

Rajasthan Value Added Tax (Second Amendment) Rules, 2008

[17 April 2008]

CONTENTS

1. Short title and commencement
2. Amendment of rule 53
3. Amendment of rule 54
4. Amendment of rule 56
5. Amendment of rule 57

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In pursuance of clause (3) of Article 348 of the Constitution of India, the Governor is pleased to authorize the publication of this Notification No. F.12(15)FD/Tax/2008-05 dated 17.4.2008, in English language, in the Rajasthan Gazette of Finance (Tax) Department. By Order of the Governor, Ashwini Bhagat Spl. Secretary to Government Notification Jaipur, Dated: 17.04.2008 In exercise of the powers conferred by section 99 of the Rajasthan Value Added Tax Act, 2003 (Act No. 4 of 2003), the State Government hereby makes the following rules further to amend the Rajasthan Value Added Tax Rules, 2006 namely:-

1. Short title and commencement :-

(1) These rules may be called the Rajasthan Value Added Tax (Second Amendment) Rules, 2008. (2) They shall come into force from May 1, 2008.

2. Amendment of rule 53 :-

The existing rule 53 of the of the Rajasthan Value Added Tax Rules, 2006, (hereinafter referred to as the said rules), shall be substituted by the following, namely:- "53. Declaration required to be carried with the goods in movement for import within the State:- (1) A registered dealer, (i) who imports from any place out side the State, any taxable goods, as may be notified by the State Government, for sale; or (ii) who receives any taxable goods as

may be notified by the State Government, consigned to him from outside the State or by way of branch transfer/depot transfer/stock transfer; or (iii) who intends to bring, import or otherwise receives any taxable goods except those as may be notified by the State Government, from outside the State for use, consumption, or disposal otherwise than by way of sale; shall furnish or cause to be furnished a declaration in Form VAT-47, completely filled in all respect in ink and ensure that the value, date and month of use of such Form shall be punched at the specified place provided for in the Form. The counterfoil of the declaration Form shall be retained by such dealer and its portions marked as Original and Duplicate shall be carried with the goods in movement. However, where goods covered under single invoice are being carried in more than one vehicle, separate Form VAT-47 shall be accompanied with each of such vehicles along with photo copy of the original invoice and challan of the goods carried in the vehicle. (2) The owner or a person duly authorised by such owner or the driver or the person Incharge of a vehicle or carrier or of goods, shall carry with him the documents specified in clause (b) of sub-section (2) of section 76 including declaration form prescribed in sub-rule (1), in respect of the goods in movement and shall produce the same suo motu before the assessing authority or the officer authorized under sub-section (4) of section 76 at the time of inspection who shall retain the original portion of the declaration form and return the duplicate portion after signature and marking seal in token of having verified it, to the person producing it and such officer shall send the retained original portion of the declaration form to the assessing authority or the authorized officer. (3) If the declaration Form referred to in sub-rule (1) in respect of the goods in movement has already been submitted to the assessing authority or the officer authorized under sub-section (4) of section 76, the owner or a person duly authorised by such owner or the driver or the person Incharge of the vehicle or carrier or of the goods shall, on inspection by an officer authorized under sub-section (4) of section 76, at any subsequent place, produce the countersigned and sealed copy of the aforesaid declaration along with other documents specified in clause (b) of sub-section (2) of section 76. Explanation:- For the purpose of this rule, taxable goods means all goods, except the goods which are exempted from tax in accordance with the provisions of the Act. (4) (a) If the goods are brought into the State from any place outside the State through railways or airways or by any other mode, all documents specified

in clause (b) of sub-section (2) of section 76 including the declaration form prescribed under sub-rule (1) shall accompany the goods in movement. (b) While booking goods for any destination in Rajasthan from a place outside the State, railways or airways authorities shall ensure that the goods in movement shall be accompanied by documents including declaration Form prescribed under the Act and the rules. (c) The assessing authority or the officer authorized under sub-section (4) of section 76 shall have the powers to inspect and check the goods in movement and the documents thereof, being transported through railways or airways. (d) The assessing authority or the officer authorized under sub-section (4) of section 76 may seize the goods suspected of tax evasion by providing copy of the seizure memo to the concerned railways or airways officials and may also remove the goods so seized from the railway or airport premises or from such other places where such goods are kept. (e) The assessing authority or the officer authorized under sub-section (4) of section 76, shall have power to collect from railways or the airways details of consignments/consignor/consignee from their records. Railway/airways officials shall keep record of consignee and the person taking delivery of the goods including the proof of identification and complete address thereof, at the time of taking delivery in the Delivery Book. While exercising powers under this clause the provisions contained in sub-rule (2) of rule 53 shall be applicable mutatis mutandis. (f) Railways/Airways shall be treated as a transporting agency for the purposes of provisions of inspection of goods while in movement contained in the Act, and shall be subjected to all the provisions contained in the Act and the Rules including penal action against the defaulting railway/airways officials. (5) The registered dealer shall submit a statement of import of goods in Form VAT-48 along with the duplicate portions of Form VAT-47 and in case the original portion of the Form VAT-47 has not been retained by any officer mentioned in sub-rule (2), it shall also be furnished along with the duplicate portion of Form VAT-47 to the assessing authority or to the authorized officer along with the return. (6) Where a registered dealer fails to furnish statement as mentioned in sub-rule (5) the assessing authority or the authorized officer, after affording a reasonable opportunity of being heard, may impose penalty under section 64. (7) The provisions of rule 21 shall, in so far as may be, mutatis mutandis, apply to the declaration Form VAT-47."

