

GOVERNMENT OF JAMMU AND KASHMIR
FINANCE DEPARTMENT.

NOTIFICATION

Dated: Jammu the 10th January 1963.

SRO.16 – In exercise of the powers conferred by section 26 of the Jammu and Kashmir General Sales Tax Act, 1962 (XX of 1962) the Government hereby make the following rules, the same having been previously ¹[published as required by sub section (1) of the said section 26] namely: -

PRELIMINARY

1. **Short title and commencement** – (1) These rules may be called the Jammu and Kashmir General Sales Tax Rules, 1962.
 (2) They shall come into force on 1st January 1963.
2. **Definitions** – In these rules, unless the context otherwise requires –
 - (a) **“Act”** means the Jammu and Kashmir General Sales Tax Act, 1962;
 - ²[(b) **“Agent”** means an authorized representative as defined by Rule 68.]
 - ² [(c) **“Circle”** means the jurisdiction of an Assessing Authority determined by the Commissioner under rule 3;]
 - (d) **“Form”** means a form appended to these rules;
 - (dd) **“Deputy Sales Tax Commissioner”** means any person appointed by the Government under section 3 of the Act to assist the Commissioner;
 - (e) **“Inspector”** means a Sales Tax Inspector appointed by the competent authority to assist the Commissioner under section 3 of the Act for purposes of the Act;
 - (f) **“Month”** means a calendar month;

¹ The notification was published in part III of the Jammu & Kashmir Gazette dated 10th Jan. 1963

² Clauses (b) and (c) substituted vide SRO 279 dated 30th May 1980

(g) **“Place of business”** means any place where the dealer sells any goods or carries on any process of manufacture or store goods or keep accounts of his purchases or sale;

¹[(h) **“Quarter”** means a unit of three months of the year adopted by a dealer.]

(i) **“Return period”** means the period for which returns are prescribed to be furnished by a dealer;

²[(j) **“Excise and Taxation Officer”** means the person appointed by that designation by the Government ³[and posted in the Sales Tax Department to assist the Commissioner for the purposes of performing the functions of an Assessing Authority and other functions entrusted to him under the Act;]

(k) **“Section”** means a section of the Act;

⁴ [(kk) **“State”** means the State of Jammu and Kashmir;]

(l) **“Treasury”** means a treasury or sub-treasury of the Government or any branch of the Jammu and Kashmir Bank Ltd. or any scheduled/nationalized bank as may be notified by the Government from time to time.

(m) **“Warehouse”** means any enclosure, building or a vessel in which a dealer keep stock of goods for sale or resale;

⁴[(n) **“Assessment year”** in relation to the rules shall have the same meaning as given to the term in the General Sales Tax Act,. 1962;]

⁵[(o) **“Deputy Sales Tax Commissioner (Vigilance & Inspection)”** means a person appointed by the Government under section 3 of the Act to assist the Commissioner for the purposes of performing the functions, and exercise the powers of an Assessing Authority and such other functions and powers as may be assigned to him by the Commissioner.]

⁵[(p) **“Assistant Commissioner (Inspections & Vigilance)**
x x x x x x x x]

1 Clause (h) substituted vide SRO 279 dated 30th May 1980.

2 Clause (j) substituted vide SRO 279 dated 30th May 1980.

3 The words in brackets substituted vide SRO 220 dated 17.5.1983.

4 Clauses (kk) and (n) added vide SRO 279 Dated 30th May 1980

5 Clauses (o) and (p) inserted vide SRO 136 dt.4.4.91 and subsequently clause (p) deleted vide SRO 136 dated 4.4.91.

¹[3. **Jurisdiction of Assessing Authority** – (a) The Government may by notification in the Government Gazette create circle or circles in respect of which the Assessing Authority/authorities shall exercise jurisdiction for the purposes of assessment and other functions under the Act.]

(b) The Assessing Authority Incharge of a circle in which the assessee has his place of business or in case he has more than one place of business, the Assessing Authority Incharge of the Circle in which his Head Office as specified in the certificate of registration is located, shall have jurisdiction over such assessee.

Provided that if more than one Assessing Authorities have been posted in a circle ²[or same area has been allotted to more than one circle,] the Commissioner shall determine their respective jurisdiction either on the basis of area or persons/class of persons or in any other manner as he may consider necessary.

Provided further that the Assessing Authority shall continue to hold jurisdiction unless the place of business or the head office, as the case may be is changed to some other place falling in any other circle and necessary amendment thereof is made in the certificate of registration on the application made by the assessee.

(c) A dealer having more than one place of business in the State shall nominate the principal place of business as his head office in the application for registration or application for exemption licence, as the case may be, provided that if the dealer fails to make such nomination the Commissioner may nominate his head office for the purpose of the Act and the Rules.

(d) Where a doubt or dispute arises with regard to the jurisdiction, the Commissioner shall determine it and his decision shall be final;

Provided that no person shall have the right to call in question the jurisdiction of Assessing Authority over him;

(i) after furnishing the return under sub section (1) or sub section (3) of section 7 or completion of assessment whichever is earlier; or

1 Rule 3 substituted vide SRO 279 dated 30.5.1980.

2 In the first proviso to sub rule (b) the words in brackets inserted vide SRO 220 dated 17.5.1983.

- (ii) after the time for furnishing return under sub section (1) or sub section (3) of section 7 has expired but no such return has been furnished; or
- (iii) after the expiry of the date fixed in the notice issued under sub section (12) of section 7:

Provided further that in case of a change of place of business/head office, the proceedings taken by the Assessing Authority shall not be invalid unless amendment regarding such change as required by second proviso to sub rule (b) of this rule is made.

(e) (i) If a dealer has more than one place of business in the State and one or more of such branch(es) are located in a Division other than the one in which his head office is located the Assessing Authority(ies) having jurisdiction over the area (s) in which such branches is/are located shall have the power to call for such information as may be necessary for the purpose of the Act.

(ii) The Assessing Authority having jurisdiction over a dealer may authorise the Assessing Authority having jurisdiction over the area in which a branch or branches of a dealer is/are located to examine the account books and other documents relating to such branch (es) and such other Assessing Authority shall send the report to the Assessing Authority having jurisdiction over the Head office after examining such account books and other documents.

f) In calculating the period of limitation under section 7 the time taken in determination of jurisdiction shall be excluded.

Explanation: - For removal of any doubt it is clarified that the Assessing Authority having jurisdiction in respect of an assessee shall have the jurisdiction over all places of his business and in respect of all the business carried on by him within the State.

- ¹[4. (a) **Exemption Licence:** - (i) If a dealer is granted exemption from payment of tax under section 5 in respect of any goods or class of goods subject to the condition that he obtains exemption licence, he shall obtain such licence in Form ST-I on an application made in Form ST-2 to the Assessing Authority within such period and in such manner, as may be specified in the notification under which such exemption is granted.
- (ii) The licence fee, if any, payable under the said Notification shall ²[be deposited in cash in the treasury and the treasury receipt of such fee shall be attached with the application.]
- (iii) The licence shall, subject to the conditions laid down in the said notification, be valid for the period of exemption and shall be renewed for a further period of exemption, if any granted, on payment of renewal fee, as may be specified therein and ²[be deposited in cash in the treasury and the treasury receipt

1 Rule 4 substituted vide SRO 279 dated 30.5.1980.

2 In sub rule (ii) of rule 4 the words in brackets substituted vide SRO 136 dated 4.4.1991.

of such fee shall be attached with] the application made in Form ST-3 for renewal of licence.

(iv) The licence shall be liable to be cancelled for contravention without a reasonable cause, of any of the conditions specified in the notification and such cancellation shall have effect from the date of such contravention provided that before it is cancelled, the Assessing Authority shall give the dealer a reasonable opportunity of being heard.

(v) The dealer shall maintain separate accounts in respect of sale of goods exempted from tax and ¹[he shall furnish annual return within the period specified in sub section (1) of section 7 of the Act alongwith the statement of quantity and value of the goods in the following form]:-

- a) Nature of goods.
- b) Opening stocks.
- c) Goods purchases/manufactured.
- d) Goods sold; and
- e) Closing stock.

(vi) The licence shall be applicable to such class(es) of business or goods in respect of which exemption is granted.

(b) If a licensee under this rule also deals in the sale of goods liable to sales tax he shall obtain a Registration Certificate prescribed for such a dealer and shall maintain separate accounts in respect of goods covered by his licence or certificate.

(vii) The licence shall be non transferable provided that if the business owned by the dealer is transferred to any other person during the currency of the licence such other person shall subject to the conditions laid down in the Notification, be entitled to the grant of fresh licence for un-expired period without any additional fee on an application made by him to the Assessing Authority.

(viii) The Assessing Authority shall maintain a register of licence in Form ST-4. Notwithstanding anything contained in sub rule (a) –

¹ In sub rule (v) of rule 4 the words in brackets substituted vide SRO 136 dated 4.4.1991 and the said sub rule was also amended vide SRO 220 dated 17.5.1983.

- (i) The dealer who does not obtain the licence within the period fixed under the notification or whose licence is cancelled shall not be entitled to exemption and he shall be liable to assessment in accordance with the provisions of the Act.
- (ii) The dealer who also deals in taxable goods shall obtain a certificate of registration in respect of the sale of such goods in accordance with rule 7.

¹[5. **Grant and renewal of licences:-** (x x x x x x)]

¹ [5-A **Cancellation of Licence:-** (x x x x x x)]

¹ [6. (x x x x x x x x)]

²[7. **Certificate of Registration :-** (a) The application for registration under section 6 shall be made to the Assessing Authority in Form ST-5.

(b) A fee of ³[Rs.2000/-] shall be payable in respect of the application for registration under sub rule (a) and such fee shall be ³[deposited in cash] in the treasury.

(c) The Assessing Authority shall soon after the receipt of application cause an enquiry to be made by the Inspector regarding the contents of the application and Inspector shall submit his report within a period of 7 days.

d) The Assessing Authority on being satisfied after receipt of the report of the Inspector and on making such other enquiry as he may consider necessary that the dealer is genuine and the application is in order and complete in all respects, shall grant certificate of registration in Form ST-6 to the dealer ordinarily within a period of 20 days from the date of making of application, provided that in case the Assessing Authority is not satisfied he may refuse to grant certificate of registration and such order of refusal shall be in writing but before passing such an order the dealer shall be given a reasonable opportunity of being heard.

(e) The certificate of registration shall be effective from the date of making of application and in case the business is commenced after such date, from the date of commencement of business as determined by the Assessing Authority.

¹ Rule 5, 5-A and 6 deleted vide SRO 279 dated 30.5.1980.

² Rule 7 substituted vide SRO 279 dated 30.5.1980.

³ In sub rule (b) of rule 7 Rs.200/- substituted for Rs.100/- vide SRO 285 dated 19.7.1999 and the words in brackets substituted vide SRO 136 dt. 4.4.1991.

(f) The provisions contained in the foregoing sub rules shall come into force on 1st day of April 1979. On the commencement of the said sub rule all the dealers having obtained registration certificate for the period ending 31st day of March 1979 shall surrender such certificates and obtain fresh registration certificates under this rule.]

