

## KERALA VALUE ADDED TAX RULES, 2005

*The following proposed rules are under finalization by the Government under Section 92 of the Kerala Value Added Tax Act, 2003 (30 of 2004). It is subject to change and hence cannot be termed as the finally approved version and copy.*

### CHAPTER - I

#### PRELIMINARY

- a. **Short title and Commencement:** - These Rules may be called “the Kerala Value Added Tax Rules, 2005.” They shall come into force on the first day of April, 2005
- b. **Definitions:-** In these Rules, unless the context otherwise requires-
- (a) “the Act” means the Kerala Value Added Tax Act, 2003;
- (b) “civil structure” means any building, including any temporary or permanent structure, water tank, well, road, bridge, compound wall or other similar structure attached to land.”
- (c) “designated bank” means any bank having treasury transactions or such other bank notified by Government to receive any amount due under the Act on behalf of Government.
- (d) “digital signature” means authentication of any electronic record by a subscriber by means of an electronic method or procedure in accordance with the provisions of section 3 of the Information Technology Act, 2000;
- (e) “digital signature certificate” means a Digital Signature Certificate issued under sub-section (4) of section 35 of the Information Technology Act, 2000;
- (f) “electronic record” means data, record or data generated, image or sound stored, received or sent in an electronic form or micro film or computer generated micro fiche;
- (g) “form” means a form appended to these Rules;
- (h) “Government Treasury” means a District Treasury or Sub-Treasury or Additional Sub Treasury of the State Government;
- (i) “key pair”, in an asymmetric crypto system, means a private key and its mathematically related public key, which are so related that the public key can verify a digital signature created by the private key;
- (j) “month” means a calendar month;
- (k) “private key” means the key of a key pair used to create a digital signature;
- (l) “public key” means the key of a key pair used to verify a digital signature and listed in the Digital Signature Certificate;
- (m) “quarter” means a period of three months commencing on the first day of April or the first day of July or the first day of October or the first day of January in each year;
- (n) “Schedule” means a schedule appended to the Act;
- (o) “section” means a section of the Act;
- (p) “secure digital signature” means such digital signature satisfying the requirements of section 15 of the Information Technology Act, 2000;
- (q) “State Representative” means an Officer appointed by the Government to receive on their behalf notices and orders issued by the Appellate Tribunal or any other authority under the Act and generally to appear, act, plead and file any petition, affidavit or statement before the Appellate Tribunal or any other authority under the Act on behalf of the state and includes an officer appointed to act on his behalf in his absence;

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

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

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

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

## CHAPTER - II

### APPELLATE TRIBUNAL AND SETTLEMENT COMMISSION

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

- a. one member shall be from Officers of the Commercial Taxes Department of the Government not below the rank of Joint Commissioner; and
- b. the others shall be Chartered Accountants as defined in the Chartered Accountants Act, 1949, or class I Officers of the Indian Audit and Accounts Service, having not less than three years service as such in revenue audit or officers not below the rank of Joint Commissioner of Income Tax of the Indian Revenue Service.

**4. Appointment of Chairman of the Appellate Tribunal:** - (1) The appointment of the Chairman shall be made by the Governor of Kerala:

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

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

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

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

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

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

(2) Of the members of the Settlement Commission (other than its Chairman) appointed under section 5, one member shall be from Officers of the Commercial Taxes Department of the Government not below the rank of Joint Commissioner; and the others shall be Chartered Accountants as defined in the Chartered Accountants Act, 1949, or class I Officers of the Indian

Audit and Accounts Service, having not less than three years service as such in revenue audit or officers not below the rank of Joint Commissioner of Income Tax of the Indian Revenue Service.

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

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

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### CHAPTER - III

#### INCIDENCE AND LEVY OF TAX

**9. Determination of total turnover:-** (1) The total turnover of a dealer for the purposes of these rules shall be the aggregate of-

(a) the amount for which goods are sold by the dealer; and

(b) the amount for which goods, the purchase of which is liable to tax under sub-section(2) of section 6 , are purchased by the dealer.

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

(20) in relation to a works contract in which the transfer of property takes place in the form of goods, be the whole amount payable to the dealer for carrying out such contract;

(21) in relation to a works contract in which the transfer of property takes place not as goods but in some other form in which the dealer transfers all the goods involved in the execution of such contract, be the whole amount payable to the dealer for carrying out such contract less the labour charges not incurred in relation to the goods involved in the execution of the works contract, and other charges and costs such as-

1. charges for planning and designing and the architect's fee;
2. charges for obtaining on hire or otherwise, machinery and tools used for the execution of the works contract **or, where the machinery is owned by the contractor, the interest paid on any loan taken for th purchase of the machinery and the depreciation in respect of such machinery.**
3. cost of consumables used;
4. cost of establishment and overhead charges of the dealer to the extent it is relatable to the supply of labour and services;
5. profit earned by the dealer to the extent it is relatable to supply of labour and services;

(22) in relation to a works contract in which the transfer of property takes place not as goods but in some other form in which the goods supplied by the awarder are partly involved and the value of the goods so supplied is not included in the contract amount, be the whole amount payable to the dealer for carrying out such contract less labour charges as explained in (b) above.

- (23) in relation to a works contract in which the transfer of property takes place not as goods but in some other form in which the goods supplied by the awarder are partly involved and the value of the goods so supplied is included in the contract amount and the value of the goods supplied is deducted from the payments made by the awarder to the contractor, be the whole amount payable to the dealer for carrying out such contract less labour charges as explained in (b) above:

Provided that when a works contract extends to more than one year for its completion, the turnover for each year shall be:-

- (a) when a system of progressive billing is stipulated for the payment of the contract amount for that much of works completed in a year; then the turnover involved in the amount received or receivable on such bills for the year; and
- (b) In other cases the turnover relating to the portion of work completed during that year; and
- (c) In the case of on-going contract on the date of commencement of these rules, the turnover for the purpose of these rules shall be the turnover relating to the work, which remains to be completed, which shall be computed in accordance with these rules.

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

**The Table**

<b>Sl. No.</b>	<b>Type of works contract</b>	<b>Labour or other charges as a Percentage of the value of the works contract</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>
1	Electrical Contracts	20
2	All structural contracts	30
3	Sanitary contracts	20
4	Tyre re-treading contract	50
5	Dyeing and Textile Printing contracts	50
6	Photography and Printing contracts	30
7	Sculptural contracts or contracts relating to Arts	70
8	Refrigeration, air conditioning or other machinery, rolling shutters, cranes installation contracts	15
9	Installation of plant and machinery	15
10	Laying of pipes	20
11	Installation of elevators (lifts) and escalators	15
12	Installation of air conditioners and air coolers	10
13	Fixing of marble slabs, polished granite stones and tiles (other than mosaic tiles).	25
14	All other contracts	25

(5) Notwithstanding anything contained in sub-rule (1), where the turnover arrived at after deducting the amounts mentioned in clauses (b) and (c) of sub-rule (1) falls below the cost of goods transferred in the execution of the works contract, an amount equal to the cost of the goods transferred in the execution of the works contract together with the profit, if any, shall be the turnover in respect of such works contract.

Explanation: - For the purposes of this sub-rule, cost of goods means the price of the goods together with all expenses incurred by the contractor in bringing the goods to the work site.

