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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. 1057-F.T.— the 12th July, 2010.— In exercise of the power conferred by section 114 of the West Bengal Value Added Tax Act, 2003 (West Ben. Act XXXVII of 2003), the Governor is pleased hereby to make the following amendments in the West Bengal Value Added Tax Rules, 2005, as subsequently amended (hereinafter referred to as the said rules):—

Amendments

In the said rules,—

(1) in CHAPTER I, in rule 2, in sub-rule (1),—

(a) in clause (d),—

- (i) for the words “, or the Deputy Commissioner”, *substitute* the words “, or the Deputy Commissioner, or the Sales Tax Officer”;
- (ii) for the words “such business is situated”, *substitute* the words “such business is situated and shall include such other authority as the Commissioner may, by an order in writing, authorise”;

(b) after clause (l), *insert* the following clause:—

- ‘(la) “quarter” means a period of three English calendar months commencing from 1st day of April, 1st day of July, 1st day of October and 1st day of January;’;

(c) for clause (oa), *substitute* the following clause:—

‘(oa) “tax period” means —

- (i) in respect of a registered dealer who pays tax at his option at a compound rate under sub-section (3) of section 16, one quarter of a year or part thereof;
 - (ii) in respect of a dealer, other than the dealer referred to in sub-clause (i), one English Calendar month of a year or part thereof;’;
- (2) in CHAPTER III, in rule 15, for the words, figures and brackets “the dealer has ceased to carry on business or ceased to exist at his place of business or ceased to be liable to pay tax under sub-section (8) of section 10, section 11 or sub-section (8) of section 14”, *substitute* the words, figures, letters and brackets “ the certificate of registration granted to a dealer under sub-section (2), or sub-section (2A), of section 24 is liable to be cancelled for any of the reasons mentioned in clause (a), clause (b), clause (c), clause (d), clause(e) or clause (f), of sub-section (1) of section 29”;
- (3) in CHAPTER VI, in PART III, in rule 30, in sub-rule (2) , in the TABLE, in column (4) against serial No. 6 in column (1), for the figures “20 55”, *substitute* the figures “40 35”;
- (4) omit CHAPTER VIAA ;
- (5) in CHAPTER VIII, —
- (a) in PART I, —
 - (i) in rule 34, —
 - (A) in the heading, for the words “quarterly returns”, *substitute* the words “quarterly or annual returns”;
 - (B) in sub-rule (2),—
 - (I) for the words, figures, letters and brackets “sub-section (3), or sub-section (3A) or sub-section (3B) of section 16”, *substitute* the words, figures, letters and brackets “sub-section (3A) or sub-section (3B) or sub-section (6) of section 16”;
 - (II) in the first proviso, for the words, figures and brackets “sub-section (3) of section 16”, *substitute* the words, figures and brackets “sub-section (6) of section 16”;
 - (C) after sub-rule (2B), *insert* the following sub-rule :—

“(2C) Every registered dealer who has exercised his option to make payment of tax under the composition scheme as referred to in sub-section (3) of section 16, other than those who are selected for transmitting data in the return in Form 15R electronically under sub-rule (1) of rule 34AB, shall furnish returns annually in Form 15R within the next English Calendar month from the date of expiry of each year:

Provided that where a dealer becomes ineligible to pay tax under sub-section (3) of section 16 in the middle of a year, he shall furnish monthly returns in Form 15R for the month or months as the case may be, in the year during which he has enjoyed such composition scheme and consolidated return in Form 14 for the rest of the period in that year.”;
 - (D) in sub-rule (3), for the words, figure and brackets “or sub-rule (2)”, *substitute* the words, figures, letter and brackets “or sub-rule (2) or sub-rule (2C)”;
 - (E) in sub-rule (4), for the words and figures “Form No. 15”, *substitute* the words, figures and letter “Form 15 or Form 15R”;

(ii) after rule 34AA, *insert* the following rule :—

“34AB. Selection of dealers for electronically transmitting data in return in Form 15R and manner in which annual returns to be furnished by dealers so selected.— (1) The Commissioner may, from amongst the registered dealers who are required under sub-rule (2C) of rule 34 to furnish returns annually in Form 15R, select such dealers on such consideration as he may deem fit and proper, for transmitting data in the return in Form 15R, electronically.

(2) The dealers so selected shall be informed, in writing, about such selection by the Commissioner and the names of the dealers so selected shall be displayed in the web site, *www.wbcomtax.gov.in*, of the Commercial Taxes Directorate.

(3) Every dealer who has been selected under sub-rule (1), shall furnish the return annually in Form 15R within the next English Calendar month from the date of expiry of each year to the appropriate assessing authority —

(a) firstly, by way of transmitting the data in the return in Form 15R, either under digital signature or without any digital signature electronically to such website as mentioned in sub-rule (2), in respect of the return period during which such selection is made and in respect of subsequent return periods until he is left out of such selection by the Commissioner; and

(b) secondly, by way of furnishing the said return in Form 15R in paper form:

Provided that the provisions of the first proviso to sub-rule (2C) of rule 34 shall apply in furnishing return under this rule and the dealer who has been selected under sub-rule (1) shall, notwithstanding anything contained in clause (a) of sub-rule (3), be deemed to have been left out of such selection from the period for which he is not eligible to furnish return in Form 15R under the said proviso.

(4) Where —

(a) the data in the return in Form 15R has been electronically transmitted within the prescribed date for furnishing such return and such return in Form 15R in paper form has been furnished within fifteen days from the expiry of the English Calendar month in which such return is due to be furnished, the date of transmitting the data in the return electronically to the said website shall be the date of furnishing such return;

(b) the data in the return in Form 15R has been transmitted electronically within the prescribed date of furnishing such return but such return in Form 15R in paper form is furnished after fifteen days from the expiry of the English Calendar month in which such return is due to be furnished, the date when such return in Form 15R in paper form is furnished, shall be deemed to be the date of furnishing such return;

(c) the data in the return in Form 15R has been transmitted electronically after the prescribed date of furnishing such return, the date when such return in Form 15R in paper form is furnished shall be deemed to be the date of furnishing such return.

