

THE WEST BENGAL STATE TAX ON PROFESSIONS, TRADES, CALLINGS AND EMPLOYMENTS RULES, 1979

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THE WEST BENGAL STATE TAX ON PROFESSIONS, TRADES, CALLINGS AND EMPLOYMENTS RULES, 1979

*Notification No. 1280-F.T., dated 31st March, 1979*¹.- In exercise of the power conferred by sub-section (1) of section 25 of the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979 (West Ben. Act VI of 1979), the Governor is pleased hereby to make the following rules:

CHAPTER I

Preliminary

1. (1) These rules may be called The West Bengal State Tax on Professions, Trades, Callings and Employments Rules, 1979.
(2) They shall come into effect on the 1st day of April, 1979.
2. (1) In these rules, unless there is anything repugnant in the subject or context,-
 - (a) "the Act" means the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979 (West Ben. Act VI of 1979);
 - (b) "appropriate Government Treasury" means
 - (i) as respects a person or an employer having place of work in Kolkata, the Kolkata Branch of the Reserve Bank of India or any of the branches of the State Bank of India or of its subsidiaries as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959) or any of the Branches of a corresponding new bank constituted under Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) or ²[**], and
 - (ii) in other cases, the treasury or sub-treasury of the subdivision where the place of work of a person or an employer is situated or such branches of the State Bank of India/Central Bank of India in that subdivision as are already authorised to accept deposit on behalf of the treasury or sub-treasury.
 - (c) "Additional Commissioner of Profession Tax" means the officer of the State Government appointed by that designation by the State Government under sub-section (2) of section 12 to assist the Commissioner;
 - (d) "Assistant Commissioner of Profession Tax" means the officer of the State Government appointed by that designation by the State Government under sub-section (2) of section 12 to assist the Commissioner;
 - (dd) "authorised representative" means a person authorised in writing by a person as defined under clause (j) of section 2 to appear on his behalf before the Commissioner or any other person appointed under sub-section (2) of section 12 to assist the Commissioner, as the case may be, being
 - (i) a relative of the person as defined under clause (f) of section 2,
 - (ii) a person regularly employed by such a person as defined under clause (f) of section 2,
 - (iii) an advocate or any other person entitled to plead in any court of law in India,
 - (iv) a person who has been enrolled as a member of the Institute of Chartered Accountants of India or the Institute of Cost and Works Accountants of India or has passed the degree examination in commerce recognised by any Indian University incorporated by law for the time being in force;

1. Published in Calcutta Gazette, Extra-Ordinary, Part I, dated 31-3-1979, pages 772(1)-772(20):

2. The words "or the Kolkata Collectorate Treasury" were omitted by notification No. 592-F.T., dated 9-3-2005, w.e.f. 9-3-2005.

- (e) "Kolkata" has the same meaning as in clause (11) of section 5 of the Kolkata Municipal Act, 1951 (West Ben. Act XXXIII of 1951);
- (f) "Certificate Officer" has the same meaning as in sub-section (3) of section 3 of the Bengal Public Demands Recovery Act, 1913 (Ben. Act III of 1913);
- (g) "Commissioner" means the Commissioner of Profession Tax appointed under section 12;
- (gg) "Deputy Commissioner of Profession Tax" means the officer of the State Government appointed by that designation by the State Government under sub-section (2) of section 12 to assist the Commissioner;
- (h) "form" means a form appended to these rules;
- (i) "Assistant Profession Tax Officer" means the officer of the State Government appointed by that designation by the State Government under sub-section (2) of section 12 to assist the Commissioner;
- (j) "place of work" in relation to a person or employer means the place where such person or employer ordinarily carries on his profession, trade, callings or employment or the place where salary and wages are disbursed to an employee;
- (k) "Profession Tax Officer" means the officer of the State Government appointed by that designation by the State Government under sub-section (2) of section 12 to assist the Commissioner;
- (l) "quarter", for the purpose of these rules, means a period of three months commencing from 1st April, 1st July, 1st October and 1st January;
- (m) "section" means a section of the Act;
- (n) "six months", for the purpose of these rules, means a period of six months commencing from 1st April and 1st October.
- (2) Words and expressions used but not defined in these rules shall have the meanings respectively assigned to them in the Act.

CHAPTER II

Grant of certificate of registration/enrolment and amendment and cancellation thereof

3. (1) An application for certificate of registration under sub-section (1) of section 5 shall be in Form I or in Form I as available on the website at www.wbproftax.com. An applicant having place of work within the jurisdiction of different prescribed authorities shall make an application for registration separately to each such authority in respect of his place of work within the jurisdiction of that authority:

Provided that the Commissioner may, for reasons to be recorded in writing and subject to such conditions as he may stipulate; exempt an employer having more than one place of work in West Bengal within the jurisdiction of different prescribed authorities from making application for separate certificate of registration to such prescribed authorities other than the prescribed authority having jurisdiction over the area where the principal place of work of such employer is situated.

³(1a) The application in Form I shall be duly filled in and signed by the proprietor or, in the case of a partnership firm, by one of its partners or, in the case of a Hindu undivided family, by the *Karta* of such family or, in the case of a company, by the managing director, director or principal officer of such company or, in the case of any other association of persons, by the president, secretary, or the principal officer of such association.

Explanation.-In this rule, "Commissioner" includes an Additional Commissioner of Profession Tax appointed under sub-section (2) of section 12.

(2) On receipt of an application for registration, the prescribed authority shall grant to the applicant a certificate of registration in Form IA if he is satisfied that the application is in order and the necessary particulars have been furnished by the applicant.

