

**THE UTTAR PRADESH VALUE ADDED TAX RULES, 2008****UTTAR PRADESH SHASAN****SANSTHAGAT VITTA, KAR EVAM NIBANDHAN ANUBHAG-2**

In pursuance of the provisions of Clause (3) of Article 348 of the Constitution, the Governor is pleased to order the publication of the following English translation of Government notification No. KA.NI.-2-1052/XI-9(295)/07-U.P. Act.-5-2008-VAT Rules-08-Order (15)-2008 dated March 27, 2008:-

**NOTIFICATION**

**No. KA.NI.-2-1052/XI-9 (295)/07-U.P. Act.-5-2008-VAT Rules-08-Order (15)-2008**

**Lucknow: Dated: March 27, 2008**

Whereas, the State Government is satisfied that it is necessary so to do in the public interest;

Now, there, in exercise of the power under Section 79 read with Section 74 of the Uttar Pradesh Value Added Tax Act, 2008 (U.P. Act No. 5 of 2008) read with Section 21 of the Uttar Pradesh General Clauses Act, 1904 (U.P. Act No. 1 of 1904), and in supersession of Government Notification No. KA. NI.-2-02/XI-9 (295)/07-U.P. Ordi.-37-2007-U.P. VAT Rules-08-Order-(01)-2008 dated January 01, 2008, the Governor is pleased to make the following rules with effect from January 01, 2008:-

The Governor, being satisfied that circumstances exist which render it necessary for him to take immediate action, is further pleased under the proviso to sub-section (3) of Section 79 of the said Act to make the following rules without previous publication:-

**THE UTTAR PRADESH VALUE ADDED TAX RULES, 2008****CHAPTER I****PRELIMINARY**

- 1. Short Title & Commencement.** These rules may be called the Uttar Pradesh Value Added Tax Rules, 2008.
- 2. Definitions.** (1) In these rules unless there is anything repugnant in the subject and context:
  - (a) **“Act”** means The Uttar Pradesh Value Added Tax Act, 2008 (U.P. Act No. 5 of 2008);
  - (b) **“Additional Commissioner”** means a person appointed by the State Government as Additional Commissioner of Commercial Taxes to perform the functions assigned to him and to exercise the power of an Additional Commissioner.

- (c) **“Assessing Authority”** Shall include -
- (i) A Joint Commissioner (assessment) appointed and posted by the State Government in a corporate circle to perform the functions and exercise the powers of assessing authority;
  - (ii) A Deputy Commissioner or an Assistant Commissioner appointed by the State Government and posted either by the State Government or by the Commissioner or a Commercial Taxes Officer appointed and posted by the Commissioner;
    - (a) in a circle to perform the functions and exercise the powers of an assessing authority in such circle;
    - (b) in any offices of the Department and empowered under rule 5 to exercise powers under sections 45, 48 and 49.
- (d) **“Assistant Commissioner”** means any person appointed by the State Government as such and posted by the Commissioner to perform the functions and exercise the powers of Assistant Commissioner;
- (e) **“Accountant”** means a Chartered Accountant as defined in Chartered Accountants Act, 1949, or a member of an Association of Accountants recognized in this behalf by the Central Board of Revenue.
- (f) **“Authorized Representative”** means a person having registered general power of attorney or special power of attorney to represent the case of a dealer and who is-
- (i) either a relative or a person employed by the dealer; or
  - (ii) any person who has been a member of the Uttar Pradesh Commercial Tax Service or the Uttar Pradesh Trade Tax Service and has held the post of an officer not below the rank of an Assistant Commissioner except an officer who has been a member of the Settlement Commission.
- (g) **“Commercial Taxes Officer”** means a person appointed and posted as such by the Commissioner.
- (h) **“Circle”** means a Commercial Tax Circle notified by the Commissioner under these rules and includes a corporate circle.
- (i) **“Corporate circle”** means a Commercial Tax Circle comprising dealers such as company, corporation and such other dealers as may be specified by the Commissioner.
- (j) **“Department”** means the Department of Commercial Taxes of the State Government.
- (k) **“Deputy Commissioner”** means any person appointed by the State Government as the Deputy Commissioner of Commercial Taxes and includes:-