(5) The provisions of sub-rule (3), and sub-rule (4), of rule 34 shall, *mutatis mutandis*, apply in the manner of furnishing returns under this rule.”;

(iii) in rule 36,—

- (A) in the heading, for the word, figures and letter “rule 34A”, *substitute* the words, figures and letters “rule 34A, rule 34AA”;
- (B) for the words, figures and letter “Returns under rule 34, rule 34A”, *substitute* the words, figures and letters “Returns under rule 34, rule 34A, rule 34AA”;
- (C) for the words “for any quarter or month or part thereof,”, *substitute* the words “for any quarter, year or month, or part of such quarter, year or month,”;
- (D) after the second proviso, *insert* the following proviso:—

“Provided also that where a dealer furnishes annual return and has already submitted challans indicating the payments in respect of the first three quarters of a year, he shall submit photocopies of such challans along with the return.”;

(b) in PART II, —

(i) after rule 38B, *insert* the following rule:—

“38C. Conditions and procedure for payment of tax at a compounded rate under sub-section (6) of section 16.— (1) A registered dealer shall be eligible to exercise his option to pay tax under sub-section (6) of section 16 for a maximum period of one year only at a time:

Provided that such registered dealer may exercise such option for any subsequent year subject to fulfilment of terms and conditions as laid down in this rule.

(2) A registered dealer opting to pay tax under sub-section (6) of section 16 for a year or part of a year shall not—

- (a) have any goods in stock which were brought by him from outside the State on the day he exercises his option to pay tax by way of composition and shall not sell any such goods brought from outside the State after such date;
- (b) be a dealer importing taxable goods;
- (c) be a dealer selling goods in the course of inter-State trade or commerce within the meaning of section 3 of the Central Sales Tax Act, 1956;
- (d) be a dealer selling goods in the course of import of goods into, or export of goods out of, the territory of India within the meaning of section 5 of the Central Sales Tax Act, 1956;
- (e) be a dealer who transfers goods otherwise than by way of sale within or outside West Bengal;
- (f) be a dealer who is engaged in execution of works contract; and
- (g) be a dealer who receives or procures goods otherwise than by way of purchase from others from within West Bengal or from outside, where such goods are for direct use in business.

(3) If a registered dealer opting to pay tax under sub-section (6) of section 16 for a year or part of a year has claimed input tax credit on purchases of goods lying in stock with him on the date from which he opts to pay tax under sub-section (6) of section 16, he shall first reverse such input tax credit on such stock of goods before exercising option under sub-rule (5).

(4) A registered dealer may, in exercise of his option to make payment of tax under sub-section (6) of section 16, pay tax for a year or part of a year, on the sales of such goods as referred to in sub-section (6) of section 16 from his hotel, *mandap*, restaurant or any other eating-house in West Bengal at compounded rate specified in this regard on the turnover of sales in West Bengal of such goods as referred to in sub-section (6) of section 16 in lieu of tax payable for such year or part thereof at the rates specified under sub-section (2) of section 16.

(5) A registered dealer, exercising his option for a year or part of a year to pay tax in accordance with the provisions of sub-section (6) of section 16, shall communicate such option in Form 16, to the Additional Commissioner or the Senior Joint Commissioner or the Joint Commissioner duly authorised by the Commissioner for such purpose within ninety days from the date of commencement of the year in respect of which such option is exercised or within one hundred and twenty days from the date of coming into force of the said sub-section (6) of section 16, whichever is later, or within such further time as may be allowed subject to the satisfaction of such authority:

Provided that a registered dealer intending to exercise his option to pay tax in accordance with the provisions of clause (c) of sub-section (6) of section 16, shall submit the Form 16 within thirty days from the date of receipt of certificate of registration or within such further time as may be allowed subject to the satisfaction of such authority.

(6) The registered dealer who has exercised option to pay tax under sub-section (6) of section 16 on sales from his hotel, *mandap*, restaurant or any other eating-house in West Bengal of such cooked foods, non-alcoholic drinks and beverages, manufactured by him in West Bengal, as are specified in Schedule CA, shall pay tax at the rates specified under sub-section (2) of section 16 of the Act in respect of all other sales of goods in West Bengal.

(7) If the turnover of sales of such goods as referred to in sub-section (6) of section 16 of the registered dealer, who has exercised option under sub-rule (5) to pay tax at the compounded rate, in a year or part of a year, exceeds fifteen lakh rupees at any time during the year or part of the year, he shall inform the appropriate assessing authority in writing within seven days from the day, when his turnover of such sales has so exceeded.

(8) The registered dealer, whose turnover of sales of such goods as referred to in sub-section (6) of section 16 exceeds fifteen lakh rupees at any time during a year, shall continue to pay tax at the compounded rate up to the end of that month in which his turnover of sales of such goods as referred to in sub-section (6) of section 16 exceeds fifteen lakh rupees, but he shall not be eligible for payment of tax at the compounded rate for the remaining part of the year and he shall be liable to pay tax on all his sales under sub-section (2) of section 16 of the Act from the beginning of the month immediately following the month in which his turnover of sales of such goods as referred to in sub-section (6) of section 16 has exceeded fifteen lakh rupees.

(9) The registered dealer who has exercised option to pay tax in terms of sub-section (6) of section 16 shall not be eligible to avail any input tax credit or input tax rebate.