- ¹[8. **Validity of certificate of registration**:- Every certificate of registration issued under rule 7 shall henceforth be valid for a period of five years from the date of issue:

Provided that the renewal period of five years of the registration certificates of dealers who have already renewed their registration certificates or have to renew these certificates in future, shall be reckoned after they get their registration certificates renewed on the due date as per the rules;

Provided further that the registration certificates in respect of small-scale industries units shall continue to be valid unless cancelled.]

- ²[8-A **Renewal of Certificate of registration** – (1) An application for renewal of certificate of registration shall be made to the Assessing Authority in Form ST-6-A alongwith a fee of Rs.500/- within three months from the date of its expiry. The fee shall be deposited in cash in the Treasury.

(2) The Assessing Authority, subject to the condition that the quarterly returns for the preceding years have been filed, may renew the certificate of registration for a period not exceeding five years at a time.

²[x x x x x x x]

Provided ²{xxxx}that the Assessing Authority shall renew the certificate of registration within 7 days from the date of receipt of the application on the prescribed form duly completed and in case the application is not in order return the same alongwith the reasons for refusal or renewal in writing.]

9. **Duplicate copy of Registration certificate**:- Any registered dealer may apply in writing to the Assessing Authority for a duplicate copy of any registration certificate which has been issued to him and which may have been lost, destroyed or defaced. Such application shall have a court fee of ³[Rs. 5.00.]

¹ Rule 8 was deleted vide SRO 279 dated 30.5.80 and was again inserted vide SRO 285 dated 19.7.1999 and substituted again vide SRO 234 dated 10.7.2000.

2 Rule 8-A inserted vide SRO 285 dated 18.7.1999 and in sub rule (2) the two years substituted by "Five years" vide SRO 234 dated 10.7.2000 and the first proviso deleted. In the second proviso the words "further deleted vide SRO 234 dated 10.7.2000.

3 In rule 9 Rs.5.00 substituted for Rs.1/- vide SRO 136 dt.4.4.1991

10. **Additional copy of Registration Certificate** :- (a) The Assessing Authority shall furnish the registered dealer an attested copy of the registration certificate for every additional place of business or warehouse enumerated therein, if such a dealer applies for the same. Such application shall have a court fee of ¹[Rs.5.00].
- (b) The certificate shall be displayed prominently at the place of business or the additional place of business or warehouse to which it relates.
- (c) ²[Any change in the constitution of the firm, association of persons, body of individuals, board of directors of a company or persons having any interest in the business of dealer] shall be “intimated” within 30 days of such a change to the Assessing Authority by the dealer registered and the registration certificate shall be got amended accordingly.
- ³[11. **Register of dealers**:- A register of dealers registered under section 6 shall be maintained in Form ST-7.]
12. **Amendment in Registration Certificate** – If a dealer to whom a ⁴[certificate of registration] has been issued changes the name or nature or place of business or opens a new place or a new branch of business or effects any other change in his business he shall within 30 days send his application together with the requisite information to the Assessing Authority and his certificate may be amended, replaced or cancelled and on an application having as court fee of ¹[Rs. 5.00] being made, a fresh one issued to him.
- ³ [13. **Amendment and Cancellation of Certificate of Registration** :- (a) A registered dealer, who discontinues his business or is no longer liable to assessment under the Act shall apply to the Assessing Authority for cancellation of registration within 60 days from the date of discontinuance of his business or from the date when his liability to assessment ceases. The application shall be accompanied by the following documents:-
- (i) Statement of turnover for the immediately preceding two years.
 - (ii) Statement showing particulars of goods imported or manufactured during the immediately preceding two years;
 - (iii) Statement of particulars of stocks in hand on the date of making application; and

1 In Rule 10 and 12 Rs.5.00 substituted for Rs.1/- vide SRO 136 dt.4.4.1991

2 The words in brackets and in commas substituted vide SRO 279 dated 30.5.1980.

3 Rule 11 and 13 substituted vide SRO 279 dated 30.5.1980.

4 Substituted vide SRO 279 dated 30.5.1980.

- (iv) An affidavit that the business has been discontinued or liability to assessment under the Act has ceased and indicating therein the date of discontinuance of business and the date on which liability to assessment ceased;

Provided that the statement specified in clauses (i) and (ii) need not accompany the application if these have been furnished earlier.

- (b) The Assessing Authority, after making such enquiry as he may consider necessary through Inspector or otherwise and being satisfied that the particulars given in application and the accompanying documents are correct, shall cancel the certificate of registration with effect from the date on which the business was discontinued or liability to assessment ceased.

- ¹[(c) The Assessing Authority may cancel or amend the certificate of registration either on the application of the dealer or on his own motion where such authority is satisfied that the dealer to whom it was granted has ceased to carry on the business or has ceased to be liable to tax under the Act or has committed any default under the Act or for any sufficient reason, provided that the certificate of registration shall not be cancelled or amended by such authority on his own motion without the dealer being given reasonable opportunity of being heard.]

Provided further that the dealer who fails to apply for cancellation of registration shall be liable to pay a fine of Rs.100/- unless the dealer proves that he had no mala-fide intention for his failure to apply for cancellation thereof.

- (d) The cancellation of registration shall not bar the Assessing Authority from recovering the tax, or any other sum payable by the dealer under the Act before the date of cancellation of registration or after such cancellation in consequence of making of an assessment/reassessment or from taking any other proceedings under any provision of the Act.]

14. Surrender of Registration Certificate –(a) Every registered dealer whose registration has been cancelled shall surrender his registration certificate to the Assessing Authority for destruction within 15 days of the date of service of the notice given in this behalf.

- (b) The Assessing Authority shall make the necessary entry in registers in ²[Form ST-7] in respect of dealer whose registration certificate have been amended, or cancelled as the case may be.

1 Sub rule (c) of rule 13 except proviso substituted vide SRO 136 dated 1.4.1991.

2 In sub rule (b) of rule 14 words in brackets substituted vide SRO 279 dated 30.5.1980.

¹**[14-A. Provisional Registration -** Application for provisional registration under section 6-A shall be made in Form ST-8 and provisions of rule 7 to rule 14 shall apply, so far as they may be applicable, to the said application. The certificate of registration shall be issued in Form ST-9. It shall remain in force till the date specified in the certificate unless cancelled earlier.]

¹**[14-B Security for Registration -** (a) Security for registration referred to in section 6-C may be in any of the following forms:-]

- ¹[(i) Cash deposit in the treasury under the head 0040-Sales Tax.
- (i) Fixed deposit receipt from a Scheduled Bank, or Nationalized Bank pledged to the Deputy Sales Tax Commissioner of the Division.
- (ii) Bank guarantee from a Scheduled or Nationalized Bank agreeing to pay to the Govt. on demand the amount at any time during the currency of the certificate of registration.]

Provided that the appropriate authority may in his discretion allow a dealer who is a permanent resident of the State within the meaning of section 6 of the constitution of the Jammu and Kashmir State, to furnish security in the shape of personal bond on non-judicial paper in Form ST-11-A of appropriate value with sureties of two dealers registered under the Act having annual taxable turnover of not less than Rs.5 lacs.

¹[(iv) X X X X]

Explanation – For removal of doubt it is clarified that for the purpose of this sub-rule registration shall include provisional registration.

(b) Security shall be demanded for an amount equal to 10% of the annual estimated taxable turnover for the purpose of the registration and for an amount equal to 10% of the value of the goods intended to be imported by the manufacturer or Rs.20,000/- whichever is less, for the purpose of provisional registration;

Provided that the Commissioner may relax the requirement of security in case of class of manufacturers [or contractors] entitled to provisional registration subject to such conditions, as he may consider necessary.

1 Rule 14-A and 14-B added vide SRO-279 dated 30.5.80 and in the said sub rule (a) of rule 14-B clauses (i) (ii) and (iii) substituted vide SRO-136 dated 4.4.1991 and clause (iv) deleted vide SRO-220 dated 17.5.1983 and in proviso to sub rule (b) the words in brackets inserted vide SRO-135 dated 27.4.2000.

¹[**14-C Permit for travelling salesman/representative** –(a) An application for permit under section 6-B shall be made by the dealer to the Assessing Authority in Form ST-10 [accompanied by proof of payment of Rs. 25/- paid in cash in the Treasury] before the travelling salesman/representative is authorized to transact sale of goods at any place other than his place(s) of business as specified in the certificate of registration.

(b) The Assessing Authority after being satisfied with the correctness of the particulars contained in the application shall issue a permit in Form ST-11 which shall remain in force unless cancelled or surrendered by the dealer.

(c) The dealer who does not surrender the permit after it is cancelled shall be liable to fine not exceeding rupees five hundred.]

²[**15. Furnishing of returns** – (a) The annual return as required by section 7 shall be in Form ST-12 and shall be accompanied by copies of Manufacturing Account, Trading Account, Profit and Loss Account and Balance Sheet, if any, provided that a dealer having a taxable turnover not exceeding ²[rupees one Lac] may in lieu of the aforesaid documents furnish with the return the following documents:-

(i) Inventory of goods with full particulars thereof and the capital invested in the business at the commencement and close of the year.

(ii) Statement of goods manufactured, if any, with full particulars thereof;]

Provided further that the Commissioner may relax the requirements of furnishing the documents under this rule in the case of any class of dealers by an order in writing.

³[(b) The quarterly return shall be in Form ST-13. ³ [xxxxxx]

³ [(c) The Assessing Authority may at any time in the course of assessment year, serve on a dealer, other than the registered dealer, a notice in Form ST-14 requiring him to furnish a return in Form ST-12 or ST-13 within a period of 30 days from the service of notice, provided that notice in Form-14 may be served on a dealer other than a registered dealer during the currency of accounting year for

1 Rule 14-C added vide SRO-279 dated 30.5.1980 and the words in brackets substituted vide SRO-136 dated 4.4.1991.

2 Rule 15 substituted vide SRO-279 dated 30.5.1980 and in the said sub rule the words in brackets substituted vide SRO-136 dated 4.4.1991.

3 Sub rule (b) and (c) substituted vide SRO-136 dated 4.4.1991 and in sub rule (b) the missing words in brackets deleted vide SRO-217 dated: 20-12-1993.

purpose of provisional assessment under sub-section (18) of section 7 of the Act requiring him to furnish return in Form ST-13 within a period of 15 days from service of notice provided that if the circumstances so warrant, the assessing authority may after recording the reasons in writing require such return to be filed within a period of less than 15 days.]

¹[(d) X X X X X X X X X X]

²[16. **Filing of returns by Government Departments/Corporations:** - A dealer which is a department of the Government, Central Government, a Corporation, a Government Company or a local authority which has more than one place of business in the state, may with the permission of the Assessing Authority having jurisdiction over its principal place for business furnish a separate quarterly return for each place of its business and single annual return in respect of all places of its business shall also be furnished.]

³[17. X X X X X X X X X X X]

⁴[18. **Assessment of dealers on temporary visit or permanent resident leaving the State during the currency of the year** – (a) If a dealer or his agent who is not permanent resident of the State and is on a temporary visit to any place in the State or any other dealer who is permanent resident of the State and is likely to leave the State during the currency of the year, the Assessing Authority shall require such dealer to furnish the return in form ST-12 for the period commencing from Ist day of the year to the date of discontinuance or closure of his business or his departure from the State, whichever is earlier, within a reasonable period.