(3) If the prescribed authority finds that the application is not in order or all the particulars necessary for registration have not been furnished he shall direct the applicant to file a revised application or to furnish such additional information as may be necessary. After considering the revised application or the additional information, if any, the prescribed authority shall grant a certificate of registration in Form IA.

(4) Where an employer has been exempted by the Commissioner under the proviso to sub-rule (1) from making application to different prescribed authorities in respect of additional places of work for separate certificate of registration other than the prescribed authority having jurisdiction over the area where the principal place of work of the employer is situated, such authority shall mention in the certificate of registration issued by him to such employer particulars of all additional places of work of that employer and shall issue to him as many additional copies of such certificate of registration as there are additional places of work.

4. (1) An application for certificate of enrolment under sub-section (2) of section 5 shall be made-

(a) in Form II, along with a receipted copy of the challan referred to in sub-rule (1a) of rule 15, or

(b) in the Form II as available on the website at www.wbcomtax.gov.in and in this case, the receipted copy of the challan referred to in clause (a), shall be sent by the applicant to the prescribed authority within ten days from the date of submission of the application to the website mentioned above.

⁴(1a) The application in Form II shall be filled in and signed by such same persons as are specified in sub-rule (1a) of rule 3.

(2) Where an applicant has more than one place of work in West Bengal, he shall make a single application in respect of all such places, name in such application one of such places as the principal place of work for the purpose of these rules and submit such application to the prescribed authority in whose jurisdiction the said principal place of work is situated.

(3) On receipt of an application in Form II made by an applicant in the manner

(a) referred to in clause (a) of sub-rule (1), the prescribed authority shall, within thirty days of the receipt of such application, grant the person making such application a certificate of enrolment in Form IIA and send the said certificate to the applicant;

(b) referred to in clause (b) of sub-rule (1), the prescribed authority shall forthwith grant the person making such application a certificate of enrolment in Form IIA and communicate the number of the certificate of enrolment to the applicant through website and thereafter after receiving the receipted copy of the challan referred to in clause

(b) of sub-rule (1), shall send the said certificate to the applicant;

(4) * *

(5) Where the applicant has more than one place of work in West Bengal, as many copies of the certificate shall be issued to him as there are additional places of work in addition to one copy for the principal place of work.

5. (1) Where the holder of a certificate of registration granted under rule 3 desires the certificate to be amended, he shall submit an application in Form I for this purpose to the prescribed authority, set out the particulars in respect of which he desires such amendment and reasons therefor together with the certificate of registration and thereupon the prescribed authority may if he is satisfied with the reason given make such amendments as he thinks necessary in the certificate of registration.

(2) Notwithstanding anything contained in sub-rule (1), where consequent upon the amendment of serial No.1 of the Schedule to the Act, the classification of persons or the rate of tax payable under the Act or both is or are changed and a new classification of persons or a new rate of tax or both is or are specified, then the classification of persons or the rate of tax mentioned in the certificates of registration in Form IA granted under rule 3 to the holders of such certificates prior to such amendment shall stand changed respectively to the new classification of persons or the rate of tax or both so specified in the Schedule with effect from the date of coming into force of such amendment.

6. (1) A certificate of enrolment granted under rule 4 shall remain valid for so long as it is not cancelled under sub-rule (2) of rule 7.

(2) An application for amendment of certificate of enrolment shall be made in Form II to the prescribed authority. On receipt of such application the prescribed authority may require the applicant to furnish such additional information or evidence as may be necessary for determining the amount of tax payable by the applicant according to the Schedule to the Act, and upon determination of the amount of tax payable by the applicant, the prescribed authority shall make necessary amendment in the certificate of enrolment under his dated signature indicating the year from which the tax at the revised rate shall be payable.

(3) Notwithstanding anything contained in sub-rule (2), where consequent upon the amendment of any of the serial Nos. 2 to 22 of the Schedule to the Act ⁵[or by operation of the condition as specified at the end of the last entry of the Schedule to the Act], the classification of persons or the rate of tax payable under the Act or both is or are changed and a new classification of persons or a new rate of tax or both is or are specified, then the classification of persons or the rate of tax payable or both as mentioned in the last paragraph of the certificate of enrolment in Form IIA granted under rule 4 to the holders of such certificates prior to such amendment shall stand changed respectively to the new classification of persons or the new rate of tax or both so specified in the Schedule with effect from the date of coming into force of such amendment.

7. (1) The certificate of registration granted under rule 3 may be cancelled by the prescribed authority after he has satisfied himself that the employer to whom such certificate was granted has ceased to be an employer.

Explanation.-For the purpose of this sub-rule, the expression "ceased to be an employer" shall include an employer in relation to whom no employee is earning salary or wage during any month of a year which attracts a rate of tax above "Nil" as specified in column (3) against item (i) of serial No.1 of the Schedule to the Act.

(2) The certificate of enrolment granted under rule 4 may be cancelled by the prescribed authority after he is satisfied that the enrolled person is dead or that his liability to pay tax has ceased:

Provided that where consequent upon the amendment of the Schedule to the Act, the rate of tax payable by such person is specified at nil but he continues in his profession, trade, calling or employment, the certificate of enrolment shall not be cancelled.

(3) When any enrolled person remains temporarily out of profession, trade or calling, he shall intimate to the prescribed authority the fact of his keeping out of profession, trade or calling ordinarily within fifteen days from the date of such keeping out of profession, trade or calling and he shall again intimate to the prescribed authority ordinarily within fifteen days from the date when he resumes profession, trade or calling in West Bengal stating the period of his temporary keeping out of profession, trade or calling.

