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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

Kolkata, the 14th July, 2014.

No. 1183–F.T., the 14th day of July 2014.— 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, after clause (p), *insert* the following clause:—

'(q) "website" means the website of the Directorate, i.e. www.wbcomtax.gov.in, or any other website as may be specified in writing by the Commissioner.;

(2) in Chapter III,—

(a) in rule 6, in sub-rule (1),—

(i) for the words, figure and letters "When the appropriate registering authority is satisfied that the dealer has correctly given all the required information and that the application in Form No. 1 and its Annexure A or Annexure B, are in order, he shall, after making necessary enquiry as he deems fit and proper," *substitute* the words and figure "Where the application made under rule 5 is in order, the appropriate registering authority shall";

(ii) in the proviso, for the words, figures and letter "security under rule 195A", *substitute* the words and figures "security under rule 195";

- (b) in rule 6B, —
- (i) in sub-rule (1), for the words, figure and letters "Where the appropriate registering authority is satisfied that the dealer has correctly given all the required information and that the application in Form No. 1 and its Annexure A or Annexure B, are in order, he shall, after making necessary enquiry as he deems fit and proper," *substitute* the words, figure and letter "Where the application made under rule 5A is in order, the authority referred to in the said rule shall";
- (ii) in sub-rule (4), for the words, figure, letters "Where the authority referred to in sub-rule (1) of rule 5A is not satisfied that the particulars contained in the application for registration in Form 1 are correct and complete or where a dealer fails to furnish all or any of the documents required to be furnished along with application in Form 1 in paper form, such authority" *substitute* the words, figure and letter "Where the application made under rule 5A is not in order, the authority referred to in the said rule";

- (c) after rule 12, *insert* the following rule:—

"12A. Electronic filing of information regarding amendment of certificate of registration.—

(1) A registered dealer selected for electronically transmitting data in return in Form 14 or Form 14D or Form 15 or Form 15R and who is required to furnish information under section 27A, section 27B, or section 27C, unless specifically exempted by Commissioner, shall—

- (a) firstly, furnish the said information electronically by following the process incorporated in the website; and
- (b) secondly, send to the appropriate assessing authority within fifteen days of such electronic transmission, the self-attested paper copies of documents as called for in the said website.

(2) The provisions of rule 12 shall, *mutatis mutandis*, apply in the manner of disposal of the application for amendment as stated in sub-rule (1).";

- (3) in Chapter VI, in PART III, in rule 30. in sub-rule (2). in the TABLE,—

- (a) in serial No. 20A in column (1),—
- (i) in the entry in column (2), for the words "motor cycle, scooter, etc", *substitute* the words "motor cycle, scooter, etc involving transfer of only Schedule C goods";
- (ii) in column (3), for the figures "20", *substitute* the figures "10";
- (iii) in column (4),—

(A) for the figures "'40" under the heading "5 per centum", *substitute* the figures "55";

(B) for the figures "40" under the heading "14.5 per centum", *substitute* the figures "35";

- (b) after serial No. 20A in column (1), *insert* the following serial No. and, the entries in column (2), column (3), and column (4), respectively:—

"20B. Repair or maintenance or servicing of any motor vehicles 10 0 90";
including two wheelers like motor cycle, scooter, etc.
involving transfer of only Schedule CA goods.

- (c) for serial number 21 in column (1) and the entries thereto in column (2), column (3) and column (4), *substitute* the following serial numbers in column (1) and the corresponding entries thereto in column (2), column (3) and column (4):—

"21. All other works contracts not specified elsewhere in the TABLE 20 30 50
and involving transfer of declared goods as specified in section
14 of the Central Sales Tax Act, 1956 (74 of 1956) and other
goods specified under Schedule C, Schedule CA, or Schedule D.

22. All other works contracts not specified elsewhere in the TABLE 20 0 80";
and not involving any transfer of declared goods as specified in
section 14 of the Central Sales Tax Act, 1956 (74 of 1956).