⁴[(aa) The provisions of sub-section (6) (8) (9) (10) and (11) of section 7 of the Act and rules 24-A and 24-B shall apply mutatis-Mutandis to provisional assessment under clauses (a) (ii) and (a) (iii) of sub-section (18) of section 7 of the Act. The assessment under clause (a) (i) of the said sub section 18 of section 7 shall be made by the Assessing Authority after making such enquiry as he may deem necessary;]

Provided that where the Assessing Authority has made a provisional assessment under sub-section (18) of section 7 of the Act, it shall not be reason of such assessment be precluded for re-determination of turnover and making the assessment for the whole year.

1 Sub rule (d) of rule 15 deleted vide SRO-136 dated 4.4.1991.

2 Rule 16 was deleted vide SRO-279 dated 30.5.80 but again inserted vide SRO-220 dated 17.5.83

3 Rule 17 deleted vide SRO-133 dated 27.7.1993

4 Rule 18 substituted vide SRO-279 dt 30.5.80 and sub rule (aa) has been added vide SRO-136 dated 4.4.91.

(b) The return shall be accompanied by the receipted challan (Foil 3 of Form ST-16) in proof of payment of the amount of tax or any other sum payable on the basis of such return.

(c) The Assessing Authority may, if he considers necessary, issue notice in form ST-17 and after examining the account books and other documents make assessment, determine the tax and any other sum payable and issue a notice of demand accordingly.]

¹[**19. Determination of taxable turnover** – (a) The taxable turnover shall be determined after allowing the deduction of the following amounts from the turnover:-

- (i) The discount actually allowed in the customary course of business or in accordance with the agreement with the purchaser provided that such discount has been deducted from the price in the sale bill/voucher and the purchaser, has paid the price less by that discount.
- (ii) Sale price of the goods returned by the purchaser as verified from the account books of the dealer.
- (iii) Sale price of goods which are not liable to tax under section 4 or are exempt under section 5 of the Act.
- (iv) The amount of sale price of goods sold in the course of inter-State trade or commerce as defined by section 3 of the Central Sales Tax Act, 1956.
- (v) The amount of sale price of goods sold in the course of export as defined by section 5 of the Central Sales Tax Act, 1956.
- (vi) Tax payable, if included in the turnover.

¹[aa) Provisions allowing the deductions contained in sub rule (a) will apply mutatis-mutandis for determination of taxable turnover in respect of purchases liable to tax under section 4-B of the Act.]

(b) In respect of a sale on hire purchase system the amount of hire receivable or the amount actually received, whichever is higher, shall be included in the taxable turnover provided that the amount of hire if included in taxable turnover of one year on accrual basis shall not be again included in the taxable turnover of the year in which it is actually received.

1 Rule 19 substituted vide SRO 279 dated 30.5.1980 and sub rule (aa) added vide SRO 136 dated 4.4.91 and sub rule (e) added vide SRO 220 dated 17.5.83.

(c) In respect of a sale other than the sale specified in sub-rule (b) full sale price shall be included in the turnover of the year in which the sale is made notwithstanding that the sale price is receivable or is received in instalments and some instalments are not received during the year.

Explanation – Taxable turnover means the aggregate of taxable turnover of all the places of business of a dealer having more than one such place.

(d) If a dealer has not charged the tax on sale of goods separately but included it in the sale price the tax included therein shall be determined on the basis of the following formula.

$$\frac{\text{Rate of tax} \times \text{Aggregate of sale price}}{100 + \text{Rate of tax}}$$

(e) Subject to the foregoing sub-rules, the taxable turnover in respect of the goods used in a work contract shall be estimated at an amount equal to the cost of such goods as enhanced by a profit margin of 20% provided that the dealer does not maintain correct and complete accounts from which the cost of labour as deductible from the amount payable to the dealer for carrying out the contract under explanation 1 of clause (n) of Section 2 of the Act can be deducted.]

$$^1[19\text{-A} \quad \text{X} \quad \text{X} \quad \text{X} \quad \text{X}]$$
[illegible]

²[21. **Determination of money value of sale price not paid in cash** - The sale price of goods liable to tax under the Act sold for consideration other than cash, shall be specified separately in the return furnished under section 7 giving sufficient particulars thereof including the estimated value of such consideration. The Assessing Authority shall, after such enquiry as he may consider necessary, determine the value thereof in terms of money and adopt the same for the purpose of determination of turnover.]

[22. Maintenance of accounts by dealers:- A dealer liable to assessment under the Act shall, subject to any relaxation made by the Commissioner, in respect of any class of dealers, maintain the following accounts for taxable and non taxable goods separately:

(i) Day to day record of purchases and sales giving value and quantitative details thereof.

¹ Rule 19-A and 20 deleted vide SRO 279 dated 30.5.1980.

2 Rule 21 and 22 substituted vide SRO 279 dated 30.5.1980.

- (ii) Manufacturing, trading and profit and loss accounts supported by the stock account for the year and balance sheet as on last day of the year.
- (iii) Purchase invoices, transport and railway receipts.
- (iv) Sale bills and cash memos (in duplicate) serially numbered and bearing General Sales Tax/Central Sales Tax Registration Nos. and issued to the purchaser in respect of each transaction of sale at the time of making such transaction.
- (v) Complete account of sales tax recovered/recoverable from the purchasers.]

¹[23. X X X X X X X X X]

¹[23-A X X X X X X X X X]

²[24. **Self-Assessment** – Return furnished under sub section (1) or sub section (3) or sub section (4) of Section 7 for any year by a [XXXX] dealer who has been previously assessed to tax for two or more years shall be accepted under sub section (6) of section 7 of the Act subject to the adjustments that may be necessary on account of some apparent errors or mandatory provisions of the Act or the Rules provided the following conditions are satisfied :-

- (i) The taxable turnover of the year and of the preceding two years does not exceed ³[Rs. One lac].

³[Provided that the Government may by notification from time to time, fix any other limit for the annual taxable turnover for any year/years with such other conditions as may be laid down by the Government in this behalf.]

- (ii) The dealer has not concealed any part of the taxable turnover or furnished incorrect particulars thereof, in the return for any of the said years.
- (iii) The dealer is not liable to penalty under section 15(5) or section 15-A(4) or section 17(1)(d) for any of the said years.
- (iv) The quarterly returns complete in all respects have been furnished and the tax due thereon has been paid.
- (v) The annual return for the year has been furnished and is complete in all respects.]

¹ Rule 23 and 23-A deleted vide SRO-279 dated 30.5.1980 and SRO-502 dated 9.9.1969 respectively.

² Rule 24 substituted vide SRO-279 dated 30.5.80 and the words in brackets deleted vide SRO-469 dated 22.9.1987.

³ Rs. one lac substituted vide SRO-136 dated 4.4.91 and the proviso added vide SRO-469 dt. 22.9.1987.

¹[(vi) The dealer has rendered account of all the “C” forms/ “D” forms issued to him and utilized in respect of purchases made during the accounting year in respect of which the assessment is to be made.

Notwithstanding anything contained in rule 24, returns furnished by the dealers under sub section (1) or sub section (3) of section 7 for the accounting years upto and including 1999-2000 for which assessments are yet to be finalized, shall be accepted under sub section 6 of section 7 of the Act subject to the condition that the taxable turnover of the dealer does not exceed Rs.10 lacs.

The acceptance of the turnover as above shall not, however, immune a dealer from being proceeded against under sub section (11) of section 7 read with section 17 of the Act.]

²**[24-A Notice for production of accounts for assessment** – (a) The notice as required by sub section (7) of section 7 of the Act for assessment under sub section (8) of the said section shall be in form ST-17. The said notice in Form ST-17 shall also be issued for the purposes of provisional assessment required under sub section (18) of section 7 of the Act.

(b) When it appears necessary to the Assessing Authority for the purpose of assessment under sub section (8), sub section (9), sub section (10) sub section (11) and sub section (18) of section 7 he may serve notice in form ST-18 on the dealer requiring him to produce evidence on specified points, if any, and also such books of account and other records as are material for the purpose of assessment.

(c) The time for compliance of notice referred to in clause (a) and clause (b) shall ordinarily be 20 days from the date of issue of notice unless there are reasons to be recorded in writing for giving a shorter notice.]

³**[24-B Notice for escaped assessment/re-assessment** – Notice as required by sub section (12) of Section 7 shall be in form ST-19.]

⁴**[25 Register of cases fixed for hearing** – Every Assessing Authority shall maintain a Register in form ST-20 recording therein the particulars of cases fixed for hearing.]

1 Clause (vi) of rule 24 added vide SRO 136 dated 4.4.1991 and thereafter the last para added vide SRO 234 dated 10.7.2000.
 2 Rule 24-A inserted vide SRO 279 dated 30.5.1980 and subsequently the heading of the rule alongwith sub rule (a) and (b) substituted vide SRO 136 dated 4.4.1991.
 3 Rule 24-B inserted vide SRO 279 dated 30.5.1980.
 4 Rule 25 substituted vide SRO 279 dated 30.5.1980.

- ¹[26. X X X X]
¹[27. X X X X]

- ²[28. **Passing of Assessment Orders** – (a) Every order of assessment/re-assessment shall be made in writing and in case the Assessing Authority enhances or otherwise modifies the turnover disclosed in the return or the rate of tax applied by the dealer to the turnover, the order shall state the reason therefor. A certified copy of the order shall be issued to the dealer free of charges;]

Provided that the order of assessment/re-assessment may ordinarily be passed within 20 days from the last hearing of the case unless there are reasons to be recorded in writing on the file for deferring it further.

Provided further that in case return is accepted under sub section (6) of section 7, only notice of demand may be issued without a separate order in writing.

(b) The Assessing Authority shall assess the amount of tax on the taxable turnover determined by him and issue notice of demand for such amount as reduced by the amount of tax paid or payable under sub section (3) of section 8.

- ²[28-A **Inspector to conduct enquiries and examine account books on specific direction and submit report** – During the course of assessment proceedings the Assessing Authority may cause enquiries to be made or get the account books and other relevant records examined by the Inspector. Specific directions to this effect indicating the nature of enquiries or examination of account books or other records shall be recorded on the file and the Inspector shall submit the report within a reasonable period as may be fixed by the Assessing Authority.]

- ³[29. **Procedure for payment of tax** : (a) The notice of demand issued under section 8 or any other provision of the Act shall be in Form ST-21. It shall be accompanied by a challan in Form ST-22 duly filled in and signed by the Assessing Authority. The demand notice in respect of any amount payable in consequence of an order [passed under section 11 or 12 of the Act] shall also be issued by the Assessing Authority.

¹ Rule 26 and 27 deleted vide SRO 279 dated 30.5.1980.

² Rule 28 substituted vide SRO 279 dated 30.5.1980 and rule 28-A inserted by the same SRO.

³ Rule 29 substituted vide SRO 279 dated 30.5.1980 and in sub rule (a) the words in brackets substituted vide SRO 136 dated 4.4.1991.

(b) The tax payable in respect of a quarter and tax payable under section 8-B of the Act shall be paid under a challan in Form ST-16 duly filled in and signed by the dealer himself.

