

**The Bill for the introduction of
VAT is not yet notified in the
*Official Gazette.***

**A Draft Scheme of Rules for the
proposed Act is notified for Public
Scrutiny**

NOTIFICATION

Finance Department,

Mantralaya, Mumbai 400 032. Dated the _____ 2005

In exercise of the powers conferred by section 83 of the Maharashtra Value Added Tax Act, 2002 and all other powers enabling it in this behalf (Mah. LX of 2002), the Government of Maharashtra hereby makes the following rules, namely:-

1. Short Title.—(1) These rules may be called the Maharashtra Value Added Tax Rules, 2005, (Mah.LX of 2003.)

(2) They shall come into effect from the 1st April 2005.

2. Definitions.-- (1) In these rules, unless the context otherwise requires,--

(a) "the Act" means the Maharashtra Value Added Tax Act, 2002 (Mah. LX of 2002);

(b) "agent" means a person authorised in writing under section 82 of the Act to appear on behalf of a dealer or other person before any authority appointed or constituted under this Act;

(c) "assessing authority" means any authority competent to assess a dealer or, as the case may be, any authority to whom the power to assess a dealer has been delegated by the Commissioner and within whose jurisdiction the place of business or, as the case may be, the principal place of business of the dealer, is situated;

(d) "Commissioner" includes an Additional Commissioner, a Joint Commissioner, and such other officers to whom the Commissioner delegates his powers and duties either generally or as respects any particular matter or class of matters;

(e) "Form" means a form appended to these rules;

(f) "Government Treasury" means

(i) as respects a dealer who is, or is liable to be, registered within the jurisdiction of a registering authority in Brihan Mumbai, the bank or Treasury shown in column number 2, if he makes payment in the manner shown in column number 3:-

Sr. No.	Name of the Bank or Treasury for making payment	Manner of payment	
1	2	3	
		3(a)	3(b)
i)	The Reserve Bank of India; Mumbai,	By cash, or	By cheque drawn on any branch of any bank situated in Maharashtra .
ii)	Any branch of the State Bank of India or any of its Subsidiary Banks as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959) situated in Brihan Mumbai	By cash, or	By cheque drawn on any branch of any bank situated in Brihan Mumbai.
iii)	Any branch situated in Brihan Mumbai of a bank appointed by the Reserve Bank of India as its agent under the provisions of sub-section (1) of section 45 of the Reserve Bank of India Act, 1934 (2 of 1934);	By cash, or	By cheque drawn on the same branch.
iv)	Any branch situated in Brihan Mumbai of a bank notified by the State Government in the <i>Official Gazette</i> for the purposes of this paragraph after consultation with the Reserve Bank of India,	By cash, or	By cheque drawn on the same branch.

(ii) as respects a dealer who is, or is liable to be, registered within the jurisdiction of a registering authority outside Brihan Mumbai,

(A) where the principal place of business of the dealer is situated at the district

headquarters, the bank or Treasury shown in column number 2 if he makes payment in the manner shown in column number 3 :-

Sr. No.	Name of the Bank or Treasury for making payment	Manner of payment	
1	2	3	
		3(a)	3(b)
i)	Reserve Bank of India, CBD Belapur where the principal place of business of the dealer is situated within the limits of the Municipal corporation of Navi Mumbai	By cash, or	By cheque drawn on any branch of any Bank situated in Maharashtra.
ii)	Reserve Bank of India, Nagpur where the principal place of business of the dealer is situated within the limits of the Municipal Corporation of Nagpur;	By cash, or	By cheque drawn on any Branch of any Bank situated in the Nagpur District.
iii)	The Treasury of the district where the principal place of business of the dealer within that jurisdiction is situated.	By cash.	--
iv)	Any branch of the State Bank of India or any of its Subsidiary Banks as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959) situated at the District Head quarters .	By cash, or	By cheque drawn on any branch of any bank situated at the same district head quarters.
v)	Any branch of a bank appointed by the Reserve Bank of India as its agent under the provisions of sub section (1) of section 45 of the Reserve Bank of India Act, 1934 (2 of 1934) situated at the District Headquarters.	By cash, or	By cheque drawn on the same branch
vi)	Any branch situated at the district headquarters of a bank, notified by the State Government in the <i>Official Gazette</i> for the purposes of this paragraph after consultation with the Reserve Bank of India.	By cash, or	By cheque drawn on the same branch.

(B) if the principal place of business of the dealer is situated at a place other than the district headquarters, the bank or the Treasury shown in column number 2, if he makes payment in the manner shown in column number 3:-

Sr. No.	Name of the Bank or Treasury for making payment	Manner of payment	
1	2	3	
		3(a)	3(b)
i)	The Treasury or sub-Treasury as the case may be of the district or taluka, where the principal place of business of the dealer within that jurisdiction is situated;	By cash,	--
ii)	Any branch of the State Bank of India or any of its Subsidiary Banks as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959) situated in the District;	By cash, or	By cheque drawn on any branch of any bank situated in the same taluka.
iii)	Any branch of a bank appointed by the Reserve Bank of India as its agent under the provisions of sub section (1) of section 45 of the Reserve Bank of India Act, 1934 (2 of 1934) situated in the District which branch is notified from time to time in the <i>Official Gazette</i> by the Commissioner of Sales Tax.	By cash, or	By cheque drawn on the same branch.
iv)	any branch situated in the District of a Bank notified by the State Government for the purposes of this paragraph after consultation with the Reserve Bank of India.	By Cash or	By Cheque drawn on the same branch.

(III) as respects a non-resident dealer, the Reserve Bank of India, Mumbai;

(g) 'Mega Project means the Eligible Industrial Unit in respect of which the Eligibility Certificate is issued in terms of Government Resolution, Industries, Energy and Labour Department, No. IDL.1096 (13211)IND-8, dated the 20th June 1997 as amended from time to time.

(h) "Package Scheme of Incentives" means any of the following schemes designed by the State Government, as amended, from time to time, namely:-

(i) the 1979 Scheme as outlined in the Government Resolution, Industries, Energy and Labour Department, No. IDL. 7079/(2043)IND-8, dated the 5th January 1980 read with the

Government Resolution, Industries, Energy and Labour Department, No. IDL. 7082/(3559)/IND-8, dated the 5th July 1982;

- (ii) the 1983 Scheme as outlined in the Government Resolution, Industries, Energy and Labour Department, No. IDL. 1082/(4077)/IND-8, dated the 4th May 1983 read with Government Resolution, Industries, Energy and Labour Department, No. IDL. 1088/(6612)/ IND-8, dated the 25th March 1988;
- (iii) the Electronic Scheme as outlined in the Government Resolution, Industries, Energy and Labour Department, No. IDL. 1085/(5315)/IND-8, dated the 3rd September 1985 read with the Government Resolution, Industries, Energy and Labour Department, No. IDL. 1085/(5315)/IND-8, dated the 29th July 1987;
- (iv) the 1988 Scheme as outlined in the Government Resolution, Industries, Energy and Labour Department, No. IDL. 1088/(6603)/ IND-8, dated the 30th September 1988;
- (v) the 1993 Scheme as outlined in the Government Resolution, Industries, Energy and Labour Department, No. IDL. 1093/(8889)/ IND-8, dated the 7th May 1993;
- (vi) Package Scheme of Incentives for Tourism, 1993, as outlined in the Government Resolution, Home Department (Tourism) No. MTC-91/GR-409/(Tourism), dated the 30th November 1993;
- (vii) New Package Scheme of Incentives for Tourism Projects -1999, as outlined in the Government Resolution, Home Department (Tourism), No. MTC-0399/GR-142/(Tourism), dated the 8th July

1999;

(viii) Power Generation Promotion Policy, 1998, outlined in the Government Resolution, Industries, Energy and Labour Department, No. NCP-1097/CR-57/NRG-7, dated the 12th March 1998;

(i) "principal place of business" means in relation to a dealer in any area within the jurisdiction of a registering authority, the place of business mentioned as his principal place of business in the certificate of registration granted under the Act;

(j) "Quarter", means, the period of three months ending on the 30th June, 30th September, 31st December or 31st March,

(k) "registering authority" means --

(i) as respect a dealer not being a non-resident dealer, the assessing authority having jurisdiction over the local area in which any place or places of business of the dealer are situated; and

(ii) as respect a non-resident dealer, the assessing authority designated as the assessing authority for the non-resident circle, Mumbai;

(l) "Schedule" means a Schedule appended to the Act;

(m) "section" means a section of the Act;

(n) "Very Large Project" means the Eligible Industrial Unit in respect of which the Eligibility Certificate is issued in terms of the Government Resolution, Industries, Energy and Labour Department No.IDL-1098/121/IND-8,dated the 11th August 1998.

(2) The words and expressions used in these Rules but not defined hereinabove shall have the same meanings as respectively assigned to them

under the Act.

3. Goods Returned And Deposits Refunded.—The period for return of goods and refund of deposits for the purposes of clauses (32) and (33) of section 2 shall be six months from the date of the purchase or, as the case may be, the sale.

4. Subordination Of Officers.— For the purposes of sub-section (9) of section 10, the subordination of officers and persons shall be as follows, that is to say,

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Sr. No.	Designation of the Officer	Officer shown in column number 2 shall be subordinate to the Officer shown in Column number 3 within whose jurisdiction he performs his functions.
1	2	3
(i)	a Joint Commissioner	an Additional Commissioner
(ii)	a Senior Deputy Commissioner	a Joint Commissioner and an Additional Commissioner
(iii)	a Deputy Commissioner	A Senior Deputy Commissioner, a Joint Commissioner and an Additional Commissioner;
(iv)	an Assistant Commissioner or, as the case may be, a Sales Tax Officer.	a Deputy Commissioner, a Senior Deputy Commissioner, a Joint Commissioner and an Additional Commissioner;
(v)	an officer or person appointed under clause (f) of sub-section (2) of section 10	a Sales Tax Officer, an Assistant Commissioner, a Deputy Commissioner, a Senior Deputy Commissioner, a Joint Commissioner and an Additional Commissioner,

5. Qualifications Of Members Of Tribunal And Term Of Office.— (1) Every member of the Tribunal shall be a person who

(a) is or has been a Judge of the High Court, or

- (b) is or has been a District Judge, or
- (c) is qualified for appointment as a District Judge, and has held judicial office for not less than ten years, or
- (d) has, for a continuous period of not less than three years held an office, not below the rank of Joint Commissioner of Sales Tax, in the Sales Tax Department of the State Government; or
- (e) is a Chartered Accountant and has practised as such for not less than seven years, or
- (f) not being a person described in clause (e), has in the opinion of the State Government, adequate knowledge of, or experience in accounting, or has, in the opinion of the State Government, special knowledge of, or experience in commerce or industry.

(2) A person appointed as a member of the Tribunal under clause (d) shall not be eligible for further employment in the Sales Tax Department, after he ceases to hold office as a member of the Tribunal:

(3) The appointment of a member of the Tribunal may be terminated before the expiry of his term of office, if the member--

- (a) is adjudged an insolvent, or
- (b) engages during his term of office in any paid employment outside the duties of his office, or
- (c) is, in the opinion of the State Government unfit to continue in office by reason of infirmity of mind or of body, or any other reason.

(4) A Member of the Tribunal shall, on the expiry of his term of office. be eligible for re-appointment.

(5) A Member of the Tribunal may, at any time, by writing under his hand

addressed to the State Government, resign his office, and his resignation shall take effect from the date on which it is accepted.

6. Application For Registration Of Dealers Liable To Tax Under The Act.--

(1) In the case of a dealer who becomes liable to pay tax under this Act, an application for registration under section 16 shall be made,-

- (a) within thirty days from the appointed day, if he holds a certificate of registration or, as the case may be, a licence granted under any of the earlier laws and which is in force immediately before the appointed day but does not hold a certificate of registration under the Bombay Sales Tax Act, 1959 (Bom LI of 1959) immediately before the appointed day ;
- (b) in the case of a dealer to whom sub-section (2) of section 3 applies, within 30 days from the day on which his turnover of sales and of all purchases during the year commencing on the appointed day or, as the case may be, during any subsequent year, first exceeds the relevant limit specified in sub-section (4) of section 3 ;
- (c) in the case of a dealer to whom sub-section (7) of section 3 applies, who becomes liable at any time after the appointed day to pay tax under the Central Sales Tax Act , 1956 within thirty days of incurring such liability;
- (d) in the case of a dealer to whom sub-section (8) of section 3 applies, within thirty days from the date of succession to the business as provided in clause (a) of sub-section (1) or sub-section (4) of section 44; and
- (e) in the case of a person whose certificate of registration is liable to be cancelled on the ground that the place of business is changed to a different local area, within thirty days of the change in place of

business; and

(2) The application for registration shall be complete in all respects. An application incomplete in any respect shall not be considered to be an application made under this rule and shall accordingly not be accepted.