- (l) an Annexure MR as mentioned below, where the dealer is engaged in sales of goods upon manufacturing them in West Bengal as well as simultaneously engaged in resale of same or other goods :—

Annexure MR					
Details of sales, input tax credit, etc where the dealer is engaged in sales of goods upon manufacturing them in West Bengal as well as simultaneously engaged in resale of same or other goods.					
		Total (Rs)	Break-up of total amt. in (2)		
			Manufacturing sale	Resale	Other sale(s)
1	Turnover of sales				
2	Sales u/s 3 of CST Act				
3	Sales u/s 5 of CST Act				
4	Other sales				
5	Output tax				
6	Input tax credit				
7	Net tax credit				
8	Excess input tax credit				
9	Excess input tax credit adjustable under CST Act				
10	Excess input tax credit claimed as refund				
11	Excess input tax credit carried forward				

- (ii) in rule 34A. —

- (A) in sub-rule 3). after the third proviso, *insert* the following proviso:—

"Provided also that a registered dealer whose turnover of sales in the preceding year was in excess of rupees two Crore shall furnish the return through digital signature only, unless, upon prayer of such a dealer, the Commissioner passes an order in writing granting exemption to such a dealer.";

- (B) in sub-rule (4). in clause (c), in the proviso, in the TABLE,—

- (I) for the entries in column (5) and column (6) against serial No. 19 in column (1), *substitute* the following entries :—

"15.05.2013, subject to sub-rule (3A)" "22.05.2013";

- (II) for the entries in column (5) and column (6) against serial No. 20 in column (1), *substitute* the following entries :—

"31.08.2013, subject to sub-rule (3A)" "09.09.2013".

- (III) after serial No. 20, in column (1) and entries relating thereto in column (2) to column (6), *insert* the following serial No. in column (1) and entries relating thereto in column (2) to column (6), respectively:—

"21	QE 30.09.2013	Form 14/14D	31.10.2013	30.11.2013, subject to sub- rule (3A)	09.12.2013
22	QE 31.12.2013	Form 14/14D	31.01.2013	15.02.2014, subject to sub- rule (3A)	22.02.2014
23	QE 31.03.2014	Form 14/14D	30.04.2014	20.05.2014, subject to sub- rule (3A)	27.05.2014";

- (iii) in rule 34AA, in sub-rule (4), in clause (c), in the proviso, in the TABLE, after serial No. 16, in column (1) and entries relating thereto in column (2) to column (6), *insert* the following serial numbers in column (1) and the entries relating thereto in column (2) to column (6), respectively:-

"17	QE 30.09.2013	Form 15	31.10.2013	30.11.2013	09.12.2013
18	QE31.12.2013	Form 15	31.01.2014	15.02.2014	22.02.2014
19	QE 31.03.2014	Form 15	30.04.2014	20.05.2014	27.05.2014";

- (iv) after rule 35, *insert* the following rule:—

"35A. Certificate of filing of return.— (1) Where a registered dealer who is not a defaulter in filing return under the Act or under the Central Sales Tax Act, 1956, he may obtain a certificate as a proof of filing of return generated by him from the website following the electronic process incorporated therein for such purpose.

- (2) A certificate under sub-rule (1), shall contain the information about the turnover sale and contractual transfer price as per the returns submitted for the previous two years, if applicable, and the date of filing of the last return.
- (3) A certificate under sub-rule (1), shall be allowed to be generated by a registered dealer who is not a return defaulter for more than one return period under the Act or the Central Sales Tax Act 1956, and such a certificate shall be valid for a period of three months from the end of month of such generation.";

- (b) in PART III, in rule 43,—

- (i) *omit* sub-rule (3);
- (ii) *omit* sub-rule (3A);
- (iii) in sub-rule (5), for the words, figures and brackets "sub-rule (2), sub-rule (3) and sub-rule (4)", *substitute* the words, figures and brackets "sub-rule (2) and sub-rule (4)";
- (iv) *omit* sub-rule (5A);