(c) The tax or any other sum payable under the Act shall be paid in the Treasury. The treasury officer shall certify the receipt of money on the foils of the challan. The first foil shall be retained by the treasury 2nd foil shall be sent to the Assessing Authority in the manner indicated in sub rule (f) of this rule and the 3rd foil (including 4th foil in the case of ST-16) shall be delivered to the payer.

(d) Subject to the provisions contained in sub section (2) of section 8 an assessee making payment by means of crossed cheque or crossed bank draft, may deposit it in the office of the Deputy Sales Tax Commissioner alongwith the relevant challan in Form ST-22 duly filled in and signed by the Assessing Authority or in Form ST-16 duly filled in and signed by the assessee himself. The Dy. Sales Tax Commissioner shall issue a provisional receipt in Form ST-23 and send the cheque/bank draft alongwith the challan to the treasury for collection. The cost of realization of the amount of cheque or bank draft shall be payable by the assessee and the date of encashment of the cheque or the bank draft shall be the date of collection.

¹[(e) The provisional tax or any other amount payable under section 4-B of the Act shall be paid to the officer Incharge of the check post or notified area or any other authorized officer before the goods leave the State provided that the said officer may, in lieu of payment in cash require the concerned person to furnish a security for an amount equal to the amount of tax and any other sum due in any of the forms prescribed under rule 14-B or as bond in Form ST-38-A failing which recovery shall be made in the manner laid down in rule 36 and 37.]

(f) The Treasury officer shall send to the Deputy Sales Tax Commissioner a statement in Form ST-24 within 7 days from the last day of each month alongwith the counter foils of challan meant for the Assessing Authorities and also the counter foils of the challan meant for the assessee in the case of deposits made by cheque or bank drafts received through Dy. Sales Tax Commissioner.

(g) On receipt of statement in Form ST-24 the counter foils meant for the assessee shall be delivered to them. The provisional receipt issued earlier to the assessee shall be returned by him and cancelled under the signatures of the Deputy Sales Tax Commissioner or an Assessing Authority duly authorized by him in this behalf. The Head clerk or the Inspector of the office of the Deputy Sales Tax Commissioner shall enter the challan in the daily collection register maintained in Form ST-25 and at the end of the entries relating to the month make

¹

Sub rule (e) inserted vide SRO 220 dated 17.5.1983 and the sub rules thereafter renumbered.

out a statement with a certificate in the following Form signed by him and countersigned by the Deputy Sales Tax Commissioner: -

A.	Receipt for the Division	On challan in Form ST-16	On challan in Form ST-22	On challan in Form ST-59	Total
(i)	Receipt at the end of the preceding month				
(ii)	Receipts during the month.				
(iii)	Receipts at the end of the month				

B.	Circlewise receipts.	Receipt at the End of preceding Month	Receipt during the month.	Receipt at the End of the month.
Name of the circle				
	1	2	3	4

Certified that the entries made above (from serial No. ____ to serial No. ____) on the basis of statements in Form ST-24 and supported by the counter foils of the challan received from treasuries are correct and complete.

(h) The Dy. Sales Tax Commissioner shall forward to each Assessing Authority a statement signed by him in Form ST-24 alongwith counter foils of challans pertaining to his circle during the second week of the month. The Inspector posted in the circle shall enter the challans in the daily collection register maintained in Form ST-25 and make out a statement at the end of the entries relating to the month and also append a certificate signed by him in the following Form which shall be countersigned by the Assessing Authority:-

A.	On challan in Form ST-16	On challan in Form ST-22	On challan in Form ST-59	Total
1	2	3	4	5
i/	Receipts at the end of preceding month			
ii/	Receipts during the month.			
iii/	Receipts at the end of the month.			

“Certified that the above entries made from S.No. ____ to S.No. ____ and the statements made out on the basis of Form ST-24 and counter foils of challans

received from the office of the Deputy Sales Tax Commissioner are correct and complete.

(i) After the entries are made in the daily collection register the counter foils of challans shall be delivered by the Inspector to the concerned record keepers against proper receipt. The record keepers shall place the counter foils of relevant assessment files with an entry in the order sheet in following form and duly signed by him :-]

“Counterfoil of challan dated _____ showing payment of Rs. _____ on (date) _____ for the quarter ending on _____ is placed in file.

For this purpose a stamp may be used for the sake of convenience.

¹[30. **Firm or association of persons jointly and severally liable to payment** – In case the dealer is a firm or association of persons or any other body of individuals, the partners, members or individuals thereof, as the case may be, shall be jointly and severally liable to payment of tax, penalty, interest or any other sum payable under the Act.

¹[31. X X X X X X]

²[31-A **Payment of tax in lump sum** – If the Commissioner is satisfied that any class of dealers is unable to furnish returns of taxable turnover by reasons of not having maintained regular and proper accounts of purchase and sale of taxable goods he may allow such class of dealers to pay in lieu of the amount of tax payable under the provisions of the Act a lump sum at the rates applicable to the sale of such goods. All the provisions of the Act relating to the payment of tax and interest shall apply mutatis-mutandis to the recovery of such demand.

Provided that the concession shall be available for a period of not exceeding ²[5 years] and such further period as the Government may notify from time to time.]

³[32. X X X X X X]

⁴[33. **Maintenance of demand and collection Register** – Every Assessing Authority shall maintain two demand and collection registers in Form ST-26 and Form ST-27 or in any other forms and with such modifications as may be found necessary by the Commissioner from time to time.]

¹ Rule 30 substituted vide SRO-279 dated 30.5.1980 and rule 31 deleted by the said SRO.

² Rule 31-A substituted vide SRO-279 dated 30.5.1980 and in the proviso the words in brackets substituted vide SRO-136 dated 4.4.1991.

³ Rule 32 deleted vide SRO-279 dated 30.5.1980.

⁴ Rule 33 substituted vide SRO-279 dated 30.5.1980.

¹[34. X X X X X X]

¹[35. X X X X X X]

²[35(aa) X X X X X X]

²[36. **Certificate for recovery of tax as arrears of land Revenue** – (a) Certificate under section 16 shall be issued in Form ST-28 to the Collector. A copy thereof shall be forwarded to the assessee and the duplicate copy placed on the assessment record. The Collector on receipt of the certificate shall enter it in the register of certificate maintained in Form ST-29.

(b) If the Collector concerned is not able to effect recovery because the assessee does not reside or carry on business or has no property in the said District, he may forward the certificate to the Collector of the District where the said assessee resides or carries on business or owns property for further proceedings.

(c) The Collector shall also recover interest payable by the defaulter under section 8 from the date on which the demand specified in the certificate was payable.

(d) If in consequence of an order passed by any authority under the Act or a Court after the issue of certificate, there is a variation by way of reduction in the amount as specified in the certificate, the Assessing Authority shall amend it and send necessary intimation to the Collector and endorse a copy thereof to the assessee.

(e) The Collector shall issue a provisional receipt in Form ST-23 under his signatures to the assessee who deposits in his office any amount in cash or by crossed cheque/bank draft. The amount so deposited shall be entered daily in the daily collection register maintained in Form ST-25 which shall be closed and cash balance struck at the close of the day. The cash receipts and cheques/bank drafts collected during the day shall be deposited on the next following day in the treasury on the challan in Form ST-16 or Form ST-22 as the case may be. In respect of payment against each certificate a separate challan shall be used. The counter foils of the receipted challan meant for the assessee shall be obtained from the treasury and delivered to him. The provisional receipt in Form ST-23 issued to the assessee earlier shall be returned by him and cancelled by the Collector under his signature.

¹ Rule 34 and 35 deleted vide SRO 133 dated 17.7.1973.

² Rule 35 (aa) deleted vide SRO 279 dated 30.5.1980 and rule 36 substituted by the said SRO.

(f) The Collector shall within one week from the last day of each month prepare a statement in Form ST-30 and send it to the concerned Assessing Authority who shall verify the credits from the counterfoils of challan received from the treasury through the Deputy Sales Tax Commissioner.

(g) After the recovery of demand as specified in the certificate and the interest due upto the date of collection and recovery charges, if any, the Collector shall cancel the certificate and send it back to the Assessing Authority for record on the file of the assessee.

Explanation:- (i) If the demand which has been referred for collection to the Collector is enhanced in consequence of any subsequent order a fresh certificate shall be issued in respect of such additional demand.

(ii) Collector includes Deputy Sales Tax Commissioner vested with the powers of Collector under the Jammu and Kashmir Land Revenue Act, 1996 or any other officer to whom such powers may be vested for the purpose of recovery of demand payable under the Act and also includes Additional Collector and Assistant Collector.]

¹[37. The notice under section 16-A shall be in Form ST-31.]

38. Inspection of accounts, registers, etc. – In requiring the production by any dealer of his account register, documents or stocks of goods, strict regard shall be had to the necessity of not disturbing the business of the dealer or the work of his staff, any more than is necessary for the purpose of ascertaining the required information.

39. Surprise visit:- Unless any officer appointed under section 3 but not below the rank of ²[Assessing Authority] in his discretion deem it necessary to make a surprise visit, ² [xxxx] he shall as far as possible have regard to the convenience of the dealer; ordinarily he shall make such inspection at the premises of the dealer and he shall not require the dealer to produce his accounts, registers or documents at his office except for urgent reasons and in the public interest.

²[Provided that an Inspector may also be authorized in writing by the Assessing Authority or any other higher authority to exercise the powers under this rule.]

¹ Rule 37 substituted vide SRO-279 dated 30.5.1980.

2. In rule 39 for the words “Inspector” the words “Assessing Authority” substituted vide SRO-279 dated 30.5.1980 and the proviso at the end of the rule added by the said SRO. Further the missing words in brackets deleted vide SRO-136 dated 4.4.1991.

[40. **Inspection under sub sections 3 and 5 of Section 15:-** ¹[(a) An officer authorized by the Commissioner under sub section (3) and (5) of section 15, hereinafter referred to as the authorized officer may do any or all of the following acts namely :-]

- (i) to enter the said building or place with such assistance of police officers as may be required, to search the same and to place identification marks on such books of accounts or other documents found therein, as in his opinion, will be relevant to or useful for any proceedings under the Act and to make a list of such books or documents with particulars of the identification marks thereon;
- (ii) to examine such books or documents and to make copies of or extracts from such books or documents.
- (iii) To take possession or seize any such books or documents under sub section (3) and (4) of section 15 and to make a note or an inventory of any other article or thing found in the course of such search which, in his opinion will be useful for or relevant to any proceedings under the Act.
- (b) Whenever any building or place authorised to be searched is closed, any person residing in or being incharge of such building or place shall, on demand by the ²[authorized officer] and on production of the authority allow him free ingress thereto and afford all reasonable facilities for search therein.
- (c) If ingress into such building or place cannot be so obtained it shall be lawful for the ²[authorized officer] executing the authority, with such assistance of a police officer as will be required to enter such building or place and search therein and in order to effect an entrance into such building or place to break open any outer or inner door or window of any building or place, 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 an admittance.
- (d) Where any person in or about such building or place is reasonably suspected of concealing about his person any articles for which search is being made, such person may also be searched by the ³[authorized officer] with such assistance, as he may consider necessary. If such person is a woman, the search shall be made by any other woman with strict regard to decency.