8. The holder of the certificate of registration shall display conspicuously at his place of work the certificate of registration.

9. If a certificate of registration or a certificate of enrolment granted under these rules is lost, destroyed or defaced the holder of such certificate shall apply to the prescribed authority for a duplicate copy of such certificate and the said authority after necessary verification issue to the holder of the certificate a copy of the original certificate and the copy so issued shall bear the endorsement reading "Duplicate Copy".

5. Ins. by notification No. 948-F.T., dated 27-3-2002, w.e.f. 1-4-2002.

10. The certificate to be furnished by a person to his employer under the second proviso to section 4 shall be in Form IIB or IIC, as the case may be.

CHAPTER III

Filing of returns and payment of taxes

11. The Commissioner shall every year give a public notice by publication in the newspapers directing all persons and employers liable to pay tax under the Act to get themselves enrolled or registered as the case may be (unless they are already enrolled or registered) to furnish returns and pay the tax according to the provisions of the Act and these rules.

12. (1) (a) Every employer registered under the Act ⁶[other than an employer eligible to furnish return annually under sub-rule (1a),] shall furnish return quarterly in Form III ⁷[within one month] from the date immediately following the date of expiry of each quarter, and such return shall be accompanied by a receipted challan showing payment of tax payable according to such return.

(b) Every employer, who is required to furnish return quarterly, other than an employer mentioned in sub-rule (1a), according to clause (a), shall

(i) pay into the appropriate Government Treasury under the appropriate challan the amount of tax payable according to his accounts for each of the first two months of each quarter within twenty-one days from the expiry of each month, and

(ii) pay into the appropriate Government Treasury under the appropriate challan the balance amount of tax which remains after deducting the amount of tax paid for the first two months as referred to in sub-clause (i) from the total amount of tax payable according to the return for such quarter before furnishing such return under clause (a).

⁸[(1a) Where a registered employer, who is required to furnish return quarterly in accordance with the provision of clause (a) of sub-rule (1), has paid tax under the Act according to his return in respect of any year ending on or after the 31st day of March, 2007, for an amount not exceeding thirty thousand rupees, such registered employer shall furnish, notwithstanding anything contained in sub-rule (1), return, accompanied by a receipted challan showing payment of tax payable according to such return, annually in Form III within one month from the date immediately following the date of expiry of such year.

(1b) A registered employer, who is required to furnish return annually according to sub-rule (1a), shall

(i) pay into appropriate Government Treasury under the appropriate challan the amount of tax payable according to his accounts for each of the first eleven months of such year within twenty-one days from the expiry of each month; and

(ii) pay into the appropriate Government Treasury under the appropriate challan the balance amount of tax which remains after deducting the amount of tax paid for the first eleven months as referred to in clause (i) from the total amount of tax payable according to the return for such year before furnishing such return under sub-rule (1a).

(1c) A registered employer, who has been eligible to furnish return under sub-rule (1a) and make payment of tax under sub-rule (1b), shall cease to be so eligible if the total amount of tax payable by him under this Act exceeds thirty thousand rupees during any year, and he shall thereupon inform the prescribed authority accordingly within thirty days from the expiry of such year and furnish returns and make payment of tax in accordance with the provisions of clause (a) of sub-rule (1) and clause (b) of sub-rule (1), respectively, in respect of the period immediately following the year in respect of which the total amount of tax exceeds thirty thousand rupees.]

6. Ins. as above by notification No. 1104-F.T., dated 3-8-2007, w.e.f. 1-4-2007.

7. Subs. for "within thirty days" by notification No. 1113-F.T., dated 25-5-2005, w.e.f. 25-5-2005.

8. Subs. for existing sub-rules (1a) and (1b) by notification No. 1104-F.T., dated 3-8-2007, w.e.f. 1-4-2007

(2) Before any registered employer furnishes the return required by sub-rule (1) or sub-rule (1a), as the case may be, he shall pay into the appropriate Government Treasury the full amount of tax due according to the return. In making the payment challans shall be filled up in quadruplicate. One copy of such challan shall be retained by the appropriate Government Treasury, one copy shall be sent to the prescribed authority and the other two copies shall be returned to the registered employer duly signed and sealed as proof of payment. The return shall be accompanied by one copy of the challan and the other copy shall be retained by the registered employer.

(3) The employer required to pay any amount of tax, penalty, interest or composition money under the provisions of the Act other than the amount payable as per return under sub-rule (1) shall credit the same in the appropriate treasury in the manner prescribed in sub-rule (2).

(4) * *

(5) Notwithstanding anything contained in sub-rules (1) and (2), a registered employer having more than one place of work under the jurisdiction of different authorities may, upon his applying to the Commissioner, be permitted to furnish a consolidated return and pay taxes from his principal place of work in respect of all the places of work for which separate certificates of registration under rule 3 have been obtained by such employer subject to the following conditions:

- (a) that the complete records of disbursement of salaries and wages in respect of all the places of work for which separate certificates of registration have been obtained are maintained in the principal place of work;
- (b) that the return in Form III shall accompany a complete list of all places of work with their respective registration number;
- (c) that if the employer fails to comply with the provisions of the Act, the permission granted may be revoked by the Commissioner after giving the employer reasonable opportunity of being heard. On such revocation, the employer shall be required to furnish return from all the places of work in respect of which separate certificates of registration have been granted and pay taxes in accordance with the provisions of sub-rules (1) and (2).

