

Rajasthan Value Added Tax Rules, 2006

CONTENTS

CHAPTER 1 :- PRELIMINARY

1. Short title and commencement
2. Definitions

CHAPTER 2 :-ASSESSINGAUTHORITIES, AUDITORS, APPELLATE AUTHORITIES, THEIR APPOINTMENT AND JURISDICTION

3. Assessing Authorities and their jurisdiction
4. Distribution of business amongst various assessing authorities in a Circle
5. Jurisdiction of Auditors
6. Area of operation of Taxpayers Service Office
7. Jurisdiction of Appellate Authorities
8. Jurisdiction and distribution of business amongst other officers
9. The Tax Board and its members
10. Headquarter of the Tax Board and its functions

CHAPTER 3 :- POINT AT WHICH TAX IS PAYABLE

11. Point of tax

CHAPTER 4 :- REGISTRATION

12. Application for Registration
13. Declaration of Business Manager
14. Issue of a registration certificate
15. Issue of duplicate registration certificate
16. Amendment in registration certificate
17. Amendment of registration certificate in special cases

CHAPTER 5 :-INPUTTAX CREDIT, FILING OF RETURNS AND DECLARATION FORMS

18. Computation of input tax credit
19. Returns
20. Requisition of return from an unregistered dealer
21. Declaration forms

CHAPTER 6 :-ASSESSMENTS,DEMANDS AND INCIDENTAL MATTERS

22. Determination of taxable turnover

- 23. Guidelines for determination of market price
- 24. Notice for payment of demand
- 25. Application for Stay of recovery of demand
- 26. Grant of installments
- 27. Refund
- 28. Refund in case of export
- 29. Refund to a person not registered under the Act

CHAPTER 7 :- APPEAL AND REVISION

- 30. Appeal to the Appellate Authority
- 31. Appeal to the Tax Board
- 32. Revision to the High Court
- 33. Dismissal in default
- 34. Officer not to hear appeal against order passed by him in another capacity
- 35. Giving effect to an appellate or a revisional order

CHAPTER 8 :- ACCOUNTS AND RECORDS

- 36. Accounts to be maintained by a dealer
- 37. Accounts and documents relating to principal and agent
- 38. Issuance of an Invoice

CHAPTER 9 :- MODE OF PAYMENT OF TAX AND DEMAND

- 39. General mode of payment of tax, demand or other sum
- 40. Information of a works contract and payment of tax relating thereto
- 41. Payment of tax by a casual trader
- 42. Payment of tax by a person, other than a casual trader or a registered dealer, who carries on business temporarily for a period not exceeding one hundred twenty days in a year
- 43. Payment of tax by a person whose registration is cancelled under the Act
- 44. Procedure for collection of tax on contract basis
- 45. Verification and adjustment of deposits claimed

CHAPTER 10 :- PROCEDURE FOR CERTAIN ACTIONS

- 47. Audit of the dealer
- 48. Granting opportunity of hearing and recording of reasons
- 49. Form of summons or notice
- 50. Mode of service
- 51. Procedure for search and seizure under section 75

CHAPTER 11 :- PROCEDURE FOR CHECKING OF GOODS IN TRANSIT

- 52. Officers empowered under section 76
- 53. Declaration required to be carried with the goods in movement for import within the State

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

55. Transit of goods by road through State and issue of Transit Pass

56. Delivery of documents and seizure of goods

57. Detention of a vehicle or a carrier and imposition of penalty

CHAPTER 12 :- POWERS OF OFFICERS

58. Power to prescribe registers and forms

59. Power to issue instructions

60. Power to take help from the subordinate officers/officials

CHAPTER 13 :-PERSONSENTITLED TO APPEAR BEFORE THE TAX AUTHORITIES

61. Persons entitled to appear before the Tax Authorities

62. Qualifications of Tax Practitioners

63. Enrolment of Tax Practitioners

64. Action against persons entitled to appear before the Tax Authority

65. Procedure of enquiry against the Tax Practitioner

66. Powers of the Commissioner and the Enquiry Officer

CHAPTER 14 :- SETTLEMENT OF CASES

67. Constitution of the Tax Settlement Board

68. Application for Settlement

69. Settlement of dispute and issue of Certificate of Settlement

70. Payment of fees and other amount

CHAPTER 15 :- MISCELLANEOUS

71. Application for rectification of mistake

72. Application for Reopening of ex-parte assessment

73. Application for determination of disputed question

74. Procedure for composition of offences

75. Obtaining of certificate and filing of statements by a clearing or a forwarding agent

76. Procedure for write-off of demand

77. Furnishing of security

78. Disclosure of information relating to a dealer

79. Issue of tax clearance certificate

80. Court fees

81. Repeal and Savings

Rajasthan Value Added Tax Rules, 2006

G.S.R.103.-In exercise of the powers conferred by section 99 of the Rajasthan Value Added Tax Act, 2003 (Rajasthan Act No. 4 of 2003), the State Government hereby makes the following rules,

namely:-

CHAPTER 1
PRELIMINARY

1. Short title and commencement :-

(1) These rules may be called the Rajasthan Value Added Tax Rules, 2006. (2) They shall come into force with effect from 01.4.2006.

2. Definitions :-

(1) In these rules, unless the subject or context otherwise requires,- (a) "Act" means the Rajasthan Value Added Tax Act, 2003 (Rajasthan Act No. 4 of 2003); (b) "Authorized Officer" means an officer not below the rank of Junior Commercial Taxes Officer authorized by the Commissioner for specific purposes; (c) "Chairperson" means the Chairperson of the Tax Board appointed by the State Government and includes a member holding charge of the post of Chairperson; (d) "Document" includes data, record or data generated, image or sound stored, received or sent in an electronic form or micro film or computer generated micro fiche; (e) "Form" means a Form appended to these rules; (f) "Member" means a Member of the Tax Board appointed by the State Government and includes Chairperson of the Tax Board; (g) "Notice or show cause notice" means a notice issued under the Act or the rules, in the form prescribed under these rules. Where, such notice is issued electronically, bearing a serial number generated by the computer, the signature of issuing authority shall not be required; (h) "Receipt" means an acknowledgement of receiving the documents. Where such receipt is issued bearing a serial number generated electronically, the signature of person receiving the document shall not be required; (i) "Registrar" means the Registrar of the Tax Board appointed by the State Government and includes any officer who performs such functions and duties of the Registrar as may be assigned to him by the Chairperson; (j) "Representative" or "Authorized Representative" means, - (i) a person authorized in writing by a dealer or a person to appear on his behalf before any officer appointed or authority constituted under the Act; or (ii) a person authorized in particular or in general by the Commissioner or any other authority or officer to appear on their behalf, before any officer appointed or authority constituted under the Act or before any court; (k) "Section" means a section of the Act; (l) "Taxpayers Service Office" means an office, if any, established as such by the Commissioner, where a dealer or a person can submit

his application, return or any other document(s) and shall also discharge such other functions as may be assigned to it by Commissioner; (m) "Treasury" means a Government Treasury in the State of Rajasthan and includes a sub-treasury. (2) Words and expressions defined in the Act and not defined in these rules shall have the meaning respectively assigned to them under the Act.

CHAPTER 2

ASSESSING AUTHORITIES, AUDITORS, APPELLATE AUTHORITIES, THEIR APPOINTMENT AND JURISDICTION

3. Assessing Authorities and their jurisdiction :-

(1) The Assistant Commissioner or the Commercial Taxes Officer shall be the assessing authority for the part or whole of the State as may be determined by the Commissioner and the area so determined shall be called his "Circle". (2) The Assistant Commercial Taxes Officer, subject to the pecuniary jurisdiction assigned to him by the Commissioner, shall be the assessing authority for the part or whole area of the Circle, as may be determined by the Commissioner and the area so determined shall be called his "Ward". (3) The jurisdiction of an assessing authority shall be determined with reference to the "principal place of business" of the dealer as declared by him under sub-section (1) of section 13. (4) In case of a non-resident dealer, the officer authorized by the Commissioner shall be his assessing authority. (5) The officer posted in the Anti-Evasion circle or ward or in the Flying Squad of the Commercial Taxes Department shall exercise jurisdiction over such dealers, in such areas and with respect to such matters, as may be determined by the Commissioner. (6) Where any officer or assessing authority has any doubt or dispute regarding jurisdiction over any dealer or person, the Commissioner shall decide which assessing authority or officer shall have jurisdiction over such dealer or person. (7) Where a dealer or person has any dispute regarding jurisdiction of an assessing authority or officer, the same shall be raised in writing before the Commissioner, within thirty days from the date of receipt of any summons or notice issued by such authority or officer, and the decision of the Commissioner shall be final.

4. Distribution of business amongst various assessing authorities in a Circle :-

(1) Where there are more than one assessing authorities in a Circle, the distribution of business amongst them shall be such as may be determined by the Commissioner. (2) Notwithstanding anything

contained in sub-rule (1), the assessment of a dealer falling within the pecuniary jurisdiction of an Assistant Commercial Taxes Officer in a ward shall be made by such Assistant Commercial Taxes Officer. However, if such assessment is made by the Assistant Commissioner or the Commercial Taxes Officer of that Circle, it shall not be invalid.

5. Jurisdiction of Auditors :-

The Assistant Commissioner or the Commercial Taxes Officer or the Assistant Commercial Taxes Officer shall be the auditor for such area or for such dealer or class of dealers as may be determined by the Commissioner.

6. Area of operation of Taxpayers Service Office :-

The area of operation of various Taxpayers Service Offices shall be such as may be determined by the Commissioner.

7. Jurisdiction of Appellate Authorities :-

The jurisdiction of the appellate authorities shall be such as may be determined by the Commissioner.

8. Jurisdiction and distribution of business amongst other officers :-

The jurisdiction and distribution of business amongst the officers of the Commercial Taxes Department not below the rank of Deputy Commissioners other than Appellate Authorities, appointed by the State Government for carrying out the purposes of the Act, shall be such as may be determined by the Commissioner, and the area under the jurisdiction of a Deputy Commissioner (Administration) or a Deputy Commissioner (Administration) Anti-evasion shall be called his "Administrative Zone, or "Anti-Evasion Zone" as the case may be.

9. The Tax Board and its members :-

(1) The Tax Board shall consist of a Chairperson and such members, as may be determined by the State Government, for the proper discharge of the functions and duties conferred upon it, under the Act or any other Act. (2) The Chairperson shall be a member of the Indian Administrative Service, Rajasthan Cadre, not below the rank of Principal Secretary to the Government of Rajasthan, and shall be appointed by the State Government. (3) One or more members of the Tax Board shall be appointed out of the members of the Rajasthan Higher Judicial Service, being the Senior District and Sessions Judge or shall be an eminent Advocate

having adequate knowledge of State tax laws and fit for appointment as a Judge of the High Court. (4) One or more members of the Tax Board shall be appointed from amongst the members of the Super-time / Selection scale of the Rajasthan Commercial Taxes Service. (5) Other members of the Tax Board shall be appointed out of the members of the Supertime / Selection scale of the Indian Administrative Service / the Rajasthan Administrative Service / the Rajasthan Commercial Taxes Service. (6) Subject to the age of superannuation, the Chairperson and members of the Tax Board shall ordinarily be appointed for a period of three years. The advocate member shall not continue in office as such member after attaining the age of 60 years. (7)(a) The members of the Tax Board shall draw monthly salary and allowance as admissible to an officer of the Super-time scale of the Indian Administrative Service. (b) The pension of members, other than the advocate member, of the Tax Board on retirement shall be determined on the basis of the last pay and allowances drawn on the post of member. (8) Subject to the provisions of sub-rule (6) and (7), the terms and conditions of the service of the members appointed from the Indian Administrative Service, the Rajasthan Higher Judicial Service, the Rajasthan Administrative Service and the Rajasthan Commercial Taxes Service, shall be regulated by the respective rules applicable to the members of that service. (9) The member referred to in sub-rule (5), when belonging to Indian Administrative Service shall be appointed by the State Government, and if such member is appointed from the Rajasthan Administrative Service / Rajasthan Commercial Taxes Service, the procedure of appointment shall be as per sub-rule (11). (10) The member of the Tax Board referred to in sub-rule (3) shall be appointed by the Government on the recommendation of a Committee consisting of the following:- (i) the Chief Justice of the High Court of Judicature for Rajasthan. (Chairperson) (ii) The Chairperson of the Rajasthan Public Service Commission. (Member) (iii) The Chief Secretary to the Government of Rajasthan. (Member) (iv) The Chairperson of the Tax Board. (Member) (v) The Additional Chief Secretary/ Principal Secretary/ Secretary to the Government, Finance Department, Rajasthan. (Member- Secretary) (11) Subject to the provisions of sub-rule (9), the member of the Tax Board referred to in sub-rule (4) and (5) shall be appointed by the Government on the recommendation of a committee consisting of the following:- (i) The Chief Secretary to the Government of Rajasthan. (Chairperson) (ii) The Chairperson of the Tax Board.