1 Sub rule (a) of rule 40 except sub clauses thereof substituted vide SRO 279 dated 30.5.1980.

2 In sub rule (b) and (c) the words in brackets substituted vide SRO 279 dated 30.5.1980.

3 In sub rule (d) the words in brackets substituted vide SRO 279 dated 30.5.1980.

Before making a search the “Authorised Officer” about to make it shall call upon two more respectable inhabitants of the locality in which the building or place to be searched is situated to attend and witness the search and may issue an order in writing to them or any of them so to do.

- (e) The search shall be made in the presence of the witnesses aforesaid and a list of all things seized in the course of such search and of the places in which they were respectively found shall be prepared by “authorised officer” and signed by such witnesses.
- (f) The occupant of the building or place searched or some person on his behalf shall be permitted to attend during the search and copy of the list prepared under the proceeding clause shall be delivered to such occupant or person. A copy shall also be forwarded to the Commissioner.
- (g) When any person is searched, a list of all things taken possession of shall be prepared and copy thereof shall be delivered to such person. A copy shall also be forwarded to the Commissioner.

¹[(h) If the authorized officer seizes any books of accounts/ registers or documents under section 15, he shall forthwith grant a receipt for the same and shall return them under proper receipt to the dealer or to the person from whose custody they were seized after completing proceedings under the said section. The proceeding shall ordinarily be completed within a period of 90 days from the date of seizure. The authorized officer may take copies or extracts of the seized documents as may be considered necessary. The officer may before returning the books of accounts etc affix his signatures and his official seal at one or more places thereon and in such case the dealer or the aforesaid person will be required to mention in the receipt given by him the number of places where the signatures and the seal of the officer have been affixed on such books of accounts.]

²[(hh) Notwithstanding anything contained in sub-rule (h) the officer seized any account books, registers or other documents may for the reasons to be recorded in writing, with the prior approval of the Commissioner, retain such account books registers of documents for a further period not extending beyond 30 days from the date of completion of all the proceedings under the Act.]

- (i) In all searches under these rules if any building or place is an apartment in actual occupancy of a women who according to custom does not appear in public the authority making the search shall before entering such

1 Clause (h) substituted vide SRO 136 dated 4.4.1991.

2 Clause (hh) added vide SRO 136 dated 4.4.1991

apartment give notice to such women that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing and may then break open the apartment and enter it.

- (j) If any officer authorized or empowered by Commissioner under sub-section (5) of section 15 finds any goods, the sale of which, is liable to tax and which are found in any office, shop, godown, vehicle or in any other place of business or in any building or place of the dealer but not accounted for by the dealer in his accounts, registers or other documents maintained in the course of his business he may seize such goods. He shall prepare a list of all such goods seized under this sub-rule and get it signed by two respectable witnesses.

¹[Provided the goods so seized shall be kept under official custody or hand over to any person for the safe custody till orders for their release are issued by the authorized officer. The goods shall be handed over to such person after obtaining declaration in Form ST-13-A in presence of two respectable witnesses who shall sign such declaration form].

- ²[(k) Soon after the seizure of the goods, the authorized officer may levy penalty under sub-section (5) of section 15 of the Act provided that before passing the order, a reasonable opportunity of being heard is given to the dealer by issuing a notice in Form ST-31-B. The goods shall be released after passing orders subject to payment of penalty imposed, if any. And in case the penalty demanded is not paid within the period under rules, it shall be put to auction and the sale proceeds of the goods shall be paid to the owner of the goods after deducting the amount of such penalty besides other expenses incurred on unloading, handling and auctioning. The excess amount shall be paid to the owner of the goods on an application made in Form ST-31-C within a period not exceeding 180 days from the date of auction. In case no claim of ownership is made within the said period the amount shall be forfeited to the Government. No interest shall accrue on such amount.

³[(l) X X X X X]

1 After clause (j) the proviso added by SRO 136 dated 4.4.1991.

2 Clause (k) substituted vide SRO 279 dated 30.5.1980 and again vide SRO 220 dated 17.5.1983. It has again been substituted as above vide SRO 136 dated 4.4.1991.

3 Sub rule (l) deleted vide SRO 279 dated 30.5.1980.

¹[(m) (i) The goods ¹[seized] shall be sold in public auction under the supervision of the Deputy Sales Tax Commissioner concerned. Notice for auction of the ¹[seized] goods specifying the place, date and time of auction shall be published in a local newspaper. A copy of the notice alongwith a list of ¹[seized] goods to be auctioned under the signature of an officer shall be displayed on the notice board on his office and copies thereof shall also be displayed in the office of the Deputy Sales Tax Commissioner concerned and at any other public place near the Notified Area (check post). The notice shall ordinarily be given one week before the auction is conducted unless it is considered necessary to give a shorter notice with the prior approval of the Commissioner.

(ii) On the appointed day and time, the ¹[seized] goods shall be put to auction in one or more lots as the officer conducting the auction may consider advisable and shall be knocked down in favour of the highest bidder. The earnest money of the unsuccessful bidders shall be refunded to them immediately after the auction is over.

(iii) Intending bidders shall deposit as earnest money a sum equal to ten per centum of the estimated value of the ¹[seized] goods. The successful bidder shall deposit an additional earnest money equal to twenty per centum of the value of the goods auctioned immediately on the fall of the hammer. Officer conducting the auction shall grant a receipt in Form ST-41 acknowledging the receipt of earnest money.

(iv) The highest bidder shall pay the balance amount of the bid within three days when the auctioned goods shall be delivered to him. The sale proceeds shall be deposited into the Treasury under the head "0040-Sales Tax". If the bidder fails to pay the balance amount within three days of the auction the earnest money deposited by him shall be forfeited to the Government, the ¹[seized] goods shall be resold by auction in the manner prescribed in the foregoing clauses of this sub rule.

(n) If the goods ¹[seized] are of a perishable nature, their sale shall not be postponed on account of a revision or appeal having been preferred against the order of ²[seizure].

(o) If any order directing seizure is reversed in revision or appeal the goods ²[seized] if they have not been sold before such reversal comes to the knowledge

1 Sub rule (m) substituted vide SRO-279 dated 30.5.1980 and in clause (i) (ii) (iii) and (iv) for the word "confiscate" the word "seized" substituted and the word "concerned" added after the words Deputy Sales tax Commissioner" wherever occurring vide SRO-136 dated 4.4.1991.

2 In Sub rule (n) and (o) the words in brackets substituted for the word "confiscate" and "confiscation" vide SRO-136 dated 4.4.1991.

of the officer conducting the sale, shall be released or if they have been sold, the proceeds thereof shall be paid to the person concerned or his agent on payment of or after deducting the charges incurred by the State after obtaining receipt for the same.

¹[Provided that if the person concerned or his agent brings to the notice of the officer conducting the sale that an appeal or revision against the orders directing seizure has been filed before the appropriate authority the officer conducting the sale shall, without prejudice to sub rule (o) above postpone the sale till orders are passed in appeal or revision].

²**[40-A Establishment of Check posts and inspection of goods there at** – (a) When a Checkpost is set up on a thoroughfare under section 15-A barrier may be erected across such thoroughfare to enable vehicles or conveyance being intercepted, detained and searched.

(b) For the purpose of sub section (2) of section 15-A the value of goods shall be [rupees one thousand].

(c) The waybill, delivery note, certificate of ownership and declaration referred to in section 15-A shall be in Form ST-32, ST-33, ST-34 and ST-35 respectively.

(d) When the officer Incharge of the notified area/Checkpost or any other officer not below the rank of Sub Inspector of Sales Tax Department is not present on spot, the guard on duty may detain the vehicle or conveyance for a period not exceeding half an hour in order to enable the officer Incharge to come to take action as required by section 15-A.

(e) Every transporter, clearing and forwarding agency shall in respect of the goods, the sale whereof is taxable under the Act, maintain correct and complete records of such goods transported, delivered or received for transport consisting of receipt and delivery register (inward) in Form ST-36 goods booked and despatched (outward) register in Form ST-37 transport receipts and other records. These records shall be preserved for a period of nine years.

(f) No transport agency or forwarding or clearing agency or any other carrier of goods shall –

(i) accept for booking any consignment of goods the sale whereof is liable to tax in the State unless the consignment is covered by a bill of sale or certificate of ownership;

1 Proviso added vide SR 136 dated 4.4.1991.

2 Rule 40-A substituted vide SRO 279 dated 30.5.1980 and in sub rule (b) the words in brackets substituted vide SRO 136 dated 4.4.1991.

- (ii) Release any consignment of goods the sale whereof is liable to tax in the State unless the consignee being:-
 - i a dealer furnishes a delivery note; and
 - ii any other person furnishes a declaration duly filled in by the consignee or his authorized agent.
- (g) Forms of waybill serially numbered in consecutive order shall be printed by the transporter or forwarding agency or any other carrier of goods. The last serial No. shall be 1,00,000 whereafter a fresh series of waybill shall be used and intimation thereof given to the Deputy Sales Tax Commissioner or any other officer authorized by the Commissioner in this behalf before bringing it in use.

The way bill shall be in triplicate, the first foil shall be retained by the transporter/forwarding agency and 2nd and 3rd foils shall be presented to the officer Incharge of check post through which the goods are under transport. The Officer Incharge after being satisfied that the goods under transport are completely in accordance with the particulars contained in the way bill and the bill of sale or certificate of ownership, shall retain the 2nd foil and deliver the 3rd foil to the person Incharge of the goods. ¹[If the goods loaded in a vehicle or physically checked and found to be in accordance with the particulars specified in accompanying documents the words checked and found in order shall be stamped on such documents.]

Provided that if a transporter or person Incharge of goods importing goods into the State through ²[Check post set up under sub section (1) of section 15-A of the Act], is unable to present to the officer Incharge a way bill or certificate of ownership for a sufficient reason he shall execute a bond in Form ST-38-A undertaking to obtain 2nd and 3rd foils of the delivery note duly signed by the consignee at the time of delivery of the goods and surrender the 2nd foil to the officer Incharge check Post set up under sub section (1) of Section 15-A of the Act at the time of his exit.

Provided further that if such transporter or person Incharge of goods fails to furnish the 2nd foil of the said delivery note to the Officer Incharge checkpost set up under sub section (1) of Section 15-A of the Act he shall be liable to a fine equal to five times of tax liability of the goods imported under "bond" or Rs. 5,000/- whichever is less.