(6) The Commissioner in granting permission to the registered employer under sub-rule (5) shall keep the different prescribed authorities having jurisdiction over the places of work of such employer informed of the fact that permission has been granted to the employer to file a consolidated return and to pay taxes from his principal place of work and thereupon each prescribed authority shall keep an appropriate note in the file of the employer registered in his jurisdiction.

(7) All proceedings in respect of a registered employer furnishing consolidated return under sub-rule (5) shall stand transferred to the prescribed authority having jurisdiction over the principal place of work of the employer from the authorities having jurisdiction over the other places of work granting certificates of registration under rule 3.

Explanation.-In this rule "Commissioner" includes an Additional Commissioner of Profession Tax appointed under sub-section (2) of section 12.

12A. Every employer or person shall, in addition to the accounts and documents referred to in sub-section (1) of section 15, keep and maintain a true and up-to-date accounts and records relating to disbursement of salaries and wages including allowances in respect of his employees or workers in a register in Form XVI.

⁹12B. A registered employer as referred to in sub-section (1a) of section 15, shall submit to the prescribed authority a certificate in the following format, duly filled in and signed by the practising Chartered Accountant, Cost Accountant or Company Secretary who has verified the books of accounts and other records of such registered employer relating to the year for which the said certificate is required to be issued, within seven months from the closing of such year:-

CERTIFICATE OF COMPLIANCE

[Issued as per provision of section 15(1a) of the West Bengal State Tax on Professions, Trades, Callings and
Employments Act, 1979]

Certified that I have verified the books of accounts and other records for the year including challans and returns filled bya registered employer holding Registration Certificate No. under the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979 and having his place of *profession/trade/calling/employment at..... and after verification of the books of accounts and other records relating to the year..... made available to me, I do hereby report -

(a) that the tax payable and the interest if any, payable thereon for delayed payment of such tax under the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1979 and rules made thereunder, for the year..... have been duly calculated by the aforesaid employer and shown in the returns submitted by him to the Profession Tax Officer.....*Range/Unit;

(b) that the said tax and interest, if any, have been paid by the aforesaid employer in the appropriate manner to the Government Treasury.

Particulars of tax and interest paid, if any, and returns filed by the aforesaid employer are furnished below:-

Quarter ended	Amount of tax paid (Rs.)	Amount of interest paid (Rs.)	Return filed on	Remarks (if any)
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June

September

December

March

General remarks

1. Comments regarding non-availability of books of accounts:
2. Comments regarding default in payment of tax or non submission of returns:
3. Any other comments as found fit and appropriate:

Seal

Place:

Date: (Signature of the practising Chartered Accountant /
Cost Accountant/Company Secretary)
(Registration No.)

Note: *Strike out whichever is not applicable.

13. (1) The Treasury Officer, the sub-Treasury Officer or the Pay and Accounts Officer; as the case may be, in case of self drawing Government servants and the Drawing and Disbursing Officer, in the case of other Government servants, shall be responsible for the deduction of due amount of tax from the pay bill of Government servants as defined in sub-clause (i) of clause (b) of section 2. The deduction shall be made monthly and the pay or wages of such an employee for the month of February shall not be permitted to be drawn unless the tax due for the period from March to February or part thereof or from the month in which the employee has attracted liability to pay tax to the month of February, as the case may be, has been fully deducted and credited to Government account under the head 028-Other Taxes on Income and Expenditure-Taxes on Professions, Trades, Callings and Employments, etc. and a Schedule in Form IV showing such deduction has been enclosed with the pay bill. Where the tax is deducted in cash while disbursing

salary to an employee, it shall be credited to the Government account through challan under the head 028-Other Taxes on Income and Expenditure-Taxes on Professions, Trades, Callings and Employments, etc. within fifteen days of the date on which the salary is disbursed to the employee. The Drawing and Disbursing Officer, the Treasury Officer, the Sub-Treasury Officer or the Pay and Accounts Officer, as the case may be, shall furnish to the Commissioner not later than 30th April each year a certificate that the tax payable in respect of employees for whom he drew or passed pay bills during the year immediately preceding has been deducted in accordance with the provisions of Schedule to the Act.

(2) The Commissioner may, if he considers necessary, require the Drawing and Disbursing Officer, the Treasury Officer, the Sub-Treasury Officer or the Pay and Accounts Officer, as the case may be, to furnish to him a statement relating to payment of salary made to the Government servants during any specific period. Such statement shall show the name of the employee, the details of salary drawn, the amount of tax deducted therefrom and the period to which the tax relates.

(3) An employer shall be responsible for deduction of the due amount of tax from the salary or wages of the employees as defined in sub-clauses (ii) and (iii) of clause (b) of section 2 and for depositing in the treasury the amount so deducted in the manner prescribed in rule 12.

(4) Notwithstanding the provisions contained in sub-rules (1) and (3) of this rule the liability of an employee to pay tax shall not cease until the due amount of tax in respect of him has been fully paid to the Government account and without prejudice to the aforesaid provisions, the said amount may be recovered from him if the employer or the prescribed authority is satisfied that the amount has not been deducted from his salary or wages.

14. (1) The notice under sub-sections (6) and (7) of section 5 shall be in Form V and the notice under sub-section (3) of section 6 shall be in ¹⁰[Form VII].