(Member) (iii) The Principal Secretary/ The Secretary to the Government, Department of Personnel, Rajasthan (Member) (iv) The Additional Chief Secretary/ The Principal Secretary/Secretary to the Government, Finance Department, Rajasthan. (Member-Secretary) (12) Subject to the upper age limit provided in sub-rule (6), a subsequent extension in the period of the appointment of the Chairperson and the members of the Tax Board, may be granted by the State Government.

10. Headquarter of the Tax Board and its functions :-

(1) The headquarters of the Tax Board shall be at Ajmer with a bench at Jaipur. However, the Tax Board shall hold its sitting at such other places as may be considered fit by the Chairperson. (2) The functions of the Tax Board under the Act and the rules may be discharged by any of the members sitting in single Bench, or in a Bench of two or more members as may be constituted by the Chairperson. (3) The Chairperson shall be competent to transfer a pending appeal from one Bench to another Bench. (4) There shall be a Registrar of the Tax Board who shall exercise such powers and discharge such functions, as may be assigned to him by the Chairperson. (5) The Tax Board may frame the regulations for regulating its smooth functioning with prior approval of Government.

CHAPTER 3

POINT AT WHICH TAX IS PAYABLE

11. Point of tax :-

(1) The first point in the series of sales shall mean the first sale by a registered dealer in the State or such point in the series of sales as may be notified by the State Government. (2) The last point in the series of sales shall be the sale in such series by a registered dealer to a consumer or to an unregistered dealer or to a registered dealer for purposes other than resale within the State or to a registered dealer who has opted for payment of tax under sub-section (2) of section 3 or section 5 of the Act. (3) The multiple point in the series of sales shall mean the sale in such series in the State by every registered dealer. (4) The tax leviable under section 4 of the Act shall be at multiple points in the series of sales, unless otherwise specifically directed by the State Government by a notification, (5) Notwithstanding any thing contained in sub-rule (1) to (4), different points in the series of sales for registered dealer or class of registered dealers, may be notified by the State Government.

12. Application for Registration :-

(1) An application for grant of registration certificate under the Act shall be submitted by a dealer, in duplicate, in Form VAT-01 completed in all respect along with the enclosures, to the Tax payer Service Office of the area or to the office of the authority competent to grant registration under sub- section (1) of section 13. (2) Save as provided in sub-rule (1) of rule 17, application for registration shall be submitted:- (i) within thirty days from the day on which he becomes liable under section 3 of the Act or within thirty days from the date of commencement of these rules, whichever is later; or (ii) within thirty days from the day on which a n order or intimation for the execution of a works contract is received by a works contractor and his turnover of the goods involved in the execution of such contract is likely to exceed the limits laid down in section 3 of the Act. (3) The application for registration shall accompany,- (i) declaration of business manager in Form VAT 02; (ii) copy of partnership deed, if any, memorandum and articles of association of a company, deed of trust, registration and memorandum of association of society, certified by the applicant; (iii) copy of resolution passed by Board of Directors, in case of a company and of governing body, in case of other entities, for authorisation of a person to file the application for registration certified by the applicant; (iv) security required to be furnished as per section 15 of the Act in such form as prescribed in rule 77. (v) signed photo duly attested by a gazetted officer or notary public of:- a) proprietor, in case of Proprietorship concern; b) every Partner, in case of Partnership firm; c) managing Director / Director or authorized signatory, in case of a Company; d) karta, in case of Hindu Undivided Family; or e) authorized Signatory, in all other cases. (vi) copy of voter identification card or passport or Permanent Account Number or driving license. (vii) copy of rent deed or rent receipt or electricity bill or telephone bill or water bill or own property documents, in support of address proof.

13. Declaration of Business Manager :-

(1) Every dealer shall declare the name of his Business Manager(s) in Form VAT-02. In case of a dealer registered under the repealed Act, he shall submit such declaration within a period of sixty days of publication of these rules to the assessing authority and / or the authorized officer. The Commissioner may further extend this

period for a maximum period of sixty days. (2) Such declaration shall be signed by: - (a) Proprietor, in case of Proprietorship concern (b) Managing Partner, in case of Partnership firm and where there is no Managing Partner, by any Partner (c) Managing Director / Director or authorized signatory, in case of a Company (d) Karta, in case of Hindu Undivided Family; or (e) Authorized Signatory, in all other cases. (3) In case of any change of Business Manager(s), the dealer shall inform his assessing authority and / or the authorized officer, within fifteen days from the date of such change and shall submit duly filled in Form VAT-02. (4) The Business Manager(s) so declared shall be deemed to be authorized to receive notice and other documents under the Act, and all acts done by the Business Manager(s) in the course of business shall be deemed to have been done by the dealer and the dealer shall be responsible for all act(s) done by his Business Manager(s) in the course of business.

14. Issue of a registration certificate :-

(1) (a) The authority competent to grant registration or the authorized officer shall, having satisfied that the application for registration is complete in all respect and is accompanied with the documents prescribed in sub-rule (3) of rule 12, issue the registration certificate in Form VAT-03 within twenty four hours of receipt of such application. (b) In case where a registration certificate issued under clause (a), the authority competent to grant registration or the assessing authority shall, within forty-five days of such issuance, conduct an enquiry to verify the facts and statements made in the application for registration. (2) The registration certificate shall be kept at the principal place of business and it shall not be transferable. (3) Where a dealer has more than one place of business, not being merely a godown or warehouse, the registration certificate shall be issued for the principal place of business as declared by the dealer in the application for registration and for each such other place of business, a certified copy of registration certificate to be known as the Branch Certificate of registration shall be issued. (4)(a) The authority competent to grant registration or the authorized officer, while issuing the Branch Certificate of registration, shall mention in the original certificate of registration, full address of such other place(s) of business along with the name and style in which such business is carried on. (b) In case, where, such other place(s) of business is / are outside his jurisdiction, he shall send a copy of the

Branch Certificate of registration within seven days from the date of issue of such Certificate, to the Deputy Commissioner (Administration) of the concerned Zone, who after due verification of facts, shall inform back to the authority competent to grant registration or the authorized officer within thirty days of such communication. (3) The Branch Certificate of registration shall be valid so long as the original certificate of registration is valid, unless revoked earlier.

15. Issue of duplicate registration certificate :-

(1) Where the certificate of registration issued to a dealer is lost or misplaced or accidentally destroyed, he shall apply for issuance of a duplicate certificate of registration to the authority competent to grant registration or the authorized officer in Form VAT-04, along with proof of payment of a fee of rupees one hundred. (2) The authority competent to grant registration or the authorized officer shall issue him a duplicate certificate of registration in Form VAT-03.

16. Amendment in registration certificate :-

(1) The authority competent to grant registration or the authorized officer, on receipt of an application in Form VAT-05 filed within the time provided in sub-section (1) of section 16 by the dealer for amendment in certificate of registration, shall after due enquiry, amend the certificate of registration within thirty days of receipt of such application and where such application is not disposed of within the said period, the same shall be deemed to have been accepted. (2) Where the dealer wishes to open branch(es), he shall apply in Form VAT-06 for issue of a branch certificate of registration to the authority competent to grant registration or the authorized officer. The authority competent to grant registration or the authorized officer shall issue him an amended certificate of registration in Form VAT-03 in the manner as prescribed in rule 14.

17. Amendment of registration certificate in special cases :-

(1) The registration certificate issued to a dealer under the Rajasthan Sales Tax Act, 1994 (Act No. 22 of 1995), shall be deemed to have been issued under the Act. (2) Where a registered dealer opts for payment of tax in accordance with the provisions of sub-section (2) of section 3 of the Act, he shall submit an application within thirty days of the commencement of these rules along with the original certificate of registration to the Tax payer Service Office of the area or to the office of the authority

competent to grant registration. (3) A registered dealer who had not opted for payment of tax in accordance with the provisions of sub-section (2) of section 3 as per sub-rule (2), can exercise such option later on but only after the end of the relevant year by submitting an application within thirty days of the commencement of the year along with the original certificate of registration, to the Tax payer Service Office of the area or to the office of the authority competent to grant registration. In such cases the credit of input tax availed by him on the closing stocks shall be reversed while paying the tax for the tax period in which application for change of option has been filed. (4) Where the turnover of a registered dealer who has opted to pay tax in accordance with the provisions of sub-section (2) of section 3, exceeds the limit of the said sub-section or his liability accrues under clause (a) or (b) of sub-section (1) of section 3, he shall within fifteen days of occurrence of such event, submit an application along with the original certificate of registration to the Taxpayers Service Office or the authority competent to grant registration. (5) A registered dealer who had opted for payment of tax in accordance with the provisions of sub-section (2) of section 3, may opt out of it only after the end of the year by submitting an application at least fifteen days prior to the commencement of the next year, along with the original certificate of registration to the Taxpayers Service Office or the authority competent to grant registration. (6) On receipt of the application under sub-rule (2) or (3) or (4) or (5), the assessing authority or the authority competent to grant registration, shall amend the certificate of registration in a manner to indicate the requested status of the applicant dealer. (7) A registered dealer who is covered under sub-rule (4), shall be liable to pay tax as per sub-section (1) of section 4 from the date of occurrence of such event and for the earlier period he shall be required to pay tax at the rate notified under sub-section (3) of section 4.

CHAPTER 5

INPUT TAX CREDIT, FILING OF RETURNS AND DECLARATION FORMS

18. Computation of input tax credit :-

(1) The extent of input tax credit available to a registered dealer, for a tax period, shall be equal to the amount of tax paid on purchases in the State as evident from the Original VAT invoice, and where such invoice has been lost or destroyed, on the basis of duplicate copy thereof issued to him in accordance with sub-rule (4) of rule 38, subject to the other provisions of this rule and the

following conditions - (a) that such dealer has maintained a true and correct separate account of his purchases against VAT Invoices in Form VAT-07. (b) that such dealer has maintained a true and correct separate account of his sales in Form VAT-08. (2) Input tax credit in respect of purchase of capital goods on VAT invoice by an existing unit shall be allowed in twelve equal monthly installments. However, in case of a new industry or expansion or diversification of an existing industry, the input tax credit shall be allowed in twelve equal monthly installments starting from the month of first sale of the goods manufactured from such capital goods. Provided that in case of an existing unit, where the per item value of the capital goods does not exceeds rupees one lac, the input tax credit shall be allowed in the tax period of their purchases. (3) Input tax credit in respect of raw material used in the manufacture of taxable goods given on lease, shall be available to the lessor in twelve equal monthly installments commencing from the month of issuance of first VAT invoice in respect of such lease. (4) Input tax credit in respect of taxable goods given on lease, shall be available to the lessor in twelve equal monthly installments commencing from the month of issuance of first VAT invoice in respect of such lease. (5) Input tax credit to the lessee in respect of lease money of capital goods, shall be available in the tax period in which the original VAT invoice has been received. (6) The input tax credit under this rule shall be available on the basis of books of accounts and records of the dealer. Where, the amount of input tax credit is not determinable from the books of accounts of the dealer, the amount of input tax credit shall be allowed proportionate to the extent for the purposes specified in sub-section (1) of section 18 of the Act. (7) Where the turnover of a dealer who has opted to pay tax under sub-section (2) of section 3, exceeds the limit of the said sub-section or his liability accrues under clause (a) or (b) of sub-section (1) or under sub-section (5) of section 3, no input tax credit shall be allowed on the goods in stock on the date of occurrence of such event. (8) A registered dealer who opts to pay tax under sub-section (2) of section 3, the credit of input tax availed by him on the goods in stock shall be reversed. (9) The dealer opting for payment of tax under sub-section (2) of section 3 or section 5, shall not be entitled to claim input tax credit in respect of the goods in stock on the date of exercise of such option. (10) In case a dealer opts to pay tax in accordance with sub-section (7) of section 4, the following procedure shall be adopted - (i) A registered dealer who opts to pay tax at the full rate on the

