

CHAPTER – V

30. Manner of submission of periodical returns and payment of tax under Section 35.

- (1) The return to be submitted under Section 35 shall be in the following manner covering the tax period shown against each :-
 - (a) All registered dealers paying composite tax under Section 17 shall pay within twenty one days from the close of a quarter of the year.
 - (b) Any dealer liable to pay tax but not composite tax under Section 35 shall pay within twenty one days from the end of a month of the year.
- (2) A correct and complete tax return of a tax period shall be submitted in Form 5 within twenty one days of the closure of the tax period before the appropriate assessing authority of the area of the dealer.
- (3) Every registered dealer and every dealer liable to pay tax shall furnish in addition to tax return, if any, furnished under sub-rule (4), a correct and complete annual return in Form 6 within thirty days of the completion of the year.
- (4) For the purpose of sub-section (4) of Section 35, the appropriate assessing authority shall serve a notice in Form 54 requiring the dealer to furnish tax return under sub-rule (2) and annual return under sub-rule (3) if the dealer is a registered dealer.
- (5) In case of discovery of any omission or any other error in the return filed, the dealer may furnish a revised annual return and a revised tax return, as the case may be in Form 5 and Form 6 respectively within sixty days from the date of submission of the tax return or the annual return, but not after an assessment has been completed by the appropriate assessing authority in respect of the period covered.

Provided that, no revised tax return or revised annual return shall be entertained if the case has been taken up for Audit assessment and notice to that effect has already been served on the dealer.

31. Payment of tax in advance under Section 35

- i) The returns mentioned in sub rules (2) and (3) shall be accompanied by a receipt from the State Bank of India or any other banks authorized by the State Government, a crossed cheque or a crossed demand draft for the full amount payable as per the VAT return in Form 5.

Explanation – I. For the purpose of this rule, the Form 6 will cover the period beginning with the first day of April of the year ending on the thirty first day of the month of March next.

Explanation – II. Every dealer who discontinues his business during the course of a year shall submit to the appropriate assessing authority the return of turnover in Form 6 for the period upto the inclusive of the date of discontinuance within fifteen days from such discontinuance.

- ii) The aforesaid receipt from a State Bank of India or any other banks authorized by the State Government, a crossed cheque or a crossed demand draft in favour of the appropriate assessing authority will be payable at a bank situated in the place of location of the office of the appropriate assessing authority of the principal place of business of the dealer in Meghalaya for the full amount of tax payable by him on the basis of his actual taxable turnover during the tax period to which the return relates.
- iii) If the amount sent by any dealer along with return is less than the amount of tax payable by him the appropriate assessing authority shall serve upon the dealer a notice in Form **19** and the dealer shall pay the sum demanded in the said notice within the time and in the manner specified in the notice.

32. Scrutiny of returns –

The notice to be issued by the appropriate assessing authority for the purpose of sub-section (1) of Section **39** shall be in Form **20**.

33. Manner of completion of provisional assessment –

Where a registered dealer fails to submit his return in Form **5** or in Form **6** by the prescribed date, the appropriate assessing authority shall notify an assessment of tax and interest in the form of a demand notice to the registered dealer stating that the assessed tax and interest shall be paid within twenty one days from the date of receipt of the notice in the manner mentioned in the notice in Form **10**

34. Self assessment –

Notwithstanding anything contained in Section **53**, the appropriate audit authority may require the dealer,

- 1) that on the transfer of business before completion of the year, or
- 2) on discontinuance or closure of business before completion of the year.

Such dealer who is liable to get his account audited shall furnish the audited report to the appropriate audit authority duly signed and verified by such accountant as prescribed under Rule **49**.

35. Audit assessment –

1) a Notice referred to in clause (d) of sub-section (1) of Section **55** shall be in Form **21** and the same shall contain the date and the place requiring the dealer to appear for the purpose of completion of Audit assessment.

2) the Commissioner shall select by the 31st January, every year, on random basis a certain number of registered dealers for Audit assessment under Section **55** of the Act.

Provided that the Commissioner, may, upon receipt of information or otherwise, select those dealers for Audit assessment who according to him, are required to be audited.