(10) The provisions of sub-rule (6) and sub-rule (11) of rule 38 shall, *mutatis mutandis*, apply to the dealers exercising option to pay tax under sub-section (6) of section 16.”;

(ii) in rule 39,—

(A) in sub-rule (2), in clause (a), for the words “pay tax by way of composition and shall not use any goods brought from outside the State in the execution of works contract, after such date” substitute the words “pay tax by way of composition”;

(B) in sub-rule (3),—

- (I) for the words “pay tax for a year”, *substitute* the words “pay tax for a year or part of a year”;
- (II) for the words “tax payable for such year”, *substitute* the words “tax payable for such a year or part thereof”;
- (III) for the words “in respect of the year”, *substitute* the words “in respect of such a year or part thereof”;

(C) in sub-rule (4), —

- (I) after the words “within ninety days from the commencement of the year in respect of which option is exercised”, *insert* the words “or subject to the satisfaction of the authority referred to in this sub-rule, within such further time as may be allowed by such authority”;
- (II) in the first proviso, for the words, letters and figures “31st day of July, 2005.”, *substitute* the words, letters and figures “31st day of July, 2005.”;
- (III) to the first proviso, *add* the following proviso:—

“Provided further that where a dealer is registered in a year and intends to exercise his option for a year or part thereof to pay tax in accordance with the provisions of sub-section (4) of section 18, such registered dealer shall communicate such option in Form 16 within thirty days from the date of receipt of certificate of registration or subject to the satisfaction of the authority referred to in this sub-rule, within such further time as may be allowed by such authority.”;

(c) in PART III,—

(i) in rule 40, in sub-rule (1),—

- (A) for the words, figures and letter “according to rule 34 or rule 34A”, *substitute* the words, figures and letters “according to rule 34 or rule 34A or rule 34AA”;
- (B) in clause (b), for the words, figures and letter “rule 34 or rule 34A”, *substitute* the words, figures and letters “rule 34 or rule 34A or rule 34AA”;
- (C) for clause (c), *substitute* the following clause :—

“(c) pay into the appropriate Government Treasury under the appropriate challan showing separately the amount of late fee, if any,—

- (i) where the amount of net tax according to the return relating to the period commencing on or after the 1st day of April, 2010, exceeds rupees ten thousand,—
 - (A) of rupees one thousand for the first English Calendar month or part thereof of delay in furnishing return, and
 - (B) of rupees two hundred and fifty for every subsequent English Calendar month or part thereof of delay in furnishing such return; or
- (ii) where no amount of tax is payable according to the return relating to the period commencing on or after the 1st day of April, 2010 or where the amount of net tax according to the return relating to the period commencing on or after the 1st day of April, 2010, does not exceed rupees ten thousand,—

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- (A) of rupees three hundred for the first English Calendar month or part thereof of delay in furnishing return, and
 - (B) of rupees one hundred for every subsequent English Calendar month or part thereof of delay in furnishing such return, payable according to the return for such quarter before furnishing such return by him under rule 34 or rule 34A or rule 34AA.”;
- (ii) in rule 41, in sub-rule (1), for clause (b), *substitute* the following clause:—
- “(b) pay into the appropriate Government Treasury under the appropriate challan showing separately the amount of late fee, if any,—
- (i) where the amount of net tax according to the return relating to the period commencing on or after the 1st day of April, 2010, exceeds rupees ten thousand,—
 - (A) of rupees one thousand for the first English Calendar month or part thereof of delay in furnishing return, and
 - (B) of rupees two hundred and fifty for every subsequent English Calendar month or part thereof of delay in furnishing such return; or
 - (ii) where no amount of tax is payable according to the return relating to the period commencing on or after the 1st day of April, 2010 or where the amount of net tax according to the return relating to the period commencing on or after the 1st day of April, 2010, does not exceed rupees ten thousand,—
 - (A) of rupees three hundred for the first English Calendar month or part thereof of delay in furnishing return, and
 - (B) of rupees one hundred for every subsequent English Calendar month or part thereof of delay in furnishing such return,

payable according to such returns before furnishing such returns by him under the aforesaid rule.”;
- (iii) after rule 41, *insert* the following rule:—
- “41A. Manner and time of payment of net tax and interest, if any, payable according to annual return, and payment of late fee, before furnishing annual returns.—** (1) Subject to the provisions of rule 37 and rule 42, a dealer who is required to furnish return annually under sub-rule (2C) of rule 34 or rule 34AB, shall,—
- (a) pay into the appropriate Government Treasury under the appropriate challans showing separately the amount of net tax and interest, if any, payable according to such return for each of the first three quarters each year within twenty one days from the expiry of each quarter; and
 - (b) pay into appropriate Government Treasury under the appropriate challans showing separately the balance amount of net tax and interest, if any, which remains after deducting the amount of net tax and interest, if any, paid for the first three quarters as referred to in clause (a) from the total amount of net tax and interest, if any, payable according to return for such year before furnishing such returns by him under sub-rule (2C) of rule 34 or rule 34AB, and

- (c) pay into the appropriate Government Treasury under the appropriate challan showing separately the amount of late fee, if any,—
- (i) where the amount of net tax according to the return relating to the period commencing on or after the 1st day of April, 2010, exceeds rupees ten thousand,—
- (A) of rupees one thousand for the first English Calendar month or part thereof of delay in furnishing such return, and
- (B) of rupees two hundred and fifty for every subsequent English Calendar month or part thereof of delay in furnishing such return; or
- (ii) where no amount of tax is payable according to the return relating to the period commencing on or after the 1st day of April, 2010 or where the amount of net tax according to the return relating to the period commencing on or after the 1st day of April, 2010, does not exceed rupees ten thousand,—
- (A) of rupees three hundred for the first English Calendar month or part thereof of delay in furnishing return, and
- (B) of rupees one hundred for every subsequent English Calendar month or part thereof of delay in furnishing such return,
- payable according to the return for such year before furnishing such return by him under sub- rule (2C) of rule 34 or rule 34AB:

Provided that where a dealer has furnished the return in respect of any return period by the prescribed date or thereafter but has failed to make full payment of net tax and interest payable according to such return within such prescribed date, such dealer shall be deemed to be delayed in furnishing return for the purpose of this clause and shall pay late fee upto the date of full payment of such net tax and interest or upto the date of provisional assessment made under section 45, or assessment made under section 46 or section 48, as the case may be, in respect of such period , whichever is earlier :

Provided further that where a dealer has failed to furnish return in respect of any return period by the prescribed date or thereafter before the provisional assessment made under section 45 or the assessment made under section 46 or section 48, as the case may be, and on such provisional or other assessments, the full amount of net tax and interest payable for such period is found not to have been paid by him within such date, such dealer shall pay late fee upto the date of provisional assessment under section 45 or assessment under section 46 or section 48, as the case may be, in respect of such return period.