(3) Where a dealer has more than one place of business within the State, he shall make a single application in respect of all such places except any place for which he has obtained a Certificate of Entitlement under any of the Package Schemes of Incentives other than the Power Generation Promotion Policy, 1998 specifying therein one of such places as the principal place of business and submit it to the registering authority within whose jurisdiction such principal place of business is situated:

Provided that, such dealer may, at his option, make a separate application in respect of any of his other places of business, not being the principal place of business, to the registering authority having jurisdiction over such other place of business.

Provided further that, where such dealer has obtained a Certificate of Entitlement under any of the Package Schemes of Incentives, except the Power Generation Promotion Policy 1998, in respect of any of his places of business, he shall make a separate application to the registering authority within whose jurisdiction such place of business is situated.

(4) Every application for registration shall be made, signed and verified in the case of any business engaged in by,-

(a) an individual, by the proprietor or by a person having due authority to act on behalf of such proprietor;

(b) a firm, by a partner thereof;

(c) a Hindu Undivided Family, by the *Karta* or an adult member thereof;

(d) a body corporate (including a company, a co-operative society, or a corporation or local authority) by a director, manager, secretary or the principal officer thereof, or by a person duly authorised to act on its behalf;

(e) an association of individuals to which clause (b), (c) or (d) does not apply, by the principal officer of, or person managing the business;

(f) any department of the Union Government or any State Government, by a person duly authorized to act on its behalf.

(5) In the case of a firm every partner thereof shall furnish the declaration to the registering authority as provided in the form for application for registration.

(6) The person signing and verifying an application for registration shall specify the capacity in which he does so, and shall wherever possible, give particulars of the authority vested in him for signing and verifying the application.

(7) Every person signing and verifying an application for registration in the capacity specified in clause (a), (b), (c), (d) or (e) of sub-rule (3) other than the Director, Manager; Secretary or Principal officer of, or a person duly authorised to act on behalf of, a public limited company, public trust, corporation or a local authority shall also furnish with the application a copy of his recent photograph in passport size.

(8) The person so furnishing the photograph shall, when called upon to do so, attend before the registering authority and sign, before him, on the copy of the photograph furnished by him.

(9) Where the engagement in business is by an individual, a firm, a Hindu Undivided Family or any unincorporated association of individuals, the name,

permanent residential address and the Permanent Account Number, if any, under the Income Tax Act, 1961 (43 of 1961), of such individual, each of the partners of the firm, members of the family or, as the case may be, members of the managing committee of the association and of persons having any interest in the business or the *Karta* of the said family shall be stated in the application for registration.

(10) Every application for registration shall state in general terms the classes of goods in which the applicant deals and specify the nature of the business.

(11) A dealer or a person who voluntarily applies for registration shall,-

(a) have obtained the Permanent Account Number under the Income Tax Act, 1961 and provide it to the registering authority along with proof of the same,

(b) have a current bank account and produce proof of the same, and

(c) be introduced by a registered dealer whose registration certificate is in force on the date of introduction and who is registered under the Act or as the case may be, under any earlier law for five continuous years immediately preceding the year in which the application is made or by a Sales Tax Practitioner, or a Chartered Accountant or a Cost Accountant or an Advocate;

7. Grant Of Certificate Of Registration.-- (1) Where a dealer applying for registration is a firm, Hindu undivided family, body corporate or association of individuals or a department of a Government, the certificate of registration shall be issued in the name of such firm, family, body corporate, association or the department of the Government, as the case may be.

(2) Where a certificate of registration is issued on an application made therefor, then

- (a) if it was made within the period specified in clause (a) of sub-rule (1) of rule 6, it shall take effect from the appointed day;
- (b) if it was made within the period specified in clause (b) of sub-rule (1) of rule 6, it shall take effect from the time on which the dealer's turnover first exceeded the relevant limit specified in sub-section (4) of section 3;
- (c) if it was made within the period specified in clause (c) of sub-rule (1) of rule 6, it shall take effect from the day, the dealer becomes liable to pay tax under the Central Sales Tax Act, 1956;
- (d) if it was made on account of incurring liability under sub-section (8) of section 3, it shall take effect from the date of succession if it is made within thirty days of the incurring of such liability; and
- (e) if it is made any time after the change of address of business to a different local area, it shall take effect from the date of the said change of address;
- (f) if it is made under sub-section (9) of section (3), it shall take effect from the date of application if the conditions laid down in the rules and section 16 are fulfilled and
- (g) if such application was made after the expiry of the aforesaid period, it shall take effect from the date on which the application was made.

(3) Where the dealer has two or more places of business within the jurisdiction of the registering authority, the registering authority shall issue to the dealer one copy of the certificate of registration for each additional place of business (not being merely a warehouse) specified in the application for registration.

8. Exhibition Of Certificate Of Registration.—Every registered dealer shall display conspicuously at each place of his business (not being merely a

warehouse) the certificate of registration or a copy thereof

9. Cancellation Of Certificate Of Registration. - (1) An application for cancellation of registration under sub-section (6) of section 16 shall be made to the registering authority and if the application is made under clause (a) of that sub-section, it shall be made within thirty days of the date of discontinuance, transfer or disposal of business or change of place of business to a different local area.

(2) If the registering authority is satisfied that the application is in order, it shall, by order in writing, cancel the registration with effect from a date fixed in accordance with sub-rule (3). A copy of such order shall be served on the dealer.

(3) Where registration is to be cancelled -

(a) on the ground referred to in clause (a) of sub-section (6) of section 16, the date on which the business has been discontinued or otherwise disposed of or has been transferred, or the place of business has been changed to a different local area shall be the date of cancellation of registration;

(b) on the ground referred to in clause (b) of sub-section (6) of section 16, the date for cancellation of the registration shall not be later than the first day of the month next following the date of passing of the order referred to in sub-rule (2).

(4) Where the registration of a dealer is to be cancelled under the first proviso to sub-section (6) of section 16, the Commissioner shall after giving the dealer a reasonable opportunity of being heard, cancel the registration by an order in writing with effect from such date as the Commissioner may fix to be the date on which the business has been discontinued or transferred or disposed off or changed to a different local area as the case may be. A copy of

such order shall be served on the dealer.

(5) If the registration of a dealer is cancelled either on his application or under the first proviso to sub-section (6) of section 16, the dealer shall surrender the certificate of registration and the copies thereof, if any, granted to him to the registering authority within fifteen days from the date of receipt by him of the order cancelling the registration.

10. Additional Copies Of Certificate Of Registration. -(1) When a registered dealer opens a new place of business in addition to the place or places which were in existence at the time of his registration, the authority issuing a certificate of registration, shall issue an additional copy of the certificate of registration, on the dealer's applying for the same.

(2) A registered dealer may obtain from the registering authority a duplicate copy of a certificate of registration or of an additional copy thereof, issued to him, but which is lost, destroyed, or defaced.

11. Production Of Certificate Of Registration, Etc. - (1) The Commissioner may, by notice in writing, require a registered dealer to produce before him his certificate of registration for the purpose of carrying out any amendment therein under the Act.

(2) Every such dealer shall, within ten days from the date of service on him of a notice as aforesaid, produce the certificate of registration, to the Commissioner.

12. Information Under Section 18 And Changes In Forms Of Certificate Of Registration. - (1) Information under section 18 shall be given in writing within sixty days from the date of the occurrence of any of the events mentioned in that section to the registering authority.

(2) While giving any information under sub-rule (1), the certificate of registration held by the dealer and all copies thereof shall also be delivered to

the authority to whom the information is given.

(3) Where, after the issue of certificate of registration under rule 7 and copies thereof, if any, obtained by the dealer from the authority issuing the registration certificate, there have been any changes in the Form of certificate of registration, either by way of amendment in the said Form or substitution thereof by a new Form, then within sixty days from such change, the dealer shall deliver the certificate of registration and all copies thereof to the registering authority.

(4) The registering authority, shall, unless the certificate of registration so delivered is not cancelled by it, return the certificate of registration to the dealer, after making therein such amendments as may be necessary in view of the information, or the changes in the said Form or issue a certificate of registration in the new Form.

13. Declaration Under Section 19. - (1) Where the declaration under section 19 is to be made for the first time, it shall be made within the respective period specified in rule 6 for making an application for registration to the registering authority.

(2) Where any such declaration is to be revised, it shall be sent within thirty days from the date on which the manager or managers previously declared are changed to the registering authority.

(3) A declaration under sub-section (2) of section 19 shall be made to the registering authority.

(a) within sixty days from the appointed day by a dealer who is liable under sub-section (1) of section (3);

(b) at the time of application for registration, if the dealer is liable under the other provisions of section 3;

(c) within fifteen days of obtaining the Permanent Account Number,

under the Income Tax Act,1961 if the said number is obtained at any time after applying for the certificate of registration.

14. Submission Of Returns.-- (1) The Forms of returns may be obtained from the office of the assessing authority or after the 1st April 2006 may be downloaded from the website of the State Government. The forms may also be obtained privately if they conform with the size of the forms issued by the assessing authority.

(2) Every registered dealer, who is required to furnish a return shall subject to the provisions of this rule , furnish it duly signed by him or by a person authorised by him to the authorities specified hereinafter, that is to say, -

(a) where tax including lump sum, interest or penalty is due and payable according to the return, to the Government Treasury while making payment of the tax, lump sum, penalty or interest under rule 29;

(b) where no tax including lump sum, penalty or interest is due and payable according to the return, the return shall be furnished, -

(i) to the registering authority (Non-Resident Circle), Mumbai, if the dealer has been registered by such authority;

(ii) to the authority referred to in paragraph (b) of sub-section (2) of section 20, if the Commissioner has permitted the registered dealer who has places of business within the jurisdiction of different registering authorities, to furnish a consolidated return in respect of all or any of these places of business; or

(iii) to the registering authority within whose jurisdiction the place or places of business, as specified in the certificate of registration of the registered dealer is or are situated.

(3) Every dealer who is required to file monthly returns under sub-rule (4), if he is covered by the notification issued under sub-section (4) of section 41 and if he is specified in the said notification for the purposes of this sub-rule shall file monthly returns within 15 days of the end of the month to which the return relates:

Provided that, the said dealer may file the return in accordance with clause(c) of sub-rule (4) if he makes ad-hoc payment equal to 80 per cent. of the tax paid by him in respect the month immediately preceding the month to which the return relates and pays the remaining amount, if any, at the time of filing of the return in accordance with sub-rule(4).

(4) Subject to the other provisions of this rule and of rule 15.

(a) every registered dealer who is a retailer and who has opted for composition of tax under sub-section (1) of section 42 shall file a six monthly return within twenty-five days from the end of the period of six months to which the return relates;

(b) every registered dealer to whom clause (a) does not apply and whose tax liability during the previous year was Rs.12,000 or less shall file a six- monthly return within twenty-five days from the end of the period of six months to which the return relates.

(c) every registered dealer to whom clause (a) or (b) does not apply and whose tax liability during the previous year had exceeded rupees one lakh shall file a monthly return within twenty days from the end of the month for January and February and within twenty five days in any other case;

(d) any other registered dealer shall file a quarterly return within twenty-five days from the end of the quarter to which the return relates.

Explanation- I -- For the purpose of this rule, the expression, "tax liability" in relation to a registered dealer means - the total of all taxes payable by him in respect of all his places of business in the State under the Central Sales Tax Act, 1956 and the Maharashtra Value Added Tax Act, 2002, or as the case may be, the Bombay Sales Tax Act, 1959, after adjustment of the amount of set-off or refund claimed by him, if any under the respective Act. For the purposes of this rule, the expression "previous year" includes the year ending on the 31st March 2005.

