, Stone ware pipes and fittings, (10) Torch light bulbs, (11) Therptine Biscuits, (12) Toilet soap and Shampoos, (13) Washing soap and detergents.

(1) In a series of sales by successive dealers the aforesaid goods shall be taxed at the point at which the first of such sales is affected by a dealer liable under the Act.

(2) Notwithstanding that the aforesaid goods are specified in the purchasing dealers certificate of registration, the sale of such goods at the aforesaid point shall be included in the computation of the taxable turnover of the dealer who sells them at that point.

(3) Dealers, other than those by whom the sales of such aforesaid point may, for the purpose of computing their taxable turnover under sub section (2) of section 5 of the Act, deduct from their gross turnover the turnover in respect of sales of such aforesaid goods by them.

93L. Taxing Gold And Silver Ornaments Whether Or Set With Precious Stones And Gold And Silver Filigree Works At The First Point In A Series Of Sales :-

(1) In a series of sales by successive dealers the aforesaid goods shall be taxed at the point at which the first of such sales is effected by a dealer liable under the Act.

(2) Notwithstanding that the aforesaid goods are specified in the purchasing dealers certificate of registration, the sale of such goods at the aforesaid point shall be included in the computation of the taxable turnover of the dealer who sells them at that point.

(3) Dealers, other than those by whom the sales of such aforesaid goods are effected at the aforesaid point, may for the purpose of computing their taxable turnover under sub-section (2) of section 5 of the Act, deduct from their gross turnover the turnover in respect of sales of such aforesaid goods by them.

94. Check Post :-

(1) The State Government may, by notification, direct the setting up of a Check-post or erection of barrier or both at such place or places in the State as may be specified in the notification. When the Check-post is set up upon a thoroughfare or road, barriers may be erected across the road or thoroughfare in the form of a contrivance to enable traffic being intercepted detained and searched.

(2) The State Government may empower any officer not below the rank of an Assistant Sales Tax Officer to be in charge of a Check-post or/and barrier

2[3](a) The driver or the person in charge of the goods vehicle or boat shall stop the vehicle or boat, as the case may be, at a check-post or barrier and keep it stationary as long as it is reasonably required by the officer-in-charge of the Check-post or barrier and allow examination of goods in the vehicle or boat and inspection of all the records connected with the goods in the vehicle or boat, including the way bill in Form XXXII.

(b) The driver or the person in charge of the goods vehicle or boat shall produce the way bill in triplicate and other documents before the Officer-in-charge of the Check-post or barrier, through which the vehicle or the boat first passes on its way, who on examination of the contents, in the vehicle or boat, and inspection of the documents if finds that the goods are fully covered by the way bill and the way bill is not defective or incomplete, shall verify and sign the way bill and retain the original and duplicate copy and return the triplicate copy of the verified way bill to the driver or the person in charge of the goods vehicle or boat. The Officer-in-charge of last Check-post or barrier through which the said goods vehicle or boat carrying the said goods passes to its destination within the State or outside the State, shall also, on examination of the contents of the vehicle or boat and inspection of the documents, if finds that the goods are fully covered by the said bill, record the fact of exit, sign the said copy, and return the triplicate copy to the driver or the person in charge of the goods vehicle or boat.

(c) Issue and use of way bills shall be regulated in the following manner, namely -

i. The way bills in form XXXII in quadruplicate shall be supplied on application and on payment of cost as may be fixed by Government from time to time duly authenticated with official seal and signature by the Sales Tax Officer having jurisdiction, to the dealer who consigns the goods in case of goods moving from one place to another place inside the State or from a place inside the State to another place outside the State or a person who brings any goods into the State or to whom any goods are dispatched from any place outside the State and in case of goods imported into the State from a place outside the State, if such person is a registered dealer under the Act.

ii. No second or subsequent booklet of way bill forms shall be supplied to any dealer unless he furnishes a true copy of account in Form XXXII-A of the way bills last supplied to him duly certified under his signature, along with copy of the quadruplicate copy of each way bill form duly filled in with all the details given in the corresponding original/duplicate/ triplicate copy of the way bill used.

iii. Ordinarily one booklet of way bill forms or part thereof shall be issued to a registered dealer at a time. If a registered dealer makes an application for supply of more than one booklet of way bill forms at a time with sufficient justification and the Sales Tax Officer after being fully satisfied on verification of the past records of frequency of consignments by the dealer or for any other reason to be recorded in writing, may issue more than one booklet, but not exceeding ten booklets of way bill forms at time.

iv. In case of dealers other than registered dealers, way bills duly authenticated with Official Seal and signature shall be supplied on payment of cost as may be fixed by Government from time to time by the Officer-in-charge of Check-post or barrier on proper record.

v. Authenticated printed way bills may not be insisted upon by the Officer-in-charge of a Check-post or ;barrier where it is proved to his satisfaction that the owner of the goods transported is not a dealer and the goods transported are his household or other articles intended for personal use.