maximum retail price of the notified goods under sub-section (7) of section 4, shall submit an application to this effect, on a plain paper to his assessing authority or officer authorized by the Commissioner, within thirty days of commencement of this Act or start of his business, whichever is later. For subsequent years, such application shall be submitted within thirty days of the commencement of the financial year. The opting dealer shall charge tax on the maximum retail price if it is exclusive of tax and in case the maximum retail price is inclusive of tax, the dealer shall charge tax on the price as calculated hereunder - $\text{Price} = (\text{Maximum Retail Price} \times 100) / (100 + \text{Rate of tax})$ The amount of tax so charged shall be the output tax of such dealer. (ii) Where a registered dealer purchases any goods from the dealer covered under subrule (1), sale of such goods made by him shall not be included for determining his turnover of sales as defined in clause (41) of section 2. Such dealer shall maintain a separate account of such goods, tax paid and reimbursement of tax so paid, and shall submit the details thereof, along with his returns to his assessing authority or authorized officer. He shall also indicate separately in his sale invoice, the amount of reimbursement of tax paid by him at the time of purchase. (iii) Where a registered dealer purchases any goods, as notified by the State government under sub-section (7) of section 4, from a registered dealer, other than the dealers specified in sub-rule (1), sale of such goods made by him shall not be included for determining his turnover of sales as referred to in clause (41) of section 2. Such dealer shall maintain a separate account of such goods, tax paid and reimbursement of tax so paid, and shall submit the details thereof, along with his returns to his assessing authority or authorized officer. He shall also indicate separately in his sale invoice, the amount of reimbursement of tax paid by him at the time of purchase. (11) The input tax credit under section 19 of the Act, for stock on the date of commencement of the Act shall be available only after the quarter ending on 30th June, 2006, and the eligible dealer shall be entitled to claim such credit in six equal monthly installments starting from July 1, 2006, provided that such dealer has submitted the information required under sub-section (2) of section 93 of the Rajasthan Sales Tax Act, 1994, within the time specified in the notification.

19. Returns :-

(1) The return referred to in sub-section (1) of section 21 of the

Act, shall be submitted by a dealer who has not opted for payment of tax under sub-section (2) of section 3 or section 5 of the Act, in Form VAT-10 for each quarter within thirty days of the end of the quarter. Explanation - Quarter means the period of three months ending on 30th June, 30th September, 31st December and 31st March. (2) The return referred to in sub-section (1) of section 21 of the Act, shall be submitted by a dealer who has opted for payment of tax under sub-section (2) of section 3 or section 5 of the Act, in Form VAT-11, for the year within ninety days of the end of the year and shall be accompanied with treasury receipt(s) / bank challan(s) of authorized bank as a proof of deposit of tax under section 20 of the Act and shall be signed and verified by the dealer himself or his business manager. (3) The return required to be filed, under sub-rule (1), by a registered dealer shall accompany - (a) treasury receipt(s) / bank challan(s) of authorized bank as a proof of deposit of tax; (b) declaration forms / certificates/ forms required under the rules or the notification issued by the State Government; (c) statement of purchases against VAT Invoices in Form VAT -07; (d) copy of statement of import in Form VAT-48, (e) statement of sales to registered dealers, other than those who exercise option under sub-section (2) of section 3 or under section 5, in Form VAT- 09; (f) statement of inter-State sales in Form VAT-50; (g) copy of sales return register in Form VAT-12, if applicable; (h) proof of export as specified in rule 28, if applicable; and (i) account of declaration forms along with details of use, and shall be signed and verified by the dealer himself or his business manager. If any of the above requirements are not met with, it shall be deemed to be a case of non-filing of return. (4) The dealer shall file the return to his assessing authority or in the Taxpayers Service Office in whose area of operation, his principal place of business is situated, personally or through registered post. However, from such date and by such class of dealers, as may be notified by the State Government, the returns may be filed electronically by way of uploading all requisite information on the web-site of the Commercial Taxes Department. (5) Where a dealer has more than one place of business, he shall include in the return, the turnover of the principal place of business as well as the turnover of all other places of business and shall file such return in accordance with sub-rule (4). He shall also intimate the details of turnover of each place of business in Form VAT-13 to the Assistant Commissioner or Commercial Taxes Officer of such area(s) or the Taxpayers Service Office having jurisdiction over such branch(es). The Taxpayers Service Office or Assistant

Commissioner or Commercial Taxes Officer shall, after taking necessary action, forward such return to the assessing authority or to the authorized officer having jurisdiction over principle place of business. (6) Where a dealer discovers any omission or error in any return furnished by him, he may furnish a revised return at any time prior to the due date for filing of the immediately succeeding return or receipt of the notice under sub-section (1) of section 24 of the Act, whichever is earlier.

20. Requisition of return from an unregistered dealer :-

(1) The assessing authority or the authorized officer, may by a notice in Form VAT-14, require any unregistered dealer to furnish within the time specified in the notice, a return or returns in Form VAT-10 in respect of the period specified in the notice; however, such notice shall not be with respect to any period prior to five years from the date of issue of such notice. (2) On the service of the notice under sub-rule (1), the dealer concerned shall file the return or returns as directed in the notice. If dealer fails to comply, the assessing authority or the authorized officer shall proceed to assess the dealer to the best of his judgment.

21. Declaration forms :-

(1) A dealer, who claims exemption from payment of tax on sale of goods to another dealer in the course of export of those goods out of the territory of India within the meaning of sub-section (3) of section 5 of the Central Sales Tax Act, 1956 (Act No. 74 of 1956), shall furnish a declaration in Form VAT-15 obtained from and duly filled and signed by the exporter, along with his return. (2) Blank declaration Forms VAT-15 shall be obtained from the authorized officer on payment in Government Treasury, authorized bank or the office of the authorized officer, a sum of rupees fifty for each book containing twenty five declaration forms. (3) For obtaining any declaration forms referred to in sub rule (1), the registered dealer shall apply in Form VAT-16 to the authorized officer stating his requirement of such forms and shall furnish such other particulars, statements, information and documents as the said authority may require for his satisfaction about the bona fide use of such forms issued to the applicant on previous occasions and the bona fide purpose of the applicants present requirement of such forms. (4) (a) If the applicant is found to have failed to comply with an order demanding initial or additional security under section 15, the authorized officer may reject the application. (b) The authorized officer may, for reasons to be recorded in writing, reject the

application of the applicant, on being satisfied that he has not made proper use of such forms previously issued to him or that he does not require the forms applied for. (c) The authorized officer shall withhold the issue of declaration forms to the applicant if he has defaulted, - (i) in making payment of any outstanding demand; or (ii) in paying tax under the provisions of section 20; or (iii) in furnishing any return or returns in accordance with the provisions of section 21 and rule 19 of these Rules; till such time as the defaults referred to in sub-clauses (i), (ii) and (iii) are removed or made good; however, where the said authority in a particular case is satisfied that the interest of the State revenue so requires, it / he may, instead of withholding the declaration forms, issue such forms in such numbers and subject to such conditions and restrictions as may be considered reasonable. (d) Where the authorized officer does not proceed under clauses (a), (b) and (c), it shall issue the requisite number of declaration forms to the applicant or such lesser number of declaration forms which in his opinion, could satisfy the reasonable requirements of the applicant. (5) All declaration forms shall be authenticated by the authorized officer with the seal of the office of issue, registration number and name of the dealer, date of issue and the period of its validity, while issuing the said forms to the dealer, and such forms shall remain valid for two years from the date of issue or for such further extended period of one year, as may be permitted by the authorized officer. (6) No registered dealers to whom declaration forms are issued by the authorized officer shall either directly or otherwise, transfer the same to any other person. (7) Every registered dealer shall keep the declaration forms received by him in safe custody and shall be personally responsible for the loss of Government revenue, if any, directly or indirectly from any theft, loss or destruction thereof. If any such form is stolen, lost or destroyed, the dealer shall immediately report the fact to his assessing authority or the authorized officer and shall issue public notice of theft, loss or destruction, and take such further action as directed by the assessing authority or the authorized officer. (8) The dealer who reports theft, loss or destruction from his custody of any blank or duly completed form, shall be required to furnish security by way of an indemnity bond in Form VAT-65 against any possible misuse of the form; and when any form duly completed and signed is reported to have been stolen, lost or destroyed while in transit between the purchasing dealer and the selling dealer or between the selling dealer and the assessing authority, the

purchasing dealer or the selling dealer, as the case may be, shall be required to furnish an indemnity bond as aforesaid. (9) Where an indemnity bond under sub-rule (8) is to be furnished by the selling dealer, it shall be of such amount having regard to the circumstances of the case, as may be required by the assessing authority within such period as may be specified. (10) Before furnishing of a declaration form to the selling dealer, the purchasing dealer or his business manager or any person specifically authorized by him in this behalf shall fill in all the required particulars in the form and shall also affix his signature in the space provided in the form for the purpose. Thereafter, the purchasing dealer shall retain the counterfoil of the form and the other two portions marked "original" and "duplicate" shall be handed over by him to the selling dealer. (11) No purchasing dealer shall furnish and no selling dealer shall accept a declaration form, which is,- (i) forged or fake, or not obtained under sub-rule (2); or (ii) time-barred for being used under sub-rule (5); or (iii) reported stolen, lost or destroyed under sub-rule (7); or (iv) declared obsolete and/or invalid by the Commissioner under sub-rule (14). (12) Any unused declaration form or forms remaining in stock with a registered dealer on the permanent discontinuance or closure of his business shall be surrendered by him to his assessing authority within a period of 30 days from the date of such discontinuance or closure. (13) Where both the foils "original" and "duplicate" of a declaration form are lost, the selling dealer may obtain a duplicate declaration form from the purchasing dealer and the purchasing dealer shall record the following certificate thereon in red ink duly signed by him: - "I hereby declare that this is the duplicate of declaration form No.... signed on ... and issued to M/S..... on (date) (Signature of the issuing / purchasing dealer)" (14) The Commissioner may, by notification in the Official Gazette, declare that forms of a particular series, design or colour shall be deemed obsolete and / or invalid for use with effect from such date as may be specified in the notification.

CHAPTER 6

ASSESSMENTS, DEMANDS AND INCIDENTAL MATTERS

22. Determination of taxable turnover :-

(1) For the purpose of determining the taxable turnover for levying tax under sub-section (1) of section 4 of the Act, the following amounts shall be deducted from turnover,- (a) on which no tax is leviable under the Act; (b) which has been exempted from tax; and

(c) the sale price of the goods returned to the dealer by the purchaser within a period of six months from the date of VAT invoice thereof. (2) In case of a works contract, while determining the taxable turnover apart from the deductions provided under sub-rule (1), the amount of labour shall also be deducted from the total value of the contract. Explanation,- Where the amount of labour is not determinable from the accounts of a contractor, or is considered to be unreasonably high in view of the nature of the contract, the deduction towards labour charges shall be allowed by the assessing authority according to the limits laid down in Column 3 for the type of contract specified in Column 2 of the Table appended hereto: -

S. No	Type of contract	Labour charges as a percentage of the gross value of contract
1	2	3
1.	Fabrication and installation of plant and machinery.	25
2.	Fabrication and Erection of structural works of iron and steel including fabrication, supply and erection of iron trusses, purlins and the like.	15
3.	Fabrication and installation of cranes and hoists	15
4.	Fabrication and installation of elevators (lifts) and escalators	15
5.	Fabrication and installation of rolling shutters and collapsible gates.	15
6.	Civil works like construction of buildings, bridges, roads, dams, barrages, canals and diversions	30
7.	Installation of doors, door frames, windows, frames and grills.	20
8.	Supply and fixing of tiles, slabs, stones and sheets.	25
9.	Supply and installation of air conditioners and air coolers.	15
10.	Supply and installation of air conditioning equipments including deep freezers, cold storage plants, humidification plants and dehumidors	15
11.	Supply and fitting of electrical goods, supply and installation of electrical equipments including transformers.	15
12.	Supply and fixing of furniture and fixtures, partitions including contracts for interior decorators and false ceiling.	20
	Construction of Railway coaches and wagons on	

13.	undercarriages supplied by railway.	30
14.	Construction or mounting of bodies of motor vehicles and construction of trailers.	20
15.	Sanitary fitting for plumbing and drainage or sewerage.	20
16.	Laying underground or surface pipelines, cables or conduits.	30
17.	Dyeing and printing of textiles.	30
18.	Supply and erection of weighing machines and weighbridges.	15
19.	Painting, polishing and white washing.	25
20.	All other contracts not specified from S.No.1 to 19 above.	25

(3) The computation of purchase price, if any, for levying tax under sub-section (2) of section 4 of the Act, shall be made in accordance with clause (28) of section 2, and the same shall be added in the taxable turnover of the dealer. (4) The sale price of the goods sold by the commission agent on behalf of his principal registered under the Act, shall be added in the taxable turnover of the principal. (5) The amount of cess levied by the State Government for specific purposes, shall be deducted for determination of taxable turnover.