*Explanation II.—*For the purposes of this rule, the first six monthly return shall be for the period starting on the appointed day or, as the case may be, 1st April and ending on the 30th September. The second six monthly return shall be for the period starting on the 1st October and ending on the 31st March.

15. Special Provision For First And Last Return In Certain Cases And For Dealers Under The Package Scheme Of Incentives. – (1) Where a dealer has become liable to be registered under this Act, the first return to be furnished by him shall be for the period from the appointed day, 1st April of the year, or as the case may be, from the date of event which makes him liable to pay tax to the end of the quarter containing the date of registration. He shall continue to file quarterly returns in respect of periods ending on or before the end of the year containing the date of effect of registration. The quarterly return shall be filed within twenty-five days of the end of the quarter to which the return relates.

(2) Where the business in which the dealer is engaged is discontinued or otherwise disposed off or has been transferred or the place of business is changed to a different local area, then the last monthly or, as the case may be, quarterly or six monthly return shall be for the period beginning with the first date of the month or, as the case may be, first date of the quarter or the first

date of the six month period and ending with the date of the said discontinuance, disposal, transfer or change of place of the business. The provisions contained in sub-rule (4) of rule 14 regarding the time in which monthly or quarterly or six monthly returns are to be filed shall apply to such return.

(3) (a) A dealer to whom a Certificate of Entitlement has been granted for the purpose of availing of incentives by way of exemption from payment of tax shall file a return for the period beginning with the first day of the month or, as the case may be, first day of the quarter or the first date of the six month period to the date immediately preceding the date of effect of the said certificate. Thereafter he shall file quarterly returns and accordingly the first return after obtaining the Certificate of Entitlement shall be filed from the date of effect of the said Certificate to the end of the quarter. The last return shall be for the period beginning with the first date of the quarter and ending with the date on which the said certificate ceases to be valid. The next immediate return shall be for the period commencing with the date immediately succeeding the date on which the said certificate ceases to be valid to the end of quarter. For the balance period of the year, if any, he shall file quarterly returns. The periodicity of the returns for the immediately succeeding year shall be decided in accordance with rule 14 and for this purpose the provisions contained in sub-rule (4) of rule 14 shall apply to such dealer as if the expression "tax liability" of the dealer included the cumulative quantum of benefits availed by the dealer in the year containing the date in which the certificate of entitlement ceases to be valid.

(b) The provisions contained in sub-rule (a) shall *mutatis mutandis* apply to a dealer to whom a certificate of entitlement by way of deferment of payment of tax has been granted.

16. Consolidated Returns.— A dealer shall make an application to submit consolidated returns to the Commissioner:

Provided that, he shall not be permitted to file a consolidated return in respect of a place of business for which the dealer has obtained a Certificate of Entitlement under any of the Package Schemes of Incentives except the Power Generation Promotion Policy, 1998.

17. Complete And Self Consistent Return.— Any return shall be deemed to be complete and self consistent only if, all the items in the return pertaining to turnover of sales and purchases, claim of set-off, amount of set-off carried forward and amount of set-off claimed as refund, calculation of tax as also the details where applicable regarding the cumulative quantum of benefits, amount of payment deferred, monetary ceiling, period of incentives and refunds are filled in their appropriate places and are arithmetically self consistent and if the details provided in the return regarding name, address, registration number, period of return and the Entitlement Certificate number, where applicable, are filled in fully.

18. Order Of Assessment.— An order imposing a penalty or interest or an order of forfeiture with or without penalty or an order granting interest on refund in respect of any period may be incorporated in the order of assessment relating to that period.

19. Supply Of Copy Of Order Of Assessment. - (1) A certified copy of an order of assessment shall be furnished to the assessee free of charge alongwith the notice issued in accordance with sub-section (4) of section 32.

(2) A dealer or a person to whom section 43 applies and who requires additional copies of such order shall be supplied with the same on his making an application in this behalf.

20. Submission Of Appeals. - (1) Every first or second appeal shall -

(a) be in writing,

- (b) specify the name and address of the appellant,
- (c) specify the date of the order against which it is made,
- (d) contain a clear statement of fact,
- (e) state precisely and in brief the relief prayed for, and
- (f) be accompanied by the challan for proof of having paid the required fees.
- (g) state the quantum of relief sought .
- (h) be signed and verified by the appellant or by an agent duly authorised by him in writing in that behalf, in the following form, namely :-

"I agent appointed by the appellant named in the above memorandum of appeal do hereby declare that what is stated herein is true to the best of my knowledge and belief.

(Signature)".

(2) The memorandum of appeal shall be accompanied by either the certified copy of the order supplied to the dealer or duly authenticated copy thereof, unless the omission to produce such order or copy is explained at the time of the presentation of the appeal to the satisfaction of the appellate authority.

(3) The memorandum of appeal shall either be presented by the appellant or his agent to the appellate authority or be sent to the said authority by registered post.

21. Application For Stay.— (1) Any appellant desiring to obtain stay in full or in part to the operation of the order, disputed in appeal, may make an

application for grant of such stay, to the appellate authority.

(2) The appellate authority, on any one of the following grounds, may reject the application, namely:-

(a) If the appeal filed by the appellant is summarily rejected by the appellate authority;

(b) any other ground, which the appellate authority may consider sufficient:

Provided that, no such application for stay shall be rejected by the appellate authority unless the appellant is given a reasonable opportunity of being heard and the grounds for rejection shall be recorded by the said authority.

22. Summary Rejection.-- (1) If the memorandum of appeal omits to state any of the particulars required under rule 20 or is not accompanied with the certified copy of the order supplied to the dealer or a duly authenticated copy thereof, the appeal may be summarily rejected :

Provided that, no appeal shall be summarily rejected under this sub-rule unless the appellant is given a reasonable opportunity to amend the memorandum of appeal.

(2) The appeal may also be summarily rejected on grounds other than those specified in sub-rule (1), which the appellate authority may consider sufficient and which shall be reduced to writing by the appellate authority :

Provided that, before an order summarily rejecting an appeal under this sub-rule is passed, the appellant shall be given a reasonable opportunity of being heard.

(3) If within thirty days from the date on which any appeal is summarily rejected under sub-rule (1) or (2), the appellant makes an application to the appellate authority for setting aside the order of summary rejection and satisfies it that the notice under the proviso to sub-rule (1) to amend the

memorandum of appeal or of a hearing under the proviso to sub-rule (2) was not duly served on him, or that he was prevented by sufficient cause from amending the memorandum of appeal or from appearing when the appeal was called on for hearing, the said authority shall make an order setting aside the summary rejection and restore the appeal to its file:

Provided that if an order on the application for setting aside the order of summary rejection is not made within thirty days of the receipt of the application, it shall be deemed that the appeal is restored to the file of the appellate authority -

23. Hearing. -- (1) (a) If the appellate authority does not summarily reject the appeal, it shall fix a date for hearing. The date so fixed shall not be earlier than ten days from the date on which intimation thereof is given to the appellant or to his agent:

Provided that, a date earlier than aforesaid may be fixed for hearing, if the appellant or his agent agrees thereto in writing.

(b) The authority aforesaid may for sufficient reasons adjourn at any stage the hearing of an appeal to a different time on the same day or any other day so however that the day to which the hearing is adjourned shall not be earlier than ten days from the day on which intimation thereof is given to the appellant or to his agent:

Provided that, a date earlier than aforesaid may be fixed for hearing an appeal if the appellant or his agent agrees thereto in writing.

(2) If on the date and at the time fixed for hearing or on any other date or at any other time to which the hearing may be adjourned, the appellant does not appear before the said authority either in person or through an agent, the said authority may dismiss the appeal or may decide it ex-parte, as it may think fit:

Provided that, if within 30 days from the date on which the appeal was

dismissed or decided ex-parte, under this sub-rule, the appellant makes an application to the appellate authority for setting aside the order and satisfies it that the intimation of the date of hearing was not duly served on him or that he was prevented by sufficient cause from appearing when the appeal was called for hearing the said authority shall make an order setting aside the dismissal or ex-parte decision upon such terms as it thinks fit, and shall appoint a day for proceeding with the appeal.

(3) (a) Every appellate authority including the Tribunal shall maintain registers showing the particulars regarding the chronological order of the filing of appeals and also the quantum of relief sought.

(b) For the purposes of these rules, the expression “quantum of relief sought” means:--

- (i) the aggregate of the amount of tax or penalty or interest, if any or sum forfeited on demanded and the amount claimed by the appellant as refundable, or
- (ii) the difference between the amount of refund claimed by the appellant and the amount of refund granted in the order against which the appeal is filed, or
- (iii) the difference of the amount of tax or penalty or interest, if any, or sum forfeited, demanded and the amount accepted by the appellant to be payable.

(4) Every appellate authority including the Tribunal shall fix dates for hearing in such a way that half of the cases fixed for hearing during any month are the cases where appeals are filed against any order passed under section 56 or where appeals are filed earlier to all other appeals and the remaining half shall be out of the balance appeals involving the highest quantum of relief sought.

24. Supply Of Copy Of Order To The Appellant And To The Officer Concerned. -- A certified copy of any order passed in appeal shall be supplied free of cost to the person or dealer concerned and another copy shall be sent to the officer whose order forms the subject of the appeal proceedings.

25. Award Of Costs By Tribunal.— (1) The costs of all appeals and other proceedings before the Tribunal shall be in the discretion of the Tribunal.

(2) Where the appellant withdraws from the proceedings without the permission of the Tribunal or fails, without a reasonable excuse, to appear before the Tribunal on the date and at the time fixed by it under notice served on him, he shall be liable for such costs as the Tribunal may award.

(3) In its final orders, if costs are awarded, the Tribunal shall state who shall bear the cost and in what proportion, if any.

(4) No costs shall be awarded against a dealer or person unless he is given a reasonable opportunity of being heard.

(5) Where costs are awarded, a bill of costs shall be drawn up by the Registrar of the Tribunal and attached to its judgment and order.

26. The Notice For The Purpose Of Sub-Section (11) Of Section 29.— Where an order of forfeiture is made, the Commissioner shall by a notice published in the *Official Gazette* notify the following details for the information of the person concerned, namely, -

- (a) the name, address and the registration number, if any, held by the person in whose case the order is passed;
- (b) date of the order;
- (c) the amount forfeited;
- (d) the period for which the order is passed, and
- (e) reasons for forfeiture.

27. Tax Deduction At Source.—

- (1) (a) Every employer who is required to deduct tax under clause (b) of sub-section (1) of section 31 shall within 10 days from the expiry of the month during which tax is so required to be deducted, remit the full amount of such tax due and deductible to the Government Treasury irrespective of the actual amount of tax deducted by him, from such dealer.
- (b) The employer required to remit tax, shall furnish a certificate in respect of the amount so remitted immediately after the deduction is made, to the dealer in respect of whom such deduction is made.
- (c) (i) The employer who had deducted and remitted such tax shall send a statement in duplicate to the registering authority who has jurisdiction over the contractor (and in case of any unregistered contractor, whether or not resident in the State of Maharashtra for Mumbai zone send a statement to the registering authority designated for non-resident dealers and for such contractor outside Mumbai Zone, shall send a statement to the respective Joint Commissioner of Sales Tax (Administration) in whose jurisdiction the said contractor is situated) within 20 days after the end of month to which such statement relates.
- (d) Any employer issuing a certificate as required by paragraph (b) shall maintain for each year a separate account showing the amount of tax deducted, certificate of tax deduction issued, and the particulars of remittances made to the Government Treasury and shall file a return with the Joint Commissioner of Sales Tax (Administration) in whose jurisdiction the employer is situated within three months of the end of the year to which the return relates.

(2) (a) An application for grant of certificate of deduction of tax at source or no deduction of tax under sub-section (3) of section 31 shall be made by the dealer to the registering authority who is having jurisdiction over the dealer.

(b) The application shall be accompanied by copies of the contract, and other documents, on the basis of which the claim is made for deduction at source, or no deduction, as the case may be.