- (c) in PART V,—

- (i) in rule 46XA, in sub-rule (2),—

- (A) in clause (a),—

- (I) for the words, letter and brackets "such registered dealer, and in sub-column (b) of that Table for payment to a dealer other than a registered dealer", *substitute* the words, letter, figures and brackets "such a registered dealer who is not a return defaulter for more than one return period under this Act or under the Central Sales Tax Act, 1956, on the date of such payment, and in sub- column (b) of that Table for payment to a registered dealer who is a return defaulter for more than one return period under this Act or under the Central Sales Tax Act, 1956, or to a dealer other than a registered dealer";

- (II) in the Table, in column (2),—
- (ia) in the heading in sub-column (a), for the words "To a registered dealer", *substitute* the words "To a registered dealer who furnish a certificate of return filing":
- (iia) in the heading in sub-column (b), for the words "To a dealer other than a registered dealer", *substitute* the words "To a registered dealer who does not furnish a certificate of return filing or to a dealer other than a registered dealer";
- (ii) in rule 46XB—
- (A) in sub-rule (2), for the word and figure "section 2", *substitute* the word and figure "rule 2";
- (B) in sub-rule (7), for the word and figure "section 2", *substitute* the word and figure "rule 2";
- (C) in sub-rule (10), for the word and figure "section 2", *substitute* the word and figure "rule 2";
- (D) in sub-rule (11), for the word and figure "section 2", *substitute* the word and figure "rule 2";
- (iii) in rule 48A, in sub-rule (1),—
- (A) in clause (b) for the words "such payment:", *substitute* the words "such payment within forty-five days from the end of the English Calendar Month during which the deduction is made:";
- (B) to clause (b), *add* the following proviso:—
- "Provided that where a contractee after deduction of an amount towards payment of tax as referred to in rule 46 deposits the same through GRIPS, he shall not be required to furnish to the Commissioner the print out of Form No. 19A as mentioned in this clause.";
- (d) after rule 49, *insert* the following rule: —
- "49A. Manner of collection of tax at source, deposit of it, etc.—** (1) The amount to be collected for the purpose of section 40A, shall be —
- (a) five *per centum*, where the intra-state purchase of taxable goods is from an un-registered dealer or from a registered dealer who does not furnish a certificate of return filing;
- (b) three *per centum*, where the intra-state purchase of taxable goods is from a registered dealer who furnishes a certificate of return filing.
- (2) The provisions of rule 46, rule 46XB, rule 46XC, rule 47, rule 48, rule 48A and rule 49 of this PART, shall, in so far as they are not inconsistent with the provisions of section 40A, *mutatis mutandis*, apply for the purpose of the said section.";
- (5) in Chapter IX,—
- (a) in PART I, after rule 54A, *insert* the following rule:—
- "54B. Conduct of audit by a special team of tax professionals.—** (1) The special team to be constituted in terms of section 43AB, shall consist of at least two professionals, namely a Chartered Accountant or a Cost accountant, and an Advocate who are actively engaged in the practice of Value Added Tax and Sales Tax laws of the State for not less than eight years.
- (2) The eligible professionals as referred to in sub-rule (1), on going through the information as given in the website, if interested, may furnish their application electronically through the process as laid down in the said website for consideration by the Commissioner for empanelment.
- (3) The Commissioner shall from the professionals who furnished their applications under sub-rule (2), empanel those, as he may deem fit, whom he may later on nominate for conducting audit as a special team:
- Provided that a professional nominated for conducting an audit under this rule in any year shall not be eligible for nomination in the following year.

(4) On completion of audit, the special team shall submit its report in Form 88 with additional points, if any, which is not covered therein and as specifically called for by the Commissioner.";

(b) in PART V, in rule 76 —

(i) for sub-rule (1), *substitute* the following sub-rule:—

"(1) Where a registered dealer has claimed refund in accordance with the provisions of clause (a) or clause (aa) or clause (ab) of section 61, the refund sanctioning authority, without making any prior assessment, shall refund to him, subject to the conditions and restrictions as laid down in sub-rule (2) to sub-rule (10), ninety *per centum* of the amount being—

(a) tax realised or realisable from him by another registered dealer in respect of transactions during the return period, where the claim is under clause (a) of sub-section (1) of section 61; or