23. Guidelines for determination of market price :-

For determination of the fair market price under section 81, the assessing authority or the officer authorized by the Commissioner, shall compare the market price of the goods in the case of a manufacturer with the price being charged by other manufacturers, in the case of a wholesaler with the price being charged by other wholesalers and in the case of a retailer with the price being charged by other retailers.

24. Notice for payment of demand :-

As soon as an assessment is completed or any other order is passed, creating any demand under the Act or the rules, the assessing authority or any other officer authorized by the Commissioner or any official authorized under subsection (6) of section 28, shall serve a demand notice on the dealer or the person in Form VAT-17 along with a certified copy of such order, requiring him to pay the demand within thirty days of such service. However, where the assessing authority or any other officer authorized by the Commissioner or any official authorized under sub- section (6) of section 28 is of the opinion that for the purpose of protecting the interest of State revenue it is necessary so to do, he may after recording reasons in writing, reduce the period of thirty days, as he may deem proper in the facts and circumstances of the case.

25. Application for Stay of recovery of demand :-

An application for stay of recovery of demand shall be made before

the Appellate authority in Form VAT-18.

26. Grant of installments :-

(1) An application for grant of installments shall be submitted in Form VAT-19 before the concerned officer as mentioned in sub-rule (2) and (3). (2) Where a dealer or person is not in a position to make payment of the demand outstanding against him under an order passed under the repealed Act or under this Act or under the Central Sales Tax Act, 1956, installments under sub-section (5) of section 38, may be granted to such dealer or person for a period not exceeding twelve months from the date of such order,- (a) by the Assistant Commercial Taxes Officer, in case the demand does not exceed rupees fifty thousand; and (b) by the Assistant Commissioner or Commercial Taxes Officer, as the case may be, in case the demand does not exceed rupees two lacs. (3) Where the amount of the demand exceeds the limits specified in clauses (a) and (b) of sub-rule (2) or the period of twelve months is found insufficient in view of the circumstances of the case, prior permission in writing shall be required,- (i) from the Assistant Commissioner or Commercial Taxes Officer having jurisdiction, if the amount of such demand exceeds rupees fifty thousand but does not exceed rupees two lacs; (ii) from the Deputy Commissioner (Administration) having jurisdiction, if the amount of such demand exceeds rupees two lacs but does not exceed rupees ten lacs and / or the proposed period of installments does not exceed twenty four months; and (iii) from the Commissioner, if the amount of such demand exceeds rupees ten lacs and / or the proposed period of installments does not exceed thirty six months. (4) Where payment of any demand is postponed by installments, in sub-rules (2) and (3) beyond a period of one month, the dealer shall be required to furnish a surety bond, acceptable to the assessing authority or the officer authorized by the Commissioner, in Form VAT-64 executed with two sureties, for the purpose of ensuring such payment.

27. Refund :-

(1) (a) Subject to the provisions of sub-section (2) of section 17, section 53 and 54, where the assessing authority or the authorized officer after having verified deposits, is satisfied that the payment made by a dealer or a person is in excess of any tax, penalty, interest or other sum due, as a result of an assessment made or in pursuance of an order passed by any competent officer, authority or court, such assessing authority or authorized officer, suo motu or

on an application made in this behalf in Form VAT-20 or VAT-21 or VAT-22, as the case may be, shall pass an order for refund, and shall issue a refund order in Form VAT-23 along with an advice to the Treasury Officer or SubTreasury Officer or the Manager of the Bank authorized to receive money on behalf of the State Government, in Form VAT-24. (b) Where a dealer desires the adjustment of the refund to be made under sub-clause (a), against any amount payable by him, the assessing authority or the authorized officer, as the case may be, shall issue a refund adjustment order in Form VAT-25 authorizing him to deduct the amount refundable from the amount payable by him. (2) Notwithstanding anything contained in sub-rule (1), where a demand is outstanding against a dealer or a person who is entitled to a refund, the assessing authority or the authorized officer shall suo motu issue a refund adjustment order in Form VAT-25 for adjusting the refund against such outstanding demand. (3) No claim of refund shall be rejected without giving the dealer or the person claiming refund, an opportunity of being heard and without recording reasons in writing.

28. Refund in case of export :-

(1) A dealer, whose sales are in the course of export out of the territory of India within the meaning of sub-section (1) of section 5 of the Central Sales Tax Act, 1956 (Act No. 74 of 1956), shall submit an application in Form VAT-21 along with return in Form VAT-10, to the assessing authority or the authorized officer for claim of refund of input tax paid by him, and shall furnish- (a) certified copy of air consignment note / bill of lading / railway receipt or goods vehicle or postal receipt or any other documents in proof of export of goods across the customs frontier of India; (b) duplicate copy of the sale invoice; (c) certified copy of VAT invoice on basis of which refund of input tax is being claimed; (d) an undertaking to the effect that in case of re-import of such goods, he will communicate within a period of one month from the date of re-import into India of such goods, to the assessing authority or any other officer authorized by the Commissioner in this behalf and shall repay, forthwith, the amount of refund granted to him on this account along with interest at such rate as may be notified under section 55 of the Act; and (e) a certificate of an Accountant regarding the purchase and sale of goods and the correctness of claim of refund in Form VAT-26. Explanation. The word "Accountant" shall have the same meaning as mentioned in section

73. (2) A dealer, whose sales are in the course of export out of the territory of India within the meaning of sub-section (3) of section 5 of the Central Sales Tax Act, 1956 (Act No. 74 of 1956), shall submit an application in Form VAT-21 along with return in Form VAT-10 to the assessing authority or authorized officer for claim of refund of input tax paid by him, and shall furnish,- (a) attested copy of declaration Form VAT-15 or Form H as the case may be; (b) certified copy of air consignment note / bill of lading / railway receipt or goods vehicle or postal receipt or any other documents in proof of export of goods across the customs frontier of India; (c) duplicate copy of the sale invoice; (d) certified copy of purchase invoice on basis of which refund of input tax is being claimed; (e) an undertaking of the exporter to the effect that in case of re-import of such goods, he will communicate within a period of one month from the date of re- import into India of such goods, to the selling dealer, to his assessing authority and the assessing authority or the authorized officer of the selling dealer; and an undertaking of the dealer claiming refund that on communication of re-import of such goods from the exporter, he shall repay, forthwith, the amount of refund granted to him on this account along with interest at such rate as may be notified by the State Government under section 55 of the Act; and (f) certificate regarding the purchase and sale of goods and the correctness of claim of refund in Form VAT-26 of an Accountant. Explanation -The word "Accountant" shall have the same meaning as mentioned in section 73. (3) On submission of the documents as mentioned in sub-rule (1) or (2), the assessing authority or authorized officer, having been satisfied as to the correctness of documents furnished, shall issue the refund in Form VAT-23 or VAT-25 as the case may be, within thirty days of the submission of the application completed in all respect.

29. Refund to a person not registered under the Act :-

(1) Where any amount of tax or any amount in lieu of tax has been collected or deducted from a person not registered under the Act, and the same is not found payable by him, such person shall submit an application in Form VAT-22, to claim refund of said amount, to the Assistant Commissioner or Commercial Taxes Officer in whose jurisdiction such person ordinarily resides, and in case of person not residing in the State, such application shall be submitted to the officer authorized by the Commissioner in this behalf, and shall also furnish- (i) proof of payment of tax; (ii) copy

of the contract, in case of contractor; and (iii) any document in support that he is not liable to pay tax. (2) On submission of the documents as mentioned in sub-rule (1), the officer mentioned in sub-rule (1), on being satisfied as to the correctness of such documents, shall issue the refund in Form VAT-23, within sixty days of the submission of the application completed in all respect.

CHAPTER 7

APPEAL AND REVISION

30. Appeal to the Appellate Authority :-

(1) The memorandum of appeal under section 82 shall be submitted in duplicate in Form VAT-27 completed in all respect. (2) Application for condonation of delay, if any, shall be submitted in Form VAT-28. (3) The memorandum of appeal shall be presented by the appellant or his authorized representative to the appellate authority or to such members of his staff as the appellate authority may appoint in this behalf, or may be sent by registered post. (4) Defect(s), if any, in the memorandum of appeal or otherwise, shall be intimated to the appellant and the same shall be removed within sixty days of submission of Form VAT- 27. The appellate authority, after recording reasons in writing, may extend the time for removal of such defects. (5) The appellate authority shall, after entertaining the appeal in accordance with the provisions of sub-section (3) of section 82, send a copy of the memorandum of appeal to the assessing authority or the officer concerned, asking him to send the comments along with the relevant record. (6) The appellate authority shall give notice of the date fixed for hearing to the appellant and to the assessing authority or the officer concerned. (7) Where the appellate authority remands a case, it shall specify a date in the order for appearance of the appellant before such authority or officer.

31. Appeal to the Tax Board :-

(1) An appeal to be submitted before the Tax Board under sub-section (2) and (3) of section 83 shall be in Form VAT-29 in triplicate and a memorandum of cross- objections under sub-section (5) of the said section shall be in Form VAT-30 in triplicate, and the procedure prescribed in rule 30 shall mutatis mutandis apply to the application for such appeal or a memorandum of cross-objections. (2) An appeal to the Tax Board shall be heard and disposed off by the Chairperson or any member of the Tax Board sitting in single Bench or by a Bench consisting of two or more members. However, an appeal under section 83 in respect of the following matters shall

be heard and disposed of by a Bench of the Tax Board consisting of two or more members,- (i) An order referred to in clause (a) of sub-section (1) of section 83; (ii) Issues involving classification of goods for the purpose of rate of tax or exemption from tax; and (iii) Where the disputed amount of demand exceeds rupees five lacs. Explanation -In the case of an appeal against an order of remand made by the appellate authority, the amount which was in dispute before such appellate authority, shall be deemed to be the disputed amount for the purpose of clause (iii) of sub-rule (2). (3) Notwithstanding anything contained in sub-rule (2), where the Member(s) of the Tax Board sitting in a Bench cannot hear an appeal, listed to be heard by such Bench, on account of any judicial propriety, the Chairperson shall transfer such appeal to another Bench. (4) Notwithstanding anything contained in sub-rule (2), the Chairperson, on the request of any party to the case in writing or on a reference being made by a member sitting in Single Bench, or suo motu having satisfied that the case involves an important question of law and deserves to be heard by a Bench consisting of two or more members, shall have the power to order that the case shall be heard and disposed off by Bench so constituted.

32. Revision to the High Court :-

An application for revision to be presented to the High Court under sub-section (1) or sub-section (2) of section 84 shall be in Form VAT-31.

33. Dismissal in default :-

(1) Where an appellant or his authorized representative does not appear on the date fixed for hearing of an appeal filed under rule 30 or 31, the appellate authority or the Tax Board, as the case may be, may dismiss the appeal in default. (2) Where the appellant makes an application in Form VAT-32 within thirty days of the date of communication of such order, and satisfies the authority who dismissed the appeal, that he was prevented by sufficient cause from appearing before him on the date that had been fixed for hearing, such appeal may be restored with such conditions as may be deemed fit.

34. Officer not to hear appeal against order passed by him in another capacity :-

(1) No officer acting as appellate authority or Member of the Tax Board shall hear any appeal against any order passed by him in another capacity. (2) When any such appeal as referred to in sub-

rule (1) comes before any appellate authority or the Member of the Tax Board, such appellate authority or Member shall forthwith refer the matter to the Commissioner or the Chairperson of the Tax Board, as the case may be, and the Commissioner or the Chairperson of the Tax Board shall thereupon transfer the same for disposal to any other appellate authority or Member.

35. Giving effect to an appellate or a revisional order :-

If an order, passed in appeal or revision under section 82, 83, 84 or 85 has the effect of varying the order of an assessing authority or any other authorized officer, the assessing authority or such other authorized officer shall take action suo motu to give effect to such order and shall refund the excess or realize the deficit, as the case may be.

