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PART I—Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury, etc.

GOVERNMENT OF WEST BENGAL
FINANCE DEPARTMENT
REVENUE

NOTIFICATION

No. 1006-F.T.-the 30th June, 2010.— In exercise of the power conferred by section 104 of the West Bengal Sales Tax Act, 1994 (West Ben. Act XLIX of 1994), the Governor is pleased hereby to make the following amendments in the West Bengal Sales Tax Rules, 1995, as subsequently amended (hereinafter referred to as the said rules):—

Amendments

In the said rules, —

(1) in CHAPTER II, in rule 3, in sub-rule (1), in the Table, —

(a) after serial No. 18, in column (1) and the entries relating thereto in column (2), column (3) and column (4), *insert* the following serial No. in column (1) and the entries relating thereto in column (2), column (3) and column (4) respectively:—

“18A.	54A	To withdraw a certificate referred to in section 52	Commercial Tax Officer.”;
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(b) after serial No.30 in column (1) and the entries relating thereto in column (2), column (3) and column (4), *insert* the following serial No. in column (1) and the entries relating thereto in column (2), column (3) and column (4), respectively:—

“30A.	82A	To dispose of the application for revision transferred by the Appellate and Revisional Board to the authority constituted by the Commissioner	Additional Commissioner.”;
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(2) in CHAPTER XIII, in PART III, after rule 200, *insert* the following rule:–

“**200A. Procedure for withdrawal of certificate under section 54A.**–(1) Where a certificate is required to be withdrawn under section 54A, the appropriate assessing authority shall cause an enquiry and draw a report, to satisfy himself that the certificate-debtor has ceased to exist at his disclosed place of business since the first day of the year of the three consecutive years, as referred to section 54A, upto the day the said enquiry is completed, in the form mentioned below and he shall immediately thereafter pass an order in writing withdrawing the certificate.

FORM OF ENQUIRY

1. Name of the dealer:
2. Certificate of Registration (R.C) No.:
3. Address:
4. Period/s of assessment:
5. Certificate case no.

The report is as under, –

****A.** Had been to the declared place of business of the dealer and met Sri/Smt., who identified himself/herself as the owner/ or as a representative of the dealer/landlord/a neighbouring dealer (R.C No.....) and reports that the dealer under enquiry had closed the business since

****B.** Had been to the declared place of business of the dealer and found the premises under lock and key and none could say anything about the dealer under enquiry.

****C.** Had been to the declared place of business of the dealer and as per report of Sri....., declared to be owner of a business carrying under the name and style as M/s..... (R.C No.....) and informs that the dealer under enquiry has shifted his place of business to (address) since

****D.** Any other information which confirms non-existence of the dealer:

Submitted

(.....)
.....Charge/Section

***Strike off the part not applicable*

(2) Where the certificate has been withdrawn under sub-rule (1), the appropriate assessing authority shall inform the Tax Recovery Officer of such withdrawal by issue of a notice in Form 63A within 30 days from the date of withdrawal of the certificate.

(3) The Tax Recovery Officer on receipt of such information shall drop the case.”;

(3) in CHAPTER XVII,—

(a) in PART III, —

(i) in rule 249,—

(A) in sub-rule (1), for the words and figures “under section 83.”, *substitute* the words and figures “under section 83.”;

(B) to sub-rule (1), *add* the following provisos:—

“Provided that where an order has been passed under sub-rule (6) of rule 251B, disposing of the application for revision transferred under section 82A, by the fast track revisional authority as referred to in that sub-rule, such fast track revisional authority comprising the same members which passed the said order may, on its own motion, review such order:

Provided further that where one or more members of the fast track revisional authority which passed the order referred to in the first proviso, are unable to review such order under section 83 due to transfer, resignation, retirement on superannuation or for any other reason, the Commissioner may name the member or members in place of those absentee member or members in order to constituting a new fast track revisional authority for review of such order, notwithstanding anything contrary contained in the first proviso.”;

(C) in sub-rule (2), —

(I) in the third proviso, for the words “under the Act.”, *substitute* the words “under the Act.”;

(II) to the third proviso, *add* the following proviso:—

“Provided also that notwithstanding anything contained in clause (b) of the first proviso, no proceeding shall be initiated to review an order disposing of the application for revision transferred under section 82A, if such order has been made, or passed, one year before the date of review.”;

(D) in sub-rule (5), in clause (d), for the words “or an Additional Commissioner”, *substitute* the words, figures and letter “or an Additional Commissioner or if the authority who passes the order of review under this rule is the authority constituted by the Commissioner under section 82A”;