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

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

1. all amounts allowed as cash discount, provided that such discount is allowed in accordance with the regular practice in the trade and also that the accounts show that the purchaser has paid only the sum originally charged less the discount;
  2. all amounts allowed to purchasers in respect of goods returned by them to the dealer within a period of **ninety days** from the date of delivery of the goods, where the goods are taxable on the amount for which they have been sold, provided that the accounts show the date on which the goods were returned and the date on which and the amount for which refund was made or credit was allowed to the purchaser and the deduction is claimed during the year in which the sale was effected;
  3. all amounts received from the sellers in respect of goods returned to them by the dealer, where the goods are taxable under sub-section (2) of section 6, provided that the goods are returned within a period of **ninety days** from the date of delivery of the goods by the seller and the accounts show the date on which the goods were returned, the date on which the refund was made and the amount of such refund and the deduction is claimed during the year in which the sale was effected;
- (d) all amounts for which goods specified in the first Schedule to the Act are sold;
- (e) all amounts falling under the following heads, when specified and charged for by the dealer separately, without including them in the price of goods sold:
- (i) freight
  - (ii) charges for delivery
  - (iii) cost of installation
- (f) all amounts realised by a dealer by the sale of his business as a whole;
- (g) all amounts for which goods are sold or purchased where such sale or purchase takes place in the course of export of the goods out of the territory of India or in the course of import of the goods into the territory of India or in the course of inter State trade or commerce;
- (h) all amounts for which goods specified in the fourth Schedules to the Act are sold by a dealer when such sale is not at the point of levy prescribed in the said Schedule;
- (i) (i) the turnover of sales or purchases made by a dealer through his agent in respect of which tax has been paid by the agent.
- (ii) the turnover of sales or purchases made by an agent for and on behalf of any principal in respect of which tax has been paid by the principal
- (j) in the case of works contract, the turnover in relation to any amount paid to sub-contractors as consideration for execution of works contract:

Provided that no such deduction shall be allowed unless the dealer claiming the deduction produces proof that the sub-contractor is a registered dealer liable to pay tax under the Act and

that the turnover in relation to such amount is included in the return filed by such sub-contractor and that tax thereon has been paid by him

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

**11. Filing of option by dealers for payment of presumptive tax or compounded tax.**

Every application for exercising option for payment of presumptive tax under sub-section (5) of Section 6 or for payment of compounded tax under section 8 shall be in **Form No.....** and shall be filed before the assessing authority on or before the **30<sup>th</sup> day of April** every year:

Provided that in case of dealers who become liable to registration under the Act during the course of the year, such option shall be filed along with the application for registration.

1. If the assessing authority is satisfied that the application filed is in order, it shall grant permission in **Form No.....**
2. If the assessing authority is satisfied that the application filed is not in order, it shall reject the application, for reasons to be recorded in writing and after giving the dealer an opportunity of being heard.
3. **Any dealer who has opted for payment of presumptive tax under sub-section (5) of Section 6 may, opt to come out of the system of payment of presumptive tax by filing an application in Form No.....**
4. Where a dealer who has opted for payment of presumptive tax under sub-section (5) of section 6 **has become ineligible for the payment of tax under that sub-section**, such dealer shall intimate the fact to the registering authority and the assessing authority within ten days from the date on which **he has so become ineligible** and he shall be liable for payment of tax in accordance with the provisions of sub-sections (1) and (2) of that section from the beginning of the quarter subsequent to the quarter in which his turnover has crossed the said limit.
5. Where a works contractor who has opted for payment of compounded tax under section 8 becomes ineligible for payment of tax under that section, he shall inform the assessing authority within ten days of his becoming so ineligible. Thereupon he shall be liable for payment of tax in accordance with the provisions of sub-sections (1) and (2) of that section in respect all contracts entered into subsequent to the date from which he has become so ineligible.

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

- (a) those which were taxable under the Kerala General Sales Tax Act, 1963 (15 of 1963);
  - (b) those purchased within one year preceding such date;
  - (c) in the case of goods, other than those taxable at the point of purchase under the Kerala General Sales Tax Act, 1963, supported by bills issued by dealers registered under the Kerala General Sales Tax Act, 1963 (15 of 1963);
  - (d) in the case of goods taxable under the said Act at the point of purchase, supported by sale bill issued by the seller or purchase bill or bought note, as the case may be, issued by the dealer claiming such input tax credit;
  - (e) those which were taxable under the Kerala General Sales Tax Act, 1963 (15 of 1963) and are also taxable under the Act; and
- (d) physically available with the dealer on such date.

(2) Any dealer claiming input tax credit in respect of such goods shall submit to the Assessing Authority, within thirty days from the date of commencement of the Act, the following records namely,

- (i) opening stock inventory as on the date of coming into force of the Act separately for goods falling under different Schedules to the Kerala General Sales Tax Act, 1963 (15 of 1963) –

- (i) purchased within the State from dealers registered under the said Act-(a) where tax collection is shown separately (b) where such tax collection is not shown separately, and
- (ii) purchased from outside the State and those in respect of which tax under the Kerala General Sales Tax Act, 1963(15 of 1963) has not been suffered,
- (ii) statement of purchase bills in the following format ( separately in respect of goods subject to different rates of tax, of goods subject to tax at the point of sale and of goods taxable at the point of purchase where the dealer is the first purchaser or last purchaser, as the case may be):

Sl. No	Name of selling dealer	Item	Rate of tax	Sale Price/ Purchase price	Tax collected/ Paid
(1)	(2)	(3)	(4)	(5)	(6)

Dealers may submit separate statement for purchases made from each selling dealer

(c) opening stock value of goods as on the date of coming into force of the Act and on the first day of April 2004 and April 2003 in the following format –

Sl. No	Classification of goods	Rate of tax under the KGST Act <i>(in the case of goods in respect of which the dealer is the first seller)</i>	Opening Stock Value		
			As on 1.4.05 1.4.03 (4)	As on 1.4.04 (5)	As on (6)
(1)	(2)	(3)			
<b>Total</b>					

**The stock inventory and the statement of purchase bills referred to in this sub-rule shall be certified by a Chartered Accountant or a cost accountant or a Sales Tax Practitioner. The time limit may be extended by the assessing authority by fifteen days in deserving cases.**

- (3) Where the selling dealer has not shown tax collection separately in the bills or, in respect of goods taxable at the point of first purchase in the state, where the dealer claiming input tax credit is not the first purchaser in the state, the amount of tax paid by the dealer to the sellers in respect of which input tax credit is allowable shall, subject to the provisions of sub-rule (5), be determined by applying the following formula:

$$4PR$$

$$5(100+R)$$

where **P** is the opening stock value of the goods and **R** is the rate of tax applicable to the goods, including additional sales tax, if any, under the Kerala General Sales Tax Act 1963, (15 of '63 ) (in the case of goods falling under the Fifth Schedule to the Kerala General Sales Tax Act, 1963, (15 of '63 ), **R** shall be the rate of tax, including additional sales tax, if any, applicable on the first sale of the goods in the state)

- (4) In the case of goods which suffered tax at the point of first purchase or last purchase under the Kerala General Sales Tax Act, 1963 (15 of 1963) at the hands of the dealer claiming input tax credit, the tax so suffered on such goods held as opening stock on the date of coming into force of the Act, for the purpose of calculation of the input tax credit shall, subject to the provisions of sub-rule (5), be determined by applying the rate of tax, including

Additional Sales Tax, if any, on the purchase value of the goods calculated at the average price of such goods in the month preceding the date of coming into force of the Act.

- (5) In the case of goods in respect of which tax had been paid by the dealer claiming input tax credit, at the point of first purchase or at the point of last purchase under the KGST Act, the input tax credit in respect of such goods under sub-section (3) of section 11 be claimed by the dealer in three equal monthly instalments commencing from the return for the month of April 2005 onwards.
- (6) Where the dealer claiming input tax credit has submitted the statements as required by sub-rule (2), the dealer shall claim input tax credit in three equal monthly instalments commencing from the return for the month of May 2005 onwards.
- (7) Where a dealer who had opted for payment of tax under rule 11 changes over to the payment of tax under sub-section (1) of section 6, he shall submit a stock inventory on the date of change over along with a statement of the purchase bills issued by registered dealer paying tax under sub-section (1) of section 6, duly certified by a Chartered Accountant or a cost accountant or a Sales Tax Practitioner, within fifteen days from the date of change over.
- (8) Where the dealer referred to sub-rule (7) has submitted the statements as required by the said sub-rule, the assessing authority shall verify the claim and where it is satisfied that the claim is in order permit the dealer to claim input tax credit in respect of such goods held as opening stock in three equal monthly instalments .