CHAPTER 8

ACCOUNTS AND RECORDS

36. Accounts to be maintained by a dealer :-

(1) Subject to the provisions of section 71, every dealer registered under the Act shall maintain his accounts according to the system of accounting prevailing in the trade and industry. (2) Every dealer shall maintain a true and correct account of his purchases against VAT Invoices in Form VAT-07 and of his sales in Form VAT-08. The manufacturer shall also maintain a separate account of his purchases of capital goods against VAT Invoices, in part II of Form VAT-07. (3) Where such dealer is a manufacturer, he shall maintain the stock of raw material(s) used in Form VAT-33, and that of manufactured goods in Form VAT-34. (4) Every dealer shall also maintain separate accounts of transactions in the course of inter-State trade or commerce. (5) Every dealer registered under the Act shall maintain separate accounts for exempted goods and so also for the goods taxable at different rates. (6) The audit report required to be furnished by the dealer under sub-section (1) of section 73 shall be furnished within nine months from the end of the relevant financial year, in the form as may be specified by the Commissioner.

37. Accounts and documents relating to principal and agent :-

(1) Where a principal dispatches taxable goods within the State to his commission agent for sale, he shall issue a dispatch note in Form VAT-35, in respect of such goods, duly filled in and signed by him, to his commission agent from a bound book bearing printed

serial numbers and shall keep a copy thereof for the record. (2) Where any principal dispatches goods for sale to his commission agent under sub-rule (1), and produces Certificate of the sale proceeds in Form VAT-36 received from his commission agent along with proof of deposit of tax in respect of such goods so dispatched, he will be entitled to get adjustment of the tax so deposited by the agent on behalf of the principal. (3) Where any agent claims that he is not liable to pay tax under the Act in respect of goods despatched to him by his principal for sale, the burden of proving that the tax in respect of such goods has been paid by the principal through him, shall be on the agent and for this purpose he shall produce before the assessing authority a Dispatch Note issued by the principal in Form VAT-35 along with Certificate of the sale proceeds in Form VAT-36 issued by him and proof of deposit of tax in respect of such sales. (4) Where the assessing authority is satisfied after such enquiry as he may deem necessary that the particulars contained in the certificate in Forms VAT-35 and VAT-36 are true, he shall accept the claim of the principal or the commission agent, as the case may be. (5) Every commission agent shall maintain in identifiable manner true accounts of goods he receives and sells on behalf of his principal and on his own account.

38. Issuance of an Invoice :-

(1) A registered dealer, other than registered dealer who opts for payment of tax under sub-section (2) of section 3 or under section 5, making a taxable sale shall issue a VAT invoice marked as original to the purchaser for each such sales made by him and shall retain a copy thereof. (2) The VAT invoice issued under sub-rule (1) shall contain the following particulars on the original as well as on all the copies thereof - (a) the word "VAT INVOICE" and in case the option under sub-section (7) of section 4 has been exercised the expression "INVOICE FOR TAX ON MRP" in bold letters at the top or at any prominent place; (b) the name, address and registration number of the selling dealer; (c) the name and address of the purchaser and where the purchaser is registered under the Act the registration number of the purchasing dealer; (d) continuous serial number running throughout the year and the date on which the VAT invoice is issued; (e) full description of the goods; (f) the quantity or number, as the case may be, of the goods; (g) the value of the goods sold; (h) the rate and amount of tax charged thereon indicated separately; and (i) signature of the selling dealer, or his declared business manager or person

authorized by the selling dealer. (3) No input tax credit shall be allowed unless the dealer makes full compliance of subrule (1) and (2). (4)(a) In case a VAT invoice issued by the registered selling dealer, is lost or destroyed, a duplicate of such VAT invoice shall be issued by the selling dealer, to the purchasing dealer with the following declaration recorded in the red ink and signed by the selling dealer or his declared business manager as the case may be:- DECLARATION "I, hereby declare that this is the duplicate VAT invoice of VAT invoice No. issued on dated and issued to M/s having registration No. Signature Status". (b) The purchasing dealer who has obtained the duplicate copy of the VAT invoice shall inform his assessing authority or the authorized officer within the tax period in which the duplicate invoice was received. (5) A registered dealer, who has opted for payment of tax under sub-section (2) of section 3 or under section 5, sells taxable goods of value exceeding rupees five hundred in any one transaction, shall issue an invoice marked as original to the purchaser for each such sale made by him and shall retain a duplicate copy thereof. (6) Notwithstanding any thing contained in sub-rule (5), where a purchaser demands an invoice irrespective of the purchase value, the registered dealer shall issue invoice. (7) The invoice issued under sub-rule (5) shall contain the following particulars on the original as well as on all the copies thereof - (a) the word "invoice" in bold letters at the top at any prominent place; (b) the name, address and registration certificate number of the selling dealer; (c) continuous serial number running throughout the year and the date on which the invoice is issued; (d) full description of the goods with its value; and (e) signature of the selling dealer, or his servant, manager or agent duly authorized by him. (8) Notwithstanding any thing contained in sub-rule (1) above, where a dealer registered under the Act is also registered under the Central Excise Act, 1944 (Act No. 1 of 1944) and issues an invoice for removal of goods in the course of inter-State trade or commerce, containing the particulars as prescribed in sub-rule (2), it would be treated as VAT invoice and the provisions of sub-rule (3) and (4) shall mutates mutandis apply. (9) The State Government may, by notification in official Gazette provide for use of IT enabled systems for preservation of the details of the VAT invoice.

CHAPTER 9

MODE OF PAYMENT OF TAX AND DEMAND

39. General mode of payment of tax, demand or other sum

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(1) Unless expressly provided otherwise in the Act or in these rules, payment of tax, demand or other sum shall be made into the Government treasury or the bank authorized to receive money on behalf of the State Government, by means of a challan in Form VAT-37 or through a demand draft drawn on any branch of a bank situated in Rajasthan, in favour of the assessing authority concerned or any authorized officer. (2) On deposit of the tax, demand or other sum under sub-rule (1), the bank shall return Part IV and Part V of the challan after affixing its seal thereon to the person depositing the amount and Part III of the challan shall be sent by such bank to the treasury or authorized officer. Part I and Part II of the challan shall be sent by such bank to the treasury, and such treasury shall retain Part I of the challan and shall forward the Part II to the Accountant General, Rajasthan. The person who made the payment will retain Part V of the challan with himself and shall enclose the Part IV thereof with the application, return, memorandum of appeal or other document to be submitted to the authority concerned. (3) The date of payment for the purpose of these rules shall be the date on which cash is deposited, a demand draft is received in the office or a cheque is encashed and deposited in the account of the State Government. (4) Notwithstanding anything contained in sub-rule (1), where any amount of tax, demand or other sum is payable under the Act or the rules or under any notification, to the assessing authority or the in-charge of a check post or a Flying Squad or to any other officer authorised under sub-section (4) of section 76, such amount may be accepted by such authority or the in-charge or officer or person or a Junior Commercial Taxes Officer and a receipt in Form VAT-38 shall be issued to the depositor. (5) Notwithstanding anything contained in sub-rule (1) to (4), a registered dealer shall deposit the amount of tax to a contractor, in respect of goods specified under clause (8) of section 2 and livestock at a particular check-post or for a specified area, where the Commissioner has permitted such contractor to collect tax under section 77 of the Act, and such registered dealer shall obtain a receipt in Form VAT-39 from such contractor.

40. Information of a works contract and payment of tax relating thereto :-

(1) Where any contractor enters into a contract with any awarder involving transfer of property in the goods (whether as goods or in

some other form), in the course of execution of a works contract and the gross value of such contract exceeds rupees five lac, the awarder shall furnish within one month from the date of the contract, the particulars of the contract in Form VAT-40 to the Assistant Commissioner or the Commercial Taxes Officer of the area where the office of such awarder is situated, or to any authorized officer as the case may be, and shall also send a copy of Form VAT-40 to the assessing authority of the contractor. (2) Where in case of a works contract, the awarder or any person authorized by him, is a Department of any Government, a corporation, a public undertaking, a cooperative society, a local body, a statutory body, an autonomous body, a trust or a private or public limited company, and is responsible for payment of any sum to a contractor for carrying out any works, such awarder or the authorized person shall, at the time of credit of such sum to the account of the contractor or at the time of making such payment by any mode, deduct an amount as may be notified by the State Government in lieu of tax and shall issue a certificate of deduction of tax to the contractor in Form VAT-41. (3)(a) Blank Forms VAT-41 shall be obtained by the awarder from the Assistant Commissioner or the Commercial Taxes Officer of the area where the office of such awarder is situated, or from any other officer authorized by the Commissioner, as the case may be, on payment of rupees fifty for each book containing twenty five forms. Explanation - The Assistant Commissioner, the Commercial Taxes Officer or any other Officer authorized by the Commissioner as the case may be, who issues the Form VAT- 41 shall be known as the issuing authorities. (b) For obtaining blank Form VAT- 41 the awarder shall apply to the issuing authority stating his requirement of such Form and shall furnish such other particulars, information, statements and documents as may be required by the issuing authority for his satisfaction about the bona fide use of such Forms issued to the applicant on previous occasions and the bona fide purpose of applicants present requirement of such Forms. (4) A deduction made under sub-rule (2) shall be adjusted against the tax liability created at the time of the assessment of the contractor. (5)(a) The amount in lieu of tax deducted in sub-rule (2) shall be deposited by the awarder through a challan in Form VAT-37 in the Government account within fifteen days of the close of the month of such deduction. A monthly statement in Form VAT-42, mentioning the details of tax deducted and deposits of each contractor along with the duplicate copy of Form VAT- 40 shall be

furnished to the issuing authority accompanied with Part IV of the challan within one month from the date of such deposits. (b) Where an awarder fails to furnish the monthly statement as mentioned in clause (a) above, the issuing authority after affording a reasonable opportunity of being heard, may impose penalty under section 64 of the Act. (c) The issuing authority after receiving the duplicate copy of Form VAT- 41 shall verify the correctness of the deposits, and shall send the same immediately to the assessing authority of the contractor. (6) Where the amount is not deducted as prescribed in sub-rule (2), the awarder or the person authorized by him shall be liable to penalty as provided for in the Act. In such cases the contractor shall be liable to pay the said amount together with interest at the rate provided for in the Act from the date of the receipt of the payment in any form by him. (7) Where the amount is not deductible from the amount of payment made to a contractor under these rules or under orders of a court, the contractor shall deposit such amount like any other dealer in accordance with the notification issued under section 20.

41. Payment of tax by a casual trader :-

A casual trader shall deposit tax in cash with the in-charge of the check post or the assessing authority, or any official authorized by the assessing authority, under sub-section (6) of section 28, who shall issue a receipt in Form VAT-38 to such casual trader.

42. Payment of tax by a person, other than a casual trader or a registered dealer, who carries on business temporarily for a period not exceeding one hundred twenty days in a year :-

(1) Any person, other than a casual trader or a registered dealer, who carries on business temporarily for a period not exceeding one hundred twenty days in a year, shall before commencing his business make an application in Form VAT-43, to the Assistant Commissioner or the Commercial Taxes Officer, as the case may be, having jurisdiction with reference to the place of business of such person or to any other officer authorized by the Commissioner in this behalf, mentioning the detail of goods to be sold. (2) On receipt of the application the officer mentioned in sub- rule (1), shall determine the amount of tax to be levied on goods mentioned in the application, and shall take a security in cash or in form of demand draft of an amount equivalent to the amount of tax determined. After furnishing of such security the person shall be entitled to commence his business. (3) Such person shall inform

about his daily sale proceeds to the officer mentioned in sub rule (1). At the closure of his business, the said officer shall determine his final tax liability and adjust the security amount against the final tax liability of such person. Where the amount of security is more than the final tax liability of such person the said officer shall refund the excess amount. Where the amount of security is less than the final tax liability of such person the said officer shall recover the balance amount. (4) In the absence of application, the officer, mentioned in sub- rule (1) shall suo motu determine the liability of tax payable by such person, having regard to the specific facts and circumstances of the case. (5) The tax determined under sub-rule (3) or (4) shall be deemed to be a demand under the Act.

43. Payment of tax by a person whose registration is cancelled under the Act :-

In case the registration certificate of a dealer is cancelled, he shall pay tax in respect of every taxable goods held in stock and capital goods on the date of such cancellation. In such cases the tax shall be determined on the basis of book value, written down value or market price whichever is higher, within a period of fifteen days of such cancellation.