(c) If the particulars and documents furnished by the dealer are correct and complete in all respects and after making such enquiry as may be deemed necessary, the registering authority is satisfied that the contract involves both transfer of property in goods and labour or service, or involves only labour or service and justifies deduction of tax at source or no deduction of tax, as the case may be, he shall, after giving the applicant a reasonable opportunity of being heard grant a certificate within a period of one month from the receipt of the application and shall forward a copy of such certificate to the employer for whom the work is executed. If it comes to the notice of the registering authority that the certificate is wrongly granted or is not in order, then he may on his own motion cancel or modify such certificate, after giving the dealer a reasonable opportunity of being heard.

(3) The time period for application to the Commissioner for allotment of sales tax (Works Contract) deduction number will be 3 months from the day he becomes so liable to deduct the tax.

28. Time For Payment. – (1) Every dealer required to furnish a return under rule 14 or 15 whether monthly, quarterly or six monthly or for any other period, shall, on or before the date prescribed for submission of such return, pay into Government Treasury, the tax due from him for the period covered by such return and interest, if any, payable by him under this Act.

(2) Any sum determined by way of composition of an offence in accordance

with section 78 shall, within the time stated in the order determining such composition, be paid in the Government Treasury.

(3) The person liable to pay any amount of fine imposed under sub-section (3) of section 14 or any other provision of this Act shall pay the same into Government Treasury before the date specified in the notice issued by the Commissioner or the Tribunal in that behalf.

29. Method Of Payment. - (1) Every payment of tax or interest or penalty or all of them payable under rule 28 and the amount of balance of tax payable according to a return or revised return and penalty and interest payable under rule 28 shall be accompanied by a return-cum-chalan.

(2) Every payment of tax or interest or penalty or all of them not referred to in sub-rule (1) and every payment of amount forfeited, composition money and fine imposed shall be accompanied by a chalan.

(3) The Form accompanying the payments as aforesaid shall be duly filled in, signed and verified by the payer and the amount paid shall be stated both in words and in figures in the space provided for that purpose in the respective Form.

(4) The payments shall be made into Government Treasury. The portion of the concerned Form marked "for the payer" shall be returned by the Government Treasury to the dealer duly receipted, and the portion of the Form marked "for the registering authority" shall be forwarded by the Government Treasury to the registering authority specified in rule 14.

(5) Subject to the provisions of section 33 and 34, no payment as aforesaid shall be made to any officer or authority appointed by or under section 10.

(6) The instalments granted, if any, under one order shall be for a period not exceeding one year. The periodicity of payments shall not be more than monthly. The instalments shall be granted for an amount inclusive of the

interest chargeable, on the amount of tax under instalment.

30. Notice For Payment Of Tax Not Paid According To Return. – Where a dealer has furnished a return or revised return under section 20, but has not first paid into the Government Treasury the whole of the amount of tax, interest and penalty due or the extra amount due according to such return, or as the case may be, the revised return, as required under section 32, the Commissioner may by notice served on him require him to pay forthwith the amount due from him according to the return or, as the case may be, the revised return, but remaining unpaid.

31. Claim and grant of set-off in respect of purchases held in stock in the appointed day,--(1) While assessing the amount of tax payable by any registered dealer in respect of any period starting on or after the 1st April 2005 but ending on or before the 31st March 2006, the Commissioner shall in respect of the purchases or, as the case may be, entry of any goods made by the registered dealer (hereinafter in this rule referred to as “the claimant dealer”] at any time on or before the 31st March 2005 and held in stock by him on 31st March 2005 at the close of business, grant him a set-off of an amount equal to the aggregate of the following sums that is to say,--

- a) in respect of the said purchases covered by the Bombay Sales Tax Act, 1959, a sum calculated in accordance with rule 44D of the Bombay Sales Tax Act, 1959, as the rule stood immediately before the appointed day, if the conditions specified in the said Act and Rule are fulfilled.
- b) in respect of purchases covered by any of the earlier laws other than the Bombay Sales Tax Act, 1959, a sum collected separately from the claimant dealer by the other registered dealer or, as the case may be, person holding licence, by way of tax on the purchase made by him from the other registered dealer or, as the case may be,

person holding licence, of the said goods.

- c) any sum paid by the dealer on his purchases or, as the case may be, the entry of goods, under the Maharashtra Tax on Entry of Motor Vehicles into the Local Areas Act, 1987 or the Maharashtra Tax on the Entry of Goods into the Local Areas Act, 2002.

(2) No set-off shall be allowed under this rule -

- (a) in respect of any purchase or entry of goods if the claimant dealer has claimed set-off, drawback or, as the case may be, refund in respect of the said purchase or entry under any earlier law, and
- (b) unless the goods are resold on or after the 1st April 2005 and on or before the 31st December 2005 or are used in the packing of goods so resold.
- (c) in respect of goods treated as capital assets unless the said assets are purchased on or after the 1st April 2003 or their entry in the State has taken place on or after the 1st April 2003 and are resold on or before the 31st December 2005.

(3) The set-off under this rule shall be claimed

- (a) in respect of capital assets only when they are resold and such claim shall be made in the return for the period in which the said capital assets are resold and
- (b) in respect of other goods in the period starting on the 1st April 2005.

(4) The set-off under this rule shall not be granted unless the claimant dealer has complied with the requirements of the notification issued under section 84.

32. Claim and grant of set-off in respect of purchases made in the periods commencing on or after the appointed day.— (1) In assessing the amount of tax payable in respect of any period starting on or after the appointed day,

by a registered dealer [hereinafter in this rule referred to as “ the claimant dealer”] the Commissioner shall in respect of the purchases of goods made by the claimant dealer on or after the appointed day, grant him a set-off of the aggregate of the following sums, that is to say,-

- (a) the sum collected separately from the claimant dealer by the other registered dealer by way of sales tax on the purchases made by the claimant dealer from the said registered dealer of goods being capital assets and goods the purchases of which are debited to the profit and loss account, trading goods, raw materials, parts, components, spares, packing materials and fuel.
- (b) tax paid in respect of any entry made after the appointed day under the Maharashtra Tax on the Entry of Motor Vehicles into Local Areas Act, 1987.
- (c) the tax paid in respect of any entry made after the appointed day under the Maharashtra Tax on the Entry of Goods into Local Areas Act, 2003

(2) set-off under this rule shall not be granted in regard to any quantum of tax if set-off under rule 31 has been claimed in respect of the same quantum of tax or if set-off has been claimed in respect of the said quantum under any earlier law.

33. Reduction In Set-Off.- (1) The set-off available under any rule shall be reduced and shall accordingly be disallowed in part or full in the event of any of the contingencies specified below and to the extent specified.

(2) If the claimant dealer has used any taxable goods as fuel, then an amount equal to four percent. of the corresponding purchase price shall be reduced from the amount of set-off otherwise available in respect of the said purchase.

(3) (a) If the claimant dealer manufactures any tax free goods then an amount equal to four per cent. of the purchase price of the corresponding taxable

goods purchased by him (not being goods treated as capital assets or used as fuel) shall be reduced from the amount of set-off otherwise available in respect of the said purchases.

(b) If the claimant dealer resells any tax free goods and the tax-free goods are packed in any material, then an amount equal to four percent. of the purchase price of the corresponding purchases of packing materials, if any, shall be reduced from the amount of set-off otherwise available in respect of the said purchases of packing materials.

(4) If the claimant dealer dispatches any taxable goods outside the State, to any place within India, not by reason of sale, to his own place of business or of his agent or where the claimant dealer is a commission agent, to the place of business of his principal, then an amount equal to four per cent. of the purchase price of the corresponding taxable goods (not being goods treated as capital assets or used as fuel) shall be deducted from the amount of set-off otherwise available in respect of the said purchases.

(5) If the claimant dealer has made a sale by way of transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract then, if the claimant dealer has opted for composition of tax under sub-section (3) of section 42, the corresponding amount of set-off to which he is otherwise entitled shall be reduced and the set-off to be allowed shall accordingly be calculated by multiplying the said amount of set-off by the fraction $16/25$,

(6) If the business in which the dealer is engaged is discontinued and is not transferred or otherwise disposed of and is not continued by any other person, then the set-off on purchases not being purchases treated as capital assets, corresponding to the goods held in stock at the time of discontinuance shall be disallowed and accordingly be reduced fully.

(7) The claimant dealer shall deduct the amount required to be reduced under this rule from the amount of set-off available in respect of the period in which the contingencies specified in this rule occur and claim only the balance amount as set-off and when the amount so required to be deducted exceeds the said amount of set-off available in respect of that period, he shall pay an amount equal to the excess at the time when he is required to pay the tax in respect of the said period.

34. Non-Admissibility Of Set-Off.— No set-off under any rule shall be admissible in respect of,

- (a) purchases of motor vehicles (not being goods vehicles) which are treated by the claimant dealer as capital assets and parts, components and accessories thereof unless the claimant dealer is engaged in the business of transferring the right to use [whether or not for a specified period] for any purpose, in respect of the said vehicles and the expression "motor vehicles" and "goods vehicles" shall have the same meanings as respectively assigned to them in the Motor Vehicles Act, 1988;
- (b) purchases of motor spirits as notified under sub-section (4) of section 41 unless such motor spirits are resold or sold in the course of inter-State trade or commerce or in the course of export out of the territory of India or are sent, not by reason of sale, outside the State to any place within India by the claimant dealer to his own place of business, or the place of business of an agent or where the claimant dealer is a commission agent, to the place of business of his principal;
- (c) purchase of crude oil as described in section 14 of the Central Sales Tax Act, 1956, when used by an oil refinery for refining;
- (d) any purchases made by a dealer falling under entries (i), (ii), (iv), (v),

- (vii) and (ix) of the *Explanation to* clause (8) of section 2;
- (e) any purchase of consumables or of goods treated as capital assets by the claimant dealer where the dealer is principally engaged in doing job work or labour work and is not engaged in the business of manufacturing of goods for sale by him and incidental to the business of job work or labour work any waste or scrap goods are obtained and are sold;
- (f) any purchase made by any dealer to whom an Entitlement Certificate to claim incentives by way of exemption from tax or deferment of tax has been granted, being purchases of raw materials as defined in rule 58.
- (g) any purchase of goods of incorporeal or intangible nature other than import licence, exim scrips, special import licence, duty free advance licence, export permit or licence or quota and credit of duty entitlement pass book and in the hands of a dealer who is trading in software, purchases of software packages.

35. Condition For Grant Of Set-Off Or Refund And Adjustment Of Draw-Back, Set-Off In Certain Circumstances.— (1)No set-off or refund under these rules shall be granted to a dealer in respect of any amount of tax recovered from him on the purchase of any goods or paid by him or in respect of entry of any goods, -

- (a) unless such dealer was a registered dealer under the Act or a registered dealer or, as the case may be, a person holding license under any earlier law at the time of such purchase or entry;
- (b) unless such dealer has --
- (i) maintained a true account in chronological order of all the purchases of goods made by him on or after the appointed day, showing the following details:--

(A) the date on which the goods were purchased;

(B) the name of the selling dealer and his registration certificate number, if registered, from whom the goods are purchased, and the description of the goods;

(C) the number of the tax invoice under which they were purchased;

(D) the purchase price of the goods;

(E) the amount of sales tax, if any, recovered from him by the selling dealer;

(ii) in the case of goods in respect of the purchase of which tax has been recovered from the claimant dealer or is payable by him as purchase tax under an earlier law, maintained a true account in chronological order of the goods so purchased and held by him on the appointed day, which shall show the particulars mentioned at (A) to (E) above, and the amount of tax recovered under each of the earlier laws separately.

(2) The claimant dealer shall, if so required, produce before the Commissioner the original bill/invoice/cash memorandum relating to each purchase in respect of which the claim for set-off has been made in respect of any purchase made before the appointed day, and a tax invoice in respect of any purchase made after the appointed day.

(3) A dealer who by virtue of these rules, has, in any period become entitled to a sum by way of set-off or refund, may, subject to the other provisions of this rule, adjust such sum against the tax payable according to the return relating to such period. If the sum admissible for such adjustment is in excess of the tax payable according to the said return, the claimant dealer may, at his option, adjust such excess or, as the case may be, part of the excess towards the Central Sales Tax payable by him under the Central

Sales Tax Act, 1956, according to the return under the said Act relating to the said period or, may adjust such excess or any balance excess against the tax payable according to the return for any subsequent period falling in the same year.