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

(1) Any dealer claiming input tax credit under sub-section (2) of section 11 in respect of capital goods shall apply to the assessing authority within thirty days from the date specified in the said sub-section. Along with the application, the dealer shall submit the following records, namely:-

- (a) copy of the tax invoice issued by registered dealer
- (b) a statement in the following format:

Sl. No.	Name & address of the seller with Reg.No/TIN	Tax invoice No./date	Name of item	Value (Rs.)	Input tax paid (Rs.)	Date of Commencement of commercial production	Date of utilisation of capital goods	Remarks
1	2	3	4	5	6	7	8	9

(2) Where the assessing authority, on receipt of such application, is satisfied that the application is in order and the claim of input tax credit is admissible, it shall inform the dealer accordingly, within thirty days from the date of receipt of such application.

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

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

- (i) The deduction shall be allowed in equal half yearly instalments over a period of three years from the date specified in sub-section (2) of section 11.
  - (ii) No deduction of input tax shall be allowed where the use of capital goods relates wholly to the manufacture of exempted goods and/or goods falling under the fourth schedule.
  - (iii) Where the capital goods are used from the commencement of commercial production, for manufacturing taxable and exempted or non taxable goods simultaneously, the monthly instalments fixed under clause (a) shall be apportioned between the taxable and exempted or non taxable goods manufactured, on the basis of the ratio of taxable and exempted turnover during the period in which the input tax credit is claimed. The portion of the input tax allocable to taxable goods shall be allowed and that allocable to exempted goods disallowed and deducted from the input tax credit eligibility of the dealer.
    - (iv) where the capital goods used for the manufacture of exempted or non-taxable goods, is subsequently used for manufacture of taxable goods wholly or partly, the input tax credit allowable for the capital goods shall be calculated as follows:
      - (i) where the capital goods are used subsequently for manufacturing taxable goods only, the input tax credit for the months in which the capital goods are used for manufacturing exempted goods shall be disallowed and the input tax credit for the months during which the capital goods are used for the manufacture of taxable goods shall be allowed.
      - (ii) where the capital goods are used subsequently for manufacturing exempted or non taxable goods and taxable goods simultaneously, the input tax credit for the period during which such capital goods are used for the manufacture of exempted or non taxable goods shall be disallowed and the input tax credit for the months during which the capital goods are used for the manufacture of taxable goods and exempted or non taxable goods shall be determined in the manner prescribed under clause (c).
  - (e) Where the capital goods are used partly for the manufacture of goods falling under the first schedule and/or the fourth schedule and partly for the manufacture of taxable goods, the input tax credit calculated under clause(a) above shall be apportioned among the goods falling under the first schedule, fourth schedule and other goods on the basis of the ratio of the turnover of goods coming under the first schedule and fourth schedule and that of other goods, and the input tax credit allowed or as the case may be, disallowed in the manner specified in clause (c) above.
  - (f) The dealer shall claim the deduction in the monthly return.
- (5) (a) Where there is a change in use of the capital goods, on or after the claim for input tax credit has been allowed, and the dealer is no longer eligible for such input tax credit, the dealer shall inform the assessing authority within ten days of such change in use.
- (b) The assessing authority shall inform the dealer that he is no longer eligible for the input tax credit for the capital goods with effect from the end of the month preceding the month in which such change of use has occurred.
- (6) Where the capital goods are transferred to an industrial units manufacturing taxable goods in the state by way of sale of business as a whole, input tax credit to the extent of that remaining un-availed by the transferor shall, subject to the other provisions of this rule, be allowed to the transferee with effect from the date from which the capital goods are put to use by the transferee or the date of sale of goods manufactured using such capital goods, which ever is later.
- (7) Where the capital goods are disposed of otherwise than by way of sale within a period of three years as specified in sub-section (2) of section 11, the dealer shall not be eligible for input tax credit in relation to such capital goods subsequent to such disposal.

**14. (1) Any dealer eligible for special rebate under section 12 shall claim it in the return for the month in which the tax specified under clause (a) or clause (b), as the case may be, of section 12 is paid.**

(2) Where the special rebate allowed under sub-rule (1) is not fully set off during the month in which it is allowed, the rebate so remaining unadjusted shall be carried forward to the next return period for the purpose of allowing special rebate in the succeeding return period.

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

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

**(3) Where a dealer who has availed of input tax credit in respect of any goods which remain unsold at the closure of his business and the business is transferred as a whole to any dealer who is not liable to tax, the entire input tax credit availed of in respect of the goods so transferred shall be the reverse tax.**

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

#### **16. Net tax payable. -**

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

Net tax payable = (Output tax + Tax on purchase + Reverse Tax) - (input tax credit + special rebate) OR Presumptive tax under sub-section (5) of section 6 OR Compounded Tax under section 8.

(2) Where for any return period the input tax is more than the output tax, the difference shall be carried forward to the succeeding return period after making adjustments as provided under sub-section (7) of section 11.

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

(4) A dealer paying presumptive tax under sub- section (5) of section 6 or compounded tax under section 8 shall pay tax as provided under rule 23.

## **CHAPTER – IV**

### **REGISTRATION AND PERMIT**

**17. Application for registration:** - (1) Every dealer required to be registered under section 15 as on the date of commencement of the Act, other than a dealer registered under the Kerala General Sales Tax Act, 1963(15 of 1963), shall submit to the registering authority of the area in which his

principal place of business is situated, an application for registration within thirty days from the date on which these rules come into force.

(2) Every dealer registered under the provisions of the Kerala General Sales Tax Act, 1963 (15 of 1963) shall submit his application within thirty days from the date on which these rules come into force.

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

(4) Every casual trader referred to in clause (xi) of Section 2 shall within twenty four hours of his arrival in the jurisdiction of the Registering authority concerned, intimate to such Registering authority, his name, address and residence in the State, if he is a resident of the State or his name and address in the State as well as his address outside the State, if he is a non-resident, the nature of the goods in which he intends to deal and the period within which he intends to leave the jurisdiction of the said authority. He shall also submit to the registering authority concerned an application for registration within five days of his arrival or prior to twenty four hours from the last working day preceding the date on which he intends to leave the jurisdiction of the said authority, whichever is earlier,

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

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

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

8. an individual, by the proprietor or by a person having due authority to act on behalf of such proprietor;
9. a firm, by a partner thereof;
10. a joint family, by the Kartha or an adult member thereof;
11. a company or an association or body of person whether incorporated or not or an artificial juridical person, by a Director, Manager, Secretary or the Principal Officer, thereof; or by a person duly authorised to act on its behalf.

(8) Every application for registration shall be accompanied—

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

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

(iii) by a chalan receipt from a Government Treasury for--

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

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

© a fee of five hundred rupees for Electronic Identity Card and two hundred and fifty rupees for each add-on cards(in the case of a dealer who has opted for Electronic Identity Card under section 16 );

(iv)in the case of a partnership firm, by a copy of the partnership deed and a declaration in **Form No.....**, signed by all the partners stating the names and addresses of all the partners and their respective shares in the business ;

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

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

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

(10) Every dealer, including a joint family entering into or forming a partnership in regard to his business shall, within 30 days of such event happening, send to the registering authority of the area in which his principal place of business is situated, fresh application for registration in **Form No.....**, as provided in sub-rule (6) along with copies of the partnership deed and declaration in **Form No.....**, as provided in sub-rule (7).

(11) If any Partnership Firm is dissolved and the business is taken over by an individual, he shall apply for fresh registration as provided for in sub-rule (6).

(12) The person signing and verifying an application for registrations shall specify the capacity in which he does so and shall give particulars of the authority vested in him for signing and verifying the application.

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

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

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

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

(17) Every registered dealer shall file an application for renewal of the registration in **Form No.....** not later than 30<sup>th</sup> day of April of the year for which the renewal of registration is sought. Along with

the application he shall also file a Chelan receipt from a Government Treasury for the fee specified in sub-section (7) of section 16.