(d) The way bill in form XXXII, which shall bear the signature and Official Seal of the concerned Sales Tax Officer, referred to in clause (a) above, shall be serially numbered and printed in quadruplicate, the first copy marked as "Original" the second copy marked as "duplicate", the third copy marked as "triplicate and the forth copy marked as "quadruplicate" and in the booklet of twenty five forms each.

(e) Every registered dealer shall maintain a register in Form XXXII-A which shall be produced at the time of second and subsequent issue of way bill forms.

(f) A person consigning goods from outside the State to a dealer belonging to the State will obtain way bill from the consignee inside

the State.

(g) The driver or the person in charge of the goods vehicle or boat shall carry the requisite way bills in triplicate in respect of each consignee and shall tender the original and duplicate copy of the way bills to the Officer-in-charge of Check post or barrier through which the goods vehicle or the boat first passes on its way.

Provided that in case a goods vehicle which has not passed through a Check-post or barrier is ;checked by an Officer not below the rank of a Sales Tax Officer on the way, the original copy of the way bill shall be tendered to such Officer.

Provided further that in case the vehicle or boat has not passed through a Check-post or barrier or has not been checked by an Officer not below the rank of a Sales Tax officer, the Original copies of the way bill forms used during a month, along with the statement of account referred to in a clause (e) above, shall be submitted to the Sales Tax Officer of the concerned circle, by the last day of the succeeding month.

(h) Every way bill form obtained from the sales Tax Officer by a dealer shall be kept by him in safe custody and he shall be responsible for the loss, destruction or theft of any such form and also loss of Government revenue, if any, caused thereby.

(i) If any such blank way bill form before it is used, is signed and despatched by the consigner, is lost, destroyed or stolen, the dealer shall report the fact to the Sales Tax Officer immediately, make appropriate entry in Remarks Column of the register and take such other steps to issue public notice of loss, destruction or theft as the Sales Tax Officer may direct and in respect of each such way bill form shall furnish to the Sales Tax Officer an indemnity bond in Form XXXII-B against any possible loss to Government.

(j) Any unused way bill forms remaining in stock with a registered dealer, on the cancellation of his registration certificate, shall be surrendered to the Sales Tax Officer.

(k) A dealer, to whom way bill forms are issued, shall not either directly or otherwise transfer his right to use the same to another dealer.

(l) The Sales Tax Officer, on receipt of a report theft, loss or destruction of way bill form, shall immediately report the fact to the Commissioner, who after making such enquiry as he may think necessary shall publish the particulars of such way bill forms.

(m) The Commissioner may by notification, declare that the way bill forms of particular series, design or colour shall be deemed as obsolete and invalid, with effect from such date as may be specified in the notification, and when a notification declaring such forms as obsolete and invalid is published all registered dealers shall on or before the date, with effect from which the forms are so declared obsolete and invalid, surrender all such unused way bill forms.]

1[(4)(a) If no such examination and inspection as referred to in sub-rule (3), the Officer-in-charge of the check-post or barrier finds that the goods are not fully covered by a way bill in FORM-XXXII or that the way bill is defective or incomplete or that there is evasion of tax, or apprehends, for reasons to be recorded in writing that there is likelihood of evasion of tax in respect of the goods carried in any vehicle or boat he shall in order to prevent or check evasion of tax serve on the owner of the goods or any person on his behalf a notice in FORM-VI-B giving him an opportunity to rectify the defect or omission, if any or an option to pay such amount as may be indicated by the Officer-in-charge of the check-post or barrier and]

(b) If the owner of the goods or any person on behalf of such owner fails to pay the tax as required in sub-rule (a) above, the Officer-in-charge of a check-post or barrier shall order the unloading of the goods and seize and confiscate them after following the procedure in sub-rule (5).

(c) Where the officer-in-charge of the check post or barrier seizes the goods he shall issue a receipt giving the description, quantity and approximate valuation of the goods unloaded and seized to the driver or other person-in-charge of the vehicle or boat and obtain his acknowledgement.