(4) Where a notice under sub-section (4) of section 32 or, as the case may be, a notice under the corresponding provisions of any earlier law has been issued for the payment of any sum by a dealer or the dealer has filed any return or revised return without full payment of tax and who is entitled to a refund under these rules or, as the case may be, under any earlier law, the amount so due by way of refund, shall first be applied towards the recovery of the amount in respect of which such notice has been issued or towards the payment of the said tax and the balance amount, if any, shall thereafter be claimed as refund.

(5) Where the claimant dealer is unable to identify the goods purchased with the goods resold or with the goods used in the manufacture of goods or in the packing of goods, it shall be presumed for the purpose of reduction or disallowance of set-off that the goods so purchased have been used or consumed in the chronological order in which they were acquired whether before or after appointed day.

(6) Set-off of the tax paid under the Maharashtra tax on Entry of Motor Vehicles into the Local Areas Act, 1987 and of the tax paid under the Maharashtra Tax on Entry of Goods into the Local Areas Act, 2002 in respect of any goods shall be granted to a dealer as if such tax is a tax levied under this Act or, as the case may be, under any earlier law and all of the provisions of these rules including those relating to reduction in set-off and non-admissibility of set-off shall *mutatis mutandis* apply accordingly.

37. Reimbursement In Respect Of Declared Goods Purchased On Or After

The Appointed Day. – Where a dealer is liable to pay tax under the Act then in assessing the amount of tax under this Act in respect of any period payable by such dealer (hereinafter referred to in this rule as "the claimant dealer"), the Commissioner shall grant him in respect of declared goods purchased by him on or after the appointed day and resold by him in the course of inter-State trade or commerce and on which resale, tax under the Central Sales Tax Act, 1956 (LXXIV of 1956), has been paid by him, reimbursement of the tax paid by him on his purchases of the said goods.

38. Reduction Of Sale Price For Levy Of Tax.— (1) A registered dealer may, in respect of any sale effected by him on or after the appointed day on which sales tax is payable by him and where he has not separately collected any amount by way of sales tax, deduct from the sale price of the goods a sum calculated in accordance with the formula as follows:-

$$\text{Amount of deduction} = \frac{R}{100 + R}$$

Where R = the rate of tax applicable to the sale of the goods.

(2) A registered dealer may, in respect of any resale of goods made after the appointed day of goods originally manufactured whether before or after the appointed day by an unit under the exemption mode of any Package Scheme of Incentives, for the purpose of levy of tax deduct from the sale price of the resale of such goods an amount calculated in accordance with the following formulae:-

(a) where the goods are purchased by the claimant dealer whether before or after the appointed day and tax is not recovered separately from the claimant dealer in his purchase invoice

Amount of deduction = Amount of purchase price including
the price of goods used in packing if
the packing is charged separately.

(b) where the goods are purchased by the claimant dealer
after the appointed day from a registered dealer who has
separately recovered tax from the claimant dealer

Amount of deduction = $P - (T \times 100 / R)$

where P is the aggregate of the purchase price of the goods, and of the
goods used for packing of the said goods if the packing is charged
separately. T is the amount of tax recovered separately from the
claimant dealer in respect of the purchase of the goods and R is the
rate of tax generally applicable to the sale of such goods.

(c) A registered dealer in respect of the resale effected by him on or after
the appointed day of goods originally manufactured by an exemption
unit and which are held by him in opening stock on the appointed day
may reduce from the sale price his purchase price if the said goods are
supported by a bill or cash memorandum as provided in clause (aa) of
rule 53 of the Bombay Sales Tax Rules, 1959, as the rule stood
immediately before the appointed day.

(3) Where the sale price is to be reduced in accordance with sub-rule (1)
and also sub-rule (2), then the sale price shall first be reduced in accordance
with sub-rule (2) and the reduced sale price shall be further reduced in
accordance with sub-rule (1).

(4) Where a registered dealer has sold any goods after the appointed day by
way of delivery of goods on hire-purchase or any system of payment by
instalments, then he may deduct from the sale price, the component of
interest, contained in the sale price, if the agreement for sale is reduced

to writing and the component of interest is specified therein.

39. Determination of sale price and of purchase price in respect of sale by transfer of property in goods [whether as good or in some other form] involved in the execution of a works contract. — (1) The value of the goods at the time of the transfer of property in the goods [whether as goods or in some other form] involved in the execution of a works contract may be determined by effecting the following deductions from the value of the entire contract, in so far as the amounts relating to the deduction pertain to the said works contract:--

- (a) labour and service charges for the execution of the works where the labour and service done in relation to the goods is subsequent to the said transfer of property;
- (b) amounts paid by way of price for sub-contract , if any, to sub-contractors ;
- (c) charges for planning, designing and architect's fees;
- (d) charges for obtaining on hire or otherwise, machinery and tools for the execution of the works contract;
- (e) cost of consumables such as water, electricity, fuel used in the execution of works contract, the property in which is not transferred in the course of execution of the works contract;
- (f) cost of establishment of the contractor to the extent to which it is relatable to supply of the said labour and services;
- (g) other similar expenses relatable to the said supply of labour and services, where the labour and services are subsequent to the said transfer of property;

(h) profit earned by the contractor to the extent it is relatable to the supply of said labour and services;

Provided that where the contractor has not maintained accounts which enable a proper evaluation of the different deductions as above or where the Commissioner finds that the accounts maintained by the contractor are not sufficiently clear or intelligible, the contractor or, as the case may be, the Commissioner may in lieu of the deductions as above provide a lumpsum deduction as provided in the Table below and determine accordingly the sale price of the goods at the time of the said transfer of property.

TABLE

Sr.No	Type of Works contract	*Amount to be deducted from the contract price (expressed as a percentage of the contract price)
1	2	3

* The percentage is to be applied after first deducting from the total contract price, the amounts paid by way of price for the entire sub-contract to sub-contractors, if any.

(2) The value of goods so arrived at under sub-rule(1) shall, for the purposes of levy of tax, be the sale price or, as the case may be, the purchase price relating to the transfer of property in goods [whether as goods or in some other form]involved in the execution of a works contract.

40. Determination Of Taxable Turnover Of Sales Of Residential Hotels Charging A Composite Sum For Lodging And Boarding.— In assessing the turnover of sales of goods, specified in paragraph (vi) of sub-clause (b) of the

Explanation to clause (24) of section 2, of the residential hotels, providing lodging and boarding and charging a composite sum, which is inclusive of breakfast or lunch or dinner or, as the case may be, a combination of all or any of the above, the Commissioner shall determine the taxable turnover of sales, in respect of any period in the following manner, namely:-

- (a) Where the composite charges include 5 per cent. of the the charges for breakfast, Composite charges
- (b) Where the composite charges include 10 per cent. of the the charges for lunch, Composite charges
- (c) Where the composite charges include 15 per cent. of the the charges for dinner, Composite charges
- (d) Where the composite charges include 15 per cent. of the the charges for breakfast and lunch, Composite charges
- (e) Where the composite charges include 20 per cent. of the the charges for breakfast and dinner, Composite charges
- (f) Where the composite charges include 25 per cent. of the the charges for lunch and dinner, Composite charges
- (g) Where the composite charges include 30 per cent. of the the charges for breakfast, lunch and dinner, Composite charges;

Provided that, if the claimant dealer produces evidence to the satisfaction of the Commissioner that the component of the taxable turnover of sales in the composite sum is less than the percentage given above, the Commissioner shall reduce the above percentage to the extent of actual sum of turnover of sales, so proved.

41. Order Sanctioning Refund. - (1) When the Commissioner is satisfied that a refund is due, he shall record an order showing the amount of refund due

and shall communicate the same to the dealer.

(2) When an order for refund has been made under any rule, the Commissioner shall, if the applicant desires payment in cash, issue to him a refund payment order.

42. Refund Adjustment Order:- If the applicant desires payment by adjustment against any amount payable by him, the Commissioner shall make out a refund adjustment order authorizing the applicant to adjust the sum to be refunded against any amount payable by him in respect of the period for which a return is to be furnished under rule 14 and during which the refund is sanctioned or any subsequent period or payable under section 32.

43. Cancellation Of Refund Adjustment Order. -When the refund adjustment order is furnished with the return submitted under rule 14, the Commissioner shall cancel his own copy as well as the refundee's copy of the refund adjustment order.

44. Bank Guarantee.— The period of Bank Guarantee for the purposes of sub-section (2) of section 51 shall not exceed thirty seven months. The Bank guarantee shall be for an amount equal to the amount of provisional refund sought and the amount of bank guarantee may be rounded off by the dealer to the nearest thousand of rupees.

45. Order Sanctioning Interest On Delayed Refunds. - (1) Where upon an application by any person claiming interest on any delayed refund or otherwise the Commissioner is satisfied that such interest is due and payable to the applicant or any person under section 53, the Commissioner shall record an order specifying therein the amount of refund, the payment of which was delayed, the period of delay for which interest is payable and the amount of interest payable by the Commissioner therefor, and shall communicate the same to the applicant or person concerned.

(2) When an order for payment of interest on any delayed refund has been made under this rule, the Commissioner shall issue to the applicant or person concerned an interest payment order.

46. Application For Determination Of Disputed Questions, Summary Rejection, Etc. - (1) A separate application for determination of a disputed question shall be made in respect of each question that is sought to be determined.

(2) The application shall -

- (a) be in writing,
- (b) contain the name and address of the applicant,
- (c) be accompanied with proof of payment of fees as prescribed,
- (d) contain a statement of relevant facts in detail alongwith supporting evidence, if any;
- (e) contain a statement explaining the circumstances in which the dispute has arisen, and
- (f) be signed and verified by the applicant himself and not by any person authorised to appear before the Commissioner in such proceedings or by any agent, in the following form, namely :-

Verification

I do hereby declare that the particulars furnished and statements made above are correct and complete to the best of my knowledge and belief.

Place :

Signature:

Date :

Full Name:

Status:

Address :

(3) The application may be summarily rejected -

(a) if it is incomplete with regard to any of the provisions of sub-rule (2),
or

(b) if the applicant fails to reply to any query made, or

(c) if, in case of any question posed under clause (e) or (f) of sub-section (1) of section 56, the applicant is not liable to pay sales tax into the Government Treasury, or, as the case may be, is not entitled to claim set-off on the transaction;

(d) on any other ground which the Commissioner may consider sufficient and which shall be reduced to writing by him :

Provided that, before an order summarily rejecting the application is passed under this sub-rule, the applicant shall be given a reasonable opportunity of being heard.

47. Submission Of Audit Report.—The report of the audit under section 61 shall be submitted within eight months of the end of the year to which the report relates.

48. Preservation Of Books Of Accounts, Registers, Etc. - Every registered dealer shall preserve all books of accounts, registers and other documents relating to the stocks, purchases, dispatches and deliveries of goods and payments made towards sale or purchase of goods for a period of not less than five years from the expiry of the year to which they relate.

49. Retention Of Books Of Accounts, Registers And Documents Seized. - If the Commissioner seizes any books of accounts, registers or documents of any dealer under section 64, he shall not retain them for more than 21 days without recording his reasons in writing for so doing:

Provided that, where an officer below the rank of Joint Commissioner seizes any books, registers or documents, by virtue of powers of the

Commissioner under section 64 delegated to him, he shall not retain them, or cause them to be retained, for a period exceeding one year unless an officer not below the rank of Joint Commissioner having jurisdiction over the local area in which the place of business of the dealer is situated, has for reasons to be recorded in writing, authorized the retention of the books, registers or documents so seized for a longer period :

Provided further that, such longer period shall not be more than one year at a time.

50. Notice Of Inspection. - Unless the Commissioner deems it necessary to make a surprise visit, he shall give reasonable notice in writing to the dealer of his intention to inspect the accounts, registers, documents or stocks of goods of such dealer, or any cash kept by him at his place of business and in fixing the date, time and place for the purpose, he shall, as far as possible, have due regard to the convenience of the dealer.

51. Intimation Accepting Composition Money. - Where under section 78 the Commissioner accepts from any person a sum by way of composition of an offence, he shall send an intimation in writing in that behalf to that person and also to the authority referred to in clause (c) below, specifying therein -

- (a) the sum determined by way of composition;
- (b) the date on or before which the sum shall be paid into the Government Treasury;
- (c) the authority before whom and the date on or before which a receipted chalan shall be produced in proof of such payment; and
- (d) the date on or before which the person shall report the fact to the Commissioner.