44. Procedure for collection of tax on contract basis :-

Whenever the State Government directs the Commissioner to collect tax in the State on contract basis for a particular Check-post or for specified area under section 77, the following procedure shall be adopted - (a) The Commissioner, to the best of his judgment, shall determine the amount of estimated annual tax revenue for a particular check-post or for a specified area. However, in the event of any special circumstances the Commissioner, after recording reasons for doing so, may revise such estimated annual tax revenue. The determination of estimated annual tax revenue by the Commissioner under this clause shall be final. (b) After determination of the estimated annual tax revenue, the Commissioner may direct an officer not below the rank of Commercial Taxes Officer to invite tender for the collection charges as a percentage of the estimated annual tax revenue in respect of the tax to be collected for a particular check-post or for a specified area. (c) On receipt of the directions under clause (b), the authorized officer shall invite tenders for collection charges as a percentage of estimated annual tax revenue for the check-post or the specified area. The procedure for awarding of the contract including contents of tender documents, amount of security

deposit, earnest money and the like, shall be such as may be specified by the Commissioner from time to time. (d) The Officer authorized under clause (b) may recommend the name of the bidder, who has offered for the lowest collection charges, to the Commissioner for authorisation to collect tax at a particular check-post or for the specified area. (e) On receipt of the recommendation under clause (d), the Commissioner, if satisfied, may authorise such contractor to collect tax in respect of the specified goods and / or livestock at a particular check-post or for the specified area. (f) The contractor authorized by the Commissioner under clause (e) shall be required to enter into a contract with the officer authorized by the Commissioner before starting collection of tax. (g) The contractor shall collect the tax in accordance with the contract, at the rate notified under the Act, and the tax so collected shall be deposited in accordance with clause (i). (h) The contractor shall collect the tax and shall issue receipt in Form VAT 39, obtained from office of the Assistant Commissioner or the Commercial Taxes Officer of the area or the officer authorized by the Commissioner, to the person from whom such tax is collected. (i) The contractor shall deposit the entire collected tax or the 1/52nd part of the estimated annual tax revenue, whichever is higher, on every Monday in the State treasury or the banks authorized for the purpose through a challan in Form VAT-37 and in the event Monday being holiday, such amount shall be deposited on the immediately following working day. On completion of the contract period, if it is found that the amount deposited by the contractor is more than estimated annual tax revenue as well as the actual tax collected by him, such excess deposit amount shall be refunded to the contractor. (j) The contractor shall maintain a complete and true account of the tax collected and deposited by him and shall furnish the complete details of the tax collected and deposited in Form VAT-44 to the Assistant Commissioner or the Commercial Taxes Officer of the area or the officer authorized by the Commissioner to execute contract, and shall submit the used completed books within ten days of the end of the relevant month. On completion or cancellation of the contract, the contractor shall return the used as well as unused receipt books issued to him immediately or within such time not exceeding seven days, as may be allowed by the Assistant Commissioner or Commercial Taxes Officer of the area or the officer authorized by the Commissioner. If the contractor fails to comply with such directions, the Assistant Commissioner or Commercial Taxes Officer of the area or the officer authorized by

the Commissioner, shall determine the tax of such receipts to the best of his judgement and shall be recoverable as demand under the Act. (k) The collection charges to the contractor as per the contract shall be paid within thirty days of the submission of the monthly statement in accordance with clause (j), as percentage of the estimated annual tax revenue or the entire tax collected and deposited, whichever is higher, subject to the final adjustment at the end of the contract period. (l) The contractor shall be bound by the provisions of the Act, these rules, the terms and conditions of the contract and the instructions issued by the Commissioner from time to time. In case of any violation thereof, the contract shall be liable to be cancelled by the Commissioner after affording opportunity of being heard to the contractor in this behalf. (m) In case of any dispute regarding the contract, the contractor may submit such dispute to the Commissioner, whose decision in the matter shall be final. (n) Notwithstanding anything contained in rule 39, the registered dealer shall deposit the amount of tax to a contractor in respect of goods and in the area where the Commissioner has permitted such contractor to collect tax from such registered dealers under section 77 of the Act, and the contractor shall issue original receipt in Form VAT 39 obtained from the office of the Assistant Commissioner or the Commercial Taxes Officer of the area or the officer authorized by the Commissioner, to the registered dealer.

45. Verification and adjustment of deposits claimed :-

Where a dealer or a person furnishes a receipt in Form VAT- 38 or Part IV of the challan in Form VAT-37, in order to claim an adjustment of the amount covered by such receipt or challan, and if such adjustment is not made for want of proper verification of such deposits, the assessing authority himself shall get the verification done and shall not enforce the demand to the extent of the amount under adjustment, till such adjustment is allowed or the claim for such adjustment is rejected by an order in writing, as the case may be. 46. Verification of periodical collection.-(1) In the last week of every month, the Assistant Commissioner or the Commercial Taxes Officer or any other officer who handles the collection of tax, shall prepare a statement in Form VAT- 45 and shall forward it to the Treasury Officer for verification. (2) Where any discrepancy in Form VAT-45 is discovered by the Treasury Officer at the time of verification, he shall inform the officer concerned, who shall send the necessary records to the Treasury Officer for reconciliation of

accounts.

CHAPTER 10

PROCEDURE FOR CERTAIN ACTIONS

47. Audit of the dealer :-

(1) The audit of a dealer shall generally be conducted by the auditor at the place of the business of the dealer with prior intimation to such dealer. However, the Commissioner, in appropriate cases, may direct such audit to be conducted in the office of the auditor. (2) The audit shall be conducted as far as possible on a day-to-day basis. (3) After the completion of the audit, the auditor shall prepare an audit report mentioning therein the discrepancies found, if any, at the time of audit. (4) The audit report shall be signed by the dealer or his business manager or his authorized signatory and in case of their refusal the auditor shall make a remark to this effect.

48. Granting opportunity of hearing and recording of reasons :-

Where an assessing authority or any other officer, enhances the admitted tax liability of a dealer, or imposes a penalty on him or on any other person under the provisions of the Act or the Rules, or passes any order detrimental to their interest, the said authority or officer shall record the reasons thereof, and no such order shall be passed unless the dealer or the person has been given a reasonable opportunity of being heard.

49. Form of summons or notice :-

For affording an opportunity of being heard under rule 48 or for initiating any action under any provisions of the Act or the Rules, or for the production of a document or for furnishing any information or for the appearance of any person, a summons or notice shall be issued in Form VAT-14.

50. Mode of service :-

(1) The service of any summons, notice or order under the Act or the Rules may be effected in any one of the following ways, namely,- (a) by giving or tendering the copy thereof to the person addressed or his declared business manager or his authorized representative or to any person, other than an independent service provider, who submits or files documents on behalf of such person or dealer; or (b) if the persons mentioned in clause (a) can not be easily found, by giving or tendering a copy thereof to an adult member of his family; or (c) if the address of such person is known

to the authority concerned, by sending a copy thereof by registered post or through an electronic device, or (d) if none of the modes aforesaid is practicable, by affixation of a copy thereof in some conspicuous place at his last known place of business or residence, or by publishing in a State level newspaper. (2) Notwithstanding anything contained in sub-rule (1), in respect of a dealer or a person, the service of any summons, notice or order under the Act or the Rules may be effected by sending the contents of such summons, notice or order as the case may be, to the dealer or to his declared business manager or to his authorized representative, through an e-mail address provided by the dealer or the person, and such service shall be deemed to be a valid service on such dealer or person.

51. Procedure for search and seizure under section 75 :-

(1) The officer who carries out a search under section 75, shall adopt the following procedure,- (a) The officer should record reasons as to why under the facts and circumstances of the case, search is necessary. (b) Before making a search, such officer shall call upon two witnesses to attend and witness the search and may issue an order in writing to them to do so. (c) The dealer or his business manager or any other person performing any activity relating to the business at the business place, building or other premises searched, shall be deemed to be the person in-charge of such premises and shall also be permitted to witness the search. (d) If any building or place is an apartment in the actual occupancy of a woman, who according to custom does not appear in public, the officer shall afford her every reasonable facility to withdraw. (e) Search of person may be made, but in case of a woman it shall be carried out by a woman. (f) In case of seizure of goods, articles and documents under this sub-rule, the procedure of sub-rule (2) shall be followed. (2) The accounts, registers, documents, goods and articles may be examined without calling witnesses by the officer empowered under section 75, but in the case of seizure thereof, the following procedure shall be adopted,- (a) seizure shall be made in the presence of two witnesses. (b) seizure memo shall be prepared by such officer in Form VAT-46 and reasons for seizure shall be recorded therein. (c) seizure memo shall also contain the list of the accounts, registers, goods, articles and the documents seized. (d) seizure memo shall be signed by the officer who effects seizure, by the dealer or his business manager or person in-charge of the business and by the witnesses. (e) The officer making

seizure shall tender one copy of the seizure memo to the dealer or his business manager or the person in-charge of the business premises, as a token of receipt, and one copy thereof shall be forwarded by him to the Commissioner within twenty four hours after such seizure is made. (3) The books of accounts or other documents maintained in the form of electronic record as defined in clause (t) of sub-section (1) of section 2 of the Indian Information Technology Act, 2000, may also be seized. In such cases the dealer or his business manager or person in- charge of the business or person incharge of these electronic records shall be bound to disclose the password and such other information as may be asked for by the authorized officer(s).

CHAPTER 11

PROCEDURE FOR CHECKING OF GOODS IN TRANSIT

52. Officers empowered under section 76 :-

The Commissioner with the prior approval of the State Government may authorise any of the persons posted at the check- post established under the Act or constituted under any other law, for the time being in force, to perform such duties or to exercise such powers as may be specified in the notification.

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 within India, any taxable goods as may be notified by the State Government, for sale, except when the goods are the goods of the class or classes specified in the certificate of registration under the Central Sales Tax Act, 1956, of the registered dealer purchasing the goods and are for use in mining or generation or distribution of electricity or any other form of power or in the telecommunication network or for packing of goods 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 transfers / depot transfers / stock transfers; or (iii) who intends to bring, import or otherwise receives any taxable goods from outside the State, as may be notified by the State Government of the value of rupees ten thousand or more 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 shall punch the date and month of use of such Form at the specified place provided for in the Form. The counterfoil of the declaration shall be retained by such dealer and

its portions marked as 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 of goods, shall carry with him the documents specified in clause (b) of sub-section (2) of section 76 including declaration form prescribed in subrule (1), in respect of the goods in movement and shall produce the same suo motu before the in-charge of the entry check-post and if there is no such check post, to the nearest check post from the entry point at the time of entry within the State and before the officer empowered 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 in-charge of the entry check-post or to the officer empowered under section 76, the owner or a person duly authorised by such owner or the driver or the person Incharge of the vehicle or carrier of the goods shall, on inspection by an officer empowered under 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 without any condition. (4) If the goods are brought into the State from any place in country, by any means other than through road transport such as through railways or airways or any other mode, the registered dealer so importing the goods before obtaining delivery thereof from such carrier, shall submit the original part of Form VAT-47 to the assessing authority or the authorized officer who shall put his seal on the duplicate part of the Form VAT-47 and the same shall be carried by the dealer with the goods after taking delivery thereof from such carrier. (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 (8) Where Form VAT-47 is out of print or in short supply or otherwise not available, the Commissioner may issue such instructions as he deems proper including dispensing with the requirement of such forms for the specified time.

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 goods taxable within the State, to a place out of the State,- (i) for sale outside the State or by way of branch transfers / depot transfers / stock transfers, except the goods as may be notified by the State Government, or (ii) in the course of inter-State trade or commerce, as notified by the State Government, shall furnish or cause to be furnished declaration in Form VAT-49 completely filled in all respect in ink and shall punch the date and month of use of such Form at the specified place provided for in the Form. Such dealer shall retain the counterfoil of the Form VAT- 49 with him and shall produce or cause to be produced the portions marked Original and Duplicate before the in-charge of the exit check post and if there is no such check-post, to the nearest check post from the exit point / officer empowered under section 76, who shall retain the original portion of it and return the duplicate portion after affixing seal in token of having verified it, to the person producing it, and such officer shall send the retained original portion of the Form VAT-49 to the assessing authority of the dealer. (2) 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 and in case original portion of Form VAT-49 has not been retained by any officer mentioned in sub-rule (1), it shall also be furnished along with the duplicate portion of Form VAT-49 to his assessing authority or to the authorized officer along with the return. However, in case such original and or duplicate portion of Form VAT-49 is not received back by the dealer, an account of use of such forms during the quarter duly supported by an affidavit of the consignor shall be submitted to his assessing authority or to the authorized officer. (3) Where a dealer fails to furnish the statement as mentioned in sub-rule (2) above, the assessing authority or the authorized officer

after affording a reasonable opportunity of being heard, may impose penalty under section 64. (4) The provisions of rule 21 shall, in so far as may be, mutatis mutandis, apply to the declaration Form VAT-49. (5) Where Form VAT-49 is out of print or in short supply or otherwise not available, the Commissioner may issue such instructions as he deems proper including dispensing with the requirement of such forms for the specified time.