(5) The Officer in charge of the check post or barrier shall before ordering confiscating of the goods give the owner of the goods, if present in the vehicle or boat, as the case may be, an opportunity

of being heard. If such person is ;not present the officer shall make such enquiries as he deems fit, ascertain the name and address of such person and if the name and address of such person are ascertainable give him an opportunity of being heard before ordering confiscation. In the case of nonperishable goods, at least 7 days time shall be given for the owner of the goods to state his case before the Officer-in-charge of the check-gate.

(6) The goods, confiscated shall be sold in public auction. A copy of the order of confiscation shall be served on the owner of the goods where the name and address of such owner is ascertainable.

(7) If the goods confiscated are of a perishable nature, the confiscation thereof shall not be postponed on account of a revision having been preferred against the orders of confiscation.

(8) If any order direction confiscation is reversed on revision, the goods confiscated, if they have not been sold before such reversal comes to the knowledge of the officer conducting the sale of if they have been sold, the proceeds thereof shall be dealt with as prescribed in 1[*] sub-rule (10) of this rule.

(9) Where a confiscation was ordered for the reason that the owner was not ascertainable, such person or any person on his behalf may appear before the officer ordering confiscation and satisfy him with relevant record regarding the bone fides of the transport of the goods, in question. If the officer is satisfied that there has been no evasion of tax 2[or the subsequent transaction in respect of the goods is not likely to lead to evasion of tax] he may, for reasons to be recorded in writing order the release of the confiscated goods. The officer shall also specify in his order the amount to be paid towards the charges, if any, incurred by the State for the safe custody of the goods and other incidental charges. If the officer is not satisfied, he may, after recording the reasons therefore, order that the sale under sub-rule (6) may be proceeded with.

(10) Goods ordered to be released or the proceeds thereof referred to in sub-rule (8) if they have been sold, shall be handed over refunded, as the case may be, by the Officer-in-charge thereof to the owner of the goods or to his agent on payment of or after deducting the charges incurred by the State,

94A. Inspection Of Goods While In Transit At Any Place Other Than A Check-Post Or Barrier :-

(1) At any place other than a check post or barrier the , driver or any other person in charge of a goods vehicle or boat shall stop on demand by an officer of the department not below the rank of an Assistant Sales Tax Officer and keep it stationary as long as it is required and allow examination of the goods in the vehicle or the boat and inspection of all records connected with the goods in the vehicle or the boat and inspection of all the records connected with the goods in the vehicle or boat.

(2) If on such inspection, such officer has reason to believe that there has been an evasion of tax in respect of goods carried on in such vehicle or boat, such officer may order their unloading and seizure and confiscate after following the procedure in sub-rule (5) 2[of rule 94]

(3) The procedure laid down in rule 94 shall apply to the disposal of goods confiscated under sub-rule (2)]

94B. Restriction On Movement Of Goods :-

(1) No person shall transport by road, river, craft or Mulla from railway station, steamer station, airport, post office or from any other place whatsoever notified in this behalf by the State Government any consignment of such goods, exceeding such quantity, as may be specified in the notification under section 16-B except in accordance with the following conditions namely-

a. He shall produce for countersignature before the Sales Tax Authority not below the rank of an Assistant Sales Officer having jurisdiction the railway receipt, bill of lading or other documents required for the purpose of obtaining delivery of such consignment from the public carrier.

b. He shall make a written declaration in Form XXXIII in duplicate, duly signed to such Sales Tax Authority and shall furnish therein the following particulars, namely-

(i) The description, quantity and value of the goods to be so transported;

(ii) The place which the goods are being despatched:

(iii) The dealers from whom the goods are being purchased;

(iv) The name and address of the person (with registration certificate number, if any, if the person is a registered dealer) transporting the goods.

The Sales Tax Authority having jurisdiction shall there upon countersign the railway receipt, bill of lading or other document and shall seal it with his official seal. Both copies of the declaration made by the dealer shall be endorsed with the number of railway receipt, bill of lading or other document, as the case may be, and the date of countersignature of the aforesaid document and this shall be signed by such authority and sealed with his official seal; one copy of the declaration shall be returned along with the countersigned railway receipt, bill of lading or other document to the person and the other copy retained by such authority.

(2) Any Sales Tax Authority having jurisdiction for the purpose of verifying whether

any goods are being transported in contravention of the provisions of sub-section (1) of section 16-B may intercept, detain and search any road vehicle or river craft or any load carried by person, the driver or any other person in charge of the vehicle or river craft or the person carrying of the load shall allow the sales Tax authority to search the goods carried in the vehicle or river craft or the load and inspect all records relating to the goods carried. Such authority may intercept and detain any road vehicle or river craft or any or any load carried by person as long as may reasonably be necessary to complete the search of the road vehicle or the river craft or the load.