- 3) the Audit assessment referred to in sub-rule (2) , may be made for a particular period or for the aggregate of periods.
- 4) upon selection of registered dealers for Audit assessment under sub-rule (1), the Commissioner shall send the list of registered dealers so selected to the appropriate audit authority for conducting the Audit assessment.
- 5) the Audit assessment shall be performed by the appropriate audit authority as a team.
- 6) such team of audit may consist of one or more Superintendent of Taxes, Assistant Commissioner of Taxes, Deputy Commissioner of Taxes and any other person appointed to assist the Commissioner with the Deputy Commissioner of Taxes as its head.
- 7) where a registered dealer is selected for Audit under sub-rule (2), the concerned officer who shall audit the records of such dealer, shall, issue a Notice in Form 21 to such dealer asking him to produce or cause to be produced the books of accounts and all evidence on which the dealer relies on support of his return as may be specified, before him, on the date and time, specified in the said Notice, not earlier than fifteen days from the date of issue of such Notice.
- 8) if the dealer fails to comply with the requirement of the Notice, the appropriate audit authority, shall, proceed to assess the dealer to the best of his judgement the amount of tax due from him.
- 9) before commencement of the Audit assessment certain information shall be furnished by the dealer as and when required and asked for by the appropriate audit authority.
- 10) on completion of the audit assessment the Audit team shall send a copy of the Audit report to the concerned dealer and also a copy to the Commissioner of Taxes.

36. Best judgment assessment –

The appropriate audit authority shall issue a notice to the dealer in Form 22 and the same will contain one or more reasons mentioned in sub-section (1) of Section 55 for proceeding for completion of the best judgment assessment.

37. Assessment of dealer who fails to get himself registered –

For the purpose of sub-section (1) of Section 56, a notice to be served by the appropriate assessing authority shall be in Form 23.

38. Payment and recovery of tax, penalty and interest under Sections 35, 60 and 107

- (1) The return in Form 5 under sub-section (2) of Section 35 shall be sent to the appropriate assessing authority so as to reach it within twenty one days after the closure of the month of the year or after the closure of the quarter, as the case may be, to which such return relates.
- (2) (a) Such return shall be accompanied by a receipt from a State Bank of India or any other banks authorized by the State Government, in the form of a challan in Form 4, a crossed cheque or a crossed demand draft in favour of the appropriate assessing authority encashable at a State Bank of India or any other banks authorized by the

State Government, situated in the Place of location of the office of the appropriate assessing authority or of the principal place of business of the dealer in Meghalaya for the full amount of tax payable by him on the basis of his actual taxable turnover during the tax period to which the return relates.

(b) However the dealers filing the returns under Section **35** once in a year shall remit the tax in the manner specified above within twenty one days from the close of the quarter.

- (3) If the amount sent by any dealer along with return is less than the amount of tax payable by him the appropriate assessing authority shall serve upon the dealer a notice in Form **20** and the dealer shall pay the sum demanded in the said notice within the time and in the manner specified in the notice.
- (4) Where any amount payable by a dealer or a person in respect of any period on account of tax assessed, interest or penalty is found due from him in an order of assessment, reassessment, re-determination, appeal, revision or review, as a case maybe, the appropriate assessing authority shall serve a notice of demand in Form **10** in the manner specified in the notice therein.

39. Special provisions relating to deduction of tax at source in certain cases

- (1) The amount of tax payable shall be deducted by every person as referred to in sub-section **(1)** of Section **106** from the bill or cash memo in respect of sale and supply or works contract and deposited by him/her into the State Bank of India or any other banks authorized by the State Government by challan in Form **4** on behalf of the dealer.
- (2) No deduction shall be made under sub-section **(2)** of Section **106** where the amount paid or credited by such person in a financial year does not exceed five thousand rupees.
- (3) The tax deducted shall be deposited into the account of the state Government in the following manner :
 - (a) the person deducting the tax shall within ten days from the expiry of each English Calendar month, deposit into a State Bank of India or any other banks authorized by the State Government by appropriate challan in Form **4** the total amount so deducted from one or more dealers during the immediate proceeding month and the same will accompany a brief statement of account showing clearly the amount of valuable consideration and the amount of tax so deducted from the suppliers or contractors with their TIN and a copy of such brief statement will also be forwarded to the appropriate assessing authority.
 - (b) a challan for each deposit in respect of a month shall be filled up in quadruplicate and signed by the person making such deposit.
 - (c) the challan shall specify the Government Department Undertaking, Authority company or Corporation with the name and designation of the person making deposit of the amount referred to in sub-rule **3(b)** and mention therein in clear detail the *Name(s) Address(s) and Sales Tax Registration Number(s) of the dealer(s)* on whose behalf *Tax(es)* is/are paid.

