Value Added Tax Act, 2003

Chapter 6 - Authorities and Appellate Tribunal

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(1) The State Government may appoint a Commissioner of Commercial Taxes and as many Additional Commissioners, Joint Commissioners, Deputy Commissioners, Assistant Commissioners, State Representatives and Commercial Tax Officers, as they think fit for the purpose of performing the functions, respectively conferred on them by or under this Act or by or under any other law for the time being in force.

(2) The Commissioner may, empower an officer not below the rank of an Assistant Commissioner or an Advocate or a Chartered Accountant or a Tax Practitioner enrolled in the prescribed manner to perform the functions of a State Representative.

(3) In proceedings before the Appellate Tribunal, the State Representative shall be competent, -

(a) to prepare and sign applications, appeals and other documents,

(b) to appear, represent, act and plead,

(c) to receive notices and other processes, and

(d) to do all other acts connected with such proceedings, on behalf of the Government or any officer appointed under this Act.

Section 59 - Instructions to Subordinate Authorities

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(1) The Government and the Commissioner may from time to time, issue such orders, instructions and directions to all officers and persons employed in the execution of this Act as they may deem fit for the administration of this Act, and all such officers and persons shall observe and follow such orders, instructions and directions of the Government and the Commissioner.

(2) No such orders, instructions, or directions shall be issued under sub-section (1) so as to interfere with the discretion of any appellate authority in the exercise of its appellate functions.

(3) All officers and persons employed in the execution of this Act, shall observe and follow such administrative instructions as may be issued to them for their guidance by the Additional Commissioner or Joint Commissioner within whose jurisdiction they perform their functions.

(4) Without prejudice to the generality of the foregoing power, the Commissioner may, on his own motion or on an application by a registered dealer liable to pay tax under the Act, if he considers it necessary or expedient so to do, for the purpose of maintaining uniformity in the work of assessments and collection of revenue, clarify the rate of tax payable under this Act in respect of goods liable to tax under the Act, and all officers and persons employed in the execution of this Act shall observe and follow such clarification.

(5) No such application under sub-section (4) shall be entertained unless it is accompanied by proof of payment of such fee, paid in such manner, as may be prescribed.

Section 60 - Clarification and Advance Rulings

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(1) The Commissioner may constitute an Authority for Clarification and Advance Rulings, consisting of three Additional Commissioners, to clarify the rate of tax in respect of any goods or the exigibility to tax of any transaction under the Act.

(2) Any registered dealer seeking clarification or advanced ruling under this Section shall make an application to the Authority in such form and accompanied by proof of payment of such fee, paid in such manner as may be prescribed.

(3) No officer or any other authority of the Department or the Appellate Tribunal shall proceed to decide any issue in respect of which an application has been made by an applicant under this Section.

(4) The order of the authority shall be binding only on the applicant who seeks clarification and only in respect of the goods or transaction in relation to which a clarification is sought and also only on all the subordinate officers.

(5) The order of the Authority under this Section shall be binding as aforesaid unless there is a change in law or facts on the basis of which the order was passed.

(6) Where the authority finds, on a representation made to it by any officer or otherwise, that an order passed by it was obtained by the applicant by fraud or mis-representation of facts, it may, by order, declare such order to be void ab initio and thereupon all the provisions of this Act shall apply to the applicant as if such order had never been made.

(7) Subject to the provisions of Section 66, every order passed under this Section shall be final.

Section 61 - Jurisdiction of officers and change of incumbent of an office

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(1) The Additional Commissioners, Joint Commissioners, Deputy Commissioners, Assistant Commissioners and Commercial Tax Officers shall perform their functions in respect of such areas or of such dealers or classes of dealers or of such cases or classes of cases as the Commissioner may direct.

(2) The word case' in relation to any dealer specified in any order or direction issued thereunder means all proceedings under this Act in respect of any year which may be pending on the date of such order or direction or which may have been completed on or before such date, and includes also all proceedings under this Act which may be commenced after the date of such order or direction in respect of any year.

(3) Whenever in respect of any proceeding under this Act, any prescribed authority ceases to exercise jurisdiction and is succeeded by another who may exercise that jurisdiction, the authority or officer so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor.

(4) The person concerned may demand that before the proceeding under sub-section (3) is so continued, the previous proceeding or any part thereof be reopened or that before any order is passed against him, he be reheard.