3. Amendment of rule 54 :-

The existing rule 54 of the said rules shall be substituted by the following, namely:- "54. Declaration required to be carried with the goods in movement for export out of Rajasthan or in the course of inter-State trade or commerce:- (1) A registered dealer who dispatches any taxable goods, except those as may be notified by the State Government, to a place out side of the State,- (i) for sale outside the State or by way of branch transfers/depot transfers/stock transfers; or (ii) in the course of inter-State trade or commerce, (iii) in the course of export as defined in sub-section (3) of section 5 of the Central Sales Tax Act, 1956; shall furnish or cause to be furnished declaration in Form VAT-49 completely filled in all respect in ink and ensure that the value, date and month of use of such Form shall be punched at the specified place provided for in the Form. Such dealer shall retain the counterfoil of the Form VAT-49 with him and the portions marked Original and Duplicate shall be carried with the goods in movement. (2) The owner or a person duly authorised by such owner or the driver or the person Incharge of a vehicle or carrier or of goods, shall carry with him the documents specified in clause (b) of sub-section (2) of section 76 including declaration form prescribed in sub-rule (1), in respect of the goods in movement and shall produce the same suo motu before the assessing authority or the officer authorized under sub-section (4) of section 76 at the time of inspection who shall retain the original portion of the declaration form and return the duplicate portion after signature and marking seal in token of having verified it, to the person producing it and such officer shall send the retained original portion of the declaration form to the assessing authority or the authorized officer. (3) If the declaration Form referred to in sub-rule (1) in respect of the goods in movement has already been submitted to the assessing authority or the officer authorized under sub-section (4) of section 76, the owner or a person duly authorised by such owner or the driver or the person Incharge of the vehicle or carrier or of the goods shall, on inspection by the officer authorized under sub-section (4) of section 76, at any subsequent place, produce the countersigned and sealed copy of the aforesaid declaration Form along with other documents specified in clause (b) of sub-section (2) of section 76. Explanation:- For the purpose of this rule, taxable goods means all goods, except the goods which are exempted from tax in accordance with the provisions of the Act. (4) (a) If the goods are despatched to any place outside the State through railways or

airways or by any other mode, all documents specified in clause (b) of sub-section (2) of section 76 including the declaration form prescribed under sub-rule (1) shall accompany the goods in movement. (b) While booking the goods from any place in the State to a place outside the State, railways or airways authorities shall ensure that all the documents including declaration Form prescribed under the Act and the rules, shall accompany with the goods in movement. (c) The assessing authority or the officer authorized under sub-section (4) of; section 76 shall have the powers to inspect and check the goods in movement and the documents thereof, being transported through railways or airways. (d) The assessing authority or the officer authorized under subsection (4) of section 76 may seize the goods suspected of tax evasion by providing copy of the seizure memo to the concerned railways or airways officials and may also remove the goods so seized from the railway or airport premises or from such other places where such goods are kept. (e) The assessing authority or the officer authorized under sub-section (4) of section 76, shall have power to collect from railways or the airways details of consignments/consignor/consignee from their records; and railway/airways officials shall keep record of consignor and the person booking the goods including the proof of identification and complete address, at the time of booking. While exercising powers under this clause the provisions contained in sub-rule (2) of rule 54 shall be applicable mutatis mutandis. (f) Railways/Airways shall be treated as a transporting agency for the purposes of provisions of inspection of goods while in movement contained in the Act, and shall be subjected to all the provisions contained in the Act and the Rules including penal action against the defaulting railway/airways officials. (5) The dealer shall submit a statement of the used Form VAT-49 in Form VAT- 50 along with the duplicate portion of Form VAT-49 to his assessing authority or to the authorized officer along with return. However, in case such duplicate portion of Form VAT-49 is not received back by the dealer, an account of use of such forms duly supported by an affidavit of the consignor shall be submitted to his assessing authority or to the authorized officer. (6) Where a dealer fails to furnish the statement as mentioned in sub-rule (5) above, the assessing authority or the authorized officer after affording a reasonable opportunity of being heard, may impose penalty under section 64. (7) The provisions of rule 21 shall, in so far as may be, mutatis mutandis, apply to the declaration Form VAT-49."

