

CHAPTER – VII

APPEALS, REVISIONS, SETTLEMENT AND REFUNDS

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

(1) Every appeal under section 55 shall be in Form No. 29 and shall be verified in the manner specified therein.

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

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

73. Filing of application under Sections 49, 57 or 59. -

Every application under section 49, section 57 or section 59 shall be in Form No. 29 and shall be verified in the manner specified therein.

74. Payment of fees on interlocutory application.-

(1) Fees at the rates mentioned in section 65 shall be paid on the following interlocutory applications: -

- (a) Application for staying the collection of any tax or other amount, which is disputed in appeal, revision or other proceedings, as the case may be.
- (b) Application for advancing the hearing of the appeal, revision or other proceedings, as the case may be.
- (c) Application for condonation of any delay in the filing of any appeal, revision or application as the case may be.

(2) The interlocutory applications mentioned in sub-rule (1) shall be in Form No. 30 in cases where no form has been prescribed separately.

75. Filing of appeal to the Appellate Tribunal. - (1)(a) Every appeal under sub- section (1) of section 60 shall be in Form No. 31 and shall be verified in the manner specified therein.

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

(2) (a) Every application for review under sub section (8) of section 60 shall be preferred in Form No. 32 and shall be verified in the manner specified therein.

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

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

(4) The memorandum of cross-objections referred to in sub section (3) of section 60 shall be in Form No. 33 and shall be verified in the manner specified therein.

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

(6) The notice referred to in sub-section (2) of section 60 shall be in Form No. 34

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

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

76 Procedure in case of death of appellant or revision petitioner pending proceedings. - (1) If a person who has

filed an appeal or revision or against whom any appeal or revision is pending before any authority under the Act, other than the High Court, dies before the conclusion of the final hearing of the same, the authorized representative appearing for the party or any of the legal representatives, shall, as soon as he comes to know of the death, inform the appellate or revisional authority, as the case may be, about it. The authority concerned shall, thereupon, adjourn further proceedings to enable the impleading of the legal representatives of the deceased. The application for impleading may be filed either by the party interested in getting final orders passed on the proceedings or by any legal representative of the deceased, even though not so interested. The Application shall be in Form No. 35

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

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

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

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

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

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

77. Setting aside of abatement.- (1) (i) Any person bound to apply for impleading legal representatives of a deceased party in any proceedings referred to in sub-rule (1) of rule 76 may apply, within sixty days from the date of abatement, for an order to set aside the abatement, and if it is proved that he was prevented by sufficient cause from continuing the proceedings, the appellate or revisional authority, as the case may be, may set aside the abatement.

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

(2) The application shall be in Form No. 35 A and shall be verified in the manner specified therein.

78. Filing of application seeking clarification. - (1) Every application under section 94 shall be in Form No. 24 and shall be verified in the manner specified therein.

(2) The application shall be accompanied--

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

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

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

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

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

79. Filing of Application before the Settlement Commission.- (1) Every application under sub-section (1) of section 61 shall be in quadruplicate, in Form No. 36 and shall be verified in the manner specified therein and accompanied by a fee of one thousand five hundred rupees.

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

(i) copy of the original order against which the appeal or revision had been filed,

(ii) copy of the order(s) of the appellate or revisional authority if the settlement is preferred not at the stage of proceedings pending before the first appellate or revisional authority, and

(iii) copy of the books of accounts or any other document or record on which the assessee relies upon to prove the genuineness of his claim.

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

80. Filing of Appeal, Petition etc., to the High Court. - (1) Every appeal under sub- section (1) of section 62 shall be in Form No. 37 and every petition under sub- section (1) of section 63 shall be in Form No. 38 and shall be verified in the manner specified therein.

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

(3) Every application for review under sub section (7) of section 62 and under sub section (8) of section 63 to the High Court shall be in Form No. 39 and shall be verified in the manner specified therein.

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

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

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

82. Transfer of appeal. - The Commissioner may, either *suo motu* or on application, for reasons to be recorded in writing, transfer an appeal pending before a Deputy Commissioner

(Appeals) to another Deputy Commissioner (Appeals). The order of transfer shall be communicated to the appellant, to every other party affected by the order, to the assessing authority against whose order the appeal was preferred and to the concerned Deputy Commissioner (Appeals).

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

84. Disposal of the appeal or revision petition irrespective of jurisdiction:-The authority, to which the appeal or revision petition is transferred under Rules 82 or 83, as the case may be, shall proceed to dispose it of irrespective of the local limits of jurisdiction.

85. Furnishing of Security:- (1) Where it is provided in the Act that an appellant (or an applicant in revision proceedings) shall furnish security in regard to the payment of tax or fee or other amount, the appellant (or applicant) or any person on his behalf shall furnish security in any of the ways specified in sub-rule (2) of rule 19 or furnish personal property as security as the authority, before which the appeal or application is preferred, may, in its discretion, direct. The security bond shall be in Form No. 6 A, with suitable modification wherever necessary.

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

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

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

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

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

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

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

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