1 In sub rule (g) the words in brackets substituted vide SRO-220 dated 17.5.1983.

2 The words in brackets substituted vide SRO-136 dated 4.4.1991.

- (h) (i) Blank forms of delivery note, certificate of ownership or declaration shall be issued by the concerned Assessing Authority or any other officer authorized by the Commissioner in this behalf, on application made by the dealer or any other person, free of charge.
- ii) Delivery note, certificate of ownership or declaration shall be in triplicate, the first foil shall be retained by the dealer etc. and the 2nd and 3rd foils shall be handed over to the transporter/clearing agency before the delivery of the goods is taken.
- iii) The transporter shall keep the 3rd foil for his office record and the 2nd foil shall be attached with the monthly return prescribed under section 15-B.
- (i) Nothing contained in this rule shall require the consignment of goods carried by Railway or Airlines and delivered to consignee at the Railway Station/Airlines office to be accompanied by a waybill, but the consignee shall present the other documents referred to in this rule to the officer Incharge Check Post.
- (j) The rules regarding use, custody and maintenance of declaration forms prescribed under rule 6 of the Central Sales Tax Rules (J&K) 1958 shall mutatis mutandis apply to the use custody and maintenance of delivery note and certificate of ownership ¹[and declaration].
- ²[(k) (i) Any person who seeks to import the goods notified under sub section (2-A) of Section 15-A of the Act, the value of which exceeds the limit prescribed in sub rule (b) of this rule, shall furnish to the exporting dealer of the other State or the sender of the goods as the case may be (hereinafter in this sub rule referred to as consignor)the declaration in Form ST-35-A in two copies duly filled and signed by him;
- (ii) The form of declaration will be obtained by the dealer or person from the Assessing Authority having jurisdiction over the area where his principal place of business is situated or in case no business is carried on by him where he ordinarily resides.
- (iii) The driver or any other person incharge of any vehicle carrying the goods as aforesaid shall obtain from the consignor the copies of declaration Form ST-35-A and such other documents, duly verified and signed by him (consignor) and carry the same with him and shall, before crossing any check post established under sub section (1) of section 15-A of the Act deliver to the officer Incharge thereof duplicate portion of the said declaration and deliver the original portion and the remaining documents alongwith the goods, to the person importing the goods or the person to whom the goods are sent, as the case may be.

1 In sub rule (j) the words in brackets added vide SRO 220 dated 17.5.1983.

2 Sub rule (k) and its clauses inserted vide SRO 136 dated 4.4.1991.

- (iv) The persons importing the goods shall produce on demand or before issue of new declaration forms as the case may be the original portion of the declaration Form ST-35-A to the Assessing Authority who issued such declaration forms.
- (v) The other provisions of this rule, so far as these may be applicable, shall apply mutatis-mutandis to this sub rule.]

¹[Provided that the Government may by notification in lieu of Form ST-35-A prescribe a “dealer specific non-duplicating embossing seal”, to be affixed on the bill of lading (Form ST-32), which shall be filled in triplicate by such dealer who intends to import the goods from outside the State before the delivery is taken at the premises of the Transport company. In respect of self-consigned imports made through such of the transport companies as have not a base in the State of Jammu & Kashmir are having any agreement with the local transport agency to use its godown facility, the lading bill shall be presented at the Sales Tax Checkpost Lakhampur duly affixed with the seal of the consignee by the Incharge of the goods on his return journey. The said embossing seal will be issued by the Department to each dealer against the payment, as may be fixed from time to time].

40-B Submission of returns by forwarding agency, clearing house etc. – (1) Every clearing or forwarding house or agency, transporting agency, railway out agency in the State shall submit to the ²[Deputy Sales Tax Commissioner of the Division] a return of all goods cleared, forwarded, transported by it during the preceding month;

(2) The return shall be ³[in Form ST-39] and shall be submitted so as to reach the Assessing authority of the area on or before the 15th day of the month following that to which it relates.

⁴[**40-C Seizure of records** – A copy of the order of seizure of records seized by any officer other than the Commissioner under section 15-A(3) (b) shall immediately be forwarded to the Commissioner and the said records kept in personal custody by such officer subject to the provisions contained in rule 40(h). The owner of the record shall on making an application have the right to examine the records in the presence of such officer.]

40-D Detention and seizure of goods: – ⁵[(a-i) The authorized officer seizing the goods under sub section (4) or sub section (9) of section 15-A of the Act, shall prepare an inventory of the goods seized and copy of the inventory shall be handed over to the person Incharge of the goods against a proper receipt. The goods seized may be kept in official custody or handed over to any person for safe custody against declaration Form ST-31-A.

¹ Proviso added vide SRO 203 dated 30.6.1998 & vide SRO 204 dated 30.6.1998 the embossing seal has been introduced.

² In rule 40-B the words in brackets substituted vide SRO 279 dated 30.5.1980.

³ In sub rule (2) of Rule 40-B the words and figures in brackets substituted for “Form ST-XXIX”

⁴ Rule 40-C inserted vide SRO 279 dated 30.5.1980.

⁵ Rule 40-D was inserted vide SRO 279 dated 30.5.1980 and the sub rule (a) substituted as sub rule (a-i) and (a-ii) vide SRO 136 dated 4.4.1991.

(a-ii) In case the goods are seized under sub section (4) or (9) of section 15-A of the Act in any godown or any other premises of the transport, clearing or forwarding agency or in any vehicle or conveyance or any other place, the goods shall be kept in the official custody or handed over to the person Incharge of the godown or any other premises of the transport, clearing or forwarding agency or any other person against declaration in Form ST-31-A].

(b) Notice of hearing as required by proviso to section 15-A(4) shall be issued in Form ST-40. The notice shall be served on the person Incharge of the goods at the time of seizure requiring him to show cause within a period of 15 days as to why the ¹[penalty is not levied]. A copy of the notice shall be forwarded to the owner of the goods, if he is a person other than the person Incharge of the goods, provided that his address is available from the documents accompanying the goods or is disclosed by the person Incharge of the goods.

(c) On the date specified in the notice the officer shall consider the objections raised and the evidence adduced, if any. Thereafter he may cause such other enquiries to be made as he considers necessary, and pass an order in writing ¹[releasing the goods or levying the penalty] within 30 days from the date specified in the notice of hearing provided that the Commissioner may for cogent reasons allow him to pass the order after the said period of 30 days.

²[(d) For demanding security under Sub section (9) of section 15-A of the Act, a notice in Form ST-40-A shall be served on the person incharge of the goods at the time of seizure.

³ **[40-E Detention, seizure and release of goods:-** (a) Notwithstanding anything contained in foregoing rules, the concerned authority may not seize the goods and if seized, may release them before making order under section 15-A(4) of the Act, provided that the person incharge of the goods or owner thereof pays to the said authority an amount equal to the amount of penalty leviable which shall be adjusted against the amount of penalty subsequently levied or refund it as the case may be, ³[or furnishes security as required under the proviso to sub section (4) of Section 15-A of the Act which shall be in the modes prescribed under rule 14-B other than personal bond].

(b) If the amount of penalty levied under section 15-A(4) of the Act is not paid within the prescribed period or the period specified in the notice of demand, as the case may be, the goods shall be auctioned in accordance with the provisions of sub rule (m), (n) and (o) of rule 40 and the sale proceeds thereof shall be paid to the owner of the goods after deducting the amount of penalty demanded.]

¹ In sub rule (b) and (c) the words in brackets substituted vide SRO 220 dated 17.5.1983.

² Sub rule (d) added vide SRO 136 dated 4.4.1991.

³ Rule 40-E was originally inserted vide SRO 279 dated 30.5.1980 and afterwards substituted as above vide SRO 220 dated 17.5.1983 and in sub rule (a) the words in brackets added vide SRO 136 dated 4.4.91.

¹[(c) The goods shall be sold by auction as provided under sub section (11) of section 15-A in accordance with the provisions of sub rule (m), (n) and (o) of rule 40.]

¹[(d) The application form for refund as provided in sub section 11 of section 15-A shall be in Form ST-31-C and the amount refundable under sub section (11) of Section 15-A shall be refundable in the same manner as provided for refund of tax and penalty under section 10 of the Act.]

²**[40-F Delivery of goods by the transporter etc. to the persons of established identity** – No transporter or forwarding or clearing agency shall deliver any consignment of goods, the sale whereof is taxable under the Act, to the consignee or his agent, unless the identity of such person is established and the acknowledgement in token of having delivered the goods is obtained in the delivery register maintained in Form ST-36.]

³**[40-G Modes of security on goods owned by unregistered dealers:** – (a) Security referred to in section 15-A (9) shall be in cash ³[or in any of the modes prescribed under rule 14-B other than personal bond]. The officer Incharge shall issue a receipt in Form ST-41 in the name of the owner of the goods and deliver it to the person Incharge of the goods.

(b) The officer Incharge shall maintain daily collection register in Form ST-25 and record therein the cash received as security. The total receipts of the day shall be deposited in the treasury during the next following working day. Record of Bank guarantee shall be maintained in a separate register. A statement of cash securities and the bank guarantees in Form ST-42 shall be sent to the Deputy Sales Tax Commissioner Incharge of the Division within 7 days after the expiry of each month. Counterfoils of the receipted challans along with the bank guarantees shall be attached to the said statement. A copy of the said statement shall be sent to the Commissioner.

(c) The Deputy Sales Tax Commissioner shall on receipt of the statement in Form ST-42 cause the entries to be made in the register maintained in Form ST-43 and soon thereafter issue extracts thereof to the Assessing Authorities having jurisdiction over the dealer. The extracts relating to the dealers of another division shall be sent to the Deputy Sales Tax Commissioner of such other division for onward transmission to the concerned Assessing Authorities.

¹ Sub Rule (c) and (d) of rule 40-E added vide SRO 136 dated 4.4.1991.

² Rule 40-F added vide SRO 279 dated 30.5.1980.

³ Rule 40-G inserted vide SRO 279 dated 30.5.1980 and in sub rule (a) the words in brackets i.e. “in any of the modes -----under rule 14-B” substituted vide SRO 220 dated 17.5.1983 and the words “other than personal bond” added vide SRO 136 dated 4.4.1991.

(d) The security or bank guarantee shall be released after the tax and any other sum payable by the dealer is deposited into the Treasury; provided that at the option of the dealer or if he fails to pay the tax and any other amount payable by him under the Act, the Assessing Authority shall adjust the amount of cash security against such sum payable and refund the excess amount of security, if any.

Explanation :- Officer Incharge of Notified Area/Check post or an Inspector posted at such place means an Assessing Authority.]

¹[(e) Notwithstanding anything contained in this rule, a dealer shall not be required to furnish security in respect of the goods which are imported for supply to a person who is liable to deduct tax under section 16-C of the Act provided that a certificate in the following form is presented to the Officer incharge of the Notified Area/Checkpost.]

“Certified that the goods consigned by M/s _____ under transport through M/s _____, the particulars of which are specified below are meant for supply to or are intended to be used in the works contract given by _____ to the said consignor and tax is deductible under section 16-C of the Jammu and Kashmir General Sales Tax Act, 1962 from the sale price payable to the consignor.

Particulars of goods under Transport.

S.No.	Nature of goods.	Quantity	Date & No. of Supply order or Contract.	Value of good/ contract.
-----	-----	-----	-----	-----
1	2	3	4	5
----	-----	-----	-----	-----

1.

2.

3.

4.

Signature & Designation
Of the officer with office seal

Dated:

¹ Sub rule (e) added vide SRO 220 dated 17.5.1983.

¹[41. X X X X X X X X X X X]

²[42. **Refund Vouchers** – (a) The Assessing authority shall issue a refund voucher in Form ST-44. It shall be payable at the treasury to which it is addressed.

²[Provided that if the dealer desires payment by adjustment towards any amount subsequently payable by him, he may exercise option in writing before the issuance of notice of demand or revised demand as the case may be. The Assessing Authority shall issue refund adjustment order in Form ST-44-A authorizing the dealer to deduct the sum refundable from amount payable in respect of next return period following the sanction of refund and the dealer shall attach the said order with the next return to be furnished by him.]