- (2) The provisions of sub-rule (2), and sub-rule (3), of rule 40 shall, *mutatis mutandis*, apply in the manner and time of payment of net tax and interest and payment of late fee under this rule.”;

- (d) in PART IV, in rule 44, in sub-rule (2), for the words “exceeds rupees one crore in a year”, *substitute* the words “exceeds rupees one crore and fifty lakh in a year”;
- (6) in CHAPTER IX, —
- (a) in PART I, —
- (i) in rule 53, in sub-rule (1), for the words, figures and letters “select by the 31st March every year”, *substitute* the words, figures and letters “select ordinarily by the 31st March every year”;
- (ii) for rule 54, *substitute* the following rule:—

‘54. Audit of selected dealers.— (1) The audit under section 43 shall be performed by the appropriate auditing authority which may be—

- (a) an officer being a Senior Joint Commissioner or a Joint Commissioner or a Deputy Commissioner or a Sales Tax Officer, as the case may be, to whom the task of audit under section 43 has been assigned by the Commissioner, or by such authority as may be authorised by the Commissioner; or
- (b) a team which may consist of one or more Sales Tax Officer, Deputy Commissioner, Joint Commissioner, or Senior Joint Commissioner, as the Commissioner may deem fit, to which the task of audit under section 43 has been assigned by the Commissioner, or by such authority as may be authorised by the Commissioner.
- (2) The audit team as referred to in sub-rule (1) may be of the following types:—
- (a) Deputy Commissioner and Sales Tax Officer, with Deputy Commissioner as its head (hereinafter referred to as the “team head”);
- (b) Joint Commissioner, Deputy Commissioner and Sales Tax Officer, with Joint Commissioner as its head (hereinafter referred to as the “team head”);
- (c) Senior Joint Commissioner, Deputy Commissioner and Sales Tax Officer, with Senior Joint Commissioner as its head (hereinafter referred to as the “team head”):

Provided that the authority of the audit team to make audit under section 43 shall not be adversely affected by the absence or shortage of one or more of the members of such an audit team.

(3) The auditing authority as referred to in sub-rule (1), may take the assistance of the Assistant Sales Tax Officer for making verification of documents like tax invoices, invoices, cash memo, bills, transport documents, way bills etc.

(4) Where a registered dealer is selected for audit under sub-rule (1) of rule 53 and the task of audit of such dealer is entrusted to an audit team by the Commissioner or by such authority as may be authorised by the Commissioner, the team head or any member of the team as referred to in sub-rule (2), shall issue a notice in Form 21 to such dealer asking him to furnish statements and to produce the documents and records as may be specified therein, to him on the date and time specified in the said notice, such date not being earlier than fifteen working days from the date of issue of such notice:

Provided that if the dealer fails to comply with the requirement of the notice in Form 21, the audit authority shall prepare the audit report on the basis of available records and information.

(5) Where a registered dealer is selected for audit under sub-rule (1) of rule 53 and the task of audit is entrusted to a Senior Joint Commissioner or Joint Commissioner or Deputy Commissioner or Sales Tax Officer, by the Commissioner, or by such authority as may be authorised by the Commissioner, for audit under section 43, he shall issue a notice in Form 21 to such dealer asking him to furnish statements and to produce the documents and records as may be specified therein, to him on the date and time specified in the said notice, such date not being earlier than fifteen working days from the date of issue of such notice:

Provided that if the dealer fails to comply with the requirement of the notice in Form 21, the audit authority shall prepare the audit report on the basis of available records and information.

(6) On the first date fixed in terms of notice in Form 21 issued to a dealer under sub-rule (4) or sub-rule (5), as the case may be, the statements as specified in such notice shall be furnished by the dealer:

Provided that dealers having turnover of sales or contractual transfer price or both of more than rupees ten crore in the year or part of the year in respect of which the notice in Form 21 has been issued for audit, shall also furnish a compact disc containing a soft copy of the statements as specified in such notice.

(7) On completion of audit, the auditing authority who had issued the notice in Form 21, as referred to in sub-rule (4) or sub-rule (5), or his successor in office, as the case may be, shall prepare an audit report and a copy of such audit report shall be sent to the concerned dealer, to the appropriate assessing authority in relation to the dealer and to the Commissioner.