(b) the excess amount of net tax credit excluding the unadjusted input tax credit brought forward from previous period, over output tax in respect of transactions during the return period, where the claim is under clause (aa) of sub-section (1) of section 61; or

(c) such per centum of input tax credit available during such return period referred to as 'A' in sub-section (17) of section 22 after adjustment of reverse credit, if any, as corresponds to all sales of goods in the course of export out of India of the Central Sales Tax Act, 1956 (74 of 1956), to total sales in the return period where the claim is under clause (ab) of sub-section (1) of section 61.";

(d) in sub-rule (2), for the words "either under digital signature or without any digital signature", *substitute* the words "under digital signature";

(e) in sub-rule (2A),—

(A) after clause (a), *insert* the following clause:—

"(aa) any other information or documents as may be specifically called for in the website of the Directorate,";

(B) in clause (c), in the statement of purchase pertaining to refund, *omit* column (7) and Column (8);

(f) in sub-rule (2B), —

(A) after clause (c), *insert* the following clauses:—

"(ca) a copy of receipt obtained from the website of the Directorate, upon e-filing of the declarations in Form C received in respect of inter-State sales under the provisions of sub-section (4) of section 8 of the Central Sales Tax Act, 1956;

(cb) an indemnity bond as per the format given in sub-rule (2D) for the amount claimed as refund;";

(B) to clause (cb), *add* the following proviso:—

“Provided where the registered dealer is not in possession of all the declaration(s) as required under sub-section (4) of section 8 of the Central Sales Tax Act, 1956, and thereby is unable to e-file the same, as referred to in clause (ca), for all the sales as claimed in the return furnished under the said Act, the refund sanctioning authority shall before refunding any amount deduct the balance amount of tax as payable at the full rate of tax applicable in respect of the goods involved in such sales from the input tax credit claimed as refund under clause (aa) of sub-section (1) of section 61.”;

- (g) in sub-rule (2D), for the words, figures, letters and brackets "The amount which is, *prima facie*, found admissible for refund in accordance with the provision of sub-rule (3) (c) in respect of the application of refund made by the registered dealer, shall not be refunded to him unless such dealer furnishes by the date specified in the notice in Form 37B, served upon him under sub-rule (3) (c), an indemnity bond for such sum as has been claimed in the application for refund in the Form appended to this sub- rule to the authority making the refund under sub-rule (3A)", *substitute* the words "The format of the indemnity bond shall be as under";
- (h) in sub-rule (3).—
- (A.) *omit* clause (a);
- (B) *omit* clause (b);
- (C) in clause (c), —
- (I) for the words, letters and brackets "application for refund, copy of the return certified by the appropriate assessing authority to be true copy of the return and the reports furnished by the appropriate assessing authority under sub-rule 3 (a) and sub-rule 3(b)," *substitute* the words "application for refund";
- (II) for the words "Funds Transfer, upon furnishing by him, in accordance with the provisions of sub-rule (2D), an indemnity bond", *substitute* the words "Funds Transfer.";
- (D) for the first proviso, *substitute* the following proviso:—
- "Provided also that the refund sanctioning authority, before forming his *prima facie* satisfaction, may take into account the report, if any, sent by the appropriate assessing authority or any other authority."
- (i) in sub-rule (3 A),—
- (A) for the words, figures, letters and brackets "Where the dealer who has been served with a notice in Form 37B issued under sub-rule (3)(c), 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 the refund sanctioning authority, *substitute* the words "The refund sanctioning authority";
- (B) *omit* the fourth proviso;
- (j) in sub-rule (7A), for the words "Notwithstanding anything contained in this rule," *substitute* the words, figure, letter and brackets "Notwithstanding anything contained elsewhere in this rule, but subject to sub-rule (7D),";
- (k) after sub-rule (7C), *insert* the following sub-rule: —
- "(7D) Notwithstanding anything contained elsewhere in this rule, where the Commissioner has reasons to believe, upon any enquiry or otherwise, that the dealer is engaged in fake transactions of purchase for claiming input tax credit as refund, he may, after giving the dealer an opportunity of being heard, bar such a dealer from claiming refund under this rule for three years from the date of such an order.";
- (6) in Chapter XI, in Part A, in rule 89, for the words "as the case may be.", *substitute* the words "as the case maybe, in addition to the books of accounts, documents, etc that he is generally required to maintain under any other law and for his business";