(b) The Assessing Authority shall soon after the issue of the refund voucher issue an advice in Form ST-45 to the Treasury officer concerned containing therein the name and address of the refundee, the amount of refund, date of issue and serial No. of refund voucher.

(c) When the Assessing authority commences the use of a fresh refund voucher book he shall intimate to the Treasury officer(s) of his District the serial number of the book and the serial Number of the vouchers contained in it.

(d) The refund shall be payable within a period of 90 days from the date it is granted. If the refundee fails to encash it within the aforesaid period, he shall return it to the Assessing Authority who shall extend the date or its validity for a further period of 30 days after being satisfied that the refund voucher has not been encashed. He shall also send intimation to this effect to the concerned Treasury Officer.

(e) If the refund voucher has been lost or damaged before encashment the Assessing Authority shall after being satisfied with the contention of the refundee obtain from him an indemnity bond in Form ST-38-C and issue a fresh refund voucher and also send information to this effect to the concerned Treasury Officer provided that the date of issue of original refund voucher shall be the date on which refund is granted for purpose of section 10-B.]

³[(f) The authority issuing the refund order in Form ST-44 shall forward his specimen signature duly attested by the next higher authority to the treasury to whom the refund vouchers are addressed for encashment.]

¹ Rule 41 deleted vide SRO 279 dated 30.5.1980.

² Rule 42 substituted vide SRO 279 dated 30.5.1980 and after sub rule (a) proviso added vide SRO 136 dated 4.4.1991.

³ Sub rule (f) of rule 42 added vide SRO 136 dated 4.4.1991

¹[43. **Prior approval of the Commissioner for refund:** – (a) The refund voucher except in the case referred to in clause (b) of this rule shall ordinarily be issued alongwith the notice of demand if the refund is due in pursuance of the order of assessment, re-assessment or rectification made by the Assessing Authority or within 15 days from the date of receipt of the order passed under section 11 or section 12 of the Act or an order of the court.

(b) If the amount of refund except the refund due in pursuance of an order under section 11 or section 12 is Rs.1,000/- or more the Assessing Authority shall obtain the prior approval of the Commissioner before it is granted. The proposal for obtaining the approval alongwith the relevant records shall ordinarily be submitted to the Commissioner within ten days of the issue of notice of demand or the receipt of the order of a court.

(c) The Commissioner may delegate the powers under clause (b) of this rule to the Deputy Sales Tax Commissioner for a period specified by him.

(d) In case refund accrues to a dealer because he had charged tax on the sale of goods which were not liable to tax or had charged it at the rate higher than the appropriate rate the Assessing Authority shall require the dealer to produce within 15 days of the making of an order of assessment/re-assessment/rectification or receipt of the order under section 11 or section 12 or an order of the court to furnish duplicate copies of cash memos/sale bills or other records indicating the name and address of the person from whom the tax was recovered by the dealer so that refund can be granted to such person subject to such further verification as may be necessary.]

²[44. X X X X X X X X X X X]

³[45. **Recovery of the sum payable out of the refund due to the assessee:** – If an amount of tax or any other sum is payable by an assessee who is entitled to refund, the Assessing Authority may instead of issuing refund voucher to the assessee, pass an order in Form ST-46 directing the recovery of the sum payable out of the refund due to such assessee and send the refund voucher to the treasury alongwith a challan for deposit under the appropriate Head of Account. The receipted foil of the challan meant for the assessee shall be delivered to him alongwith a copy of the order of adjustment.]

²[46. X X X X X X X X X X X]

1 Rule 43 substituted vide SRO 279 dated 30.5.1980.

2 Rule 44 and 46 deleted vide SRO 279 dated 30.5.1980.

3 Rule 45 substituted vide SRO 279 dated 30.5.1980.

47. **Registers of refund:** – The Assessing Authority shall enter in a register in ¹[Form ST-47] particulars of all applications for refund and of the orders passed thereon. ¹[The entries relating to the encashment of refunds issued in a month shall be got verified from the Treasury during the following month and a certificate of verification shall be appended to it by the Treasury Officer.]
- ²[48. **Memorandum of appeal** – Appeal against the orders passed by the Assessing Authority shall be in Form ST-48.
- ³[49. **Commencement of the period for filing appeal** – (a) The period prescribed for filing appeal under sub section (1) of section 11 of the Act against the order in consequence whereof notice of demand is issued shall commence from the date of service of such notice of demand, provided that in case a certified copy of the order is served after the notice of demand the period intervening between the date of service of notice of demand and the date of service of the certified copy of the order appealed against shall be excluded for the purpose of computation of period of limitation.
- (b) The memorandum of appeal shall be presented in duplicate accompanied by certified copy of the order appealed against. The date on which it is received in the office of the Appellate Authority shall be the date of filing of the appeal.
- Provided that in case an order in writing is not issued the memorandum of appeal shall be accompanied by the original notice of demand.]
- ⁴[50. **Register of appeal** - (a) On receipt of the memorandum of appeal it shall be put up to the Appellate Authority for his signatures and then entered in the “Register of Appeals” maintained in Form ST-49. Soon thereafter the duplicate copy of memorandum shall be sent to the Assessing Authority who shall send the following information to the Appellate Authority, ordinarily within a period of 15 days:-
- i) Date of service of notice of demand;
 - ii) The date of service of certified copy of the order if passed in writing separately.
 - iii) Demand of tax, interest, penalty and any other sum;

1 The words “Form ST-47 substituted vide SRO 279 dated 30.5.1980 and the words “The entries relating ---- by the Treasury Officer” added vide SRO 136 dated 4.4.1991.

2 Rule 48 substituted vide SRO 279 dated 30.5.1980.

3 Rule 49 added vide SRO 279 dated 30.5.1980.

4 Rule 50 substituted vide SRO 279 dated 30.5.1980.

- a) Amount of demand.
 - b) Amount disputed in appeal.
 - c) Amount paid with date of payment;
 - d) Particulars of order under proviso to section 8 if any made; and
 - e) Whether the appeal is in time, if not give reason.
- b) The Assessing Authority shall maintain a register of appeals in Form ST-50 and place the duplicate copy of memorandum of appeal on the file of the appellant assessee.]

¹[51] **Condonation of delay in filing appeal:** – (a) On receipt of information as specified in rule 50(a) from the Assessing Authority the Appellate Authority shall determine whether the appeal is in time and in order, if so, he shall entertain it. If it is not in time or in order, the Appellate Authority shall issue a notice in Form ST-51 requiring the appellant to explain within a period of “not less than” 15 days but not more than 30 days the reasons for the delay in order to determine whether it is fit case for condonation of delay.

(b) If the memorandum of appeal has been filed in time and is otherwise in order but it is defective the Appellate Authority shall not refuse to entertain the appeal unless the Appellant after being given an opportunity by notice in Form ST-52 of not less than 15 days but not more than 30 days, fails to rectify the defect.]

²[52] **Procedure for the disposal of appeals:** – (a) The Appellate Authority after entertaining the appeal shall fix the date of hearing by a notice in Form ST-53. A copy of the notice shall also be issued to the Assessing Authority.

(b) The Appellate Authority shall not ordinarily allow more than two adjournments on the request of the appellant and in case the appellant or his agent fails to appear on the date(s) of hearing the order shall be passed exparte on the merits of the case. The Appellate Authority shall not give more than one adjournment on the request of the Assessing Authority if such authority wants to represent his case.

(c) The Appellate Authority shall on the last date of hearing announce the date on which the order shall be issued and it shall be recorded on the appeal file. The order shall be issued on the date so announced unless the Appellate Authority for reasons to be recorded in writing on the file defers the announcement of the order.

(d) The Appellate Authority shall in his order mention all the grounds taken in the memorandum of appeal and any other additional grounds taken during the

1 Rule 51 substituted vide SRO 279 dated 30.5.1980 and in sub rule (c) the words in commas added vide SRO 220 dated 17.5.1983.

2 Rule 52 substituted vide SRO 279 dated 30.5.1980.

course of appellate proceedings with the permission of the said authority; provided that before entertaining such additional grounds the Appellate Authority is satisfied that the appellant had a sufficient cause for not taking such additional grounds in the memorandum of appeal.

(e) The Appellate Authority shall indicate in his order the quantum of reduction in taxable turnover and the extent of reduction in the tax and any other sum reduced in consequence of his order.

(f) A certified copy of the order shall be issued to the appellant free of charges. Certified copies of the order shall be issued to the Commissioner, Deputy Sales Tax Commissioner and the Assessing Authority.]

¹[53. X X X X X X X X X X X]

²[54. **Application for revision and disposal thereof** - (a) Application for revision shall be made in Form ST-54 and shall be accompanied by a certified copy of the order sought to be revised.

(b) If the application is not in order and if the applicant after being given an opportunity of not less than 15 days fails to rectify it, the Commissioner may dismiss it.

(c) If the application has been filed after the prescribed period the applicant shall be given a period of not more than 30 days to explain the reasons for the delay for considering whether the case is fit for condonation of delay.

(d) The Commissioner may also require the authority whose order is subject matter of revision to be present on the date(s) of hearing.

(e) The Commissioner shall not allow more than two adjournments in the revisional proceedings initiated at the instance of the assessee on his request;

Provided that if the applicant fails to appear on the date (s) of hearing exparte order shall be passed on the merits of the case.

Provided further that the Commissioner shall not allow more than one adjournment on the request of the authority whose order is under revision.

1 Rule 53 deleted vide SRO 279 dated 30.5.1980

2 Rule 54 substituted vide SRO 279 dated 30.5.1980.

¹[(f) The Commissioner shall hear the case on the last date fixed and pass the orders.]

55. Supersession of orders :- The orders passed by the Appellate or Revisional Authority shall supersede the orders of any subordinate authority and shall be binding on it.

²[**56. Copy of the revision order to be issued free of charge:** – Copy of the order shall be issued free of charges to the applicant-assessee. Copies shall also be issued to the authority whose order is in revision, the Deputy Sales Tax Commissioner and the concerned Assessing Authority.]

²[**57. Forms of Summons to appear in person and or to produce documents** – Summons for the purpose of section 22 shall be in Form ST-55.]

²[**58. Service of notice** – (a) A notice, summons or order issued or made under the Act or rules may be served in the manner specified in sub rule (b) on the following persons:-

- i) In the case of an individual on such individual or any member of his family not being a minor.
- ii) In the case of a firm on a partner thereof;
- iii) In the case of Hindu Undivided Family on the Karta or any male member thereof
- iv) In the case of association of persons or body of individuals on any member or principal officer thereof;
- v) In the case of a company on the Managing Director or any other Director or the principal officer thereof;
- vi) In the case of Government Department on the Head of the Department/Office or any other officer competent to act on his behalf.
- vii) On a regular employee of the assessee or the authorized representative of the assessee.

(b) The service may be effected in any of the following manner:-

- i) By delivering it through a process server; or
- ii) By registered post; or
- iii) In case service is not possible by any of the modes specified in clauses (i) and (ii) above or the authority considers it necessary for reasons to be recorded in writing, by affixture on the last known address of the assessee in presence of two witnesses.]