55. Transit of goods by road through State and issue of Transit Pass :-

(1) For issuance of transit pass, the owner, the driver or the person incharge of vehicle or carrier or goods, shall submit dully filled Part-A of Form VAT-51 in three copies to the in-charge of the first entry check-post in the State and if there is no such check-post, to the nearest check post from the entry point, (hereinafter referred to as entry check-post). (2) On submission of Form referred to in sub-rule (1), the in- charge of the first entry check post shall on being satisfied with the particulars mentioned in Part-A and after making such enquiry as he deems necessary, shall complete Part-B of all the three copies of the Form VAT-51 and after affixing the Bar Code in specified place of Part-B, authenticate by affixing the seal of the check post in the First and Second copy, and shall retain the First copy of Form VAT-51 and deliver Second and Third copy of Form VAT- 51 to the applicant. (3) The owner, the driver or the person incharge of such vehicle or carrier or goods shall stop his vehicle at the exit check post specified in Part-B of Form VAT-51 and submit the Second and Third Copy of Form VAT-51 to the in-charge of exist check post and shall allow the in-charge of such exit check post to inspect the documents and verify the goods in order to ensure that the goods being taken out of the State are the same for which transit pass in Form VAT- 51 had been issued. On being satisfied, the in-charge of the exit check post shall fill in the Part-C of the Form VAT-51 and after affixing seal of the check-post, shall retain Second Copy of the Form and the Third Copy shall be delivered to the owner or the driver or the person incharge of such vehicle or carrier or goods, and allow the vehicle to move out of the State of Rajasthan. (4) The in-charge of the entry or exit check post shall have power to detain, unload and search the vehicle, the driver or the person incharge of the goods of vehicle, for verification of the goods. Where it is found that the goods are not in accordance with the documents submitted, the in-charge shall proceed in respect of such goods in accordance with the provisions

of the Act. (5) After the entry of vehicle or carrier carrying goods at an Entry Check post, if a vehicle is detained or changed on account of breakdown or otherwise, the owner, the driver or the person incharge of such vehicle or carrier or goods shall inform within twenty four hours to the in-charge of the entry check post or to the Assistant Commissioner or the Commercial Taxes Officer of the area, nearest to the point of such breakdown. Such officer or the in-charge of the check post on being satisfied shall extend the transit period by putting a note to this effect on Second and Third Copy of Form VAT-51.

56. Delivery of documents and seizure of goods :-

(1) (a) 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 forms as provided in clause (b) of sub- section (2) of section 76 to the in-charge of the nearest entry check- post. If the goods in movement are not accompanied with complete documents and declaration forms, the in-charge of the check-post shall afford an opportunity to any of the above referred persons to produce the required documents and / or declaration forms completed in all respect. (b) on being asked by the in-charge of the check-post or by the officer empowered under rule 52, owner or a person duly authorized by such owner or the driver or the person Incharge of a vehicle or carrier or of the goods shall deliver the documents or declaration form(s) as provided in clause (b) of sub-section (2) of section 76, to such in-charge or officer. (2) Where any direction is issued under clause (a) of sub- section (5) of section 76, the incharge of the check post or the officer empowered under rule 52, 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 possess any document and declaration Form in respect of the goods in movement, or fails to produce or refuses to deliver the documents and the declaration Forms, or the documents and the declaration Forms produced appears to be false or forged, the incharge of the check post or the officer empowered under rule 52, may get such goods unloaded from the vehicle or the carrier and seize the same and shall issue a receipt of the goods so seized in Form VAT-52. (4) Where the goods are seized, the in-charge of the

check post or the officer empowered under rule 52, 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 checking. If the said in-charge of the check post or the officer empowered under rule 52 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 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 three months from the date of service of the notice, the in-charge of the check post or the empowered officer, with the written approval of the Deputy Commissioner (Administration) having jurisdiction, may sell such goods in open auction. (6) The sale proceeds received under sub-rule (5) shall be deposited in the Government account. (7) Any person entitled to such sale proceeds shall, on an application to the Deputy Commissioner (Administration) referred to in sub-rule (5), be paid the sale proceeds, referred to in sub-rule (6), 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.

57. Detention of a vehicle or a carrier and imposition of penalty :-

(1) Where the in-charge of a check post or the officer empowered under rule 52, detains a vehicle or a carrier under sub-section (9) of section 76, such in-charge or officer shall inform this fact forthwith to the Deputy Commissioner (Administration) having jurisdiction. (2) The in-charge of the check post or the officer referred to in sub-rule (1) shall, immediately after the detention of a vehicle or a carrier, 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. Where the in-charge

or the officer referred to in sub-rule (1), 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 in-charge of the checkpoint or 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.

CHAPTER 12

POWERS OF OFFICERS

58. Power to prescribe registers and forms :-

The Commissioner may prescribe registers to be maintained, returns or statements to be submitted or documents to be used by the officers of the Commercial Taxes Department, for matters connected with the administration of the Act and the Rules.

59. Power to issue instructions :-

The guide-lines formulated and instructions issued by the Commissioner under sub- section (1) of section 91 shall be in writing and shall be binding.

60. Power to take help from the subordinate officers/officials :-

The Commissioner, the Deputy Commissioner (Administration), the Assistant Commissioner, the Commercial Taxes Officer, the Assistant Commercial Taxes Officer and the Junior Commercial Taxes Officer, while exercising their powers and discharging their duties, may take help from the subordinate officers / officials working under them.

CHAPTER 13

PERSONS ENTITLED TO APPEAR BEFORE THE TAX AUTHORITIES

61. Persons entitled to appear before the Tax Authorities :-

No person shall appear before any Tax Authority in any proceedings under the Act or the Rules as a representative of other person,

unless he is,- (a) a Tax Practitioner enrolled under the Rules; or (b) a Chartered Accountant within the meaning of the Chartered Accountants Act, 1949 (Central Act 38 of 1949); or (c) a legal practitioner, who is entitled to practice in any civil court in the State; or (d) a person holding a general or special power of attorney executed by the dealer and not receiving any specific remuneration for such appearance; or (e) a friend or a relative of the dealer authorized by him and making such appearance without charging any remuneration thereof; or (f) an officer not below the rank of Assistant Commercial Taxes Officer specially or generally authorized by the Commissioner or a Deputy Commissioner. Explanation - Tax Authority shall include an in-charge check-post, an officer not below the rank of Assistant Commercial Taxes Officer exercising powers under the Act, Appellate Authority and the Board. must,-

62. Qualifications of Tax Practitioners :-

A Tax Practitioner (a) hold a degree in Commerce, Law, Economics, Economic Administration and Financial Management conferred by any University incorporated by law for the time being in force in India; or (b) be an Income Tax Practitioner entitled to practice as such; or (c) be a Tax Practitioner under the Rajasthan Sales Tax Rules, 1955 or 1995 or under these Rules; or (d) be a retired officer of Rajasthan Commercial Taxes Department, who is not employed elsewhere and had served at least for five years. However, he shall not appear before any tax authority in any proceeding in such cases, which he had dealt with during the tenure of his service at any level.

63. Enrolment of Tax Practitioners :-

(1) Every person who desires to be enrolled as a Tax Practitioner shall apply to the Commissioner in Form VAT-53 and shall enclose attested copies of the University certificates along with two certificates of character from Gazetted Officers and every such application shall be accompanied with court fee stamps of rupees five hundred. (2) Where the Commissioner, after making such enquiry as he may consider necessary, is satisfied that the applicant possesses the requisite qualifications and is otherwise suitable for being enrolled as a Tax Practitioner, he shall enroll his name as such in a register to be maintained for the purpose in Form VAT-54 and every such enrolment shall be for a period of five years including the year during which such enrolment is made, and shall be renewable in every fifth year on a payment of a fee as laid

down in sub-rule (1). (3) Every person whose name has been enrolled under sub-rule (2), shall be furnished with enrolment certificate issued by the Commissioner in Form VAT-55 authorising him to practice before tax authority, Assessing Authority, Appellate Authority and the Tax Board for a period as laid down in sub-rule (2), and if the holder of such certificate desires to continue to practise as such, he shall make an application accompanied by a fee of rupees two hundred fifty to the Commissioner before the expiry of the validity of the enrolment certificate praying for renewal thereof. The Commissioner may, subject to his satisfaction as to the good professional conduct of the applicant as a Tax Practitioner, renew such enrolment certificate for a further period of five years and endorse the fact of such renewal on the enrolment certificate. (4) An application for renewal after expiry of the validity of the enrolment certificate, issued under the Rajasthan Sales Tax Rules, 1955 or 1995 or under these Rules, shall not be considered by the Commissioner unless the delay in submission of such application is condoned by the Commissioner on a separate application from the holder of such certificate accompanied by a late fee of rupees two hundred fifty, however, the condonation of delay shall not exceed ninety days. (5) Where an enrolment certificate issued under these Rules is misplaced, lost or destroyed, duplicate thereof may be issued by the Commissioner on an application in writing accompanied with a fee of rupees two hundred fifty.

64. Action against persons entitled to appear before the Tax Authority :-

(1) If any person, who is a Chartered Accountant or a Legal Practitioner, is found guilty of misconduct in his professional capacity by the authority competent to institute disciplinary proceedings against him, an order passed by that authority shall have effect in relation to his right to appear before any Tax Authority as it has in relation to his right to practice as a Chartered Accountant or a Legal Practitioner, as the case may be. (2) Where a Tax Practitioner is found guilty of misconduct by the Commissioner in connection with any proceedings, he shall stand disqualified to represent a dealer or person under rule 63 but no such order or direction shall be made unless an enquiry is conducted under rule 65. (3) In pursuance of an order passed under sub-rule (2), the name of the holder of the enrolment certificate shall be removed by the Commissioner from the register in Form VAT-54 maintained by

him under rule 63 and this fact shall be communicated by him to the Tax Practitioner concerned and also to all the Tax Authorities.

65. Procedure of enquiry against the Tax Practitioner :-

(1) Where the Commissioner on the basis of information in his possession is of the opinion that an enrolled Tax Practitioner is prima facie guilty of misconduct in connection with any proceedings, he shall frame definite charges against the Tax Practitioner and shall communicate them in writing to him, together with a statement of the allegations in support of the charges. The enrolled Tax Practitioner shall be required to submit within such time, as may be specified by the Commissioner, a written statement of his defence and also state whether he desires to be heard in person. (2) The Commissioner shall, unless he proposes to conduct the enquiry himself, appoint an Enquiry Officer not below the rank of a Deputy Commissioner, to conduct the enquiry and shall inform the enrolled Tax Practitioner of the appointment of such an Enquiry Officer. (3) On receipt of the written statement of defence, or if no such statement is received within the time specified, the Enquiry Officer shall enquire into such of the charges as are not admitted. (4) The Enquiry Officer shall in the course of the enquiry consider such documentary evidence and take such oral evidence as may be relevant or material in regard to the charges. The enrolled Tax Practitioner shall be entitled to cross-examine witnesses examined in support of the charges and to give evidence in person. If the Enquiry Officer declines to examine any witness on the ground that his evidence is not relevant or material, he shall record his reasons in writing. (5) On the conclusion of the enquiry, the Enquiry Officer shall prepare a report of the enquiry, recording his findings on each of the charges together with the reasons there for. (6) The Commissioner shall consider the report of the Enquiry Officer and record his findings on each charge and where he does not agree with the findings of the Enquiry Officer, shall record the reasons for his disagreement. (7) Where the Commissioner is satisfied on the basis of his findings on the Enquiry Officers report that the enrolled Tax Practitioner is guilty of misconduct in connection with any proceeding, he shall pass an order directing that the authorized Tax Practitioner shall be disqualified to represent a person under rule 63 for such period as he may determine and his name shall be removed from the register for that period. (8) The Commissioner shall, while communicating his order under sub-rule (7), furnish to the enrolled Tax Practitioner, a copy

of the report of the Enquiry Officer and a statement of his findings together with the reasons for disagreement, if any, with the findings of the Enquiry Officer. (9) The procedure prescribed in the aforesaid sub-rules shall mutatis mutandis apply when the Commissioner himself conducts the enquiry without appointing an Enquiry Officer. (10) Where a change of an Enquiry Officer becomes necessary in the midst of an enquiry, the Commissioner may appoint any other Enquiry Officer and the proceedings shall be continued by the succeeding Enquiry Officer.