**(18) No registration shall be cancelled under sub-section (9) or sub-section (10) of section 16 without giving an opportunity to the dealer of being heard.**

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

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

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

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

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

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

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

(26) A certificate of registration granted to a dealer under sub-section (2) of section 15 may, either on the application of the dealer to whom it has been granted, or where no such application has been made, after due notice to the dealer, be amended by the authority granting it if he is satisfied that by reason of the registered dealer having changed the name, place or nature of his business or the class of goods in which he carries on the business or for any other reason the certificate of registration granted to him requires to be amended.

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

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

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

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

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

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

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

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

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

### **19. Security to be furnished by certain dealers :-**

(1) Where the registering authority decides to demand security or additional security under section 17, it may direct the dealer, in writing, to furnish, within a period, which shall not be less than fifteen days, as may be fixed by the said authority, security for such amount as may be specified in the notice. In making the estimate of turnover for the purpose of fixing the quantum of security the said authority shall take into account the taxable turnover of the dealer, if any, during the preceding year, the trend of business at the time the estimate is made, the nature of the goods dealt in by him, and such other factors as may, in the opinion of the said authority, assist it in making a proper estimate. No security shall, however, be demanded from a dealer who applies for registration as a dealer under sub-section(5) of section 6.

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

1. by depositing as security in the Government Treasury the amount fixed by the said authority and pledging the pass book to and depositing it with the said authority; or
2. by depositing with the said authority Government securities for the amount fixed by the said authority; or
3. by depositing security amount in the Post Office Savings Bank and pledging the pass book to and depositing it with the said authority; or
- (d) executing a security bond for such amount in **Form No.....** with two sureties, solvent enough for the amount assured and acceptable to the said authority; or

(e) by a bond prescribed under rule 79 for the amount fixed by the said authority in **Form No.....**, duly registered, along with title, possession and valuation certificates obtained from the Tahsildar concerned and the value of property shall not be lower than the amount, shown in the bond, or

(f) by means of a bank guarantee in form No.....from a nationalised or scheduled bank, or of any bank authorised under Rule 25 or of any branch thereof located in the State.

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

(4) Where a person who stood as surety by signing the bond in **Form ....** furnished under sub-rule (2) desires to withdraw from the bond, he shall duly serve on the dealer who had executed the

bond and to the registering authority, of his desire to do so. Thereupon the dealer shall within sixty days furnish fresh security in any of the manner specified under sub-rule (2) for the amount of the bond and the withdrawal shall be operative from the date on which such fresh security is furnished.

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

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

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

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

<b>Amount of tax evaded for an year</b>	<b>Period of suspension</b>
Exceeding One lakh but less than Three lakhs	Six Months
Exceeding Three lakhs but less than Ten lakhs	Nine Months
Exceeding ten lakhs	One year

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

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

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

(3) Every application for the grant or renewal of a permit shall be accompanied by the receipt from a Government Treasury, crossed cheque, or crossed demand draft in favour of the registering authority for the fee specified under section 19.

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

(5) Every permit granted under this rule shall expire on the thirty first day of March of the year in respect of which it is granted and may be renewed for periods not exceeding one year at a time on receipt of an application from the registered dealer in accordance with the provision contained in this rule.

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

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

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

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

## CHAPTER - V

### SUBMISSION OF RETURNS, ASSESSMENT AND COLLECTION OF TAX AND PENALTY

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

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

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

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

- (i) Statement regarding purchase invoices,
- (ii) Statement regarding purchase returns and/or sales returns,
- (iii) Statement regarding goods sent on branch transfer,
- (iv) Photocopies of the Delivery Note in **Form No. ....** used during the period for which the return relates. Originals of the Delivery Note shall be submitted along with the annual return.
- (v) Copy of the stock inventory as on 31<sup>st</sup> March, in the case of annual return.
- (vi) A statement regarding the declarations in Form No..... obtained from any institution referred to in SI.No..... of the third schedule, along with the photocopies of such declaration.

(4) Every dealer who discontinues his business during the course of a year shall submit to the concerned assessing authority a return in **Form No.....** for the period up to and inclusive of the date of discontinuance of the business within fifteen days from the date of such discontinuance.

(5) Any dealer who receives a notice under sub-section (4) of section 22 rejecting the return shall, within fifteen days from the date of receipt of such notice file a fresh return in **Form No. ....** rectifying the defects as pointed out by the assessing authority in the notice.

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

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

(8) The Certificate required to be furnished under section 41 shall be in **Form No.....**. Such certificate shall be furnished to the assessing authority in the case of a company on or before 31<sup>st</sup> December and in other cases on or before 31<sup>st</sup> October of the year succeeding to which it relates. Along with the Certificate of Audit in **Form No.....**, signed by a chartered accountant, the dealer shall file a statement in **Form No."** and the annual Financial Statement of the business for the relevant year.

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

**23. Submission of return by casual traders:** - (1) Every casual trader shall submit to the assessing authority concerned on or before the tenth of every month a return in **Form No.....** showing total turnover, turnover on which exemption is claimed, taxable turnover, input tax credit availed of, output tax and the tax due including reverse tax and tax paid separately for goods for the preceding month. Along with the return he shall submit a receipt from a Government Treasury or self attested copy of the receipt from the government treasury or crossed demand draft in favour of the assessing authority for the full amount of the tax or taxes payable on the taxable turnover for the month to which the return relates. The casual trader may, if he so desires, pay to the assessing authority in cash the tax due, and obtain a receipt therefore.

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

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

**24. Submission of quarterly returns,-**

(1) Every dealer who has opted to pay presumptive tax under sub-section (5) of section (6) or compounded tax under section 8, every dealer dealing exclusively in goods included in the first schedule, every works contractor, every Central or State Government or any Union Territory and any Department thereof and any Local authority shall file quarterly returns **Form No.....** for the quarter ending the 30<sup>th</sup> June, 30<sup>th</sup> September, 31<sup>st</sup> December and 31<sup>st</sup> March to the assessing authority on or before the 15<sup>th</sup> of the month following the respective quarter.

(2) Where in the case of a works contractor, the actual turnover for the quarter is not ascertainable, the contractor may file the return showing the estimated turnover and pay tax on the taxable turnover declared, provided that where estimated turnover is reported in the return, the labour charges in respect of which deduction is claimed from the gross receipts shown in the return shall not exceed the maximum percentage given under sub-rule (4) of Rule 9 and the dealer shall furnish the particulars of actual turnover in the annual return to be filed for the relevant year under sub-Rule (2) of Rule 22.

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

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

(2) Each branch shall also submit to the concerned assessing authority of the area in which it is situated a return of the turnover of the branch in the manner provided under sub- rules (1) and (2) of rule 22 and intimate to such authority, the fact that the return of turnover of its business is included in the return submitted by its Head office and specify the name and address of such Head Office.

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

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

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

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

**28. Procedure where a cheque is dishonored:** - (2) If a cheque presented by a dealer towards payment of tax or other amount due under the Act is dishonored the assessing authority shall issue a notice to the dealer in Form no..... and thereupon the dealer shall not be permitted to make payment by means of cheque for a period of six months which may be extended by the assessing authority, with due notice to the dealer, for good and sufficient reasons to be recorded in writing. However, if the dealer pays the amount covered by the cheque and makes prompt payment of tax or other amount due under the Act for a period of six months, the assessing authority shall restore the facility of payment by means of cheque.

**29. Submission of records by owners of vehicles and vessels etc:-** Owners of vehicles or vessels shall submit to the assessing authority having jurisdiction over the area in which the goods are delivered, copies of bill of sale, invoice, delivery-note, or certificate of ownership as the case may be with a certificate written on the back of such copies of bill of sale, invoice, delivery note, or certificate of ownership, by the person to whom the goods were delivered, to the effect

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

**30. Submission of returns by forwarding agency, clearing house, etc:** - The return mentioned in section 52 shall be in **Form No. ....** and shall be submitted every month so as to reach the assessing authority of the area on or before the 10<sup>th</sup> day of the month following that to which it relates.