94C. Section 94C :-

Where a vehicle carrying goods coming from any place outside the State and bound for any other place outside the State, passes through the State of Orissa, the driver or any person in-charge of such vehicle shall obtain way bill in Form XXXII prescribed under rule 94(3) of the said rules containing detail particulars of transit pass, from the Officer-in-charge of the first check-post/ barrier duly authenticated with official seal and signature after its entry into the State. The transit pass contained in the way bill in Form XXXII so obtained, duly filled in and goods under transport shall not be un-loaded, delivered or sold in the State and shall exit through ----- check-post out of the State" shall be produced in triplicate (original, duplicate and triplicate) before the Officer-in-charge of the said check-post / barrier who, on examination of the contents in the vehicle or boat and after being satisfied with the correctness of the entries in the way bill form, if finds that the goods are fully covered by the way bill and the way bill is not defective or incomplete, shall endorse the "transit pass" at the portion meant for use by the office of the check-post of entry. The driver or person in-charge of the goods vehicle or the boat shall obtain "transit pass" endorsed on the body of the way bill in Form No. XXXII (original, duplicate and triplicate) from the Officer-in-charge of first check-post or barrier, tender the original copy to the Officer-in-Charge of the said check-post or barrier and carry the duplicate and triplicate copies along with the goods vehicle and deliver the duplicate copy to the Officer-in-charge of last check-post or barrier before his exit from the State, failing which he shall be penalized with a fine of Rs.20,000/- or 20 percentum of value of goods carried in the vehicle whichever is higher, in addition to tax payable on such goods and the vehicle carrying goods would be black listed by notification issued by the Commissioner of Commercial Taxes, Orissa, Cuttack. If the owner of the goods or any person in-charge of the vehicle fails to pay the tax and penalty under this rule, the Officer-in-charge of the check-post or barrier shall order to confiscate the goods after giving the owner of the goods or driver, as the case may be, an opportunity of being heard after ascertaining the name and address of the owner.

The goods confiscated shall be sold in public auction and a copy of such confiscation shall be served on the owner of the goods or on the driver as the case may be .]

94D. Records To Be Maintained By The Transporter/Bailee/Owner Or Lessee Of Warehouse :-

1. Every transporter/bailee/owner or lesser of a warehouse or any other person including an agent or an employee of transport company shall, in respect of goods carried, the sale or purchase of which are taxable under the Act, maintain true and correct account of such goods received for transport, transported or delivered in the form of Forwarding Note, Way-bill, Dispatch Register, Delivery Register and Transport Receipt which shall be in Forms XXXII-C, XXXII, XXXII-D, XXXII-E and XXXII-F respectively. Such records shall be preserved for a period of five years.

2. Transport receipts shall be serially numbered.

3. No carrier of goods or agent of a transport company or booking Agency shall transport, accept for booking or release any consignment of good unless,-

a. the consignment is covered by a copy of purchase invoice or sale bill or delivery not, as the case may be;

b. the particulars regarding consignment intended to be booked are furnished in the forwarding notes in form XXXII-C by the consignor;

c. the transport receipt bears stamped endorsement from the consignee indicating his full particulars and Registration Certificate number, if any.

(4) The driver or the person in-charge of the vehicle shall always carry with him a copy of way -bill in Form XXXII and a copy of the Transport Receipt in Form XXXII-F of each consignment or goods being carried. In case the vehicle is carrying more than 5 (five) consignments in respect of different dealers, the driver or the person in charge of the vehicle in addition to the Way Bill From and Transport Receipt shall carry a manifesto containing the details of consignment numbers, packages, description of goods and Way Bill numbers.

(5) The goods confiscated shall be sold in public auction in the manner laid down in sub-rules (6) to (10) of rule 94 of these rules.

95. Disposal Of Goods Confiscated By Sales Tax Authorities

:-

(1) The Commissioner before confiscation of goods under sub-section (6) of section 16, shall give the owner of goods, if present at the time of seizure of goods an opportunity of being heard and option to pay a sum indicated by him which shall not exceed two and half a time the tax which would have been levied under the Act in respect of the sale of goods seized. If the owner is not present the Commissioner shall make such enquiries as he deems fit, ascertain the name and address of such person and if the name and address are ascertainable give him an opportunity of being heard and to pay the sum so indicated above.