1 Sub rule (f) of rule 54 added vide SRO 136 dated 4.4.1991.

2 Rule 56, 57 and 58 substituted vide SRO 279 dated 30.5.1980.

59. Fees – The following fees shall be payable in court fee stamps:-

¹ [(i)	On a memorandum of appeal	Rs.10.00
¹ [(ii)	On a application for revision	Rs.20.00
¹ [(iii)	On any other application or petition for relief to any authority under the Act or the rules	Rs. 2.00

Provided that no fee shall be payable on an application for any correction of any error apparent on the face of the record.

60. Inspection of documents and supply of certified copies thereof – (1) In the case of every dealer, who is required to do any act under the provisions of the Act or these rules the Assessing Authority shall prepare separately two files, namely the personal file and the confidential file.

(2) The dealer concerned or his agent on making to the Assessing Authority a written application stamped with a court fee of value of ²[Rs.5.00] may inspect the record of his personal file or any entries relating to himself in any register maintained under the rules. A separate application shall be made for the inspection of each record register.

(3) The court fee of ³[Rs.5.00] paid on the application shall cover the first hour of inspection only. For each subsequent hour or part of an hour, an additional court fee stamp of [Rs.1.00] must be supplied by way of payment before hand. No fresh application shall be demanded for the continuation of an incomplete inspection of the next working day.

(4) If the document to be inspected relates to any previous year, a search fee in the Form of a court fee stamp of the value of ³[Rs.2.00] per application shall be charged.

(5) A person entitled under sub rule (2) to the inspection of any document, shall be granted a copy of the same on his making an application in this behalf bearing a court fee stamp of the value of :-

¹ In rule 59 Rs.10/-, 20/-, and 2/- substituted for Rs. 2/- 5/- and 1/- vide SRO 136 dated 4.4.1991

² In sub rule (2) of rule 60 Rs.5.00 substituted for Rs.2.00 vide SRO 136 dated 4.4.1991.

³ In sub rule (3) the word “Rs.5.00” and Rs.1.00 substituted Rs.2.00 and fifty paise vide SRO 136 dated 4.4.1991 and in sub rule (4) Rs.2.00 substituted for “fifty paise”

¹[a] Rupees 2.00 for the first 200 words or part thereof;]

¹ [b] Rupees 1.00 for every additional 100 words or part thereof.]

¹ [c] Rupees 4.00 to every notice or summons issued by an Assessing Authority.]

¹ [d] An extra fee of one rupee if copies are required urgently.]

(6) A copy to be granted under sub rule (5) shall be prepared in the office of the Assessing Authority.

(7) The provisions of sub rule (2) to (6) shall apply mutatis mutandis to inspection of record of the offices of the Appellate and Revising Authorities and grant of copies thereof.

²[61. X X X X X X X X X X X]

³[62. X X X X X X X X X X X]

³[63. X X X X X X X X X X X]

64. Business owned by a person under disability – A Trustee, a guardian or manager (whether appointed by a court or otherwise) or the court of wards carrying on a business on behalf of an owner, who is under disability shall be liable to perform all obligations imposed by the Act and these rules in respect of such business to the same extent as the owner would have been liable if he had not been under disability and had been carrying on the business himself.

³[65. X X X X X X X X X X X]

³[66. X X X X X X X X X X X]

⁴[67. **Functions and duties of Inspectors:** – The Inspector shall perform such functions as are specified in the Act and the rules made thereunder and such other functions as are allotted to him by any other authority under the Act including the signing of challans issued in Form ST-22 on behalf of the Assessing Authority.

⁴[68. **Meaning of authorized representative:** – (a) For the purpose of Section 22-A and other provisions of the Act and the rules “Authorized representative” means:-
i) A member of the assessee’s family or a person in the regular employment of the assessee; or

¹ In clauses (a), (b), (c) and (d) of sub rule (5) fee changed vide SRO 136 dated 4.4.1991.

² Rule 61 deleted vide SRO 136 dated 4.4.1991.

³ Rules 62, 63, 65 and 66 deleted vide SRO 279 dated 30.5.1980

⁴ Rule 67 and 68 added vide SRO 279 dated 30.5.1980

- ii) A legal practitioner who is entitled to practice in any civil Court of India; or
- iii) A commerce or Law Graduate registered as Sales tax practitioner by the Commissioner; or
- iv) A chartered Accountant ¹[or person permitted to Act as authorized representative before 30.5.1980.]

(b) Notwithstanding anything contained in sub rule (a), if a person possessing qualifications specified in sub clauses (ii) (iii) and (iv) was an employee of the Sales Tax Department and has retired or resigned from employment after having served the Department for not less than three years he shall not be entitled to act as authorized representative for a period of two years from the date of his retirement or resignation as the case may be.

(c) If an authorized representative is found guilty of misconduct in connection with any proceedings under the Act by the Commissioner, the Commissioner may direct that such person shall henceforth be disqualified to act as authorized representative.

(d) The order under clause (c) above shall be subject to the following conditions:

- i) No such order shall be made unless the affected person has been given a reasonable opportunity of being heard.
- ii) The affected person may within one month of the service of the order appeal to the Government to have the order quashed; and
- iii) No such order shall take effect till the expiry of one month from the date of service thereof or in case the appeal has been preferred and the Government issues an interim order staying the order of disqualification till the date up to which stay is granted whichever is later.

¹[Provided x x x x x x]

²[69. **Application for stay of recoveries of tax etc.:** – The application for stay of recovery of amount of tax or any other amount demanded under the Act or for permission to pay such amount in instalments shall be made in duplicate in Form ST-56.

1 In sub clause (iv) of sub rule (a) of rule 68 the words in brackets added vide SRO 220 dated 17.5.1983 and the proviso at the end of sub clause (iii) of sub rule (d) deleted vide SRO 220 dated 17.5.1983.

2 Rule 69 inserted vide SRO 279 dated 30.5.1980

- ¹[70. **Registration of transporter, Forwarding Agency, etc:** – (a) The application for registration under section 15-B shall be in Form ST-57 and shall be made to the Deputy Commissioner Sales Tax of the area in which office or in case there are more than one office in the State, the Head Office of the applicant is located. It shall be made within three months of the enforcement of this rule or of the commencement of his business, whichever is later.

Provided that the application shall also be entertained after such period subject to the penal action warranted under section 17(a) of the Act.

(b) The fee of Rs.200/- shall be paid ²[in cash to be deposited in the treasury and proof of payment attached with the said application].

(c) Security to the extent of Rs. 5000/- shall be furnished in any of the forms prescribed in rule 14-B ³[other than personal bond] for registration of a dealer.

(d) Certificate of registration shall be issued in Form ST-58. A copy of the certificate shall be issued free of charge for each of the branches in the State.]

- ⁴[71. **Deduction of tax by Government Departments, Local Authority, Corporation etc. -** (a) The person deducting the tax under section 16-C shall deposit the tax in the treasury against the challan in Form ST-59.

(b) Certificate for deduction of tax under section 16-C shall be issued in Form ST-60.

(c) Statement under section 16-C(4) shall be furnished in Form ST-61.

(d) The dealer who is not liable to pay tax under the Act shall make an application in Form ST-62 to the Assessing Authority. The said Authority after such inquiry as he may deem necessary shall issue a certificate in Form ST-63 within one week of making of the application.]

- ⁴[72. **Clearance certificate for contractors and suppliers:** – A contractor or supplier requiring certificate under section 16-D shall make an application to the Assessing Authority and such authority, after consulting the assessment records and making such inquiry as he may consider necessary shall issue a certificate in Form ST-64.]

1 Rule 70 inserted vide SRO 279 dated 30.5.1980

2 In Sub rule (b) of Rule 70 the words in brackets added vide SRO 136 dated 4.4.1991.

3 In sub rule (c) of rule 70 the words in brackets added vide SRO 136 dated 4.4.1991.

4 Rule 71 and 72 inserted vide SRO 279 dated 30.5.1980

¹[73. **Powers authorized to sign applications etc. prescribed under rules:** – “Annual and quarterly returns of turnover”, Memorandum of appeal, application for revision or any other application prescribed under the rules shall be signed by any of the following persons:-

- i) In the case of individual by the individual himself;
- ii) In case of a firm by a partner thereof;
- iii) In case of Hindu Undivided Family by the Karta or any other male member of the family;
- iv) In case of a Company by the Managing Director or any other Director or Principal officer thereof;
- v) In the case of any other Association of persons or body of individuals by any member or principal officer thereof;
- vi) In the case of local authority or any other dealer not specified herein before by the Principal Officer thereof;
- vii) In the case of a Department of Government or Central Government by Head of the Department/office or any other officer competent to act on his behalf;

(b) Notwithstanding anything contained in sub rule (a) whereby any of the persons specified therein is not available in the State or such a person is not able to sign the memorandum of appeal or the application for any other reasons it may be signed by his authorized representative.]

²[74. **Penalty for not issuing sale bill/cash memos:** – If a dealer is found to have made a transaction of sale without simultaneously issuing the sale bill/cash memo as required by rule 22 he shall on the order passed by the Assessing Authority pay a fine equal to five times of the tax payable on such transaction or Rs.5,000/- whichever is less.

Provided that before making such order the Assessing Authority shall give the dealer an opportunity of being heard requiring him to show cause as to why the fine be not imposed.]

²[75. **Form of show cause notice** – The notice for levy of penalty under section 17 as required by sub section (2) of the said Section may be issued in Form ST-65.

²[76. **Proceedings under the Act not become invalid:** – The rules prescribing the registers to be maintained by the authorities or time limit for submission of reports by the Assessing Authority to the higher authorities or prescribing time

1 Rule 73 inserted vide SRO 279 dated 30.5.1980 and in rule 73 the words in commas inserted vide SRO 220 dt 17.5.1983.

2 Rule 74, 75 and 76 inserted vide SRO 279 dated 30.5.1980

limit for issuing the order of assessment, appeal, revision are directory and the contravention thereof shall not render any proceedings under the Act invalid which are otherwise valid.

- ¹[77. **Declaration form under section 4-B:-** Declaration under proviso to sub section (2) of section 4-B shall be in Form ST-66. Original declaration shall accompany the goods under transport and shall be presented to the officer Incharge of the Checkpost. The said declaration form shall bear the following certificate of the assessing authority of the circle in which the dealer is assessed and the duplicate copy thereof be submitted to the said Assessing Authority.]

“Certified that the dealer is registered under section 6 of the J&K General Sales Tax Act, 1962 under No. _____ and has filed returns which have fallen due and paid the tax payable thereon.

Sig. Of the Assessing Authority”

- ¹[78. **Notice required under Section 24:-** The notice required under sub section (1) of section 24 shall be in Form ST-67 and the revised notice of demand as required under sub section 2 of section 24 of the Act shall be in Form ST-21.]
- ²[79. **Fee for application under section 25-C:-** Fee for application under section 25-C shall be Rs.100/- and it shall be paid in cash in the treasury and proof of payment of the said fee shall be attached with the application which shall be in Form ST-68.]

¹ Rule 77 and 78 inserted vide SRO 136 dated 4.4.1991.

² Rule 79 added vide SRO 136 dated 4.4.1991.