- (i) a Deputy Commissioner (Assessment) posted in a circle to perform the functions and to exercise powers of an assessing authority;
  - (ii) a Deputy Commissioner (Check-post), a Deputy Commissioner (Enforcement) or a Deputy Commissioner (Special Investigation Branch) empowered under these rules to perform the functions and to exercise powers under sections 45 and 48;
  - (iii) Deputy Commissioner (Registration) posted in a circle to deal with issue, suspension, cancellation and other matters related with registration of dealers and to perform the functions and to exercise powers of an assessing authority by virtue of his posting in such circle;
  - (iv) Deputy Commissioner (Administration) posted in a circle to discharge the duties assigned to him in respect of general administration and to exercise powers of an assessing authority by virtue of his posting in such circle;
  - (v) Deputy Commissioner (Tax Recovery) having powers of an Assistant Collector and empowered to recover amount of tax, fee, penalty or any other sum fallen due under the Act; and to exercise powers of an assessing authority by virtue of its posting in such circle.
- (l) **“Electronic payment”** means payment through electronic medium.
- (m) **“Form”** means a form appended to these rules.
- (n) **“Joint Commissioner”** means any person appointed by the State Government as a Joint Commissioner of Commercial Taxes and includes:-
- (i) a Joint Commissioner (Executive) of a region;
  - (ii) a Joint Commissioner (Appeal) empowered to exercise powers of an appellate authority under Section 55;
  - (iii) a Joint Commissioner (Check-post), a Joint Commissioner (Enforcement) or a Joint Commissioner (Special Investigation Branch) empowered to exercise powers under Sections 45 and 48;
  - (iv) a Joint Commissioner (assessment) posted in a corporate circle empowered to exercise the power of an assessing authority.
- (o) **“Lawyer”** includes a Barrister at law and an advocate, registered with any State Bar Council or Bar Council of India.
- (p) **“Online payment”** means electronic transfer of funds from payer’s Bank account into the payee’s Bank Account.
- (q) **“Range”** means area within the jurisdiction of a Deputy Commissioner.

- <sup>1</sup>[(r) "**Region**" means area within the jurisdiction of a Joint Commissioner (Executive) or Joint Commissioner (Special Investigation Branch) or Joint Commissioner (Enforcement) comprising approximately ten sectors or such area as may be specified in the notification or order issued under rule 3.]
- (s) "**Special Commissioner**" means any person appointed as Special Commissioner of Commercial Taxes by the State Government to perform the functions and exercise the powers of a Special Commissioner.
- (t) "**Section**" means a section of the Act.
- (u) "**Sector**" means segment of a circle including such area of the circle as may be determined by the Commissioner comprising of approximately one thousand dealers.
- (v) "**State Representative**" means an officer not below the rank of an Assistant Commissioner posted by the State Government or the Commissioner as such to represent and argue the case on behalf of the State Government or Commissioner before Settlement Commission, Tribunal, Additional Commissioner (Appeal) or a Joint Commissioner (Appeal), as the case may be, and includes-
- (i) An assessing authority who has passed the order under challenge;
  - (ii) an Advocate or a Chartered Accountant engaged by the State Government or the Commissioner to represent the State Government or the Commissioner, as the case may be, in any particular case or class of cases;
  - (iii) in the case of temporary absence of leave or otherwise of State Representative, an officer not below the rank of an Assistant Commissioner authorized in writing by an Additional Commissioner or by a Joint Commissioner (Executive);
  - (iv) any person who has held the post of an officer not below the rank of Assistant Commissioner and who has been duly authorized by the Commissioner in this behalf; or a person who has been a member of the Uttar Pradesh Commercial Tax service or the Uttar Pradesh Trade Tax Service except a person who has been a member of the Settlement Commission.
- (w) "**Treasury**" means a Government Treasury in Uttar Pradesh and includes a sub-treasury.

