

CHAPTER – VIII

MISCELLANEOUS

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

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

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

92. **Sending of report in certain cases.**- If, at any time a dealer (a) discontinues or sells or otherwise disposes of, the whole or any part of any business carried on by him, or (b) acquires any business or part of any business whether by purchase or otherwise, (c) changes his place of business or any of his place of business or (d) effects any other change in the ownership or constitution of the business or (e) opens a new place of business or (f) changes the name, style or nature of his business or effects any change in the class or description of goods which he sells or (g) starts a new business

singly or jointly with other persons, (h) death or insolvency of the sureties, (i) creating any charge on the property which is kept as security, he shall intimate the fact to the registering authority within thirty days thereafter.

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

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

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

96. **Production of authorization.**- The person specified in clauses (a), (c) and (d) of Section 86 of the Act appearing on behalf of a dealer or other person in any proceedings before any Sales Tax authority other than the High Court shall produce before such authority an authorization given by the dealer or such person in Form No. 27

97. **Chartered Accountant, Cost Accountant and Sales Tax Practitioner.**- (1) The Chartered Accountant referred to in section 4 and in clause(c) of section 86 shall be a Chartered Accountant as defined in Chartered Accountants Act, 1949 (Central Act XXXVIII of 1949).

(2) The Cost Accountant referred in section 42 and in clause © of section 86 shall be a Cost Accountant as defined in Cost and Works Accountants Act, 1959 (Central Act 23 of 1959).

(3) A person shall not be eligible to appear as a Sales Tax Practitioner under clause (d) of Section 86 of the Act unless his name has been included in the list in Form No 28 A in the manner provided in sub-rule (4) and unless he is a person.-

- (a) who has passed the accountancy examination recognized by the (Central Board of Direct Taxes) under rule 50 of the Income Tax Rules 1962, for the purpose of clause (v) of sub-section (2) of section 288 of the Income Tax Act, 1961 (Central Act 4 of 1961,) ; or
- (b) who has acquired such educational qualifications as are prescribed by the Central Board of Direct Taxes in rule 51 of the Income Tax Rules, 1962, for the purpose of clause (VI) of sub-section (2) of section 288 of the Income-tax Act, 1961 (Central Act 43 of 1961) ; or
- (c) who has enrolled as sales tax practitioner under sub-rule (2) of Rule 60 of the Kerala General Sales Tax Rules, 1963; or
- (d) who:-

- (i) has retired from the Commercial Tax Department of the Government of Kerala and a period of two years has elapsed since his retirement; and
- (ii) during his service under the Government, had worked in a post not lower in rank than that of an assessing authority for a period of not less than three years:

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

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

(4) If any Sales tax Practitioner is found guilty of misconduct in connection with any Sales Tax Proceedings by the Deputy Commissioner of Sales tax, having jurisdiction or by the Sales Tax Appellate Tribunal, the Deputy Commissioner of Sales tax or Sales tax Appellate Tribunal may direct that he shall be thence forward disqualified to represent any person under Section 86 of the Act;

Provided that:-

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

direction, appeal to the High Court to have the direction cancelled.

(5) The Deputy Commissioner of Sales Tax shall maintain a list in Form No. 28 A containing the names of all the Sales Tax Practitioners who possess any of the qualifications prescribed in sub-rule (3) and every Sales Tax Practitioner possessing any such qualifications shall be entitled to have his name entered in the said list on an application in Form No. 28 made by him in that behalf to the Deputy Commissioner of Commercial Taxes Department having jurisdiction. The name of any such Practitioner against whom a direction is made under sub-rule (4), shall be removed from the list, provided that the Deputy Commissioner of Commercial Taxes shall re-enter his name in the list if, on an appeal made by him to the Commissioner or to the High Court under proviso (b) or (c) to the said sub-rule, as the case may be, such direction is cancelled.

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

(7) Any Sales Tax Practitioner whose name has been included in the list maintained by the Deputy Commissioner of Commercial Taxes under sub-rule (5) shall be entitled to appear before any authority under the Kerala General Sales Tax Act, 1963(15 of 1963)

98. **Payment by cash, cheque or demand draft.**- (1) Where any payment by cheque or demand draft is permitted by these rules the cheque or demand draft shall be of a bank or branch of a bank, which is a member of the clearing house, situated in the headquarters of the authority before whom it is

presented, crossed and drawn in favour of such authority and shall be such as may be received by the treasury concerned.

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

99. [Procedure for seeking Police assistance.](#) - Any officer seeking police assistance under section 49A shall give a requisition in Form No. 40 to the City Police Commissioner or the Superintendent of Police or the Station House Officer having jurisdiction over the area.

100. [Use of forms.](#) - (1) Where a price has been fixed for the issue of any form prescribed by these Rules, only the appropriate form printed under the authority of the Government shall be used for the purpose.

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

101. [Issue of notice or summons for the production of accounts.](#) - An assessing authority shall issue a notice in Form No. 17 for production of accounts or a summons in Form No. 22 where personal appearance of any person with certain documents is required by it.