52. Fees. - (1)A uniform extra copying fee of Re.10 per copy shall be charged on an application for a copy required urgently.

(2) For the purposes of this rule, the expression “the amount in dispute” shall mean the amount of relief sought in appeal or the amount of additional set-off or refund demanded in appeal.

(3) (a) All fees payable under this rule shall be paid in the manner in which tax is to be paid under rule 29.

(b) The amount of fees indicated in column (3) of the Table below against the memorandum of appeal or the respective application specified in column 2 thereof shall be payable when such memorandum is presented or application is made.

TABLE

Sr. No.	Description of Memorandum or Application	Amount of fee
(1)	(2)	(3)
1	Application for objection to jurisdiction under section 10 (8)	Nil
2	Application regarding vexatious order under section 12 (1) (i)	Nil
3	Application for registration including voluntary registration under section 16	Rs. One hundred
4	Application for a duplicate copy of registration certificate	Rs. Twenty five
	Application for extract regarding any one dealer out of the list of registered dealers under section 16(7)	Rupees twenty five
5	Application for direction under section 23 (9)	Nil
6	Application for rectification under section 24(1)	Nil
	Application for stay under section 26(6)	Rupees Twenty five
7	Application by senior citizen for priority disposal of his appeal under section 26(7)	Nil
8	Application by a registered dealer who proposes to enroll himself as an employer under section under section 31(3)	Nil
9	Application by every employer for T.D.S A/C No. under section 31(8)	Nil
10	Application for refund of forfeited amount under section 32(6)	Nil
11	Application for tax clearance certificate under	Rs. Ten

Sr. No.	Description of Memorandum or Application	Amount of fee
(1)	(2)	(3)
	section 32(9) (a)	
12	Application by the dealer proposing to file appeal under section 33(1)(b)	Nil
13	Application for provisional refund under section 51(1)	Nil
14	Application for advance ruling under section 55	Rs. Five hundred
15	Application for Determination of disputed question under section. 56	Rs. One hundred
16	Memorandum of appeals under section 26 (a) where the amount in dispute is less than rupees one lakh (b) where the amount in dispute is rupees one lakh or more (c) in case of an appeal not covered by (a) and (b) above	One hundred rupees One tenth of a percent. of the amount in dispute subject to a maximum of rupees one thousand One hundred rupees.
17	Application for true copies of the document	Rs. five per page
18	Application by the dealer in respect of provisional attachment under section 35(5)	One hundred rupees
19	Application for any other purpose	Nil
20	Application for cancellation of Certificate of Registration under section 16(a)	Nil
21	Application for furnishing consolidated return u/s 20(2)(b)	Nil
22	Application for grant of Certificate under sub-section b(ii) of section 31 of the Act for deduction of tax at source or no deduction of tax	Nil
23	Application of refund u/s 41(1)	Nil
24	Application for restoration of appeal	Ten rupees
25	Application for adjournment / miscellaneous application	Nil
26	Application for condonation of delay	Nil
27	Authority for sales Tax Practitioner under section 82 of Maharashtra Value Added Tax Act 2002	Two rupees
28	Authority for person other than a Sales Tax Practitioner under section 82 of Maharashtra Value Added Tax Act 2002	Five rupees

Sr. No.	Description of Memorandum or Application	Amount of fee
(1)	(2)	(3)
29	Application for being enroll as a Sales Tax Practitioner	Five rupees
30	Application for permission under sub-section (5) of section 86	Nil

53. Qualifications Of A Sales Tax Practitioner. - (1) A sales tax practitioner shall be eligible for having his name entered in the list of sales tax practitioners maintained under section 82, if -

- (a) he has passed an accountancy examination, recognised by the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924 (IV of 1924), for the purpose of clause (v) of sub-section (2) of section 288 of the Income Tax Act, 1961(43 of 1961), or
- (b) he has acquired such educational qualifications as are prescribed by the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924 (IV of 1924), for the purpose of clause (vi) of sub-section (2) of section 288 of the Income Tax Act, 1961(43 of 1961), under rule 51 of the Income Tax Rules, 1962, or
- (c) he is a graduate of any recognised university and has acquired a post graduate diploma in taxation from any such university.

(2) A sales tax practitioner shall also be eligible for having his name entered in the said list, if -

- (a) he has retired from the Sales Tax Department of the Government of Maharashtra and has held, during his service in that department, an office not lower in rank than that of a Sales Tax Officer for not less than two years; or he was formerly an employee of the Sales Tax Department, and has held an office not lower in rank than that

of a Sales Tax Officer for not less than two years, and

- (b) he is in the opinion of the Commissioner a fit and proper person to attend before any authority as a sales tax practitioner:

Provided that, during a period of two years from the date of his retirement from the Sales Tax Department, such sales tax practitioner shall not be qualified to practice before any sales tax authority other than the Maharashtra Sales Tax Tribunal;

(3) The Commissioner shall maintain a list of all the sales tax practitioners who possess the qualifications laid down in sub-rule (1) or (2) or who are entitled to attend in a proceeding before an authority appointed or constituted under section 10 or 11 by virtue of clause (d) of sub-section (1) of section 82, and shall from time to time, bring the list up to date and a sales tax practitioner who is eligible as laid down in sub-rule (1) or (2) to appear in a proceeding under the Act before an authority appointed or constituted under section 10 or section 11 shall, on application made in writing to the Commissioner, be entitled to have his name entered in the list aforesaid.

54. Authority Of Agent To Continue.— An authority given to an agent shall continue to be valid for the purpose of appearance in any proceedings arising from the proceedings in which such authority is originally filed:

Provided that, a separate authority shall be furnished for appearance in proceedings relating to each period for which a separate order is required to be made or has been made.

55. Particulars To Be Specified In A Tax Invoice, Bill Or Cash Memorandum.-- (1) Every dealer who is required by sub-section (1) of section 86 to issue a tax invoice in respect of goods sold by him shall in addition to the particulars specified in the said section cause a certificate as below to be printed on the invoice and signed by himself or by a person duly authorised by

him.

"I/We hereby certify that my/our registration certificate under the Maharashtra Value Added Tax Act, 2002 is in force on the date on which the sale of the goods specified in this tax invoice is made by me/us and that the transaction of sale covered by this tax invoice has been effected by me/us and it shall be accounted for in the turnover of sales while filing of return and the due tax, if any, payable on the sale has been paid or shall be paid"

(2) Every dealer who is exempted from the payment of tax by virtue of an Entitlement Certificate granted to him by the Commissioner, shall, when issuing an invoice in respect of any goods covered by his Certificate of Entitlement, comply with the requirements of sub-rule (1) but in place of the certificate provided therein the invoice shall contain a declaration as follows, namely:-

"I/We hereby declare that sale of goods evidenced by this invoice is exempt from the whole of sales tax in my/our hands on account of the Certificate of Entitlement bearing No. _____ duly granted to me/us and as such my/our immediate purchaser shall not be entitled to claim any set-off in respect of this transaction under any provision of Maharashtra Value Added Tax Act, 2002 or the rules framed thereunder and that the transaction shall be accounted for in the turnover of sales while filing my return."

(3) Where a dealer liable to pay tax under this Act, sells any goods to any person other than a registered dealer, and is required to issue a bill or cash memorandum, he shall cause it to be serially numbered, signed and dated and the bill or cash memorandum should contain the details of the full name and style of his business, the address of his place of business,

the number of his certificate of registration, the particulars of the goods sold and the sale price thereof and the bill or cash memorandum shall contain a certificate as follows:-

“I/We hereby certify that my/our registration certification under the Maharashtra Value Added Tax Act, 2002 is in force on the date on which sale of goods specified in this tax invoice is made by me/us and that the transaction of sale covered by this bill/cash memorandum has been effected by me and it shall be accounted for in the turnover of sales while filing my return.”

56. Calculation Of Cumulative Quantum Of Benefits.--(1) The cumulative quantum of benefits, availed of by a dealer (hereinafter referred to as “the said dealer”) who holds a valid certificate of Entitlement granted by the Commissioner for the purpose of exemption from payment of tax shall be calculated in respect of any period commencing on or after the appointed day in the manner specified below:-

(2) The cumulative quantum of benefits received by the said dealer shall be the aggregate of the following sums that is to say:-

(a) a sum equal to the amount of sales tax which would have been payable to the Government on the turnover of sales of the goods manufactured by the said dealer in the eligible unit and specified in the Eligibility Certificate effected by the said dealer if the said dealer was not holding the said Certificate of Entitlement

(b) (i) a sum equal to 4 per cent of the turnover of inter-state sales of goods manufactured by the said dealer in the eligible unit and specified in the Eligibility Certificate, effected by the said dealer and if the inter-State sales of such products are generally liable to sales tax at a rate less than four percent, then a sum calculated at such

lower rate, and

(ii) in the case of a unit holding a Certificate of Entitlement under the Package Scheme of Incentives, 1993 or the Power Generation Promotion Policy, 1998, a sum equal to the amount of Central Sales Tax that would have been payable to the Government by the said dealer on his turnover of inter-State sales of goods manufactured by the said dealer in the eligible unit as specified in the Eligibility Certificate, if the said dealer was not holding the said Certificate of Entitlement.

Explanation I—For the purposes of all the Package Schemes except the 1979 and 1983 Package Schemes, the expression “goods manufactured in the said unit” shall include by-products and scrap products generated during the process of manufacture.

Explanation II—In the case of a Mega Project, in respect of the turnover of inter-state sales of goods by the said dealer, covered by sub-section (1) of section 8 of the Central Sales Tax Act, 1956 and specified in the Eligibility Certificate, the sum for the purpose of clause (b) shall be calculated @1%.

Explanation III— For the purposes of the New Package Scheme of Incentives for Tourism Projects, 1999, the expression “goods manufactured” shall include liquor served for consumption in the premises of the said dealer outside the Mumbai Municipal Corporation Limits.

Explanation IV—In this rule the expression “sale” includes the sale by a depot, head office or selling agent of the dealer of products manufactured by the said dealer in the said unit.

57. Refund Of Tax To Eligible Units.— (1) Every unit holding an Entitlement Certificate for the purposes of any of the Package Schemes of Incentives shall be entitled to claim refund of the tax including entry tax of an amount equal

to the set-off to which it would have been entitled under the Act or rules on the purchases of raw materials made on or after the appointed day if it was not holding Certificate of Entitlement in respect of each period for which it is required to file a return.

(2) For the purposes of this rule, the unit shall make an application within one month of the end of the period to which the return relates giving such details and particulars as may be specified therein to the Commissioner in respect of each period for which it is required to file a return under rule 14 on or after the date prescribed for filing of such return.

(3) The Commissioner shall cause such refund to be issued within three month of the end of the period to which the return relates of the date of receipt of the application if the application is in order and all the required details are furnished and no dues are outstanding against such unit. The grant of any refund under this rule shall be subject to assessment, if any, made in respect the period for which the refund is granted under this rule.

(4) No set-off under any rule shall be granted to a unit holding the Entitlement Certificate in respect of any purchases of raw materials made on or after the appointed day.

58. Raw Materials And Manufacture.-- For the purposes of the rules relating to the Package Schemes of Incentives,

(1) the expression 'raw materials' shall mean components, intermediate goods , consumables, stores, lubricants, fuels of all types, news print, which are used in the process of manufacture and packing materials which are used in the packing of manufactured products and in respect of the units dealing in iron and steel as described in section 14 of the Central Sales Tax Act, 1956 shall include natural gas used both as fuel and raw materials.

(2) the expression 'manufacture' or its cognate expression when used in respect of units certified by the State Industrial and Investment Corporation of

Maharashtra Limited (SICOM) or, as the case may be, the Directorate of Industries (but not in respect of units certified by any other implementing agency) shall include the following processes,-

- i) conversion of hot rolled sheets/strips into cold rolled sheets/strips
- ii) conversion of steel sheets/strips into galvanised sheets/strips
- iii) conversion of thicker gauges of iron and steel sheets into thinner gauge of iron and steel sheet,
- iv) drawing wire from wire rods or galvanising wire,
- v) giving heat treatment, threading and casing of seamless pipes,
- vi) processing of un-wrought, semi manufactured or concentrated forms of gold and silver into refined bullion.