(ii) in rule 250, in sub-rule (1), to the first proviso, *add* the following provisos:—

“Provided further that where review of an order passed under sub-rule (6) of rule 251B, disposing of the application for revision transferred under section 82A, is required to be made under this rule, the application for review made under this rule shall ordinarily be heard by the Bench comprising the members which passed the order under sub-rule (6) of rule 251B:

Provided also that where one or more members of the Bench are unable to hear and dispose of an application for review of its order due to transfer, resignation, retirement on superannuation or for any other reason, the Commissioner may name any member or members in place of the member or members in order to constituting a new fast track revisional authority for review of such order, notwithstanding anything contrary contained in the first proviso.”;

(b) after PART III, *insert* the following PART:—

‘PART IIIA

Constitution of fast track revisional authority and procedure for disposal of application for revision transferred by Appellate and Revisional Board under section 82A

251A. Constitution of an authority for the purpose of section 82A.— (1) The Commissioner shall, for the purpose of section 82A, constitute an authority, to be called the fast track revisional authority, and such fast track revisional authority shall be a Bench of—

- (a) three Additional Commissioners; or
- (b) one Special Commissioner and two Additional Commissioners,

as may be selected by the Commissioner:

Provided that such fast track revisional authority to be constituted by the Commissioner, may be one or more in number and the Commissioner shall allocate the applications for revision as stood transferred to the fast track revisional authority under section 82A among such fast track revisional authority or fast track revisional authorities for disposal of those applications for revision in accordance with the provisions of section 82A:

Provided further that the Commissioner may transfer any such application for revision, already allocated by him to a particular fast track revisional authority, to any other fast track revisional authority.

(2) In the fast track revisional authority comprising three Additional Commissioners, the seniormost among them in the post of Additional Commissioner shall preside over such fast track revisional authority and in the fast track revisional authority in which there is a Special Commissioner, such Special Commissioner shall preside over such fast track revisional authority.

(3) The Commissioner shall set up a cell under him and fix its location from where the fast track revisional authority shall discharge its functions and he shall inform the public of the setting up of such cell and its location, by publishing a notice in this regard in three local newspapers and by making display in this regard in the website *www.wbcomtax.gov.in*, of the Commercial Taxes Directorate.

(4) The Commissioner shall inform the Appellate and Revisional Board of the constitution of the fast track revisional authority, and also of the setting up of the cell, referred to in sub-rule (3), from where the fast track revisional authority shall discharge its functions.

(5) When any member of the fast track revisional authority resigns, retires on superannuation or is withdrawn or transferred, or where any member is unable to discharge his functions owing to absence, illness or any other reasons, the Commissioner shall provide a Special Commissioner or an Additional Commissioner, as the case may be, to act as a member of the said fast track revisional authority, in place of the member who resigns, retires on superannuation or is withdrawn or transferred or until the member who had been unable to discharge his functions owing to his absence, illness or any other reason, assumes the charge of a member of the said fast track revisional authority, as the case may be.

251B. Proceedings for disposal of application for revision, transferred to fast track revisional authority under section 82A by Appellate and Revisional Board, etc.— (1) Where it appears to the fast track revisional authority that the application for revision transferred under section 82A, hereinafter referred to as the “transferred application”, is in order, it shall serve upon the applicant a notice in Form

54 directing him to appear and produce before it such accounts, documents or evidence as he wishes to rely on in support of the grounds taken in such transferred application on the date and at the time and the place specified in such notice and the copy of the said notice in Form 54 shall be sent to the Commissioner.

(2) The fast track revisional authority shall fix a date for hearing of the transferred application ordinarily not before fifteen days from the date of issue of the notice referred to in sub-rule (1).

(3) If an applicant intends to be heard on any date other than the date fixed for hearing in terms of the notice issued under sub-rule (2), he or his authorised agent shall present an application for adjournment to the fast track revisional authority informing it of his intention to do so or the applicant may send such application by registered post well in advance so that the said application may reach the said authority on a date prior to the date of hearing fixed in terms of such notice:

Provided that no adjournment of hearing shall be granted to an applicant for transferred application except under compelling or exceptional circumstances, as may be decided by the fast track revisional authority.

(4) The Senior Joint Commissioner, or the Joint Commissioner, as may be authorised by the Commissioner, shall act as the representative of the authority against whose order the application for revision under section 82, as stood transferred under section 82A to the fast track revisional authority, has been preferred, to be called the revenue representative, to attend, appear, act or plead before the fast track revisional authority in respect of such application for revision and to receive notices, issued by the fast track revisional authority in connection with such application for revision and the fast track revisional authority shall, at the time of hearing, hear the revenue representative referred to in this sub-rule.