(1a) Where the prescribed authority is satisfied that an employer or an enrolled person is liable to pay interest under sub-section (2), or subsection (3), of section 9, as the case may be, it shall,-

- (a) in respect of interest payable on the amount of tax remaining unpaid for any period up to the date preceding the date of assessment of tax of a year comprising such period, determine the amount of interest payable for such period at the time of assessment or before the 1st day of April, 2006, whichever is later;
- (b) in respect of interest payable on the amount of tax remaining unpaid for any period commencing from the date of assessment of tax of a year comprising such period up to the date preceding the date of full payment of such tax or up to the date preceding the date of commencement of proceedings under section 11, determine immediately after full payment of tax or commencement of such proceedings the amount of interest payable;

and shall send a notice of demand for payment of interest due.

(2) The notice of assessment under sub-section (2) or sub-section (4) of section 7 shall be in Form VII and the notice of demand under sub-section (5) of section 7, the notice of demand under sub-section (4) of section 9 and for all other demands, including the penalty imposed under the Act, but except the demand of tax and penalty under sub-section (6B) of section 7, shall be in Form VIII.

14A. (1) Where assessment of a registered employer in respect of any year or part thereof is deemed to have been made under sub-section (6) of section 7 and where, on enquiry or on receiving information otherwise, it appears to the prescribed authority that it is necessary to proceed to make, assessment of tax or to impose penalty under sub-section (6B) of that section, the prescribed authority shall, after recording in writing the reasons for doing so, serve a notice in Form VIIA upon such registered employer -

10. Subs. for "Form VI" by notification No. 948-F.T., dated 27-3-2002, w.e.f. 1-4-2002.

(a) calling upon him to produce his books of accounts and other documents which the prescribed authority wishes to examine together with any objection which he may wish to prefer and any evidence which he may wish to produce in support thereof and

(b) stating the year or the part of the year in respect of which assessment of tax, or imposition of penalty, as the case may be, is proposed,

and the prescribed authority shall fix a date, ordinarily not less than fifteen days after the date of service of the notice, for producing such accounts and documents and for considering any objection which the registered employer may prefer.

(2) After considering the books of accounts and documents produced, and any objection preferred by the registered employer, the prescribed authority shall, under sub-section (6B) of section 7, assess the amount of tax, and impose penalty, if any, by an order in writing.

(3) If any sum is due from the registered employer under sub-rule (2), the prescribed authority shall serve upon him a notice in Form VIII A directing him to make payment of tax and penalty due from him within thirty days from the date of service of the notice and to produce the receipted challan in proof of such payment within ten days from the date of such payment.

(4) Where an assessment in respect of any year or part thereof of a registered employer is deemed to have been made under sub-section (6) of section 7 and where such employer makes an application under subsection (8) of that section on or before the date specified therein, to the prescribed authority in respect of such employer for fresh assessment under sub-section (2) of that section, the prescribed authority shall issue a notice specifying a date (hereinafter referred to as the said date), ordinarily not less than fifteen days immediately after the date of service of such notice, requiring him to produce such documents and evidence as may be deemed necessary on the said date to establish his contention that he has paid an amount of tax in excess of what was payable by him under the Act in respect of such year or part thereof.

(5) After considering the documents and evidence produced in pursuance of the notice referred to in sub-rule (4), the prescribed authority in respect of such employer shall record the findings and if it is found that –

(a) the contention of such employer is acceptable, the prescribed authority shall reopen the assessment deemed to have been made under sub-section (6) of section 7 and shall proceed to make assessment under sub-section (2) of that section, or

(b) the contention of such employer is not correct, the prescribed authority shall reject the application and inform such employer accordingly.

14B. (1) The Commissioner shall, under sub-section (2) of section 7A, select by the 31st day of August every year, not less than ten per centum of the registered employers from out of the registered employers of the class referred to in sub-section (1) of section 7A, for assessment of tax payable by each of them for any year ended on the 31st day of March, such selection being made by draw of lots either mechanically or with the use of computers:

Provided that where the Commissioner makes selection under subsection (2) of section 7 A in respect of assessment of tax for any year ended on or before the 31st day of March, 2000, he may,

(a) for assessment in respect of any year ended On a date between the 1st day of April, 1996, and the 31st day of March, 1999, make such selection by the 30th day of November, 2000, and

(b) for assessment in respect of any year ended on a date between the 1st day of April, 1999 and the 31st day of March, 2000, make such selection by the 31st day of May, 2001.

(2) Upon selection of registered-employers under sub-section (2) of section 7A in the manner laid down in sub-rule (1), the Commissioner shall send the list of registered employers so selected ¹¹[and also the list of registered employers not selected] to the prescribed authority for assessment of tax due from such registered employers under sub-section (2) of section 7.

¹¹(2A) The prescribed authority upon receipt of the list referred to in sub-rule (2), shall display such list at a conspicuous place in his office.

(3) As provided in sub-section (3) of section 7A, the prescribed authority shall not proceed to make assessment of tax for such year under s]1b-section (2) or section 7 in respect of the registered employers' of the class ¹²[referred to in the first proviso to Sub-section (3) of section 7 A], unless the prescribed authority has ~reason to make such assessment on the basis of any information referred to in the proviso to sub-section (3) of that section.

(4) When it appears to the prescribed authority that it is necessary to make assessment of tax due under sub-section (2) of section 7 in respect of any registered employers, referred to in sub-rule (3), before expiry of six years ¹²[referred to in the first proviso to sub-section (3) of section 7A], on the basis of any information referred to in the ¹²[first proviso to subsection (3) of section 7A], he shall state the reason in writing to the Commissioner for obtaining his approval for making such assessment.