(2) If the owner is not ascertainable or if he fails to pay the amount indicated by the Commissioner under sub-rule (1), the Commissioner shall order confiscation of the goods and shall follow the procedure laid down in sub-rules (6), (7), (8), (9) and (10) of rule 94 in respect of goods in public auction, the owner shall be allowed to bid in the auction]

96. Enrolment Of Tax Practitioner :-

A Sales Tax Practitioner representing any person before any Sales Tax authority under clause (c) of Para (1) of section 28-A shall be.

1 . (a) a person who possess a degree in Commerce, Law, Economics or Banking including Higher Auditing, conferred by any India University incorporated by any law for the time being in force or any Foreign University duly approved in this behalf by the State Government, and has appeared before Sales Tax Authority on behalf of any assess otherwise than in the capacity of an employee or relative of that assessee before the First April, 1976, or

a. a member of Orissa Finance Services, who has held any post in any Government, local body or corporation for a period of not less than five years and is not in employment of any such authority on the date of application, or

b. any person who possesses a Diploma in Taxation Laws conferred by any India University incorporated by any law for the time being in force.

2. Any person possessing the qualification specified in sub-rule (1) may apply in Form XXXV to the Commissioner for enrolment as Sales Tax Practitioner. The application for enrolment shall bear court fee stamp of the value of Rupees twenty. If the Commissioner is satisfied that the applicant has the required qualifications and has not been found guilty of misconduct in connection with any Sales Tax Proceedings, he shall enroll such person as Sales Tax Practitioner.

3. The Commissioner shall maintain in Form XXXVI a register of Sales Tax Practitioners to whom certificate of enrolment has been granted.

4. The Commissioner may order, cancel or suspend the enrolment as Sales Tax Practitioner-

a. If he is found guilty of misconduct in connection with the Sales Tax Proceedings, or

b. If his enrolment has been found wrongly ordered.

5. No order shall be passed by the Commissioner rejecting an application for enrolment or canceling or suspending an enrolment unless the applicant or the Sales Tax Practitioner, as the case may be, has been given reasonable opportunity of making his representation.

6. Any applicant in respect of whom an order has been passed by the Commissioner rejecting his application for enrollment and any Sales Tax Practitioner in respect of whom an order has been passed by the Commissioner canceling or suspending the enrolment may within one month from the date of receipt of such order appeal to the Tribunal to have the order cancelled, and no such order shall have effect till the expiry of one month from the date of receipt by such person or Practitioner or where an appeal is preferred until the disposal of the said appeal.

CHAPTER 16
TAX RECOVERY

97. Procedure To Be Followed While Sending Certificate To Another Tax Recovery Officer :-

1. When a certificate is sent by a Tax Recovery Officer to another Tax Recovery Officer under sub-rule (5) of rule 2 of the Schedule, he shall-

- i. keep a copy of the certificate in this office, and
- ii. inform the Sales Tax Officer from whom the certificate is received or his having sent the certificate.

Provided that where only a part of the amount in respect of which a certificate has been forwarded by the Sales Tax Officer to the Tax Recovery Officer is to be recovered by other Tax Recovery Officer, Tax Recovery Officer shall before sending a copy of the certificate to the other Tax Recovery Officer, endorse on such copy a certificate in Form XXXVII

1 . Procedure to be followed on receipt of certificate from Tax Recovery Officer-

When a certificate is sent by a Tax Recovery Officer to another Tax Recovery Officer under Sub-Rule (1) such other Tax Recovery Officer shall follow the same procedure as laid down in the Schedule.

98. Intimation By The Tax Recovery Officer :-

(1) The Tax Recovery Officer to whom a certificate has been forwarded by a Sales Tax Officer shall intimate the details of all amounts recovered on respect of such certificate from time to time to the Sales Tax Officer and also to any Tax Recovery officer to whom the certificate or a certified copy of the certificate has been sent by him under the rule 97.

(2) Intimation by other Tax Recovery Officer- When a certificate, or the certified copy of the certificate is sent by a Tax Recovery Officer to another Tax Recovery Officer such other Tax Recovery Officer shall communicate to the first mentioned Tax Recovery Officer and to the Sales Tax Officer who issued the certificate, the details of all amounts recovered by him in respect of such certificate from time to time.

99. Intimation By The Sales Tax Officer :-

Where a Certificate has been issued by Sales Tax Officer, he shall keep Tax Recovery Officer to whom the certificate or a certified copy of the certificate has been sent, inform of any tax, interest or any other sum, as the case may be, paid or time granted for payment subsequent to the issue of such certificate.

100. Attachment Subject To Encumbrance :-

Where in the course of investigation made under rule 12 of the Schedule, the Tax Recovery Officer is satisfied that the property is subject to a mortgage or charge on favour of some person not in possession and thinks fit to continue the attachment, he may do so, subject to such mortgage or charge.