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1. Substituted by Notification No. Ka.Ni.-2-260/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(40)-2009 dated 30-01-2009. Before substitution Clause (r) of sub-rule (1) of Rule 2 was as under:

(r) "**Region**" means area within the jurisdiction of a Joint Commissioner (Executive) comprising of approximately ten sectors

- (x) "**Zone**" means area within the jurisdiction of an Additional Commissioner comprising of the area not less than two regions.
- (2) Words and expressions not defined in these rules but defined in the Act shall have the meaning assigned to them in the Act.

**3. Power to Create Zone, Region, Range and Circle.** (1) The State Government may by notification in the Gazette –

- (a) create or abolish the -
- (i) Zone of an Additional Commissioner;
- (ii) Region of a Joint Commissioner (Executive), a Joint Commissioner (Appeals);
- (iii) range of a Deputy Commissioner (Check Post), a Deputy Commissioner (Enforcement) or a Deputy Commissioner (Special Investigation Branch); and notify the circles or part of a circle or sector that are included in such zone, region or range, as the case may be.
- (b) specify the circles or part of a circle or a sector that are included in the jurisdiction of a member Tribunal.
- (2) The Commissioner may create or abolish
- (a) a circle and fix or re-fix the limits thereof,
- (b) a sector within a circle and fix or re-fix the limits of a sector;
- <sup>1</sup>(3) The Commissioner shall determine the respective jurisdiction of an Additional Commissioner (Appeal), a Joint Commissioner (Special Investigation Branch) or Joint Commissioner (Enforcement) or Joint Commissioner (Appeal) or Joint Commissioner (Executive) or Joint Commissioner (Assessment) in corporate circle, Deputy Commissioner of a range, Deputy Commissioner, Assistant Commissioner or Commercial Taxes Officer where there are more than one-

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1. Substituted by Notification No. Ka.Ni.-2-260/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(40)-2009 dated 30-01-2009. Before substitution sub-rule (3) of Rule 3 was as under:

- (3) The Commissioner shall determine the respective jurisdiction of an Additional Commissioner or a Joint Commissioner (Special Investigation Branch) or Joint Commissioner (Enforcement) of a Zone, Joint Commissioner(Executive) of a region, Joint Commissioner (Assessment) in a corporate circle, Deputy Commissioner of a range, Deputy Commissioner, Assistant Commissioner or Commercial Taxes Officer where there are more than one-
- (a) Additional Commissioner or a Joint Commissioner (Special Investigation Branch) or Joint Commissioner (Enforcement) in a zone; Joint Commissioner (Appeals), Joint Commissioner (Executive) in a region; Joint Commissioner (Assessment) in a corporate circle; or
- (b) Deputy Commissioner (Check Post) Deputy Commissioner (Enforcement) or Deputy Commissioner (Special Investigation Branch) in a range; or

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- (a) Additional Commissioner (Appeal), Joint Commissioner (Special Investigation Branch) or Joint Commissioner (Enforcement), Joint Commissioner (Appeal), Joint Commissioner (Executive) in a Zone; or
- (b) Deputy Commissioner (Check Post), Deputy Commissioner (Enforcement) or Deputy Commissioner (Special Investigation Branch) in a region; or
- (c) Deputy Commissioner (Assessment), Assistant Commissioner (Assessment) or Commercial Taxes Officer in a circle,

**Explanation:** In determining the respective jurisdiction of officers under sub-rule (3), it shall be open to the Commissioner to direct that an officer will exercise jurisdiction over such dealers or class of dealers as may be specified by him, and unless directed otherwise, the successor in office shall exercise the same jurisdiction and may proceed with the cases from the stage at which they were left by such officer.]