15. (1) Subject to the provision of sub-rule (1a), a person liable to pay tax shall make payment of the tax in the manner prescribed in rule 12 within the period specified in sub-section (2) of section 8 and shall forward a copy of the receipted challan ¹³[to the prescribed authority.]

(1a) Notwithstanding anything contained in sub-rule (1), a person, who is required to make payment of tax under clause (b) of sub-section (4) of section 5, shall make payment of tax in the manner prescribed in sub-rule (2) of rule 12 within the period specified in the said clause and shall attach a copy of the receipted challan with the application for enrolment made under sub-rule (1) of rule 4.

(2) If it comes to the notice of the prescribed authority that a person enrolled under sub-section (2) of section 5 has failed to pay the amount of tax due from him in the manner laid down in sub-rule (1), he shall serve on that person a notice in Form X requiring him on a date specified in the notice to attend in person or through an authorised representative for showing cause for non-payment of tax. After giving the person a reasonable opportunity of being heard and after holding such enquiry as may be deemed necessary or otherwise if the prescribed authority is satisfied that the tax is payable but it has not been paid, the said authority shall serve a notice of demand in Form XI on that person or his representative to pay the amount within fifteen days from the receipt of the notice.

¹⁴[(2a) Where the prescribed authority has, upon information received, reasons to believe that any person enrolled under sub-section (2) of section 5 of the Act and specified in column (2) against anyone or more of the entries from serial Nos. 2 to 22 of the Schedule to the Act, has paid tax at a rate lower than what is payable by such person under the Act, or such person has not paid tax for any year, or has made an application for refund under the proviso to section 18 of the Act, such authority shall serve upon such person a notice in Form XA requiring him to attend, on a date specified in the notice, in person or through an authorised representative, for showing cause for non-payment of tax and against determination of tax under subsection (2) of section 17 A of the Act. After giving such person a reasonable opportunity of being heard and after examining such account or documents or holding such enquiry as may be deemed necessary or otherwise, if the prescribed authority is satisfied that tax has been paid at a rate lower than what is payable or has not been paid at all by such person under the Act, he shall determine such amount of tax as is payable by him under the Act, and serve a notice of demand in Form XIA on such person to pay the amount due within fifteen days from the receipt of the notice, or grant a refund adjustment order in Form XVIII in accordance with the proviso to section 18 of the Act.]

(3) If a person liable to pay tax has failed to get himself enrolled, the prescribed authority shall serve on that person a notice in Form XII requiring him on a date specified in the notice to attend in person or through an authorised representative for showing cause for non-enrolment. After giving the person reasonable opportunity of being heard and after such enquiry as may be deemed fit or otherwise, the prescribed authority shall assess the tax due to the best of his judgment and serve on him a notice of demand in Form XIII to pay the tax within fifteen days from the receipt of the notice.

12. Subs. by *ibid*, w.e.f. 1-8-2006.

13. Subs. by notification No. 1561-F.T., dated 8-9-2006, w.e.f. 1-8-2006.

14. Subs. by notification No. 948-F.T., dated 27-3-2002, w.e.f. 1-4-2002.

15A. (1) Where an assessment in respect of any period of a registered employer is deemed to have been made under sub-section (6) of section 7 and where it appears necessary to the Commissioner or the Deputy Commissioner having jurisdiction in respect of the registered employer to proceed under sub-section (6B) of section 7, he may issue a notice calling upon him to show cause, if any, on a date fixed ordinarily fifteen days from the date of service of the notice, why the deemed assessment shall not be reopened and fresh assessment and other proceedings shall not be started in accordance with the provisions of the said sub-section (6B).

(2) After considering the cause, if any, shown by the registered employer in pursuance of the notice referred to in sub-rule (1), the Commissioner or the Deputy Commissioner, as the case may be, may, if he thinks fit, re-open an assessment by an order directing the prescribed authority having jurisdiction in respect of the registered employer to make a fresh assessment in respect of any period for which assessment is deemed to have been made under sub-section (6) of section 7, recording briefly but clearly his reasons for doing so and inform the registered employer accordingly.

(3) On receipt of the order referred to in sub-rule (2), the prescribed authority shall proceed to make a fresh assessment in accordance with the provisions of sub-section (2) of section 7.

15B. Any notice of demand in respect of assessment of tax, or imposition of penalty, or determination of interest, as the case may be, made under the provisions of the Act, shall be served upon an employer or person along with a copy of the order relating to such assessment, or imposition, or determination, of tax, or penalty, or interest.

CHAPTER IV

Collecting Agents and matters relating thereto

16. Upon appointment of collecting agents, if any, by the State Government under section 13 their names and the manner in which such collecting agents shall carry out the functions assigned to them, the manner in which the collecting agents shall render accounts to the Commissioner, powers the collecting agents shall exercise -and the area over which they shall exercise such powers and the class of persons or employers from whom such collecting agents shall collect tax will be specified in a notice to be published in the *Official Gazette*. The notice when published shall form a part of these rules.

CHAPTER IVA

Garnishee notice for demand of payment from the debtors, banks etc. on account of persons liable to pay tax

16A. Where any person is required to deposit money under sub-section (1) of section 16, on account of an employer as defined in clause (c) of section 2, or on account of a person as defined in clause (f) of section 2, who is liable to pay tax under the Act, the prescribed authority shall serve upon the person required to deposit money, a notice in Form XVII directing him to deposit such money in the manner referred to in that section.