- (7) in Chapter XII,—
- (a) in PART I,—
- (i) in rule 100A,—
- (A) in sub-rule (1), for the words "the original and duplicate copies of waybill", *substitute* the words "the waybill";
- (B) in sub-rule (2),—
- (I) for the words "present, on demand by", "shall present before";
- (II) for the words "the original and duplicate parts of the waybill", *substitute* the word "waybill";
- (C) in sub-rule (3), for the words "original and duplicate parts of the waybill", *substitute* the words "waybill";
- (D) in sub-rule (4),—
- (I) in clause (a), in sub-clause (i), for the words "the original and duplicate parts of the", *substitute* the word "the";
- (II) in clause (b), for the words "original and duplicate parts of waybill", *substitute* the word "waybill";
- (ii) in rule 103A —
- (A) in sub-rule (1), for the words "the original and duplicate copies of waybill", *substitute* the words "the waybill";
- (B) in sub-rule (2),—
- (I) for the words "shall present, only on demand by", *substitute* the words "shall present before";
- (II) for the words "the original and duplicate parts of the waybill", *substitute* the words "the waybill";
- (iii) in rule 104A,—
- (A) in sub-rule (1), for the words "the original and duplicate copies of waybill", *substitute* the words "the waybill";
- (C) in sub-rule (2), for the words "the original and duplicate parts of the waybill", *substitute* the words "the waybill";
- (c) in PART II, in rule 121, in sub-rule (2), in clause (a), for the words "at the check-post, when the goods vehicle transporting the goods is intercepted by such authority at the Checkpost", *substitute* the words "at the check-post";
- (8) in Chapter XIII, in rule 135. for the words "appears to the appropriate assessing authority", *substitute* the words "appears to the appropriate assessing authority or auditing authority or appellate authority or revisional authority or any other authority as authorised by the Commissioner";
- (9) in Chapter XIV, in PART IV—
- (a) in rule 155, in sub-rule (1), after clause (a), *insert* the following clause:—
- “(aa) a final appellate order passed by an appellate forum constituted by the Commissioner under the first proviso to sub-section (1) of section 84 or”;

(b) in rule 156, in sub-rule (1), after the first proviso, *insert* the following proviso:—

“Provided also that where any appropriate assessing authority moves an application for revision to the Board, he shall not be required to make an application in Form 68.”;

(10) in Chapter XVI —

(a) in rule 195,—

(i) in sub-rule (2),—

(A) for the words “dealer who desires to be registered voluntarily under clause (b) of”, *substitute* the words “dealer who desires to be registered under”;

(B) for the words “a sum not less than rupees ten thousand and not exceeding”, *substitute* the words “a sum of”;

(ii) *omit* sub-rule (3);

(b) in rule 196,—

(i) in sub-rule (2), for the words “two years and security furnished by a dealer under sub-rule (3) of rule 195 shall be kept held for a period of one year”, *substitute* the words “one year”;

(ii) in sub-rule (4),—

(A) for the words, figures and brackets “or under sub-rule (3) of rule 195 and”, *substitute* the word “and”;

(B) for the words, figures and brackets “sub-rule (2) and sub-rule (3)”, *substitute* the words, figure and brackets “sub-rule (2)”;

(c) in rule 198, in sub-rule (4A) for the words, figures and brackets “under sub- rule (2) or sub-rule (3) of rule 195”, *substitute* the words and figures “under rule 195”;

(d) in rule 207, in sub-rule (1),—

(i) in the TABLE —

(A) in the entry in column (3), against serial No. 3, for the words “one hundred”, *substitute* the words “two hundred”;

(B) in the entry in column (3), against serial No. 6, for the words “one hundred”, *substitute* the words “two hundred”;

(C) *omit* the entries in column (2) and column (3) against Sl. No. 7 and Sl. No.9;