101. Proclamation Of The Sale :-

For the purpose of ascertaining the matter to be specified in a

proclamation of sale, the Tax Recovery Officer may summon any person whom he thinks necessary to summon and may examine him in respect of any matters relevant to the proclamation and require him to produce any document in his possession or power relevant thereto.

102. Reserve Price :-

It shall be competent for the Tax Recovery Officer to fix a reserve price in respect of any property other than agricultural produce to be sold and order that any bid shall be accepted only on condition that it is not less than the said reserve price.

103. Custody After Attachment :-

Where the property attached is movable property (other than agricultural produce) and is of such a nature that its removal involves cost out of proportion to the value of the property, the Tax Recovery Officer shall arrange for proper maintenance and custody of the property at the place of attachment.

104. Section 104 :-

(i) where the attached property is not kept at the place of attachment, it shall be kept in the custody of an officer subordinate to the Tax Recovery Officer, authorised by the Tax Recovery Officer for this purpose. The officer authorised to keep in custody of the property may remove the property to the Officer. The Tax Recovery Officer for custody under his own supervision, or with the approval of the Tax Recovery Officer may take such arrangement as may be convenient and economical for its safe custody.

(ii) if the property attached consists of cash, Government or other securities, bullion, jewellery or other valuables, the attaching officer shall send them for safe custody to the nearest Government Treasury.

105. Return Of Property :-

(1) If in consequence of withdrawal or cancellation of attachment the defaulter becomes entitled to receive back the immovable

property attached, the possession thereof shall be given to him on payment of costs, charges and expenses due, if any, in respect of the execution of the certificate against such property.

(2) For the purpose of giving possession under sub-rule (1) The Tax Recovery Officer shall inform the defaulter that the property is at his disposal.

Provided that in the absence of any person to take charge of the property of the Officer, if the property has been moved from the premises from where it was seized, replace it where it was found at the time of seizure.

106. Sale Of Property In Case Of Default :-

In default of payment of cost, charges and expenses referred to in sub-rule (1) of rule 105, the immovable property or such portion thereof as may be necessary shall be sold by auction and after defraying the expenses of such sale and cost, charges and expenses aforesaid the balance, if any, of the immovable property as has not been sold shall be handed over to the defaulter.

107. Custody By The Defaulter :-

Notwithstanding anything contained in these rules the Tax Recovery Officer may entrust, subject to his right of supervision, the attached property to the defaulter on his execution a duly stamped bond in Form XXXVIII which may be so varied as the circumstances of each case may require.

108. Procedure In Cases Of Attachment Of Live-Stock :-

(1) Whenever livestock is kept at the place where it has been attached the defaulter may be at liberty to undertake the due feeding and tending of it under the supervision of the Tax Recovery Officer.

Provided that in the event of the defaulter failing to feed attached live-stock, the live-stock may be placed in the custody of any officer subordinate to Tax Recovery Officer or if there be any cattle

pound maintained by the Government or local authority near the office of the Tax Recovery Officer, any Officer subordinate to the Tax Recovery Officer may place in it such attached live-stock as can be properly kept therein which case the pound keeper shall be responsible for the livestock and shall receive the same rates for accommodation and maintenance thereof are payable in respect of impounded cattle of the same description.

Provided further that the Tax Recovery Officer may entrust the attached livestock to any such fit Person under his own supervision and may fix the remuneration to be allowed to such person after taking into consideration the local circumstances and the charges which such person may have so incurred for such maintenance and custody of such live-stock.

109. Expenses Of Custody And Maintenance :-

Expenses of maintenance and custody of movable property including the remuneration payable to the person concerned for custody of live-stock or custody of movable property shall be deemed to be costs of sale.

110. Delivery Of Movable Property, Debts And Shares :-

1. Where the property sold is movable property of which actual seizure has been made, shall be delivered to the purchaser.

2. (a) Where the property sold is movable property in the possession of some person other than the defaulter, the delivery thereof to the purchaser shall be made by giving notice to the person in possession prohibiting him from delivering possession of the property to any person except the purchaser and requiring him to deliver possession of the property to the purchaser within the time stipulated by the Tax Recovery Officer.

(b) Where such person in possession of the property fails without reasonable cause to deliver possession of the property to the purchaser within the time stipulated by the Tax Recovery Officer, or within such further time as may be allowed by him the Recovery Officer shall cause the property to be seized and delivered to the purchaser and the provisions or rules 32 and 35 of the Schedule

shall, as far as may be, apply to such seizure.