CHAPTER V

Refund

17. (1) When the prescribed authority is satisfied that a refund of tax, penalty or interest, if any, is due to a person under section 18 he shall record an order showing the amount of refund due and shall communicate the same to the person or the employer concerned.

(2) When an order for refund has been passed under sub-rule (1), the prescribed authority shall, if the person or the employer desires payment in cash, make the refund accordingly subject to the proviso to section 18.

(3) If the person or the employer desires payment of the refund by adjustment against any amount payable by him in respect of the period for which return is to be furnished or payable under notice in -Form VIII, or payable by the person to whom a certificate of enrolment has been issued, the prescribed authority shall grant a refund adjustment order in Form XVIII.

CHAPTER VI

Shifting of place of work

18. (1) If the holder of a certificate of registration or a certificate of enrolment in one area shifts his place of work to another area, he shall within ¹⁵[thirty days] of such shifting give notice thereof to the prescribed authority from whose office the certificate was issued and shall at the same time send a copy of such notice to the prescribed authority exercising jurisdiction over the area to which the place of work is shifted.

¹⁶(2) Where the prescribed authority from whose office the certificate has been issued

(a) comes to know of any shifting of place of work of a holder of certificate of registration or certificate of enrolment; or

(b) receives the notice referred to in sub-rule (1), within thirty days or thereafter,

such prescribed authority shall, upon being satisfied that there is such shifting in the place of work to another area, transfer all the records of such holder of certificate of registration or certificate of enrolment ordinarily within ten days of his knowledge about such shifting or receipt of such notice, as the case may be to the prescribed authority exercising jurisdiction over the area to which the place of work is shifted.

(3) On receipt of the records as referred to in sub-rule (2) of such holder of certificate of registration or certificate of enrolment the prescribed authority in whose jurisdiction the place of work has been shifted, shall, upon being satisfied that there is such shift in the place of work to an area under his jurisdiction, amend the certificate of registration or certificate of enrolment of such holder of certificate in accordance with the provisions of sub-rule (1) of rule 5 or sub-rule (2) of rule 6, as the case may be, ordinarily within ten days of receipt of such records and thereupon such prescribed authority shall exercise all the powers and discharge all the functions pertaining to the determination and recovery of tax and all matters ancillary thereto in respect of such holder of certificate and the prescribed authority from whose office the certificate was issued shall cease to exercise such power and discharge such functions in respect of such holder of certificate.]

CHAPTER VII

Appeal, revision and rectifications of mistakes

19. (1) An appeal under sub-section (1) of section 14 from an order passed by a Profession Tax Officer shall lie to the Assistant Commissioner of Profession Tax and an appeal from an order passed by an Assistant Commissioner of Profession Tax shall lie to the Deputy Commissioner of Profession Tax.

(2) No appeal shall be entertained after the expiry of sixty days from the date of receipt of demand notice or the order:

Provided that the appellate authority may admit an appeal after the expiry of the above period if he is satisfied that there was good and sufficient cause for the delay.

(3) No appeal shall be entertained unless such amount of tax, penalty or interest, as the case may be, as the appellant may admit to be due from him, is paid in full.

(4) The appellate authority in disposing of an appeal may

(i) confirm, annul, reduce, enhance or otherwise modify the assessment or penalty or interest, or

(ii) set aside the assessment or penalty or interest and direct the authority which made the assessment or imposed the penalty or charged the interest to pass a fresh order after further enquiry or examination of records, or

(iii) confirm, modify or set aside any order than an order of assessment or imposition of penalty or charging of interest and direct the officer passing the order to pass a fresh order after further enquiry or hearing the person aggrieved.

15. Subs. for "fifteen days" by notification No. 948-F.T., dated 27-3-2002, w.e.f. 1-4-2002.

16. Subs. by notification No. 1561-F.T., dated 8-9-2006, w.e.f. 1-8-2006.

20. (1) Revision under sub-section (4) of section 14 shall lie from an order passed in appeal by an Assistant Commissioner of Profession Tax to the Deputy Commissioner of Profession Tax and from an order passed in appeal by a Deputy Commissioner of Profession Tax to the Commissioner of Profession Tax.

(2) No revision shall be entertained after the expiry of sixty days from the date of the receipt of the order.

(3) No order in revision shall be passed without giving the applicant a reasonable opportunity of being heard.

(4) The-Commissioner may, of his own motion, revise any order passed by any authority under the Act.

(4a) The Deputy Commissioner of Profession Tax may, on his own motion, revise any order passed by an Assistant Commissioner of Profession Tax.

(5) The Assistant Commissioner of Profession Tax may, on his own motion, revise any order passed by a Profession Tax Officer under the Act.

(6) No order shall be revised by the Commissioner or the Deputy Commissioner of Profession Tax or the Assistant Commissioner of Profession Tax of his own motion after the expiry of three years from the passing of the impugned order and without giving the person likely to be affected adversely by the order a reasonable opportunity of being, heard.

Explanation.-In this rule the expression Commissioner shall include an Additional Commissioner of Profession Tax.

21. (1) Application for appeal or revision shall be made in duplicate in Form XIV and shall be presented to the appropriate appellate or revisional authority, as the case may be, by the appellant or applicant in person or by his authorised representative or be sent by registered post to the said authority. It must contain a clear statement of the facts and state precisely the relief prayed for.

(2) The application for appeal or revision shall be accompanied by a copy of the order against which appeal or revision is filed as well as other relevant papers and it must be duly signed and verified by the appellant or the applicant, as the case may be.