- (d) deposit of the amount, two copies of the receipted challan shall be retained by the Government Treasury of which one copy shall be sent to the assessing officer of the area along with the Treasury advice list and other two copies of such receipted challan shall be returned by the treasury to the person making such deposit.
- (4) The person who deducts or deposits any amounts under sub-rule 3(a) shall, within seven days from the date of deposit of the amount so deducted from the payment made to a dealer, issue to the dealer concerned, a certificate of tax deducted in Form 24 in duplicate in respect of such deduction and deposit, together with attested photocopy of the challan. The dealer shall furnish one copy of the certificate and the challan copy for adjustment of such deposit against his dues to the Assessing Officer of the area.
- (5) No deduction of tax under Section 43 shall be made in case of supply of goods where such sale is certified by the appropriate assessing authority as being not liable to tax. Such certificate shall invariably be embodied in each bill to be presented for payment.
- (6) (i) In case of deduction of tax at source for supplies or works contracts to the Treasury shall enclose to each bill four copies of challan for deposit of the amount so deducted at source. No such bill shall be passed by the Treasury unless it is accompanied by the four copies of the challan in Form 4. The Treasury shall keep proper account of deposit of the amount by transfer.
- (ii) Two copies of the challan i.e. the original and the duplicate copies duly signed by the officer of the State Bank of India or any other banks authorized by the State Government, as proof of payment by transfer shall be returned to the tenderer and the other two copies i.e. triplicate and the quadruplicate copies shall be retained by the bank.
- (iii) In respect of the triplicate and quadruplicate copies retained by the Bank, the procedure, as prescribed in sub-rule 3(d) shall apply.
- (iv) On receipt of the signed original and duplicate copies of the challan from the Bank, the Drawing and the Disbursing Officer shall retain the original copy in his office and give the duplicate copy to the concerned party who made the supply or executed the work.

40. Information to be given to the Appropriate Assessing Authority in case of execution of contract under Section 106

The following information shall be submitted to the appropriate assessing authority by any person entering into any contract with any contractor for transfer of property in goods (whether as goods or in some other form) –

Full particulars of the contractor including TIN – (Taxpayer Identification Number), if any:

- (a) Details of the work to be executed as covered by the Deed of contract including the value of the work;
- (b) Period of completion of the works;
- (c) Manner of deduction of tax at source proposed by the contractee.

Provided that, the aforesaid information shall be submitted by the contractee to the appropriate assessing authority within fifteen days from the date of execution of the Deed of work contract.

41. Tax deduction certificate

For the purpose of sub-section (4) of Section 106, a certificate of tax deduction shall be in Form 24. The person issuing certificate of tax deduction shall maintain an account in Form 25 in respect of certificates received and issued by him.

Provided that, the person responsible for deduction of tax shall file a return in Form 26 after one month from the end of each year before the appropriate assessing authority.

42. Refund of the excess payment of tax, penalty or interest arising out of rectification, assessment, appeal, review, refund of the excess amount deducted at source in respect of works contract and payment of interest by the Commissioner for delayed payment of refund –

(1) Manner of refund in consequence of order of assessment, re-assessment, appeal, revision, etc.

Where any amount payable by a dealer or a person in respect of any period on account of tax assessed or interest determined is found in excess of the amount payable is an order of assessment or, where any amount payable by a dealer or a person in respect of any period on account of tax assessed, penalty imposed or interest determined is reduced in consequence of any order passed on re-assessment, re-determination, appeal, revision or review, as the case may be, and if it is found that the amount payable is less than the amount paid for such period, including the amount recovered under Section 49, if any, the appropriate assessing authority shall, within three months from the date of such order, serve upon such dealer or a notice in Form 27 specifying therein the amount paid in excess and send along with such notice a Refund Adjustment Order or the said authority shall refund the excess amount to the dealer.

Provided that, where any amount of tax assessed, penalty imposed or interest determined in respect of a dealer for any period remains unpaid till the date of the order in consequence of which such refund arises, the appropriate assessing authority shall adjust the amount of excess payment towards the arrear tax, penalty or interest and thereupon, if any amount still remains refundable, he shall specify such adjustment in the said notice in Form 27 and send to the dealer along-with such notice a Refund Adjustment Order or the said authority shall refund the excess amount to the dealer.

Provided that, an application for refund shall be made before the expiry of three years from the date of assessment / re-assessment to which such payment

relates, or from the date of confirmation of reduction of liability due to appeal, revision, review, etc. and the application for refund will be made in Form **28**.

Provided further that, if the amount of tax penalty or interest due from a dealer in respect of any period, proceedings for the recovery of which as an arrear of land revenue have been commenced under Section 107, is subsequently reduced in consequence of any order referred to above, the appropriate assessing authority shall send a copy of the aforesaid notice to the Certificate Officer or Tax Recovery Officer to whom the Certificate has been sent.