- 4. Authorities under the Act** - (1) Authorities mentioned in column (2) shall be under the superintendence and administrative control of the authorities mentioned in column (3) of the table below:-

**Table**

<b>Sl. No.</b>	<b>Authorities</b>	<b>Superintendence and control</b>
<b>1.</b>	<b>2.</b>	<b>3.</b>
(1)	Chairman of Settlement Commission, President Tribunal and Commissioner	The State Government
(2)	Members of Tribunal	President of Tribunal
(3)	Member of Settlement commission	Chairman of Settlement Commission
(4)	Registrar of Tribunal	President Tribunal
(5)	Registrar of Settlement Commission	Chairman of Settlement Commission,

- (c) Deputy Commissioner (Assessment), Assistant Commissioner (Assessment) or Commercial Taxes Officer in a circle,

**Explanation:** In determining the respective jurisdiction of officers under sub-rule (3), it shall be open to the Commissioner to direct that an officer will exercise jurisdiction over such dealers or class of dealers as may be specified by him, and unless directed otherwise, the successor in office shall exercise the same jurisdiction and may proceed with the cases from

the stage at which they were left by such officer.

(6)	Special Commissioner, Additional Commissioner and Joint Commissioner and all other Officers	Commissioner
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- (2) The Settlement Commission, President of Tribunal and Commissioner shall have jurisdiction over whole of the State.
- (3) The Chairman and members of the Settlement Commission shall exercise powers and perform the functions assigned to them under section 65 of the Act and Rules framed there under.
- (4) President and members of the Tribunal shall exercise the powers and perform the duties assigned to them under section 57 and rules framed there under.
- (5) The Commissioner shall exercise the powers and perform the duties assigned to him under the Act and the rules framed there under and shall have all powers exercisable by subordinate authorities other than the appellate authority under Section 55.
- (6) The Commissioner may issue instructions consistent with the provisions of the Act and the rules made there under to his subordinate officers, generally regulating the procedure to be followed in carrying out the provisions of the Act or the rules made thereunder:
- (7) Subject to general control of the Commissioner-
  - (a) Special Commissioner and all Additional Commissioners shall also exercise powers vested in the Commissioner;
  - (b) All Joint Commissioners and Deputy Commissioners shall exercise the powers conferred upon and perform the duties assigned to them by or under the Act or the rules made there under.
  - (c) All other officers shall exercise the powers and perform the duties as may be assigned to them under the Act and rules framed thereunder.
- (8) The State Government may, for the purpose of carrying out the provisions of the Act or rules framed there under, appoint or post such other officers by name or by designation as it may deem fit.
- (9) Authorities under the Act shall exercise their powers in their respective jurisdictions as may be prescribed or as may be notified by the State Government in exercise of the powers vested in it under the rules.
- (10) Except Chairman and Members of the Settlement Commission, President and Members of the Tribunal, all other authorities shall, subject to superintendence and general control of the Commissioner,

exercise powers as are consistent with the provisions of the Act or these Rules.

**Provided** that in the exercise of such superintendence and control, no order, instructions or directions shall be given by the Commissioner so as to interfere with the discretion of the Appellate Authority in the exercise of its appellate functions.

- <sup>1</sup>[(11) Notwithstanding any thing contained in any other rule, when any officer is unable to discharge his functions owing to illness, absence or any other cause or in the event of any vacancy in any office of Additional Commissioner, Joint Commissioner, the Commissioner shall have power to authorize to discharge the functions assigned to such Additional commissioner and Joint Commissioner to other Additional Commissioner or Joint commissioner as specified in the order. Upon the issuing of an order under this sub rule the Additional Commissioner or Joint Commissioner in whose favour such authorization have been made shall have all powers of Additional Commissioner or Joint Commissioner, as the case may be, having Jurisdiction in such office.]
- <sup>2</sup>[(12) The State Government or the Commissioner with prior approval of the State Government shall have power to modify or amend the format of any Form and extend the time limit to file any Form under these rules.]