66. Powers of the Commissioner and the Enquiry Officer :-

For the purposes of any proceeding under rule 65, the Commissioner and the Enquiry Officer may exercise the powers to enforce evidence, laid down in section 92.

CHAPTER 14

SETTLEMENT OF CASES

67. Constitution of the Tax Settlement Board :-

(1) The Tax Settlement Board shall consist of- (a) a Chairperson; and (b) two or more members, as may be appointed by the State Government. (2) The Commissioner shall be the ex-officio Chairperson of the Tax Settlement Board. (3) One or more members of the Tax Settlement Board shall be appointed from amongst the super time / selection scale officers of the Rajasthan Administrative Service / Rajasthan Commercial Taxes Service.

68. Application for Settlement :-

(1) The Tax Settlement Board shall entertain an application on fulfillment of the following conditions, namely. - (a) there shall be an appeal, revision, writ or any suit or complaint pending before any competent authority or court viz., Supreme Court, High Court, Tax Board, Board of Revenue, appellate authority under the Act, any Recovery or Civil or Criminal courts in or outside the State, wherein arrears of tax, penalty and interest or recovery is in dispute for at least three years on the date of filing of the application in the Board; (b) the disputed amount of tax, penalty and interest (other than accrued interest) on the date of submitting application, shall not be less than rupees one lac in each case; and (c) such dispute shall arise out of the action taken under the Act or the erstwhile Rajasthan Sales Tax Act, 1954 or the Rajasthan Sales Tax Act, 1994 or the Central Sales Tax Act, 1956 or any other Act(s) as may be notified by the State Government from time to time. (2) Application for settlement shall be submitted, in the Form

VAT-56 and separate applications shall be made by the applicant for separate orders, to the Tax Settlement Board by the applicant through the concerned assessing authority or the officer;; (3) Every such application shall be accompanied by: (a) a fee of rupees five hundred; and (b) a proof of the case being pending in appropriate forum on the date of filing of the application. Explanation -Unless the subject or context otherwise requires, - (a) "Applicant" means a dealer or person and includes legal heir, successor, assignee or nominee of such dealer or person. (b) "Arrears of tax, penalty and interest in dispute" means, - (i) Tax, by whatever name called payable by the dealer or person under the Act, the erstwhile Rajasthan Sales Tax Act, 1954 or the Rajasthan Sales Tax Act, 1994 or the Central Sales Tax Act, 1956, or under any other Act(s) as may be notified by the State Government, but does not include the tax collected and /or charged; (ii) Penalty imposed on a dealer or person under the Act(s) referred to in (i) above; and (iii) Interest payable by a dealer or person under the Act(s) referred to in (i) above, as determined for delayed payment or non payment of tax, or as accrued in respect of nonpayment or short payment of demand of tax, penalty and interest. (c) "Case" means an appeal, revision, writ or any suit or complaint pending before the competent court wherein arrears of tax, penalty and interest are under dispute.

69. Settlement of dispute and issue of Certificate of Settlement :-

(1) On receipt of an application, the Tax Settlement Board shall cause a copy thereof to be forwarded to the assessing authority or officer concerned and to call upon to furnish the relevant records along with comments. (2) The Tax Settlement Board shall have the powers to stay the recovery of the demand for a period not exceeding sixty days from the date of stay order. (3) The Tax Settlement Board after verifying the facts of the case and the record, shall issue a notice, to the applicant to appear before it and shall also afford opportunity of being heard to the officer against whose order the dealer or person has moved the application for settlement. (4) The Tax Settlement Board shall adopt summary procedure for the disposal of the cases and shall determine its own procedures for expeditious disposal of the applications. (5) Legal Practitioners, Chartered Accountants or the Tax Practitioners shall not be allowed to appear in any proceedings before the Tax Settlement Board. (6) The Tax Settlement Board shall, after giving

an opportunity of being heard to the applicant, the concerned officer whose order has given rise to the disputed demand and examination of records, within ninety days from the date of filing of the application shall determine, by an order in writing, an amount to be deposited by the applicant in lieu of the arrears of tax, penalty and interest in dispute for settlement. (7) The Tax Settlement Board, having passed an order under sub-rule (6) shall send a copy thereof to the applicant, the assessing authority or the officer concerned and the Commissioner, Commercial Taxes. (8) The decision of the Tax Settlement Board shall be unanimous. (9) The applicant shall submit before the Tax Settlement Board the proof of deposit of the amount determined in lieu of arrears of tax, penalty and interest along with the copy of the order of withdrawal of the case, if any, within thirty days from receipt of such order. However the Tax Settlement Board may for reasons to be recorded in writing, extend the time period for submission of proof of deposit of the amount determined for a further period of thirty days. However, where the applicant has moved an application for withdrawal of case but no order has been passed by the competent court, the Settlement Board may for reasons to be recorded in writing, extend the time period for submission of order of withdrawal of the case by a period as it may deem fit. (10) After receipt of the proof of deposit of the amount determined under sub-rule (6) and the order of withdrawal of the case, if any, the Tax Settlement Board shall issue a Certificate of Settlement of Arrears of tax, penalty and interest in dispute. (11) The Certificate of Settlement shall be binding on both the parties.

70. Payment of fees and other amount :-

The fees and the amount determined in lieu of arrears of tax, penalty and interest in dispute shall be deposited into a Government Treasury or a Bank authorized to receive money on behalf of the State Government in the manner prescribed under the relevant Act.

CHAPTER 15
MISCELLANEOUS

71. Application for rectification of mistake :-

An application for rectification of mistake under sub-section (1) of section 33 shall be in Form VAT-57.

72. Application for Reopening of ex-parte assessment :-

An application for reopening of ex-parte order under sub-section

(1) of section 34 shall be submitted before the Deputy Commissioner (Administration) having jurisdiction, in Form VAT-58 and shall be accompanied by the certified copy of the order sought to be reopened along with the proof of payment of a fee of rupees one hundred.

73. Application for determination of disputed question :-

An application for determination of disputed question under subsection (1) of section 36 shall be submitted before the Commissioner in Form VAT-59 and shall be accompanied by the proof of payment of a fee of rupees one hundred.

74. Procedure for composition of offences :-

(1) For composition of offence under subsection (1) of section 68, application shall be submitted in Form VAT-60 to the Deputy Commissioner (Administration) having jurisdiction. (2) On receipt of such application, the Deputy Commissioner (Administration) after conducting such enquiry as he may deem appropriate, direct by an order in writing, such dealer or person to pay, such composition amount as may be determined by him, in the specified period, failure to do so will result in cancellation of such composition order, on expiry of the specified period.

75. Obtaining of certificate and filing of statements by a clearing or a forwarding agent :-

(1) Every clearing or forwarding agent who conducts business of rendering services for booking or delivery of any consignment of goods, taxable within the State of Rajasthan, at a railway station, a booking agency, a goods transport company office or any other place of loading or unloading of goods, on behalf of a dealer in lieu of fee, reward, commission, remuneration or any other valuable consideration or otherwise, shall make an application in Form VAT-61 to the Assistant Commissioner or the Commercial Taxes Officer, in whose territorial jurisdiction he conducts such business, within a period as may be notified by the State Government. (2) Where a clearing or a forwarding agent conducts his business in territorial jurisdiction of more than one Assistant Commissioner or Commercial Taxes Officer, he shall make separate applications to the Assistant Commissioners or the Commercial Taxes Officers concerned. (3) The Assistant Commissioner or the Commercial Taxes Officer, as the case may be, shall grant a Certificate of registration in Form-VAT 62 to such clearing or forwarding agent. (4) Every clearing or forwarding agent shall submit to the Assistant Commissioner or the

Commercial Taxes Officer as referred to in sub-rule (3), a statement in Form VAT -63 every month within fifteen days from the close of the month.

76. Procedure for write-off of demand :-

Where a demand is outstanding against a person or a dealer, for a period of ten or more years from the date it became due, and such demand has become irrecoverable for want of any kind of property, the competent officer under section 52 may write-off the demand, after making such enquiry, as he deems appropriate.

77. Furnishing of security :-

Every dealer or person who is required under any of the provisions of the Act or the Rules to furnish a security, shall furnish it in any of the following forms:- (i) in cash, which shall be paid in accordance with rule 39; or (ii) by depositing, with the officer concerned, savings certificates issued by the Government of India of a face value not less than the amount of security required to be furnished, duly endorsed in favour of the officer concerned; or (iii) by furnishing to the officer concerned a bank guarantee payable by a branch situated in the State, agreeing to pay to the State Government or any of its officer, on demand the amount of security fixed by the officer concerned; or (iv) by executing a bond in Form VAT-64, with necessary modifications where necessary, with two sureties acceptable to the officer or authority concerned.

78. Disclosure of information relating to a dealer :-

Application for disclosure of information relating to a dealer, under sub-section (2) of section 94, shall be made by the applicant before the Commissioner in Form VAT-66 accompanied with the proof of payment of a fee of rupees one hundred, mentioning therein the particulars of information and purpose for which information is required.

79. Issue of tax clearance certificate :-

An application for tax clearance certificate by a registered dealer shall be made to the assessing authority or to an authorized officer on a plain paper mentioning the purpose of obtaining such certificate and a tax clearance certificate shall be issued to him in Form VAT-67 which shall be valid up to the date mentioned therein.

80. Court fees :-

Court fee stamps of the value indicated below shall be affixed on all

documents in respect of appeals, revisions and other proceedings -

Item No.	Nature of Document	Value of court fee stamps
1.	(a) Memorandum of appeal under section 82	Fifty Rupees.
	(b) Memorandum of appeal under section 83	One hundred rupees.
	(c) Application for revision under section 84	One hundred fifty rupees.
	(d) Application for revision under section 85	One hundred rupees.
2.	Vakalatnama by an advocate or authority by a Chartered Accountant or by any Tax Practitioner enrolled under rule 63 or a friend or relative of the dealer authorized to appear or his representative under rule 61 when filed before, -	
	(a) the Deputy Commissioner, the Assistant Commissioner, the Commercial Taxes Officer, or the Assistant Commercial Taxes Officer.	Rupees two
	(b) the Commissioner or the Tax Board.	Rupees four
3.	Application for adjournment of any proceedings before any authority under the Act.	Rupees two
4.	(a) Application for obtaining copies.	Rupees two
	(b) Copy of any order passed by any authority under the Act or any other document. (To be issued within seven days of the receipt of the application)	Rupees four for every page or part thereof.
5.	Application and copying fees for urgent copies.	Double of the fee payable at item No. 4 above.
	(To be issued within three days of the receipt of the application)	
6.	Application for inspection of files.	Rupees ten
7.	Application for grant of payment of demand in installments or postponement of payment of any demand or stay under subsections (4) or (5) of section 38.	Rupees five
8.	Any other document not covered by item Nos. 1 to 7 above.	Rupees two

81. Repeal and Savings :-

(1) The Rajasthan Sales Tax Rules, 1995 (to be referred to as the Sales Tax Rules), are hereby repealed. (2) The repeal under sub-rule (1) shall not affect in any way, anything done or any action taken or any privilege accrued or any obligation or liability incurred, under the Sales Tax Rules. (3) Any notification or circular issued

with reference to any of the provisions of the Sales Tax Rules in force on the date of commencement of these Rules, shall remain in force unless such notification or circular is superseded in express terms or by necessary implication, and any reference of a rule of the Sales Tax Rules therein, shall be deemed to refer to the relevant rule of the VAT Rules. (4) The blank printed forms prescribed under the Sales Tax Rules may, with or without such modifications, be continued to be used till such date, as may be directed by the Commissioner and all forms under these rules, except VAT-15, VAT-38, VAT-39, VAT- 47 and VAT-49, required to be used by the dealer or any person, may be got printed by them. B y Order of the Governor, Subir Kumar Deputy Secretary to Government