(8) If upon preparation of an audit report under sub-section (3) of section 43 it appears to the auditing authority that there are discrepancies of the nature mentioned in sub-section (5) of section 43, proceedings to make assessment under clause (ca) of sub-section (1) of section 46 shall be initiated by the authority who had prepared the relevant audit report, or his successor-in-office, as the case may be, and assessment of the dealer under section 46 for the period under such audit shall be made by such authority.”;

(b) in PART II,—

(i) in rule 56,—

(A) in sub-rule (1), after the words “appropriate assessing authority”, *insert* the words “or to the appropriate auditing authority, as the case may be,”;

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

“Provided that where the appropriate auditing authority is required under the provisions of the Act to make such assessment, he shall furnish a copy of the report, prepared under sub-section (3) of section 43 and signed by him, along with the notice under this sub-rule.”;

(C) in sub-rule (4), after the words “appropriate assessing authority”, *insert* the words “or the appropriate auditing authority, as the case may be,”;

(ii) in rule 57,—

(A) in sub-rule (1), after the words “appropriate assessing authority”, *insert* the words “or the appropriate auditing authority, as the case may be,”;

(B) in sub-rule (2), after the words “appropriate assessing authority”, *insert* the words “or the appropriate auditing authority, as the case may be,”;

- (C) in sub-rule (3), after the words “appropriate assessing authority”, *insert* the words “or the appropriate auditing authority, as the case may be,”;
- (iii) in rule 58, after the words “appropriate assessing authority”, *insert* the words “or the appropriate auditing authority, as the case may be,”;
- (iv) in rule 59,—
- (A) in sub-rule (1),—
- (I) after the words “appropriate assessing authority”, *insert* the words “or the appropriate auditing authority, as the case may be,”;
- (II) in the proviso, after the words “appropriate assessing authority”, *insert* the words “or the appropriate auditing authority, as the case may be,”;
- (B) in sub-rule (4),—
- (I) after the words “appropriate assessing authority”, *insert* the words “or the appropriate auditing authority, as the case may be,”;
- (II) in the first proviso, after the words “appropriate assessing authority”, *insert* the words “or the appropriate auditing authority, as the case may be,”;
- (III) for the second proviso, *substitute* the following proviso:—
- “Provided further that if the amount of refund exceeds rupees twenty thousand, the appropriate assessing authority or the appropriate authority, as the case may be, shall obtain prior approval auditing of the Additional Commissioner concerned, where
- (a) such appropriate assessing authority or the appropriate auditing authority is a Senior Joint Commissioner; or
- (b) of the Senior Joint Commissioner concerned where the appropriate assessing authority or the appropriate auditing authority is a Joint Commissioner, Deputy Commissioner or Sales Tax Officer.”;
- (C) in sub-rule (5), in the first proviso, after the words “appropriate assessing authority”, *insert* the words “or to the appropriate auditing authority, as the case may be,”;
- (v) in rule 61,—
- (A) in sub-rule (1), for the words “a Senior Joint Commissioner”, *substitute* the words “an Additional Commissioner or to a Senior Joint Commissioner”;
- (B) in sub-rule (2), for the words “a Senior Joint Commissioner”, *substitute* the words “an Additional Commissioner or to a Senior Joint Commissioner”;
- (C) in sub-rule (3), for the words “Senior Joint Commissioner”, *substitute* the words “Additional Commissioner or Senior Joint Commissioner”;
- (vi) after rule 61, *insert* the following rule:—

“61A. Manner and procedure for reopening of deemed assessment under sub-section (3A) of section 47 and making of fresh assessment of tax after reopening of such assessment.—

(1) where the assessment is deemed to have been made under sub-section (1) of section 47 in respect of a registered dealer relating to any year or part of a year and where the report, prepared

under sub-section (3) of section 43 in respect of such year or such part of a year, contains the finding as referred to in sub-section (5) of section 43, and where it appears to an Additional Commissioner or to a Senior Joint Commissioner having jurisdiction in respect of such dealer to proceed under sub-section (3A) of section 47, he may issue a notice calling upon the dealer to show cause, if any, on a date fixed not less than fifteen days from the date of service of notice, why the deemed assessment relating to such year or such part of a year shall not be reopened and fresh assessment of tax under sub-section (1) of section 46 shall not be started in accordance with the provisions of sub-section (3A) of section 47.

(2) After considering the cause, if any, shown by the registered dealer in pursuance of the said notice referred to in sub-rule (1), the concerned Additional Commissioner or the Senior Joint Commissioner may, within the time referred to in sub-section (3A) of section 47, reopen an assessment by passing an order, in writing, directing the appropriate auditing authority to make a fresh assessment of tax under sub-section (1) of section 46 in accordance with the provisions of the first proviso to sub-section (5) of section 43 in respect of any year or part of a year for which the assessment has been deemed to have been made in accordance with the provisions of sub-section (1) of section 47 and he shall record his reasons for such reopening and inform the dealer accordingly.

(3) On receipt of the order referred to in sub-rule (2), the appropriate auditing authority shall, under the provisions of the first proviso to sub-section (5) of section 43, proceed to make fresh assessment in accordance with the provisions of sub-section (1) of section 46 and the rule made thereunder and the said authority shall make such assessment within such time as is provided in sub-section (3A) of section 47.”;

(c) in PART III,—

(i) to rule 62, *add* the following proviso:—

“Provided that where the appropriate auditing authority is required to make assessment of net tax under sub-section (1) of section 46 in respect of any year or part of a year, such authority shall, notwithstanding the provisions of this rule, where he is satisfied that the dealer is liable to pay interest under sub-section (1) of section 33 in respect of any period falling within such year or part of such year, determine under this rule interest in respect of such period within the time specified in this rule.”;

(ii) to rule 63, *add* the following proviso:—

“Provided that where the appropriate auditing authority is required to make assessment of net tax under sub-section (1) of section 46 in respect of any year or part of a year, such authority shall, notwithstanding the provisions of this rule, where he is satisfied that the dealer is liable to pay interest under sub-section (2) of section 33 in respect of any period falling within such year or part of such year, determine under this rule interest in respect of such period at the time specified in this rule.”;

(iii) to rule 64, *add* the following proviso:—

“Provided that where the appropriate auditing authority is required to make assessment of net tax under sub-section (1) of section 46 in respect of any year or part of a year, such authority shall, notwithstanding the provisions of this rule, where he is satisfied that the dealer is liable to pay interest under sub-section (3) of section 33 in respect of any period falling within such year or part of such year, determine under this rule interest in respect of such period at any time no later than the date of assessment under section 46.”;