59. Conditions For Permission To Defer Payment Of Amount Of Taxes Due As Per The Return For A Specified Period Being Incentives To Certain Eligible Industrial Units.-- (1) Notwithstanding anything contained

in rule 28, the Commissioner may, subject to the conditions in sub-rule (2), --

- (a) permit an Eligible Industrial Unit which is a dealer registered under the Act and which has been granted an Eligibility Certificate under the 1979 Scheme, the 1983 Scheme or, as the case may be, the Electronic Scheme, falling under the Package Scheme of Incentives, to defer the payment of sales tax payable on sales of finished goods manufactured by such Industrial Unit covered by the Certificate of Entitlement, beyond the period prescribed in rule 28;
- (b) permit an Eligible Industrial Unit which is a dealer registered under the Act and which has been granted an Eligibility Certificate under the 1988 Scheme, 1993 Scheme falling under the Package Scheme of Incentives or

the Power Generation Promotion Policy 1998 to defer the payment of sales tax payable on sales of goods manufactured by such Industrial Unit and of scrap goods and of by-products covered by the Certificate of Entitlement, upto the period by which the monetary ceiling gets exhausted or till the last day of the period mentioned in the Entitlement Certificate whichever event occurs first beyond the period prescribed in rule 28.

(2) The permission to defer the payment of taxes under sub-rule (1) shall be subject to the following conditions:--

- (a) Such deferment shall be permitted only to those Eligible Industrial Units, which have filed the returns by the dates prescribed.
- (b) The deferment in respect of clause (a) of sub-rule (1) shall be restricted to the period by which monetary ceiling gets exhausted or till the last day of the period covered by the Eligibility certificate or to such shorter period as may be determined by the Implementing Agency, whichever is earlier.
- (c) The Commissioner may initially permit the Eligible Industrial Unit to defer the payment of such tax due in respect of the period specified in condition (b) till the assessment of the period covered by the return is completed and where such assessment is not made, the initial permission, shall subject to the other provisions of this rule, become final.
- (d) The payment of such tax according to the return or, as the case may be, the assessment order for the return in respect of the period specified in condition (b) or as the case may be, such tax payable according to the order, if any, that may have been passed under section 23, 24, 25, 26 or 27 in respect of the said period shall be deferred for a period of twelve years in respect of industrial units

covered by clause (a) of sub-rule (1) and for a period of ten years in respect of Industrial Units covered by clause (b) of sub rule (1) and that such period would be computed from the last date prescribed for furnishing the last return, for the year containing the period. After expiry of such period the amount payable according to the said order shall be payable by the Eligible Industrial Unit in six equal annual instalments in respect of units covered by clause (a) of sub-rule (1) and five equal annual installments in respect of units covered by clause (b), of the said sub-rule (1):

Provided that, in respect of an industrial unit being a Mega Project or, as the case may be, a Very Large Project under the 1993 Package Scheme of Incentives located in Vidarbha and Marathwada region of the State such tax shall be deferred for a period of eighteen years from the last date for furnishing the last return of the year containing the period concerned. After expiry of such period, the amount payable shall be paid in seven equal annual installments.

Provided also that, in respect of an industrial unit being a Mega Project or as the case may be a Very Large Project under the 1993 Package Scheme of Incentives, located in areas other than Vidarbha and Marathwada region of the State, such tax shall be deferred for a period of fourteen years from the last date for furnishing the last return of the year containing period concerned. After expiry of such period, the amount payable shall be paid in five equal annual instalments.

(e) The Eligible Industrial Unit shall maintain separate books of accounts in respect of the transactions pertaining to the sales and purchases made by the said Industrial Unit.

(f) The Eligible Industrial Unit shall file returns covering all the sales and

purchases relating to the said Unit for the period and by the dates prescribed by these rules, only with the concerned authority mentioned in the Certificate of Entitlement to be issued by the Commissioner in this behalf.

(g) The Eligible Industrial Unit shall not file consolidated return covering the sales and purchases pertaining to the deferment of tax by the said unit alongwith other transactions of sales and purchases not covered by the Eligibility Certificate granted to the said unit.

(h) The tax which is deferred under the provisions of this rule shall be immediately recoverable at any time prior to the expiry of the period of deferment in any one or more of the following circumstances, namely:--

(iv) If the relevant Implementing Agency requires the Eligible Unit to pay forthwith such amount as may be determined by the said Implementing Agency on the said Unit contravening any of the provisions of the Package Scheme of Incentives, or the conditions of the Eligibility Certificate or the stipulations or undertaking as per the agreement made in connection with the grant of incentives, under the said Package Scheme of Incentives or the Eligibility Certificate being cancelled or revoked by the Implementing Agency;

(ii) If the Eligible Industrial Unit contravenes any of the provisions of the Act or the rules made thereunder.

(iii) If the Certificate of Entitlement issued by the Commissioner is cancelled or revoked.

(iv) The Certificate of Entitlement issued by the Commissioner shall be liable to be cancelled or revoked in the following circumstances, namely:-

(a) The Eligibility Certificate issued by the Implementing Agency

being cancelled or revoked;

(b) The Eligible Industrial Unit contravenes any of the provisions of the Act or the rules or the notifications made or issued thereunder;

(c) The Registration Certificate held by the Unit being cancelled.

Explanation.-- For the purposes of this rule “Eligible Industrial Unit” means an Industrial Unit to whom the Eligibility Certificate is issued by the Implementing agency under the relevant Package scheme of Incentives and to whom the Certificate of Entitlement is granted by the Commissioner with effect from such date as may be specified therein.

60. Appraisal Of Annual Production Capacity. - The annual production capacity of an eligible unit to whom the eligibility certificate has been granted under any Package Scheme of Incentives, shall, in respect of any period commencing on or after the appointed day be taken to be as shown in the table below:

TABLE

Sr. No.	Package Scheme of Incentives	Type of unit	Annual production capacity
1	1979 Scheme	(a) Small-scale industrial units including small scale units manufacturing electronic equipment; (b) Medium scale and large scale units.	(a) No ceiling in respect of annual production capacity (b) Capacity means 125 per cent of the capacity as indicated in the registration certificate or licence issued by the competent authority under the Scheme or the capacity as

Sr. No.	Package Scheme of Incentives	Type of unit	Annual production capacity
2.	1983 Scheme	a) Small-scale industrial units including small-scale units manufacturing electronic equipments; (b) Medium scale and large scale units.	appraised by the term lending financial institution or bank whichever is less. (a) No ceiling in respect of annual production capacity. (b) Capacity means 125 per cent of the capacity as indicated in the registration certificate or licence issued by the competent authority under the Scheme or the capacity as appraised by the term lending financial institution or bank whichever is less.
3.	1988 Scheme	(a) Small-scale industrial units including small scale units manufacturing electronic equipments; (b) Medium scale and large scale units.	(a) No ceiling in respect of annual production capacity. (b) Capacity means 110 per cent of the capacity as indicated in the registration certificate or licence issued by the competent authority authority under the Scheme or the capacity as appraised by the term lending financial institution or bank whichever is less.
4.	1993	Any unit.	No ceiling in respect of

Sr. No.	Package Scheme of Incentives	Type of unit	Annual production capacity	
	Scheme		annual capacity	production capacity

61. Grant Of Certificate Of Entitlement— Where an application is made by an eligible Industrial Unit to the Commissioner for grant of a Certificate of Entitlement under any of the Package Schemes of Incentives, the Commissioner shall grant the Certificate of Entitlement subject to following conditions,--

- (a) The eligible Industrial Unit has made payment of tax, interest and penalty for which demand, if any, is raised under the Act.
- (b) The eligible Industrial Unit has filed due returns and made payment of tax, interest and penalty due from it under the Bombay Sales Tax Act, 1959 or, as the case may be, the Maharashtra Value Added Tax Act, 2002 and Central Sales Tax Act, 1956 for all the periods ending on or before the date of grant of Certificate of Entitlement.

whichever is later.

62. Manner Of Determination Of Net Present Value For The Purposes Of Sub-Section (2) Of Section 94 :-- For the purposes of sub-section(2) of section 94, the amount equal to the net present value, to be paid in lieu of the deferred tax, shall be calculated in accordance with the Table and the Notes given below.

TABLE

Sr. No.	Period Months between the date of actual payment and	in Percentage	Sr. No.	Period Months between the date of actual payment and	in Percentage
---------	------------------------------------------------------------------	---------------	---------	------------------------------------------------------------------	---------------

	the date of payment	extended of		the date of payment	extended of
1	1	99.11210	121	121	33.98900
2	2	98.23210	122	122	33.68730
3	3	97.35990	123	123	33.38820
4	4	96.49550	124	124	33.09170
5	5	95.63870	125	125	32.79790
6	6	94.78960	126	126	32.50670
7	7	93.94800	127	127	32.21810
8	8	93.11380	128	128	31.93200
9	9	92.28710	129	129	31.64850
10	10	91.46770	130	130	31.36750
11	11	90.65560	131	131	31.08900
12	12	89.85060	132	132	30.81300
13	13	89.05290	133	133	30.53940
14	14	88.26220	134	134	30.26820
15	15	87.47850	135	135	29.99950
16	16	86.70180	136	136	29.73310
17	17	85.93200	137	137	29.46910
18	18	85.16910	138	138	29.20750
19	19	84.41290	139	139	28.94810
20	20	83.66340	140	140	28.69110
21	21	82.92050	141	141	28.43640
22	22	82.18430	142	142	28.18390
23	23	81.45460	143	143	27.93370
24	24	80.73140	144	144	27.68560
25	25	80.01460	145	145	27.43980
26	26	79.30420	146	146	27.19620
27	27	78.60000	147	147	26.95470
28	28	77.90220	148	148	26.71540
29	29	77.21050	149	149	26.47820
30	30	76.52490	150	150	26.24310
31	31	75.84550	151	151	26.01010
32	32	75.17210	152	152	25.77920
33	33	74.50460	153	153	25.55030
34	34	73.84310	154	154	25.32340
35	35	73.18750	155	155	25.09860
36	36	72.53770	156	156	24.87570
37	37	71.89360	157	157	24.65490
38	38	71.25530	158	158	24.43600
39	39	70.62260	159	159	24.21900
40	40	69.99560	160	160	24.00400
41	41	69.37410	161	161	23.79080
42	42	68.75820	162	162	23.57960

43	43	68.14770	163	163	23.37020
44	44	67.54260	164	164	23.16270
45	45	66.94290	165	165	22.95710
46	46	66.34850	166	166	22.75330
47	47	65.75940	167	167	22.55120
48	48	65.17560	168	168	22.35100
49	49	64.59690	169	169	22.15260
50	50	64.02340	170	170	21.95590
51	51	63.45490	171	171	21.76090
52	52	62.89150	172	172	21.56770
53	53	62.33310	173	173	21.37620
54	54	61.77970	174	174	21.18640
55	55	61.23110	175	175	20.99830
56	56	60.68750	176	176	20.81190
57	57	60.14860	177	177	20.62710
58	58	59.61460	178	178	20.44390
59	59	59.08530	179	179	20.26240
60	60	58.56020	180	180	20.08250
61	61	58.04070	181	181	19.90420
62	62	57.52540	182	182	19.72750
63	63	57.01460	183	183	19.55230
64	64	56.50840	184	184	19.37870
65	65	56.00670	185	185	19.20670
66	66	55.50940	186	186	19.03610
67	67	55.01660	187	187	18.86710
68	68	54.52810	188	188	18.69960
69	69	54.04390	189	189	18.53360
70	70	53.56410	190	190	18.36900
71	71	53.08850	191	191	18.20590
72	72	52.61710	192	192	18.04430
73	73	52.15000	193	193	17.88410
74	74	51.68690	194	194	17.72530
75	75	51.22800	195	195	17.56790
76	76	50.77320	196	196	17.41190
77	77	50.32240	197	197	17.25730
78	78	49.87560	198	198	17.10410
79	79	49.43270	199	199	16.95220
80	80	48.99380	200	200	16.80170
81	81	48.55880	201	201	16.65250
82	82	48.12770	202	202	16.50470
83	83	47.70040	203	203	16.35810
84	84	47.27690	204	204	16.21290
85	85	46.85710	205	205	16.06900
86	86	46.44110	206	206	15.92630
87	87	46.02870	207	207	15.78490