4. Amendment of rule 56 :-

The existing rule 56 of the said rules shall be substituted by the following, namely:- "56. Delivery of documents and seizure of goods:- (1) The owner or a person duly authorised by such owner or the driver or the person Incharge of a vehicle or carrier or of the goods shall deliver the documents and declaration form(s) as specified in clause (b) of sub-section (2) of section 76, suo motu to the assessing authority or the officer authorized under subsection (4) of section 76, at the time of inspection. (2) Where any direction is issued under clause (a) of sub-section (5) of section 76, the assessing authority or the officer authorized under sub-section (4) of section 76, shall complete the verification or enquiry within seven days from the date of issue of the direction and will take appropriate action, if any, as warranted by the circumstances of the case. (3) Where the owner or a person duly authorized by such owner or the driver or the person in charge of the vehicle or carrier or of goods, as the case may be, does not produce or possess any document and declaration Form as specified in clause (b) of sub-section (2) of section 76, in respect of the goods in movement or the documents and the declaration Forms produced appears to be false or forged, the assessing authority or the officer authorized under sub-section (4) of section 76, may seize the goods and shall issue a receipt of the goods so seized in Form VAT-52. (4) Where the goods are seized, assessing authority or the officer authorized under sub-section (4) of section 76, shall serve a notice on the owner or a person duly authorized by such owner or the driver or the person in charge of the vehicle or carrier or of the goods, as the case may be, requiring him to show cause, within seven days from the date of service of the notice, as to why the documents and declaration, as referred to in sub-rule (1) were not produced or why the correct particulars were not furnished, at the time of inspection. If the said assessing authority or the officer authorized under sub-section (4) of section 76 is satisfied with the reply, or the penalty imposed under sub-section (6) of section 76 has been paid, or a security as demanded in lieu of such amount of penalty has been furnished, he shall release the goods and deliver the same to the owner of the goods or to anybody else duly authorized by such owner, after obtaining an acknowledgement to that effect. (5) Where the goods are in transit through railways or airways or by any other mode, the provisions of this rule shall be applicable mutatis mutandis. (6) Where the goods seized are subject to speedy and natural decay, and in the case of other goods where no

compliance of the requirement of sub-rule (4) is made within one month from the date of service of the notice, assessing authority or the officer authorized under sub-section (4) of section 76, with the written approval of the Deputy Commissioner (Administration) having jurisdiction, may sell such goods in open auction. (7) The sale proceeds received under sub-rule (6) shall be deposited in the Government account. (8) Any person entitled to such sale proceeds shall, on an application to the Deputy Commissioner (Administration) referred to in sub-rule (6), be paid the sale proceeds, referred to in sub-rule (7), after deducting there from the amount of tax and/or penalty due in respect of the goods seized and auctioned, the amount of interest, if any, the expenses of the sale and other incidental charges."

5. Amendment of rule 57 :-

The existing rule 57 of the said rules shall be substituted by the following, namely:- "57. Detention of a vehicle or a carrier and imposition of penalty:- (1) Where the assessing authority or the officer authorized under sub-section (4) of section 76, detains a vehicle or a carrier under sub-section (9) of section 76, such officer shall inform this fact forthwith to the Deputy Commissioner (Administration) having jurisdiction. (2) The assessing authority or the officer authorized under sub-section (4) of section 76 shall, immediately after conducting the enquiry under clause (a) of sub-section (5) of section 76, shall issue a show cause notice of a period not less than seven days, to the owner or a person duly authorized by such owner or the driver or the person in-charge of the vehicle or the carrier, as the case may be, where such vehicle or carrier is detained under sub-section (9) of section 76. The assessing authority or the officer authorized under sub-section (4) of section 76, is not satisfied with the reply of, the owner or a person duly authorized by such owner or the driver or the person in-charge of the vehicle or the carrier as the case may be, he shall impose the penalty as provided in sub-section (9) of section 76, and shall release the vehicle or the carrier to the owner or a person duly authorized by such owner or the driver or the person in-charge of the vehicle or the carrier on payment of the penalty imposed or on furnishing of the security as directed by him. (3) Where, in response to a notice issued under sub-rule (2), the officer referred to in sub-rule (1) is satisfied that no offence has been committed under sub-section (9) of section 76, he shall release the vehicle or the carrier to the owner or a person duly authorized by such owner

or the driver or the person in-charge of the vehicle or the carrier, at once." No. F 12(15)FD/Tax/2008-05 By Order of the Governor, Ashwini Bhagat Special Secretary to Government Copy forwarded to the following for information and necessary action: 1. Superintendent, Government Central Press, Jaipur for publication of this notification in part 4(c) of extra ordinary gazette. 10 copies of this notification may sent to this department and 20 copies along with bill may be sent to Commissioner, Commercial Taxes Department Raj., Jaipur. 2. principal Secretary to Honble Chief Minister (Finance Minister). 3. Commissioner, Commercial Taxes Department, Rajasthan, Jaipur. 4. PS to Principal Secretary, Finance/Law. 5. PS to Secretary, Finance (Revenue). 6. PS to Director, Public Relations, Jaipur. 7. ACP, Finance Department, Secretariat, Jaipur. 8. Guard File. Spl. Secretary to Government