(2) Refund arising out of rectification of the order determining interest –

Where, upon a rectification of the amount of interest under Section **41**, it appears to the appropriate assessing authority that the amount of interest is in excess of the amount that a dealer has already paid, such appropriate assessing authority shall serve a notice in Form **27** upon such dealer specifying the amount of interest refundable to him and send along-with such notice a Refund adjustment Order for such refundable amount or the said authority shall refund such amount.

Provided that, in case there are arrears of tax, penalty or interest due from such dealer, in respect of any other period, the appropriate assessing authority shall adjust the amount of interest refundable to such dealer with such arrears and for the balance amount of interest refundable, if any, he shall send along with the notice in Form **27** a Refund Adjustment Order or the said authority shall refund the excess amount to the dealer.

Provided that, if the proceedings for recovery of the amount of interest have already been commenced before rectification, the said authority shall send a copy of the notice to the concerned Certificate Officer or Tax Recovery Officer.

(3) Conditions and restriction for refund of Input Tax Credit.

For the purpose of sub-section (4) of Section **49**, a registered dealer shall furnish the following informations along-with his application for refund of Input Tax Credit for a certain tax period :-

- (i) Statement of purchase and sale of taxable goods,
- (ii) Statement of Tax Invoice received,
- (iii) Statement showing output tax payable,
- (iv) A declaration to the effect that no tax, penalty or interest remain un-paid for any other tax period under the Act or the Central Sales Tax Act' 1956 at the time of making the claim.

An application for refund of Input Tax Credit shall be in Form **30**.

Provided that, the appropriate assessing authority may call for and examine the documents and records covered in the paras above before making the refund and in case he decides to dispense with such examination, he shall invariably refer the matter, on the date of making the refund, for subsequent scrutiny by Audit team.

- (1) An application for refund of security under sub-section (6) of Section 33 shall be made to the authority to whom the security has been furnished and this application shall contain all the particulars in respect of mode and date of furnishing the security. The application for refund shall be in Form 29.
- (2) On receipt of application under sub-rule (4), if the said Authority is satisfied about the bonafide of the application he shall refund the amount of security furnished or part thereof if such security is not required for the purposes for which it was furnished.
- (3) Input Tax Credit at the end of the financial year shall be refunded to the Dealer excepting on capital goods which will be adjusted against Tax payable in 36 equal monthly instalments.

43. Manner of payments of interest by the Commissioner for delayed payment of refund

Where the Commissioner, or the Assistant Commissioner, if the power in this behalf is delegated to him under sub-section (1) of Section 26, is satisfied that the Commissioner is required to pay interest under Section 41, he shall, by an order in writing, direct the appropriate assessing authority to pay to the dealer, who is entitled to payment of such interest, the amount of interest by issuing a Refund adjustment Order or by making payment of the said amount.

The assessment records along-with the appellate or revision order referred to in Section 41 which gives rise to the payment of interest by the Commissioner under that Section shall be placed before the Commissioner, or Assistant Commissioner for determination of the amount of interest payable to the dealer.

44. Manner of making provisional refund to exporters who export out of the territory of India

- (1) For the purpose of sub-section (1) of Section 50, an exporter making exports out of the territory of India shall make an application for refund of input Tax in Form 31 and such application will be submitted before the appropriate assessing authority within ninety days of the submission of the tax return relating to such exports.
- (2) While making an application under sub-rule (1), an exporter shall submit a statement before the appropriate assessing authority containing details of sales made in course of export out of the territory of India and purchase of such goods within the State and payment of tax on such goods.
- (3) An exporter claiming refund under sub rules (1) and (2) shall produce all necessary documents relating to his purchase, sale, stock, payment of input Tax etc. before the appropriate assessing authority on demand or before any Audit team, the appropriate assessing authority may refer to, before or after granting of such provisional refund.
- (4) For the purpose of sub-section (2) of Section 50, the security required to be furnished by an exporter before the appropriate assessing authority shall be a Bank Guarantee or a Call Deposit of Nationalised Bank, in favour of the appropriate assessing authority, for an amount equal to the amount of refund. The Bank Guarantee or the Call Deposit

shall not be released by the appropriate assessing authority who granted the refund until such time when the Tax Audit team completes Audit works and provides a certificate confirming the correctness of the refund made.

- 44.A** When an order for refund has been passed, refund voucher in Form – 57 shall be issued in favour of the claimant if he desires payment in cash. An advice list shall, at the same time, be forwarded to the treasury officer concern.
- 44. B** A register shall be maintained in Form – 56 wherein particulars of all applications for refund and orders passed thereon shall be entered.