**31. Banks to submit returns:-** (1) The return mentioned in section 53 shall be in **Form No. ....** and shall be submitted every month so as to reach the assessing authority of the area on or before the 10<sup>th</sup> day of the month following that to which it relates. Banks which do not have transactions in Bills as described in section 53 shall submit, in respect of every month, nil returns on or before the said date.

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

**32. Awardee to submit returns:-** Every awardee, including a Department of the State or Central Government, shall forward a return to the assessing authority showing the details of works contract awarded during every quarter, in **Form No.....**, so as to reach the assessing authority on or before the 10<sup>th</sup> day following the quarter ending 30<sup>th</sup> June, 30<sup>th</sup> September, 31<sup>st</sup> December and 31<sup>st</sup> March every year.

**33. Signing and verifying of returns:** - All returns prescribed under these rules shall be signed and verified in the manner provided therein, in the case of a business carried on by

- (a) an individual, by the proprietor or by a person having due authority to act on behalf of such proprietor;
- (b) a firm, by a partner thereof or by authorised signatory.
- (c) a joint family, by the Kartha or an adult member thereof;
- (d) a company or an association or body of person whether incorporated or not or an artificial juridical person, by a Director, Manager, Secretary or the Principal Officer, thereof; or by a person duly authorised to act on its behalf.

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

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

(3) If the return is submitted in person, the officer receiving the return shall acknowledge the receipt of the same by affixing his dated signature with seal on the duplicate copy of such return.

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

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

**35. Recording of reasons for rejection of return:** - If, in any case, a return submitted under the provisions of these rules is rejected by the assessing authority, it shall record the reasons for such rejection in writing and shall furnish to the assessee a copy of such record within fifteen days from the date of receipt of the return.

**36. Self Assessment:** - Where any return filed by any dealer is in accordance with these rules, and the assessment is deemed to have been completed under section 21 or sub-section (2) of section 22, the assessing authority shall not be required to give intimation to the dealer.

**37. Procedure for audit visit:-** (1) The authorisation referred to in sub-section (3) of section 23 shall be in Form No.....

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

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

**38. Best judgment Assessment:-** (1) Before resorting to best judgment assessment under section 23, the assessing authority shall serve on the dealer a notice in **Form No. ....** calling upon him to produce the books of accounts or other records or evidences, if any, to prove his turnover and tax liability, and also the correctness of the stock statement, goods or the turnover reported or the input tax credit or the refund claimed,

(2) where the dealer proves the correctness of the above claims with reference to the records produced, the assessing authority shall not proceed to complete best judgment assessment at a time and place to be specified in the notice and shall scrutinize them, if produced, as specified in the notice.

(3) The dealer shall be given a reasonable opportunity of being heard before completing the best judgment assessment.

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

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

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

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

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

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

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

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

**41. Collection and payment of tax :-** (1) Where a registered dealer collects tax under section 30 he shall show it separately in each bill, invoice or cash memorandum, as the case may be and pay it over to Government in the manner specified under sub-rule (6) of Rule 22.

(2) If the assessing authority is satisfied that any amount or amounts collected by the dealer by way of tax or taxes have not been paid by him to the Government in any return period as required by conditions (ii) and (iii) of sub-rule (1), it shall issue a notice to the dealer in **Form No.....** specifying therein the total sum so withheld by the dealer and the dealer shall pay such sum within the time and in the manner specified in the notice along with the interest as applicable.

**42. Deduction of tax by awarder: -** (1) The declaration specified in sub-section (2) of section 10 shall be in **Form No.....**, the quarterly certificate in **Form No.....** and the liability certificate shall be in **Form No.....**

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

Provided that no amount shall be deducted under sub-section (1) of section 10 if there is no transfer of goods involved in the execution of the works contract or the goods which are transferred in the execution of the works contract are only those falling under the First Schedule or where the payment relates to that portion of a contract which relates to transfer of goods involved in the execution of works contract other than those executed in the state.

(3) Where a works contractor has opted for payment of tax at compounded rates in accordance with the provisions of section 8, the awarder may deduct tax at the compounded rate, where a specific provision is incorporated in the contract or where the contractor produces the proceedings of the assessing authority in **Form No. ....** The tax so recovered shall be remitted to Government as provided for under sub-rule (2) above.

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

(5) Notwithstanding anything contained in sub-rule (2) or sub-rule (3), any contractor who pays tax regularly in accordance with the rules, on production of a certificate issued to that effect by the assessing authority in **Form. No.....**, shall be entitled to payment of the contract amount without deduction of sales tax due on the contract for the period and to the extent of the works contract specified in the certificate.

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

(7) Notwithstanding anything contained in sub-rule (2), if the total turnover in respect of a contractor for a year does not exceed the assessable limit prescribed under Section 6, the amount (s) recovered and remitted by any awarder under sub-rule (2) for the period shall be refunded or adjusted, as the case may be, by the assessing authority.

(8) The amount deducted by the awarder from the payments due to the contractor and remitted under sub-rule (2) shall be adjusted against the tax or other amount due from the contractor for the return period during which such deduction is made.

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

**43. Notice for further mode of recovery:** -The notice referred to in sub-section (1) of Section 35 shall be in **Form No. ....**

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

(2) Every dealer referred to in sub-rule(1) shall, in the sale bill or purchase bill, as the case may be, issued under sub-rule(12) of Rule 56 show the details of valuable consideration received or given for such sale or purchase and its cash equivalent separately.

**45. Declaration in respect of sales deemed to be in the course of export under Section 5(3) of the Central Sales Tax Act, 1956:-** (1) A dealer who purchases goods from another dealer in circumstances in which the sale to him is to be deemed to be in the course of export under sub-section (3) of Section 5 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956), shall furnish to the selling dealer the original and duplicate portions of the declaration in **Form No.....**duly filled in and signed by him or by any responsible person duly authorized by him in this behalf and shall retain the counterfoil . **Form No.....** shall be obtained from the assessing authority on payment of a fee of one hundred rupees per book of fifty Forms.

(2) A dealer who claims that a sale is to be deemed to be in the course of export under sub-section (3) of Section 5 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956), shall attach to his return of turnover for the return period, in **Form No.....**, the portion marked 'original' of the declaration in **Form No.....** received by him from the purchasing dealer. He shall produce the portion of it marked 'duplicate' for inspection, if the assessing authority directs him to do so.

(3) Every dealer to whom any declaration form is issued by an assessing authority shall maintain, in a register in **Form No.....** a true and complete account of every such form.

(4) No dealer to whom a declaration form is issued by the assessing authority, shall, either directly or through any other person, transfer the same to another person, except as provided in sub-rule (1).

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

who has made the inter-state sale and has paid tax under the Central Sales tax Act, 1956 (Central Act 74 of 1956) in respect of such sale.

(2) Every dealer who claims a refund under this rule shall submit a statement in **Form No..... along with (i) a statement of the interstate sales or transfer to outside the state made during the period to which the claim relates (ii) copies of the transport document YL.R.R.R; air way bill, as the case may be); and .....** the assessing authority concerned within thirty days from the end of the month in which the dealer paid the Central Sales tax on the transaction in relation to which he claims refund of the input tax:

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

**(iii) declaration in form No from the dealer..... who collected the tax in respect of which refund is claimed; to air way bill, as the case may be); and**

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

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

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

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

(5) Notwithstanding anything contained in the foregoing sub-rules, the assessing authority may issue refund of the input tax claimed in **Form No.....** without pre-verification where the dealer claiming such refund furnishes security in any of the modes specified in clauses (a), (b) or (c) of sub-rule (3) of Rule 18 or by furnishing to the said authority a guarantee in **Form No.....** from a Bank, approved in this behalf by the said authority, agreeing to pay to the State Government, on demand, the amount of security fixed by the said authority; covering the amount for which refund is claimed.