22. A petition of appeal or revision not in conformity with the rules relating thereto may be summarily rejected.

23. Any authority under the Act may, of his own motion or on an application being made in this behalf, rectify any mistake apparent on the face of the record in any order passed by such authority including its predecessor-in-office and any authority subordinate to it:

Provided that if an order under this rule has an adverse effect on an employer or a person, no such order shall be passed unless a reasonable opportunity of being heard has been given to such employer or person:

Provided further that no order under this rule shall be passed after the expiry of three years from the passing of the impugned order.

24. Before any authority passes any order in appeal or in revision or by way of rectification of any mistake he shall serve upon the person or the employer a notice in Form XV if the effect of such order is likely to be adverse on the person or the employer.

CHAPTER VIIA Clearance Certificate

24A. (1) Where a person requires a clearance certificate under sub-section (1) of section 24A, such person shall make an application in Form XIX in duplicate, containing therein a declaration in terms of clause (i), clause (ii) or clause (iii) of that sub-section, duly verified and signed, to the prescribed authority with a prayer to issue a clearance certificate to him for the purposes and in the manner referred to in that sub-section.

(2) If the prescribed authority is satisfied that the application is in order and the declaration made by a person in his application or clearance certificate required under sub-section (1) of section 24A, is correct, such authority shall, within fifteen days from the date of receipt of such person a clearance certificate in Form XIX in accordance with sub-section (1) of that section.

(3) A clearance certificate issued under sub-rule (2) shall be valid for a period not more than twelve months from the date of order for issuing such certificate and the period of validity shall be specified in such clearance certificate under signature and seal of the prescribed authority.

(4) A copy of clearance certificate so issued shall be retained by the prescribed authority for his record.

(5) Where the prescribed authority does not issue a clearance certificate to a person under sub-rule (2), such authority shall, after giving the person an opportunity of being heard, reject his application within fifteen days from the date of receipt of such application for reasons recorded therefor and intimate him in writing accordingly.

CHAPTER VIII Service of notices

25. (1) Any notice which is issued under the provisions of the Act, or these rules or which is required to be issued for carrying out the purposes of the Act may be served on a person or an employer by any of the following methods:

- (i) personally upon the addressee, if present;
- (ii) by messenger;
- ¹⁸[(iii) by registered post;
- (iv) by speed post:]

Provided that if the authority issuing the notice is satisfied that an attempt has been made for service of notice by anyone of the abovementioned methods and the addressee is avoiding service or that for any other reason the notice cannot be served by any of the abovementioned methods, the said authority may, after recording his reason for so doing, cause such notice to be served by affixing a copy thereof in some conspicuous place in his office and of the last notified place of work and a notice so served shall be deemed to have been duly served.

(2) When a notice is sent by registered post ¹⁹[, by speed post], it shall be deemed to have been received by the addressee on the expiry of the period normally taken by a registered letter in transit unless the contrary is proved.

CHAPTER IX Fees

26. ²⁰[(1) The amount of fees, as mentioned in column (3) of the Table below against memorandum of appeal, application for revision, rectification, or any other application or petition as described in column (2) of such Table, shall be payable when such memorandum is presented, or such application or petition is filed:-

18. Subs. by notification No. 1113-F.T., dated 25-5-2005, w.e.f. 25-5-2005.

19. Ins. by *ibid*, w.e.f. 25-5-2005.

20. Subs. by notification No. 1113-F.T., dated 25-5-2005, w.e.f. 25-5-2005, for the following:

"(1) Fees at the following rates shall be payable on an application for appeal, revision and rectification of mistakes:

(a) Upon an application for appeal	...	Rupees ten only.
(b) Upon an application for revision	...	Rupees twenty only.
(c) Upon an application for rectification of any mistake	...	Rupees two only."

TABLE

Sl. No.	Description of memorandum, application or petition.	Amount of fees
(1)	(2)	(3)
1.	Memorandum of appeal under sub-section (1) of section 14 against an order as referred to in the said sub-section.	Three <i>per centum</i> of tax, penalty or interest in dispute involved in the appeal subject to a minimum of rupees fifty and maximum of rupees two hundred.
2.	Application for rectification of any mistake under sub-section (3) of section 14.	Rupees twenty.
3.	Application for revision under sub-section (4) of section 14.	Three <i>per centum</i> of the amount of tax, penalty or interest in dispute subject to a minimum of rupees fifty and maximum of rupees two hundred.
4.	Application for issue of duplicate copy of certificate of registration or enrolment.	Rupees twenty for every application.
5.	Application for clearance certificate as referred to in section 24A.	Rupees ten for each application.
6.	Miscellaneous application or petition other than those referred to hereinabove in this Table.	Rupees ten for each application or petition:

Provided that no fees shall be payable for filing any objection, written or verbal made in reply to any notice served under the provisions of the Act or the rules made thereunder or for filing any application requiring any information from any person appointed under the Act.]

(2) ²¹[* *]

(3) All fees shall be paid in court-fee stamps.

CHAPTER X

Miscellaneous

27. Whenever any order is passed by any authority affecting the liability of an employer or a person, a copy of such order shall be furnished to such employer or person, as the case may be, free of cost.

28. All searches and seizures under section 17 shall, as far as possible be made in accordance with the provisions of the Code of Criminal Procedure, 1973.

29. An officer exercising power under section 17 may take the assistance of any police officer not below the rank of an Assistant Sub-Inspector of Police.

21. Sub-rule (2) was omitted by notification No. 1113-F.T., dated 25-5-2005, w.e.f. 25-5-2005.