-
- (iv) in rule 67,—
- (A) in sub-rule (1), in clause (b), after the words “appropriate assessing authority”, *insert* the words “or to the appropriate auditing authority, as the case may be,”;
- (B) in sub-rule (2), after the words “appropriate assessing authority”, *insert* the words “or the appropriate auditing authority, as the case may be,”;
- (v) to rule 68A, *add* the following proviso:—
- “Provided that where the appropriate auditing authority is required to make assessment of net tax under sub-section (1) of section 46 in respect of any year or part of a year, such authority shall, notwithstanding the provisions of this rule, where he is satisfied that the dealer is liable to pay late fee as referred to in sub-section (2) of section 32 in respect of any period falling within such year or part of such year, determine under this rule late fee payable in respect of such period within the time specified in this rule.”;
- (vi) to rule 68B, *add* the following proviso:—
- “Provided that where the appropriate auditing authority is required to make assessment of net tax under sub-section (1) of section 46 in respect of any year or part of a year, such authority shall, notwithstanding the provisions of this rule, where he is satisfied that the dealer is liable to pay late fee as referred to in sub-section (2) of section 32 in respect of any period falling within such year or part of such year, determine under this rule late fee payable in respect of such period at the time of assessment under section 46 for such period.”;
- (vii) in rule 68C,—
- (A) in sub-rule (1), in clause (b), after the words “appropriate assessing authority”, *insert* the words “or the appropriate auditing authority, as the case may be,”;
- (B) in sub-rule (2), after the words “appropriate assessing authority”, *insert* the words “or the appropriate auditing authority, as the case may be,”;
- (d) in PART V,—
- (i) in rule 76—
- (A) in sub-rule (2), for the words, figures, letters and brackets “and Form 37, and also declaration as referred to in the proviso to clause (ab) of section 61” *substitute* the words and figures “and Form 37”;
- (B) for sub-rule (2A), *substitute* the following sub-rule:—
- “(2A) The registered dealer who has made an application for refund under sub-rule (2) in respect of a return period, shall furnish along with his application in Form 31A for refund—
- (a) a certificate from Chartered Accountant or a Cost Accountant regarding purchases and sales, relating to the said refund, of goods and correctness of the claim for refund made in the application,
- (b) a copy of the return, authenticated by him, and
- (c) copy or copies of tax invoices, attested by him to be the true copy or copies, for purchases pertaining to the said refund including a statement of such purchases in the following proforma:—

**STATEMENT OF PURCHASES (SUPPORTED BY ATTESTED COPIES OF TAX INVOICES)
PERTAINING TO THE REFUND UNDER CLAUSE (a), CLAUSE (aa), OR CLAUSE (ab), OF
SECTION 61 IN RESPECT OF THE RETURN PERIOD.....**

Sl. No.	Certificate of registration No. of seller	Name of seller	Description of goods sold	Serial No. and date of tax invoice issued by seller	Amount of sale (excluding tax charged) as per the tax invoice	Tax paid or payable to seller by the dealer claiming refund on purchase by him of the goods	Amount of purchase/portion of amount of purchase related to claim for refund (furnish information only where segregation is possible)	Tax involved on the amount of purchase/ portion of the amount of purchase as mentioned in col.(8) (furnish information only where segregation is possible)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

- (C) in sub-rule (2D), for the words, letters, figures and brackets “sub-rule (3)(b) or sub-rule (3B)”, *substitute* the words, letters, figures and brackets “sub-rule (3A) and sub-rule (3C)”;
- (D) in sub-rule (3)(c), for the words “fifty *per centum*”, in two places, *substitute* the words “seventy-five *per centum*”;
- (E) in sub-rule (3A), for the words “fifty *per centum*”, in two places, *substitute* the words “seventy-five *per centum*”;
- (F) after sub-rule (7), *insert* the following sub-rules:—

“(7A) Notwithstanding anything contained in this rule, where the refund sanctioning authority is satisfied that for certain reasons the refund of the amount claimed by the applicant in the application for refund to be refundable to him or such amount less than the amount claimed by the applicant in the application for refund to be refundable to him, is to be withheld for certain period of time as he deems fit, he may do so after obtaining the approval of the Commissioner for withholding the refund for certain period of time.

(7B) Where the refund sanctioning authority withholds the refund for a certain period of time, he shall inform the dealer of the reasons for which the refund has been withheld for a certain period of time.”;

- (ii) in rule 79A,

- (A) in sub-rule (3), for the words, figure and brackets “and sub-rule (7)”, *substitute* the words, figures, letters and brackets, “sub-rule (7), sub-rule (7A) and sub-rule (7B)”;
- (B) to sub-rule (3), *add* the following proviso:—

“Provided that notwithstanding anything contained in sub-rule (3) (c) or sub-rule (3A) of rule 76, where the dealer who has been served with a notice in Form 37B as referred to in sub-rule (3) (c) of rule 76, furnishes the indemnity bond pursuant to the said notice on or before the date as specified in the said notice or such date as extended by refund sanctioning authority in accordance with the provisions of the said sub-rule of rule 76 which is, *mutatis*

mutandis, applicable under this sub-rule, the refund sanctioning authority shall, within thirty working days from the date of receipt of the application for refund, pass an order for making refund to such dealer the ninety *per centum* of the amount of refund claimed by him in the application for refund to be refundable to him or ninety *per centum* of such amount less than the amount claimed by him in the application for refund to be refundable to him and issue Form 37C as referred to in sub-rule (3A) of rule 76 which is, *mutatis mutandis*, applicable under this sub-rule, enclosing therewith the Refund Adjustment Order or Refund Payment Order (Cash) or cheques, and one copy of the said Form 37C shall be sent to the appropriate assessing authority.”;

(7) omit Form 12B;

(8) in Form 15,—

(a) in the heading, for the word, figures, letter and brackets “Section16 (3B)”, *substitute* the words, figures, letter and brackets “Section 16(3B)/section 16(6)”;