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

#### **47. Refund of input tax in case of sale or purchase of goods in the course of export out of the territory of India :-**

(1) Every dealer who claims a refund under section 13 shall submit a statement in **Form No.....** to the assessing authority concerned not later than three months from the date on which the goods have been exported. Along with the statement the dealer shall also submit (i) a copy of the Bill of Lading, Air way Bill or similar document evidencing export of the goods, duly certified by the Customs authorities,

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

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

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

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

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

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

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

(4) Notwithstanding anything contained in the foregoing sub-rules, the assessing authority may issue refund of the input tax claimed in **Form No...** without pre-verification where the dealer claiming such refund furnishes security, in the manner specified in sub-rule (5) of Rule 45, covering the amount for which refund is claimed.

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

**48. Issue of refund adjustment order:** - Whenever any excess tax refundable to a dealer is adjusted towards any amount due from him under the Act or under any other law referred to in sub-section (2) of section 13, the assessing authority shall issue a refund adjustment order in **Form No.....**

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

(2) On receipt of the documents mentioned in sub-rule (1) the assessing authority shall issue a refund order in **Form No.....** within two weeks from the date of receipt of such documents.

**50. Refund payment order:-** Where a refund is made under rule 46 or under rule 47 or under rule 52 or a reimbursement is made under Rules 49 or Rule 56, the assessing authority shall issue a refund order in **Form No.....** to the person to whom the refund or reimbursement is due and simultaneously give due intimation to the Treasury Officer concerned regarding the issue of refund order.

**51. Granting of instalments by Assessing Authority:** - Any authority under the Act who issues a notice of demand under these rules for the payment of any tax or other amount may, on request by the dealer, allow such amount to be paid in not more than six monthly instalments. Interest under sub-section (5) of section 31 shall, however, be payable on the amount remaining unpaid.

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

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

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

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

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

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

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

**56. Reimbursement of forfeited amount:-** (1) Any person who claims reimbursement under sub-section (3) of section 72, of any amount forfeited to Government under sub-section (1) of that section shall furnish to the assessing authority which ordered such forfeiture, within a period of one year from the date on which the order of forfeiture was passed under sub-section (1) of section 72, a statement in **Form No.....**, duly filled up and certified by the dealer who realized the excess or illegal tax, along with the original of the bill or bills evidencing such collection;

(2) If the assessing authority which forfeited the amount is satisfied that the statement submitted is correct and complete, it shall refund the amount within ninety days of receipt of the statement in **Form No.....**, as provided in rule 50.

**57. Refund of interest :-** Where, as a result of any order under sub-section (4) or sub-section (8) or sub-section (9) of section 31, the interest levied on any dealer or other person is cancelled or is reduced, the excess amount of interest, if any, collected, shall be refunded to the dealer or other person as provided in rule 50, after adjusting towards any arrears of tax or other amount, if any, due under the Act or under the Kerala General Sales Tax Act, 1963(15 of 1963) or the Central Sales Tax Act 1956(Central Act 74 of 1956) or under the Kerala Tax on Entry of Goods into Local Areas Act, 1994(15 of 1994) within three months from the date on which a copy of the order in appeal, revision or rectification is received by the assessing authority or where the order giving rise to refund is an order issued by the authority issuing the refund, within three months of such order.

## CHAPTER – VI

### INSPECTION OF BUSINESS PLACES AND ACCOUNTS AND ESTABLISHMENT OF CHECK POSTS

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

- (i) a daily cash book, that is to say, a record of all cash receipts and payments, kept and maintained from day to day indicating the cash balance in hand at the end of each day;
- (ii) a journal, if the accounts are maintained according to mercantile system of accounting;
- (iii) a ledger;
- (iv) a purchase register showing date wise details of the person from whom goods are purchased indicating the registration number, if the purchase is from a registered dealer, details of goods, quantity and value of goods purchased, freight, delivery charges or cost of installation which are separately charged, other charges, if any, paid, and input tax for such purchases.
- (v) a sales register showing date wise details of sales effected to registered dealers indicating the registration number of the purchasing dealer, quantity and value of each class of goods sold, freight, delivery charges or cost of installation separately charged, other charges, if any, received and output tax for such sales.
- (vi) a stock register showing date wise details of in-out- balance position of goods indicating opening stock, goods purchased, goods received otherwise than by way of purchase, goods received on stock transfer, goods sold or used for manufacturing, goods disposed of otherwise than by way of sale or manufacturing, consignment or stock transfer, goods bought or sold in the course of inter state trade or commerce or in the course of export out of or import into the territory of India, and the closing stock, provided that a dealer having exclusively retail business and paying tax under sub-section (5) need maintain a closing stock inventory for the year.

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

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

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

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

1. particulars of authorization received by him to purchase or sell goods on behalf of each principal separately and the date on which a copy of such authorization in each case was sent to the assessing authority.
2. particulars of goods purchased, or of goods received for sale on behalf of each principal each day;
3. details of purchases or sales effected on behalf of each principal each day,
4. details of account furnished to each principal each day;
5. the tax paid on purchases or on sales effected on behalf of each principal and the Chelan No. and date of remittance of the tax into Treasury.

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

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

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

(9) Every dealer liable to pay tax under the Act, other than a dealer paying presumptive tax under sub-section (5) of S.6 or compounded tax under section 8, shall maintain , shall maintain a VAT account showing month wise details of input tax, output tax, purchase tax, Central Sales Tax, Entry Tax, reverse tax, tax due, tax paid and input tax, if any, carried forward to the subsequent return period together with credit and debit notes issued in **Form No.....**

(10) Every dealer shall issue a bill or an invoice or cash memorandum in respect of every sale and where the sale is subject to approval by the purchaser, such dealer shall issue bill or invoice or cash memorandum specifying therein that the sale is subject to approval within a stated period of time. Every such bill, invoice or cash memorandum shall, in the case of a manufacturer (a) who is liable to pay Central Excise duty shall be in Form No..... and (b) in the case of other be in **Form No.** , in the case of any other dealer, other than a dealer paying presumptive tax or compounded tax or a works contractor, be in **Form No.** showing the sale price and the output tax separately. Every works contractor shall issue the bill in **Form No.** . Every dealer paying presumptive tax or compounded tax shall issue the bill in **Form No.** . Every dealer liable to tax under sub-section (2) of section 6 shall issue a purchase invoice in **Form No.**

(11) Every such bill or invoice or cash memorandum shall be prepared in quadruplicate in the case of a VAT dealer and in duplicate in the case of other dealers, unless a different procedure is prescribed by the Central Excise law as applicable to such dealer, and shall be serially machine-numbered. Where a dealer issues computer generated bills, the serial number of the bill shall be pre-printed. Original shall be issued to the purchaser, in the case of the sale bill and to the seller in the case of purchase bill, and the other copy shall be retained by the dealer. In the case of quadruplicate bills, the duplicate shall be used as transport copy, triplicate shall be filed at the check post, in the case of transport of goods across the check post and the quadruplicate shall be retained by the seller. The serial numbers assigned to the bills, invoice or cash memoranda shall run consecutively for the whole year. The dealers may use the same or different series of bills, invoice or cash memoranda for goods subject to different rates of tax. But the dealer shall intimate the series and the opening numbers of bills or invoices or cash memoranda intended to be used by him in a year to the assessing authority during the month of April and the number of the first and last bills or invoices or cash memoranda issued during the month, quarter or year, under different series shall be noted in the monthly, quarterly or annual return, as the case may be, filed

by the dealer. If a new series of bill, invoice or cash memoranda is started after having furnished the details to the assessing authority in April, the dealer shall intimate the details thereof within fifteen days from the date on which such new series is started.

(12) Every manufacturer of goods shall maintain daily production accounts, in **Form No....** showing quantitative details of the various raw materials used for the manufacture and the quantitative details of the goods so manufactured.

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

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

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

(16) Every wholesale dealer while delivering goods to retail dealer in pursuance of sale where no sale bill is issued or every person who consigns goods by any vehicle or vessel or any other means in pursuance of a sale, where a sale bill is not issued, or consigns goods through the said means from one godown to another or from one of his shops to another for the purpose of storage or sale, shall issue a delivery note in **Form No.....** Delivery Note shall also be used for the transport of such goods as may be notified by Government from time to time even where such goods are accompanied by sale bill, invoice or cash memorandum, as the case may be. A blank book of Delivery Note of **Form No.....** shall be obtained from the assessing authority, on payment of a fee at the rate of seventy five rupees per book of fifty forms.