(ii) in the first proviso, for the words “for filing any application”, *substitute* the words, figures and letters “for filing an application for registration in Form 1CR or amendment under rule 46XB or for filing any application”;

(e) after rule 207, *insert* the following rule:—

“207A. Power of Commissioner to specify mode of furnishing information or making application or petition and disposal thereof.— (1) Wherever the mode or manner has been prescribed in these rules in respect of submission of any application or petition or furnishing of any information under the Act by a dealer, casual dealer, transporter or any other person and about disposal thereof, the Commissioner may, by general or special order, specify and arrange for online furnishing of any information or submission of any or all of such applications or petitions by following the electronic process incorporated in the website of the Directorate for such purpose, by all or any such dealer or class of dealers, casual dealers, transporters or other persons as he deems fit, and also for disposal of such applications or petitions by following the appropriate electronic process deployed for such purpose, and the decision of the Commissioner about selection of the nature of application or petition or furnishing of information or about the class of dealers or casual dealers or transporters or other persons in respect of which submission of such application or petition or furnishing of information shall be only by online mode, shall be final.

(2) Wherever the Commissioner makes arrangement for online submission of any application or petition or furnishing of information in accordance with sub-rule (1), all or any such dealer or class of dealers, casual dealers, transporters or other persons as may be specified by the Commissioner in the general or special order issued for such purpose shall submit such application or petition or furnish such information only through online mode, and no such application or petition or information shall be accepted in manual mode unless the Commissioner, upon application by such an applicant or petitioner and for cogent reasons, allows such an applicant or petitioner to submit such an application or petition or furnish such information manually, and the decision of the Commissioner in this respect shall be final.”:

(f) in rule 208, after clause (ba), *insert* the following clause (bb):—

“(bb) by displaying it in the dealer’s profile in the website of the Directorate;”:

(11) in form 31 A, after serial No. 3, *insert* the following serial No:—

“4. My e-mail address is and mobile number being”;

(12) in Form 88,—

(a) for the figure “4%”, wherever it occurs, *substitute* the figure “5%”; and

(b) for the figures “13.5%”, wherever they occur, *substitute* the figures “14.5%”.

2. In this notification, in paragraph 1,—

- (a) sub-paragraph (8) shall be deemed to have come into force with effect from the 1st day of April, 2005;
- (b) sub-paragraphs (7)(a)(i)(A), (7)(a)(i)(B)(II), (7)(a)(i)(C), (7)(a)(i)(D), (7)(a)(ii)(A), (7)(a)(ii)(B)(II) and (7)(a)(iii), shall be deemed to have come into force the 24th day of January, 2012;
- (c) sub-paragraph (9)(a), shall be deemed to have come into force the 1st day of April, 2012;
- (d) sub-paragraph (4)(c)(ii), shall be deemed to have come into force the 20th day of January, 2012;
- (e) sub-paragraph (2)(c), shall be deemed to have come into force the 14th day of March, 2014;
- (f) sub-paragraph (4)(a)(i)(A), shall be deemed to have come into force the 1st day of April, 2013;
- (g) sub-paragraphs (3), (4)(a)(i)(B), (4)(a)(ii)(A), (4)(A)(iv), (4)(c)(i), (4)(d), shall be deemed to have come into force with effect from the commencing of return period on or after 1st day of October, 2014;
- (h) sub-paragraph (12), shall be deemed to have come into force with effect from the commencing of the year on the 1st day of April, 2014;
- (i) sub-paragraph (10)(f), shall be deemed to have come into force with effect from the 1st day of April, 2014;
- (j) sub-paragraph (2)(a) and (2)(b), shall be deemed to have come into force with effect from 1st day of August, 2014;
- (k) sub-paragraph (5)(b) and sub-paragraph (11), shall be deemed to have come into force with effect from commencing of return period on or after 1st day of April, 2014;
- (l) the remaining provisions shall be deemed to have come into force with effect from 1st day of July 2014.

By order of the Governor,

ANURAG SRIVASTAVA, IAS

Joint Secretary to the Government of West Bengal.