(b) for item No. 11, *substitute* the following item:—

“		Turnover	Output Tax
11.	Breakup of turnover of sale on which tax is payable at compounded rate and output tax thereon [excluding that part of turnover of sale on which tax is payable at any other rate to be shown in item No. 12 below]		
	(i) Sale on which tax is payable u/s. 16 (3A) @ 4%	[for clubs]	
	(ii) Sale on which tax is payable u/s.16 (3B) @ 2%	[for transferors of right to use goods]	
	(iii) Sale on which tax is payable u/s.16(6) @ 4%	[for manufacturers paying tax u/s 16(6)]	

(c) for item No. 12, *substitute* the following item:—

“		Turnover	Output Tax
12.	Breakup of turnover of sale, other than in 11 above, and output tax thereon [see note 2]		
	(i) Sale on which tax is payable @ 1%		
	(ii) Sale on which tax is payable @ 4%		
	(iii) Sale on which tax is payable @ 12.5%		

(d) for item No. 20, *substitute* the following item:—

20.	Payment Details								
	Date (dd/mm/yyyy)	Challan No.	Bank / Treasury			Period	Amount (Rs.)		
			Name	Branch	Code		Tax	Interest	Late Fee
Total :									

(9) after Form 15, *insert* the following form:—

"THE WEST BENGAL VALUE ADDED TAX RULES, 2005

FORM 15 R

[See sub-rule (2a) of rule 34]

[For dealers paying tax under sub-section (3) of section 16]

(GENERAL INFORMATION)

RETURN PERIOD								REGISTRATION NUMBER											
From	DD	MM	YY	To	DD	MM	YY												
Name of the Dealer								Trade name, if any											
Address of the principal place of business																			
Whether Original or Revised return ? [Please put a <input type="checkbox"/>]										Original					Revised				
If revised return, mention the receipt No., if any, and the date of furnishing the original return				Receipt No.										DD		MM		YY	

Section A

Purchases of goods in West Bengal and calculation of purchase tax for the return period

		From Registered dealers	From other than registered dealers	
		A (Rs.)	Amount B (Rs.)	Purchase Tax C (Rs.)
1.	Purchases of goods exempt from tax			- NIL -
2.	Purchases of taxable goods	See note 1		
3.	Total :			

Section B**Sales in the return period and calculation of output tax.**

(in Rs.)

4.	Aggregate of sale price excluding VAT.	
5.	Sale price of goods, tax on which has been paid on the MRP u/s 16(4) at the time of purchase or on an earlier occasion [Section 2(55)(a)].	
6.	Sales *return/rejection within six months from the date of sale [Section 2 (55) (b)].	
7.	Turnover of sales (4-5-6).	
8.	Output tax payable under sub-section (3) of section 16 @ 0.25 per centum on 7.	

Section C**Quarterly calculation of output tax, interest and late fee.**

		1st Quarter (Rs.)	2nd Quarter (Rs.)	3rd Quarter (Rs.)	4th Quarter (Rs.)
9.	(a) Output Tax [3C + 8]				
	(b) Amount charged in *short / excess, if any [+/-]				
	(c) Total Net Tax Payable [9(a) ± 9(b)]				
10.	Tax Paid in appropriate Government treasury				
11.	Further Tax Payable, if any [9(c) - 10] <i>Negative amount will be the excess amount</i>				
12.	(a) Interest payable, if any, u/s 33				
	(b) Interest paid in appropriate Government treasury				
	(c) Interest *payable/paid in excess [*12(a) - 12(b)] <i>Negative amount will be the excess amount</i>				
13.	(a) Late fee payable, if any, u/s 32(2)				
	(b) Late fee paid in appropriate Government treasury				
	(c) Late fee *payable/paid in excess [*13(a) - 13(b)] <i>Negative amount will be the excess amount</i>				

14.	Payment Details:								
	Date (dd/mm/yyyy)	Challan No.	Bank / Treasury			Tax Period # (yyyymm)	Amount (Rs.)		
			Name	Branch	Code		Tax	Interest	Late Fee
						Total:—			

15.	Turnover of Sale of three main taxable commodities [in terms of sale value] during the return period	
	Name of the commodity	
	Amount (Rs.)	
	(i)	
	(ii)	
(iii)		

DECLARATION

I, (full name in BLOCK LETTERS) declare that the information and particulars given in this return are correct and complete.			
**Signature of the dealer with date		Name and Status	

*Strike out whichever is not applicable

FOR OFFICE USE

Due Date of submission (dd-mm-yyyy)																Date of Receipt (dd-mm-yyyy)															
Office Seal:																Signature of the Receiving Officer															

NOTES:

1. For liability to pay purchase tax and computation thereof see section 12 and section 17.
2. # Tax period being quarterly, the last month of the quarter to be written in the space provided, for example, the QE June, 2010 is to be written as 201006.
3. **See rule 34(3) for person who can sign the return.”;

(10) in Form 16,—

- (a) for the word, figures and letters “rule 38A/38B”, *substitute* the word, figures and letters “rule 38A/38B/38BB”;
- (b) in the heading, for the word, figure, letter and brackets “sub-section (3B)”, *substitute* the words, figures, letter and brackets “sub-section (3B) or sub-section (6)”;
- (c) in the first paragraph, for the word, figure, letter and brackets “sub-section (3B)”, *substitute* the words, figures, letter and brackets “sub-section (3B) or sub-section (6)”;

(11) *omit* Form 17C;

(12) in Form 21,—

- (a) in the heading, for the word and figures “section 43”, *substitute* the words and figures “section 43 read with section 66”;
- (b) for the third paragraph, *substitute* the following paragraph:—
 “You are also directed to:—
 (a) furnish on the aforesaid date:—
 (i) a statement showing summary of monthly sales, purchases, contractual transfer price, output tax, input tax credit, reverse credit, stock transfer, etc. as shown in the returns submitted;

- (ii) a statement showing party-wise details of purchases, where input tax credit has been claimed, in the following proforma:—

STATEMENT SHOWING PARTY-WISE DETAILS OF PURCHASES IN RESPECT
OF THE RETURN PERIODS COMMENCING FROM.....