(17) Every such delivery note shall be prepared in triplicate, the duplicate and triplicate being carbon copies of the original. The delivery notes shall be serially machine numbered, shall be kept in book form and shall be duly signed and dated by the consigning dealer or his manager or authorized agent. The original of it shall be furnished to the concerned Assessing Authority along with the annual return in **Form No.** and the duplicate shall be retained by the purchasing dealer or the person to whom the goods are delivered for transporting and the triplicate shall be retained by the consigning dealer.

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

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

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

- (1) Nature of the document (whether debit note/credit note)
- (2) Date of issue:
- (3) Name and address of the selling dealer (With registration number)

- (4) Name and address of the buying dealer (With registration number if any)
- (5) Number and date of the invoice in relation to which the credit note or debit note is issued
- (6) Amount credited or debited
- (7) Tax due on the amount credited or debited

**Deduction u/s41 will be allowed in respect of credit notes which contain their detail.**

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

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

**62. Safe custody and procedure on loss etc., of statutory forms or declarations:-** (1) The statutory forms or declarations obtained from the assessing authority by a dealer shall be kept in safe custody and he shall be personally responsible for the loss, destruction or theft of any such forms or declarations or the loss of revenue to government, if any, resulting directly or indirectly from such theft, loss or destruction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) When any accounts, registers or documents of a dealer seized by any officer empowered in this behalf have to be returned to the dealer, such return may be made after taking such extracts there from as may be considered necessary. The authority making the return shall affix its signature or official seal or both on such accounts, registers or documents and the dealer shall give a receipt in acknowledgement, which shall mention the details of the records returned and the number and particulars of the places where the signature or the seal, or both, have been affixed on the accounts, registers or documents returned to him.

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

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

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

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

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

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

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

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

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

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

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

**65. Procedure for the purchase of goods to prevent under valuation:-** No order under section 45 shall be passed without giving the person from whom such goods are purchased or the owner or driver or other agent or representative a reasonable opportunity of being heard.

**66. Establishment of Check Posts and documents to be carried with the goods:-** (1) When a check post is set up on a thorough fare or road under sub section (1) or under subsection (2) of section 46, barriers may be erected, across the road or thorough fare, in the form of a contrivance to enable vehicle or vessel being intercepted, detained and searched.

(2) No person shall transport within the State, across or beyond the notified area any consignment of goods if the value thereof exceeds one thousand rupees by any vehicle or vessel unless he is in possession of the records specified in sub-section (3) of section 46.

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

Sl.No.	Description of goods	Quantity
1	<b>Arecanut</b>	20 Kg.
2	<b>Cashew</b>	20 Kg.
3	<b>Rubber</b>	20 Kg.
4	<b>Pepper</b>	15 Kg.
5	<b>Dried Ginger</b>	15 Kg.
6	<b>Cardamom</b>	2 Kg.

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

(5) When the officer in charge of the Check Post or barrier within the notified area is not at the Check Post or barrier, the driver or any other person in charge of any vehicle or vessel specified in sub-section (3) of section 46 shall keep the vehicle or vessel stationery and any person referred to in sub-section (4) of Section 46 shall remain stationery or as the case may be keep the animal

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

(6) (a) Where the goods are brought from outside the State, the bill of sale, invoice or cash memoranda shall contain the particulars specified in **Form No...**

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

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

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

(d) The permit for notified goods referred to under sub-section (3) of section 46 shall be in Form No.....

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

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

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

consignment is not genuine, such officer shall treat the goods as not covered by the documents prescribed, or the consignment as bogus and proceed accordingly under these rules.

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

(4) (a) The security referred to in sub-section (2) of section 47, other than that referred to in the first proviso to the said sub section, shall be furnished in any of the ways specified in clauses (a) to (c) and (f) of sub-rule (2) of Rule 19 or by furnishing to the said authority a guarantee in Form No..... from any branch of a nationalised or scheduled Bank in the state approved in this behalf by the said authority, agreeing to pay to the State Government, on demand, the amount of security fixed by the said authority; or by depositing the amount with the officer referred to in sub-rule (1).

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

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

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

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

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

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

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

(d) an order under clause (a) or clause (b) shall be communicated to the owner of the goods in the same manner as a notice under sub-section (6) of section 47 is to be served, and also

on the person who was in charge of the vehicle or vessel at the time of detaining the goods.

(8) Where an order imposing penalty has been passed and the owner of the goods or his representative or the driver or other person in charge of the vehicle or vessel has paid the amount of penalty together with the expenses and other incidental charges for keeping the goods seized in custody and for the service and publication of the notice under sub-sections (6) and (10) of Section 47 and the order under clause (d) of sub-rule (4) of this rule to the Officer imposing the penalty, such officer shall pass an order directing the release of the goods seized or of the security or bond furnished, as the case may be.

(9) Where the penalty is not paid within the time specified in sub-section (8) of section 47 -

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

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

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

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

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

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

(f) Where the amount fetched in auction is more than the amount of the penalty due from the owner of the goods, the surplus after realizing the penalty imposed, the charges for the service and publication, if any, of the notice under sub-sections (6) and (10) of Section 47 and the order under clause (d) of sub-rule (4) of this rule, the expenses for the conduct of the sale and the expenses and other incidental charges referred to in sub-section (14) of section 47, shall be refunded.

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

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

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

(11) The provisions of clauses (a), (b) and (d) to (h) (both inclusive) of sub-rule (8) shall, so far as may be, apply to a sale falling under sub-section (12) of section 47.

**68. Issue of transit pass:-** Every transit pass issued under Section 48 shall be in **Form No.....**

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

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

**70. Procedure for disposal of goods and vehicles confiscated:-** (1) Where an order of confiscation under Section 49 has become final, the authorized officer, shall sell the goods and/or the vehicle confiscated in public auction and the procedure prescribed in sub-rules (1) to (6) of rule 57 shall, so far as may be, apply to such sale.

(2) The sale under this rule shall be subject to confirmation by the Deputy Commissioner.

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

## CHAPTER – VII

### APPEALS, REVISIONS, SETTLEMENT AND REFUNDS

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

(1) Every appeal under section 55 shall be in **Form No.....** and shall be verified in the manner specified therein.

(2) It shall be in duplicate and shall be accompanied by the original or a certified copy of the order appealed against and the original of the demand notice.

(3) The appeal may be sent to the Appellate Authority by post or may be presented to that authority by the appellant or his authorized agent or a legal practitioner.

**73. Filing of application under Sections 49, 57 or 59: -** Every application under section 49, section 57 or section 59 shall be in **Form No.....** and shall be verified in the manner specified therein.

**74. Payment of fees on interlocutory application: -** (1) Fees at the rates mentioned in section 65 shall be paid on the following interlocutory applications: -

1. Application for staying the collection of any tax or other amount, which is disputed in appeal, revision or other proceedings, as the case may be.
2. Application for advancing the hearing of the appeal, revision or other proceedings, as the case may be.
3. Application for condonation of any delay in the filing of any appeal, revision or application as the case may be.

(2) The interlocutory applications mentioned in sub-rule (1) shall be in **Form No.....** in cases where no form has been prescribed separately.

**75. Filing of appeal to the Appellate Tribunal:-** (1)(a) Every appeal under sub- section (1) of section 60 shall be in **Form No. ....** and shall be verified in the manner specified therein.

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

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

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

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

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

(5) When in any case the Officer empowered by Government under Section 60 or the other person referred to in Section 60, as the case may be, fails to file a memorandum of cross objections within the time provided for in sub section (2) of section 60 the appeal shall be disposed of on its merits by the Sales tax Appellate Tribunal.