3. (a) Where the property sold is a debt not secured by a negotiable instrument, the delivery thereof to the purchaser shall be made by a written order of the Tax Recovery Officer prohibiting the creditor from receiving the debt or any interest thereon and the debtor from making payment thereof to any person except the purchaser and requiring the debtor to make payment thereof to the purchaser within, the time stipulated by the Tax Recovery Officer.

(b) Where the debtor fails to make such payment to the purchaser within the time stipulated by the Tax Recovery Officer or within such further time as may be allowed by him, the Tax Recovery Officer may take further proceedings or recover the amount due from the debtor as if the debtor were a defaulter in respect of whom the Sales Tax Officer has forwarded a certificate under sub-section (6) of section 13 for the recovery or arrears of tax equal to the amount of the debt.

(4). (a) Where the property sold is a share in a corporation the delivery thereof to the purchaser shall be made by a written order of the Tax Recovery Officer prohibiting the person in whose name the share may be standing from making any transfer of the share to any person except the purchaser, or receiving payment of any dividend or interest thereon and requiring him to deliver the share certificate or other document of title along with the instrument of transfer duly completed by him to the Tax Recovery Officer within the time stipulated by the Tax Recovery Officer and prohibiting the manager, secretary or other proper officer of the Corporation from permitting any such transfer or making any such payment to any person except the purchaser.

(b) Where the person in whose name the share may be standing fails to deliver the share certificate or other document of title to the Tax Recovery Officer within the time stipulated by him, or within such further time as may be allowed by him, the Tax Recovery Officer may take steps to obtain a duplicate of the share certificate or other document of title as if the share certificate or other document of title had been lost or destroyed.

111. Transfer Of Negotiable Instruments And Shared :-

1. Where the execution of a document or the endorsement of the party in whose name negotiable instrument or a share in a corporation is standing is required to transfer such negotiable instrument or share to a person who has purchased it under a sale under the Schedule the Tax Recovery Officer may execute such document or make such endorsement as may be the share certificate or other document of title as if the share effect as an execution or endorsement by the party.

2. Such execution or endorsement may be in the following manner, namely-

".....by.....Tax Recovery officer.....in the proceedings for the recovery of areas under the Sales Tax Act, 1947 against....."

3 . The Tax Recovery officer may cause the document to be executed on the proper stamp paper and to be registered if its registration is required by any law for the time being in force and the expenses of such execution and registration shall be borne by the purchaser.

4. Until the transfer of such negotiable instrument or share, the Tax Recovery Officer may be order, appoint some person to receive any interest or dividend due thereon and to sign a receipt or the same; and any receipt so signed shall be as valid and effectual for all purposes as if the same had been signed by the party himself.

112. Vesting Order In Case Of The Other Property :-

In the case of any movable property not herein before provided for the Tax Recovery Officer may make an order vesting such property in the purchaser or as the purchaser may direct and such property shall vest accordingly.

113. Delivery Of Immovable Property In Occupancy Of Defaulter :-

1. Where the immovable property sold is in the occupancy of the defaulter or of some persons on his behalf of some persons claiming under a title created by the defaulter subsequently to the

attachment of such property and a certificate in respect thereof has been granted under rule 64 of the Schedule, the Tax Recovery Officer shall, on the application of the purchaser, order delivery to be made by putting such purchaser or any person whom the purchaser may appoint to receive on his behalf in possession of the property, and if need be, by removing any person who refuses to vacate the same.

2. For the purposes of sub-rule (1), if the person in possession does not afford free access, the Tax Recovery Officer may, after giving reasonable warning and facility to any woman according to custom not appearing in public to withdraw, remove or open any lock or bolt or break open any lock or bolt or break open any door or do any other person whom the purchaser may appoint to receive delivery on his behalf, in possession.

114. Delivery Of Immovable Property In Occupancy Of Tenant :-

Where the immovable property sold is in the occupancy of tenant or other person entitled to occupy the same and a certificate in respect thereof has been granted under rule 64 of the Schedule, the Tax Recovery Officer shall on the application of the purchaser, order delivery to be made by affixing a copy of the certificate of sale in some conspicuous place on the property and proclaiming to the occupant by beat of drum or other customary mode, at some convenient place, that the interest of the defaulter has been transferred to the purchase.

115. Resistance Or Obstruction For Possession Of Immovable Property :-

1. Where the purchaser of immovable property sold in execution of a certificate is or obstructed by any person in obtaining possession of the property, he may make an application to the Tax Recovery Officer complaining of such resistance or obstruction within thirty days of the date of such resistance or obstruction.