(5) After hearing the applicant and considering accounts, documents, or evidence produced by him and also the revenue representative, the fast track revisional authority shall, by an order in writing, dispose of the transferred application by way of revising a final appellate or revisional order from an order of assessment to the best of its judgement in accordance with the provisions of section 82A within one year from the date of the transfer of the application for revision to the fast track revisional authority and send a copy of such order to the applicant and the authority whose order has been revised and also to the Commissioner:

Provided that where either the applicant fails to appear and produce any accounts, documents or evidences or the revenue representative fails to appear, before the fast track revisional authority on the date specified in the notice referred to in sub-rule (1) or on such other date as may be allowed by such authority, the fast track revisional authority may hear the transferred application *ex parte* and thereafter dispose of such application by way of revising a final appellate or revisional order from an order of assessment to the best of its judgment, and send a copy of such order to the applicant and the authority whose order has been revised and also to the Commissioner:

Provided further that in disposing of the transferred application by way of revising a final appellate or revisional order from an order of assessment, the fast track revisional authority shall take into consideration memorandum in Form 56, if any, filed before the Appellate and Revisional Board:

Provided also that the decision taken in the disposal of the transferred application under this rule shall be the decision of the majority and such decision shall be signed by all members of the fast track revisional authority.

(6) The provisions of sub-rule (2), sub-rule (3), sub-rule (4), sub-rule (5), sub-rule (6), sub-rule (7) and sub-rule (8) of rule 246, rule 248 and rule 251 shall, *mutatis mutandis*, apply to the transferred application and proceedings for disposal thereof.;

(c) in PART IV, after rule 258A, *insert* the following rule:—

“258B. Sending of applications for revision together with documents which stand transferred to fast track revisional authority under section 82A.— (1) The Appellate and Revisional Board shall send forthwith the applications for revision together with the documents, if any, in relation to such applications for revision to the fast track revisional authority in accordance with the provisions of section 82A, to the fast track revisional authority for disposal of such applications by such first track revisional authority.

(2) If any application for stay of operation of an order relating to tax, interest or penalty has been presented before the Appellate and Revisional Board together with the application for revision, referred to in sub-section (1) of section 82, and if such Board, by an order in writing, has granted the stay, either in full or in part, such stay shall continue even after the transfer under section 82A of the application for revision to the authority referred to in section 82A, subject to the terms and conditions, if any, set out by such Board or till it is vacated by the first track revisional authority referred to in section 82A.”;

(4) in Form 54, —

- (a) in the heading, for the word and figures “rule 250,”, *substitute* the word, figures and letter “rule 250, rule 251B and”;
- (b) in the first paragraph for the words “revision/review”, *substitute* the words, figures and letter “revision/review/disposal of application for revision transferred under section 82A”;

(5) in Form 56A, in paragraph 1, —

(a) after sub-paragraph A, *insert* the following sub-paragraph:—

“*AA. The case, as referred to in clause (aa) of the *Explanation* to sub-section (2) of section 8B, in respect of the period.....is pending before the”;

(b) after sub-paragraph E, *insert* the following sub-paragraph :—

“*F. A notice of demand has been served on *me/us on for realization of penalty under section 76 and where the amount of tax of Rs..... (in figure) Rupees.....(in words) which would have been avoided, as referred to in sub-section (1) of section 76, has been paid by me.”;

(6) after FORM 63, *insert* the following Form:—

“THE WEST BENGAL SALES TAX RULES, 1995

FORM 63A

Intimation of withdrawal under section 54A of Certificate referred to in sub-section (2) of section 52 of the West Bengal Sales Tax Act 1994

(See rule 200A)

To
The Tax Recovery Officer,

(District)

(address)

The Certificate in Form 63, sent by the undersigned under clause (b) of sub-rule (1) of rule 199 of the West Bengal Sales Tax Rules, 1995, bearing Certificate No....., datedfor recovery of dues amounting to Rs. from(name of the certificate-debtor) for the period has been withdrawn by the undersigned by an order datedin terms of provisions of section 54A of the Act and the rules made thereunder.

Signature.....
(Appropriate Assessing Authority)

Designation.....
Charge/Division/Section.”.

2. In this notification, in paragraph 1,—
- (a) sub-clause (b) of clause (3) shall come into force with effect from the 1st day of July, 2010;
 - (b) remaining provisions shall be deemed to have come into force with effect from the 1st day of April, 2010.

By order of the Governor,

N. C. BASAK,
Dy. Secy. to the Govt. of West Bengal.