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

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

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

**76 Procedure in case of death of appellant or revision petitioner pending proceedings:-** (1) If a person who has filed an appeal or revision or against whom any appeal or revision is pending before any authority under the Act, other than the High Court, dies before the conclusion of the final hearing of the same, the authorized representative appearing for the party or any of the legal representatives, shall, as soon as he comes to know of the death, inform the appellate or revisional authority, as the case may be, about it. The authority concerned shall, thereupon, adjourn further proceedings to enable the impleading of the legal representatives of the deceased. The application for impleading may be filed either by the party interested in getting final orders

passed on the proceedings or by any legal representative of the deceased, even though not so interested. The Application shall be in Form No.....

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

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

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

(5) Where a pending proceedings referred to in sub-rule (1) abates, no fresh proceedings shall be started on the same cause of action.

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

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

**77. Setting aside of abatement: - (1) (i)** Any person bound to apply for impleading legal representatives of a deceased party in any proceedings referred to in rule 73 may apply, within sixty days from the date of abatement, for an order to set aside the abatement, and if it is proved that he was prevented by sufficient cause from continuing the proceedings, the appellate or revisional authority, as the case may be, may set aside the abatement.

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

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

**78. Filing of application seeking clarification :-** (1) Every application under section 94 shall be in **Form No.....** and shall be verified in the manner specified therein.

(2) The application shall be accompanied--

(a) where clarification in respect of rate of tax on any commodity is sought, by any literature giving details of the process of manufacture, ingredients, classification under Central Excise Tariff or other relevant material which will aid in arriving at a decision;

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

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

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

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

**79. Filing of Application before the Settlement Commission:** - (1) Every application under sub-section (1) of section 61 shall be in quadruplicate, in **Form No. ....**, and shall be verified in the manner specified therein and accompanied by a fee of one thousand five hundred rupees.

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

1. copy of the original order against which the appeal or revision had been filed,
2. copy of the order(s) of the appellate or revisional authority if the settlement is preferred not at the stage of proceedings pending before the first appellate or revisional authority, and
3. copy of the books of accounts or any other document or record on which the assessee relies upon to prove the genuineness of his claim.

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

**80. Filing of Appeal, Petition etc., to the High Court :-** (1) Every appeal under sub- section (1) of section 62 shall be in **Form No.....** and every petition under sub- section (1) of section 63 shall be in **Form No.....** and shall be verified in the manner specified therein.

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

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

**81. Jurisdiction of Appellate or revisional authority:-** The jurisdiction of Appellate or Revisional authority shall be decided -

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

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

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

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

**84. Disposal of the appeal or revision petition irrespective of jurisdiction:-**The authority, to which the appeal or revision petition is transferred under Rules 79 or 80, as the case may be, shall proceed to dispose it of irrespective of the local limits of jurisdiction.

**85. Furnishing of Security:-** (1) Where it is provided in the Act that an appellant (or an applicant in revision proceedings) shall furnish security in regard to the payment of tax or fee or other amount, the appellant (or applicant) or any person on his behalf shall furnish security in any of the ways specified in sub-rule (5) of rule 17 or furnish personal property as security as the authority, before which the appeal or application is preferred, may, in its discretion, direct. The security bond shall be in **Form No.....**with suitable modification wherever necessary.

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

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

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

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

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

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

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

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

## CHAPTER – VIII

### MISCELLANEOUS

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

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

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

**92. Sending of report in certain cases:-** If, at any time a dealer (a) discontinues or sells or otherwise disposes of, the whole or any part of any business carried on by him, or (b) acquires any business or part of any business whether by purchase or otherwise, (c) changes his place of

business or any of his place of business or (d) effects any other change in the ownership or constitution of the business or (e) opens a new place of business or (f) changes the name, style or nature of his business or effects any change in the class or description of goods which he sells or (g) starts a new business singly or jointly with other persons, (h) death or insolvency of the sureties, (i) creating any charge on the property which is kept as security, he shall intimate the fact to the registering authority within thirty days thereafter.

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

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

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

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

**97. Chartered Accountant and Sales Tax Practitioner:-** (1) The Chartered Accountant referred to in clause (c) of Section 86 shall be a Chartered Accountant as defined in Chartered Accountants Act, 1949 (Central Act XXXVIII of 1949).

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

- (i) who has passed the accountancy examination recognized by the (Central Board of Direct Taxes) under rule 50 of the Income Tax Rules 1962, for the purpose of clause (v) of sub-section (2) of section 288 of the Income Tax Act, 1961 (Central Act 4 of 1961,) ; or
- (ii) who has acquired such educational qualifications as are prescribed by the Central Board of Direct Taxes in rule 51 of the Income Tax Rules, 1962, for the purpose of clause (VI) of sub-section (2) of section 288 of the Income-tax Act, 1961 (Central Act 43 of 1961) ; or
- (iii) who has enrolled as sales tax practitioner under sub-rule (2) of Rule 60 of the Kerala General Sales Tax Rules, 1963; or
- (iv) who:-
  - (i) has retired from the Commercial Tax Department of the Government of Kerala and a period of two years has elapsed since his retirement; and
  - (ii) during his service under the Government, had worked in a post not lower in rank than that of an assessing authority for a period of not less than three years:

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

Provided further that in exceptional cases of retired officers of the Commercial tax Department of the State, the Government may relax the conditions specified in clauses (i) and (ii) for reasons to be recorded.; or

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

(3) If any Sales tax Practitioner is found guilty of misconduct in connection with any Sales Tax Proceedings by the Deputy Commissioner of Sales tax, having jurisdiction or by the Sales Tax Appellate Tribunal, the Deputy Commissioner of Sales tax or Sales tax Appellate Tribunal may direct that he shall be thence forward disqualified to represent any person under Section 83 of the Act;

Provided that:-

1. no such direction shall be made in respect of any Sales tax Practitioner unless he is given a reasonable opportunity of being heard;
2. any Sales tax Practitioner against whom such direction is made by the Deputy Commissioner of Sales tax, may within one month of the receipt of the orders containing such direction, appeal to the Commissioner to have the directions cancelled;
3. any Sales tax Practitioner against whom such a direction is made by the Sales tax Appellate Tribunal, may, within one month of the receipt of the orders containing such direction, appeal to the High Court to have the direction cancelled.

(4) The Deputy Commissioner of Sales Tax shall maintain a list in **Form No.....** containing the names of all the Sales Tax Practitioners who possess any of the qualifications prescribed in sub-rule (2) and every Sales Tax Practitioner possessing any such qualifications shall be entitled to have his name entered in the said list on an application in **Form No.....** made by him in that behalf to the Deputy Commissioner of Commercial Taxes Department having jurisdiction. The name of any such Practitioner against whom a direction is made under sub-rule (3), shall be removed from the list, provided that the Deputy Commissioner of Commercial Taxes shall re-enter his name in the list if, on an appeal made by him to the Commissioner or to the High Court under proviso (b) or (c) to the said sub-rule, as the case may be, such direction is cancelled.

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

(6) Any Sales Tax Practitioner whose name has been included in the list maintained by the Deputy Commissioner of Commercial Taxes under sub-rule (4) shall be entitled to appear before any authority under the Kerala General Sales Tax Act, 1963(15 of 1963)

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

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

**99. Procedure for seeking Police assistance:- Any officer seeking police assistance under section 49A shall give a request to the City Police Commissioner or the Superintendent of Police or the Station House Officer having jurisdiction over the area.**

**100. Use of forms:** - (1) Where a form has been prescribed by these Rules, only the appropriate form printed under the authority of the State Government shall be used for the purpose:

Provided that the Government may for sufficient reasons, by notification in the Gazette, exempt any form from the operation of this rule generally or for any specified period.

(2) The forms prescribed in these Rules may be used with such variation in matters of details as may be directed by the Commissioner from time to time.

**101. Issue of notice or summons for the production of accounts:** - An assessing authority shall issue a notice in **Form No.....** for production of accounts or a summons in **Form No.....** where personal appearance of any person with certain documents is required by it.

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