2. The Tax Recovery Officer shall fix a day for investigation the matter and shall summon the party against whom the application is made to appear and answer the same.

116. Resistance Or Obstruction By Defaulter :-

Where the Tax Recovery Officer is satisfied that the resistance or obstruction was occasioned without any just cause by the defaulter or by some other person at his investigation, he shall direct that the applicant be put into possession of the property and where the applicant is still resisted or obstructed in obtaining possession the Tax Recovery Officer may also, at the instance of the applicant, take steps to put the applicant into possession of the property by removing the defaulter or any person acting at his instigation.

117. Resistance Or Obstruction By Bona Fide By Claimant :-

Where the Tax Recovery Officer is satisfied that the resistance or obstruction was occasioned by any person (other than the defaulter) claiming in good faith to be in possession of the property on his own account or an account of some person other than the defaulter, the Tax Recovery Officer shall make an order dismissing the application.

118. Dispossession By Purchaser :-

1. Where any person other than the defaulter is dispossessed of immovable property sold in execution of a certificate by the other purchaser thereof, he may make an application to the Tax Recovery Officer complaining of such dispossession within thirty days of such dispossession.

2. The Tax Recovery Officer shall fix a day for investigating the matter and shall summon the party against whom the application is made to appear and answer the same.

119. Bonafide Claimant To Be Restored To Possession :-

Where the Tax Recovery Officer is satisfied that the applicant was in possession of the property on his own account or on account of some person other than the defaulter, he shall direct that the applicant be put into possession of the property.

120. Rules Not Applicable To Transfer Pendente Lite :-

Nothing in rules 117 119 shall apply to resistance or obstruction by a person to whom the defaulter has transferred the property after the service of a notice under rule 2 of the schedule or to the dispossession of any such person.

121. Right To File Suit :-

Any party not being a defaulter against whom an order is made under Rule 116 or Rule 119 may institute a suit in Civil Court to establish the right which he claims to the present possession of the property.

122. Arrest And Detention :-

A person against whom an order of detention has been passed under Part IV of the Schedule may be detained in the Civil prison of the district in which the office of the Tax Recovery Officer ordering the detention is situate, or where such Civil prison does not afford suitable accommodation in any other place which the State Government may appoint for the detention of persons ordered by the Civil Courts of such district to be detained.

123. Subsistence Allowance :-

1. The subsistence allowance shall be supplied by the Sales Tax Officer by monthly installments in advance before the first day a each month.

2. The first payment shall be to the Tax Recovery Officer for such portion of the current month as remains unexpired before the defaulter is committed to the Civil prison and the subsequent payment (if any) shall be made to the Officer in charge of the Civil prison.

124. Process Fees :-

The following scale of fees shall be charged for service on execution of process under Schedule and these Rules-

	Where the amount mentioned in the certificate Exceeds Rs.1,000 is Rs. 1,000 or less		
	1	2	3
(a)	Notice of demand	Rs. P. 1.50	Rs. P 1.00
(b)	Warrant of attachment	3.00	2.00
(c)	Warrant of arrest	3.00	2.00
(d)	Warrant of delivery	3.00	2.00
(e)	Proclamation of sale	5.00	3.00
(f)	Any process not provided for herein above	1.50	1.00

125. Levy And Scale Of Poundage Fees :-

(1) In respect of any sale made in execution of a certificate there shall be levied a fee by way of poundage on the gross amount realised by the sale calculated at the rate of 2 percent, on such gross amount up to Rs.1,000 and at the rate of 1 percent, on the excess of such gross amount over Rs.1,000.

(2) The poundage fee leviable under sub-rule (1) shall be calculated on multiples of Rs.25, that is say, a poundage fee of 50 paise shall be levied for every Rs.25, or part of Rs.25, realised by the sale up to Rs.1,000 and in the case of proceeding or the sale exceeding Rs.1,000 an additional fee of 25 paise for every Rs25 or part thereof on the excess of such amount over Rs.1,000 shall be levied.

(3) Where the sale is in more than one lot, the poundage fee shall be calculated with reference to the sale-proceeds of each separately.

(4) The poundage fee under sub-rule (1) shall be paid by the purchaser of the property as soon as the completed

(5) When a sale of immovable property is set aside under sub-rule (2) of Rule 62 of the principal rules, the Tax Recovery Officer may make an order for payment, by the defaulter or by the person at

whose instance the sale is set aside of the poundage fees paid by the purchaser of the property under sub-rule (1) read with sub-rule(4).