Sl. No.	Name of the selling dealer with VAT RC No.	Amount of purchase made during the period (excluding tax) (Rs)	Broad category of goods purchased	Purpose for which the goods were purchased	ITC claimed (Rs)	Difference, if any, with the claim made in the return (Also specify the reason)

- (iii) a statement in respect of each deduction, claimed u/s 16(1), showing details of the sales;
- (iv) a statement showing consignee or branch wise details of transfer of goods made outside the State of West Bengal otherwise than by way of sale;
- (v) a statement giving details of waybills in Form 50 utilised during the period; and
- (b) produce on the aforesaid date books of accounts, registers and documents, including those in the form of electronic records, as mentioned overleaf.";
- (c) *omit* the fourth paragraph;
- (13) *omit* Form 22;
- (14) *omit* Form 23;
- (15) in Form 25, in the first paragraph,—
- (a) in item (d), for the words and figures “upon enquiry, or upon information received under section 43,” *substitute* the words “upon enquiry.”;
- (b) after item (d), *insert* the following item:—
- “*(da) the report, prepared under sub-section (3) of section 43, the copy of which is enclosed, contains the finding as referred to in sub-section (5) of section 43.”;
- (c) for item (i), *insert* the following item:—
- “*(i) you, a registered dealer other than a dealer enjoying deferment, exemption or remission of tax under clause (a), or clause (b), or clause (c), of sub-section (1) of section 118, as the case may be, at your option, have not carried forward the excess amount of input tax credit or input tax rebate amounting to Rs..... (in figure) Rupees..... (in words), which has accumulated during the year....., to a return period in the following year i.e. ;”;
- (16) in Form 31A, for the words, letter, figures and brackets “The statements and declarations as referred to in sub-rule(2) and sub-rule (2A) of rule 76, the computation of the amount of refund claimed and also the copy of the return, authenticated by me, as referred to in sub-rule (2) of rule 76 are enclosed with this application.”, *substitute* the words, figures, letter and brackets “The statements and declarations including the computation of the amount claimed to be refundable, as referred to in sub-rule (2) of rule 76 and the certificate regarding purchases and sales, copy of the authenticated return and the copies of tax invoices for purchases pertaining to the refund including a statement of such purchases, as referred to in sub-rule (2A) of rule 76, are enclosed with this application.”;

- (17) in Form 37A, *omit* serial No. 9 and the entry relating thereto;
- (18) in Form 37B, —
- (a) in the heading, for the words “of fifty *per centum*”, occurring in two places, *substitute* the words “of seventy-five *per centum*”;
- (b) in the third paragraph, for the words “And whereas fifty *per centum*”, *substitute* the words “And whereas seventy-five *per centum*”;
- (19) in Form 71A, in paragraph 1, after sub-paragraph E, *insert* the following sub-paragraphs:—

"*F. A notice of demand has been served on *me/us on an assessment made in respect of the period which ended on where I had bona fide *not collected and paid no tax / collected and paid tax at a rate lower than the actual rate of tax applicable, *on certain sale / on sale of certain goods and where I can produce relevant evidences that such non-payment of tax or payment of tax at a rate lower than the actual rate was due to mistake of law. In this connection, the following information is furnished:—

- (a) Date of receipt of the demand notice :
- (b) Amount of tax not collected and not paid :
- (c) Rate of tax at which tax should have been paid :
- (d) Rate of tax at which tax has been paid :
- (e) Amount of tax paid at a rate lower than the actual rate of tax :

*G. A notice of demand has been served on *me/us on for realization of penalty imposed under section 96 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 96, has been paid by me."

2. In this notification, in paragraph 1,—

- (a) clause (2) shall be deemed to have come into force with effect from the 1st day of April, 2005;
- (b) clause (5)(b)(ii)(B) and clause (5)(b)(ii)(C), shall be deemed to have come into force with effect from the 1st day of April, 2006;
- (c) clause (6)(e)(i)(C) and clause (6)(e)(ii)(B), shall be deemed to have come into force with effect from the 1st day of October, 2008;
- (d) clause (1)(a)(i), clause (5)(c)(i)(A), clause (5)(c)(i)(B) and clause (6)(b)(v), shall be deemed to have come into force with effect from the 16th day of January, 2009;
- (e) clause (5)(a)(iii)(A) and clause (5)(a)(iii)(B), shall be deemed to have come into force with effect from the 1st day of April, 2009;
- (f) clause (6)(a)(i) shall be deemed to have come into force with effect from the 31st day of March, 2010;
- (g) clause (1)(a)(ii), clause (1)(b), clause (1)(c), clause (3), clause (5)(a)(i), clause (5)(a)(ii), clause (5)(a)(iii)(C), clause (5)(a)(iii)(D), clause (5)(b)(i), clause (5)(b)(ii)(A), clause (5)(c)(i)(C), clause (5)(c)(ii), clause (5)(c)(iii), clause (5)(d), clause (6)(a)(ii), clause (6)(b)(i), clause (6)(b)(ii), clause (6)(b)(iii), clause (6)(b)(iv), clause (6)(b)(vi), clause (6)(c), clause (6)(d)(i)(A), clause (6)(d)(i)(F), clause (6)(d)(ii), clause (8), clause (9), clause (10), clause (12), clause (13), clause (14), clause (15) and clause (19), shall be deemed to have come into force with effect from the 1st day of April, 2010;
- (h) other remaining provisions shall come into force with effect from the 1st day of July, 2010.

By order of the Governor,

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