88	88	45.62000	208	208	15.64470
89	89	45.21500	209	209	15.50680
90	90	44.81350	210	210	15.36810
91	91	44.41560	211	211	15.23170
92	92	44.02130	212	212	15.09650
93	93	43.63040	213	213	14.96240
94	94	43.24300	214	214	14.82960
95	95	42.85910	215	215	14.69790
96	96	42.47860	216	216	14.56740
97	97	42.10140	217	217	14.43810
98	98	41.72760	218	218	14.30990
99	99	41.35710	219	219	14.18280
100	100	40.98990	220	220	14.05690
101	101	40.63600	221	221	13.93210
102	102	40.26520	222	222	13.80840
103	103	39.90770	223	223	13.68580
104	104	39.55340	224	224	13.56430
105	105	39.20220	225	225	13.44380
106	106	38.85420	226	226	13.32450
107	107	38.50920	227	227	13.20620
108	108	38.16730	228	228	13.08890
109	109	37.82840	229	229	12.97270
110	110	37.49250	230	230	12.85750
111	111	37.15960	231	231	12.74330
112	112	36.82970	232	232	12.63020
113	113	36.50270	233	233	12.51810
114	114	36.17860	234	234	12.40690
115	115	35.85740	235	235	12.29680
116	116	35.53900	236	236	12.18760
117	117	35.22350	237	237	12.07940
118	118	34.91070	238	238	11.97210
119	119	34.60070	239	239	11.86580
120	120	34.29350	240	240	11.76050

Note.—(1) The period in months, between the date of actual payment and the extended date of payment shall be the aggregate of, --

- (a) the number of completed months contained in such period, and
- (b) the number of obtained by dividing by thirty the sum of the number of days from the date of actual payment to the end of the month in which the payment is made and the number of days from the first day of the month in which the extended date of payment falls to date immediately preceding

the extended date of payment;

Provided that, the number obtained under clause (b) shall be rounded off to the nearest integer:

Provided further that, if such number either contains or is a fraction, which is half, then the nearest integer of such fraction shall be deemed to be one.

Note. —(2) The net present value of the amount to be paid in lieu of deferred tax, shall be such percentage of deferred tax mentioned in column (3) of the Table for the corresponding period (as ascertained under Note (1) above) as respectively stated against it in column (2) thereof.

63. Proportionate Incentives To An Eligible Unit In Certain

Contingencies.— (1) Where a separate Eligibility Certificate and Certificate of Entitlement is granted to any eligible Industrial Unit whether before or after the appointed day on account of increase in production capacity or, as the case may be acquisition of new Fixed Capital Assets, then such industrial unit will be eligible to draw benefits in any year starting on or after the appointed day in respect of the turnover of sales pertaining to that year only on a portion of such turnover as shown below

(a) Eligible Turnover = $\text{Turnover} \times \frac{\text{Increase in production Capacity}}{\text{Total production capacity after increase}}$

OR

(b) Eligible Turnover = $\text{Turnover} \times \frac{\text{Eligible investment approved for acquisition of new fixed Capital assets}}{\text{Value of Gross block of fixed capital Assets prior to liability} + \text{Eligible investment approved for acquisition of new Fixed Capital assets}}$

Provided that, where the eligible industrial Unit has maintained separate account of sales and purchase and it is possible to identify the purchases and sales pertaining to the increased production capacity or, as the case may be, the said eligible investment, then the portion of the eligible

turnover will be decided solely on the basis of such identification with the help of accounts and not on the basis of the above formula.

(2) The eligible Industrial Unit may opt for determination of eligible turnover as per clause (a) or clause (b) of sub-rule (1) and communicate such decision to the Commissioner. The decision so made and communicated shall be final for the unaffected validity period of the said eligible certificate till the date of commencement of commercial production of a new Project, if any, certified by the implementing agency in a separate eligibility certificate issued again for additional eligible investment.

(3) For the purposes of sub-rule (1), --

(a) Production capacity, eligible investment, new fixed capital assets and Gross Block of Fixed Capital Assets shall have the same meaning as provided in the relevant Package Scheme of Incentives.

(b) The eligible investment shall mean the projected investment certified in the eligibility certificate during the period of investment allowed in the Scheme and thereafter the actual eligible investment made and certified by the implementing agency.

(c) When the eligible turnover comprises of different finished products then, for the purposes of clause (a) the production capacity pertaining to each of the finished products shall be separately considered for determining the corresponding eligible turnover, and

for the purpose of clause (b) eligible turnover shall relate to those products in respect of which the eligible investment has made an impact and when eligible investment does not directly relate to finished products or any particular finished product, then it shall be deemed to relate to all the finished goods.

64. Certified Copies Of Documents And Orders. – Any person who is a party to a proceeding under the Act or under these rules or under any notification

may apply to the appropriate authority or the authority having the custody of the records pertaining thereto, for a certified copy of a document produced or filed by him in such proceeding or of an order passed by such authority.

65. Orders And Notices. - (1) Orders and notices under the Act or under these rules shall be served by one of the following methods :-

(a) by delivery by hand of a copy of the order or notice to the addressee or to a person declared by him in Form 105 or to his agent duly authorised in this behalf by him, or to a person for the time being employed by him in connection with the business in respect of which he is registered as a dealer, or to any adult member of his family residing with the dealer;

(b) by post,

(c) by facsimile message:

Provided that, if upon an attempt having been made to serve any such order or notice by any of the above-said methods, the sales tax authority concerned is of the opinion that the order or notice cannot be served by any of the above-mentioned methods, the said authority shall -

(A) in the case of an addressee who has no fixed or regular place of business in the State and on whom an attempt has been made to serve the notice by post, but the notice is returned undelivered by the postal authority for want of proper address or on the ground that the addresses could not be found, cause the notice to be published in a local newspaper or in the *Official Gazettee*; or

(B) in any other case, cause the order or notice to be served by fixing a copy thereof:-

(i) on some conspicuous part of the dealer's office or the building in which the dealer's office is located, or upon some conspicuous

part of the place of the dealer's business last intimated to the said authority by the dealer or of the place where the dealer is known to have been last engaged in business, or

- (ii) on some conspicuous part of the residence or office of the dealer or person or the building in which his residence or office is located;

and such service or publication shall be deemed to be as effectual as if the order or notice has been served on the addressee personally :

Provided further that, where the officer at whose instance the order or notice is to be served is satisfied that the said office, building, place or residence is known not to exist or is not traceable, such officer may dispense with the requirement of service of the order or notice under clause (A) or (B) of the last preceding proviso and cause it to be published in a local news paper or the *Official Gazette*.

(2) When the officer serving an order or notice delivers or tenders a copy of the order or notice, to the dealer or addressee personally or to any of the persons referred to in paragraph (a) of sub-rule (1), he shall require the signature of the person to whom the copy is so delivered or tendered to an acknowledgement of service endorsed on the original order or notice or on a separate slip. When the notice is served by affixing a copy thereof in accordance with the clause (B) of the first proviso to sub-rule (1) the person serving it shall return the original to the sales tax authority which issued the order or notice with a report endorsed thereon or annexed thereto, stating that he so affixed the copy, the circumstances under which he did so and the name and address of the person, if any, by whom the addressee's office or residence or the building in which his office or residence is located or his place of business was identified, and in whose presence the copy was affixed. The said

officer shall also obtain the signature or thumb impression of the person identifying the addressee's residence or office or building or place of business, to his report.

(3) When service is made by post the service shall be deemed to be effected by properly addressing or preparing the order or notice and posting it by registered post with acknowledgement due, and unless the contrary is proved, the service shall be deemed to have been effected at the time at which the order or notice would be delivered in the ordinary course of post.

66. Forms .-- 1) The application for the purposes of sub-section (8) of Section 10 shall be made in Form 901 to the assessing authority.

2) The application for the purposes of sub-section (1) of section 12 shall be made in Form 902 to the Commissioner.

3) An application for registration including voluntary registration under section 16 shall be made in Form 101 to the registering authority.

4) The certificate of registration under section 16 shall be granted by the registering authority to the applicants.

5) An application for cancellation of the registration certificate shall be made by the dealer in Form 103 to the assessing authority.

6) An application for the purposes of sub-section (7) of section 16 shall be made by the applicant in Form 104 to the Joint Commissioner.

7) A declaration under sub-section (1) of section 19 shall be made by the dealer in Form 105 to the registering authority.

8) A declaration under sub-section (2) of section 19 shall be made in Form 106 by the dealer to the assessing authority.

9) The returns under section 20 shall be in Form 201, 202, 203,

204, 205, 206, 207, 208, 209, 210 or 211.

10) The defect notice for the purposes of section 20 shall be in Form 212.

11) The application for consolidated returns shall be made by the dealer under section 20 in Form 213 to the Joint Commissioner.

12) The notice required by sub-section (2), (3) and (4) of section 23 shall be in Form 304. The notice required by sub-section (5) of section 23 shall be in Form 305. The date fixed for compliance for both of such notices shall not be earlier than fifteen days from the date of service thereof.

13) The application for the purposes of sub-section (9) of section 23 shall be made in Form 306.

14) The order of assessment shall be in Form 307, 308, 309, 310 or 312.

15) The notice under sub-section (1) of section 24 shall be in Form 313. The date fixed for compliance therewith shall not be earlier than fifteen days from the date of service thereof.

16) The notice for the purposes of sub-section (1) of section 25 shall be in Form 315.

17) An appeal including a second appeal shall be in Form 316.

18) The application for the purposes of sub-section (1) of section 26 shall be in Form 317.

19) The application for the purposes of sub-section (3) of section 31 may be made in Form 401.

20) The certificate required to be issued by the employer to the dealer under section 31 shall be in Form 402.

- 21) The statement in duplicate to be sent by the employer to the assessing authority shall be in Form 403.
- 22) The accounts to be maintained by the employer shall be in Form 404.
- 23) The return to be filed by the employer to the Commissioner shall be in Form 405.
- 24) The application for the purposes of sub-section (8) of section 31 shall be in Form 406.
- 25) The notice for tax not paid according to return shall be in Form 217.
- 26) The notice for the purposes of sub-section (11) of section 29 shall be in Form 410.
- 27) The application for the purposes of sub-section (6) of section 32 shall be in Form 411.
- 28) The application for the purposes of clause (a) of sub-section (8) of section 32 shall be in Form 412.
- 29) The application for the purposes of the proviso to sub-section (1) of section 33 shall be in Form 318.
- 30) The application for the purposes of sub-section (5) of section 35 shall be in Form 601.
- 31) The certificates and declarations for the purposes of clause (e), (f) and (g) of sub-section (4) of section 45 shall be in Form 407, 408 and 409.
- 32) The application for the purposes of sub-section (1) of section 51 shall be in Form 501.

- 33) The refund payment order under rule 50 shall be in Form 504 or 505.
- 34) The refund adjustment order shall be in Form 506.
- 35) The interest payment order shall be in Form 507.
- 36) The application for the purposes of sub-section (1) of section 55 shall be made in Form 903 to the Registrar of the Tribunal.
- 37) The report of audit under section 61 shall be in Form 904.
- 38) The notice for the purposes of sub-section (1) of section 63 shall be in Form 602.
- 39) The intimation for the purposes of sub-section (3) of section 65 shall be in Form 604.
- 40) The intimation accepting composition money shall be in Form 905.
- 41) The list of sales tax practitioners shall be maintained in Form 906.
- 42) The application for being enrolled as a sales tax practitioner shall be made in Form 907.
- 43) The authority to attend before any sales tax authority in the case of a relative or person regularly employed shall be in Form 908 and in Form 909 in any other case.

67. Rates of Interest:- (1) The rates of interest for the purposes of sub-section (1), (2) and (3) of section 30 shall be one and a quarter per cent. of the amount of such tax, for each month or for part thereof,

(2) The rate of interest for the purposes of Section 52 shall be half per cent. of the amount of such tax for each month or for part thereof.

(3) The rate of interest for the purposes of the sub-section (1) of section 53

shall be half per cent. of the amount of such refund for each month or for part thereof.

68. Penalty.— A breach of any of these rules shall be punishable with fine which may extend to one thousand rupees and when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the continuance of the offence.

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