**5. Powers with respect to assessment and matters incidental thereto.** (1) A Joint Commissioner, a Deputy Commissioner, an Assistant Commissioner and a Commercial Taxes Officer shall have power to exercise powers of an assessing authority and registering authority in their respective jurisdictions.

- (2) A Deputy Commissioner, an Assistant Commissioner or a Commercial Taxes Officer empowered to exercise powers under sections 45 and 48 and every officer, except an officer below the rank of a Commercial Taxes Officer, posted at a check-post or a barrier established under section 49, shall be deemed to be assessing authority in the circle in which office of such officer is situated.
- (3) Subject to the provisions of rule 6, Joint Commissioner (Assessment) posted in a corporate circle, Deputy Commissioner, Assistant Commissioner or a Commercial Taxes Officer posted in a circle, shall be the assessing authority in respect of the dealers carrying on business within the limits of his jurisdiction and where Joint Commissioner (Assessment) posted in a corporate circle, Deputy Commissioner, Assistant Commissioner or a Commercial

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1. Sub-rule (11) of Rule 4 inserted by Notification No. Ka.Ni.-2-260/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(40)-2009 dated 30-01-2009.
  2. Sub-rule (12) of Rule 4 inserted by Notification No. KA.Ni.-2-241/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(55)-2010 dated 04-02-2010



w.e.f. 04-02-2010.

Taxes Officer shall have concurrent jurisdiction over all dealers but the Commissioner may specify the dealers or class of dealers or cases or class of cases in respect of which each such officer shall exercise the powers of an assessing authority.

- (4) Registering authority posted or nominated by Commissioner in a circle shall have concurrent jurisdiction with all other assessing authorities of such circle.
- (5) Officers under column (1) shall be empowered to exercise all or any of the powers under sections 45 and 48 in the jurisdiction mentioned against each of them in column (2) of the table below: -

**Table**

<b>Officers' designation</b>	<b>Jurisdiction</b>
<b>(1)</b>	<b>(2)</b>
Commissioner and Special commissioner	Whole of the State
Additional Commissioner, Joint Commissioner, Deputy Commissioner, Assistant Commissioner and Commercial Taxes Officer posted in the office of the Commissioner	Whole of the State
Joint Commissioner (Enforcement), Deputy Commissioner (Enforcement), Deputy Commissioner (check-post), all Deputy Commissioners, Assistant Commissioners, and Commercial Taxes Officers posted in Special Investigation Branch, Mobile Squad or at a check-post or a Barrier	Whole of the State
Joint Commissioner (Executive)	Region
Joint Commissioner (Assessment) posted in a corporate circle	Corporate circle
Deputy Commissioner, Assistant Commissioner and Commercial Taxes Officer posted in a circle	Circle
All other Officers except Chairman and Members of the Settlement Commission, President and Members of the Tribunal, 'Additional Commissioner (Appeals), Joint Commissioner (Appeals) and Officers of the Settlement Commission and the Tribunal.	As the State Government may specify by notification in the Gazette.

**Provided** that the prior permission of the next higher authority shall be necessary before any powers under the said sections are exercised by any of the aforesaid authorities beyond the limits of his jurisdiction:

**Provided further** that officers, posted in the office of the Commissioner, shall exercise powers with the prior permission of the Commissioner.

- (6) Officers empowered under sub-rule (5) to exercise powers under sections 45 and 48 shall have concurrent jurisdiction with assessing authorities posted in the circle or the circles in their jurisdiction.
- (7) For the purposes of these rules, a Deputy Commissioner or an Assistant Commissioner empowered or authorized under sub-section 11 of section 33 shall be deemed to be an assessing authority in the circle in which his office is situated.

**1[6. Jurisdiction of Assessing Authority.** (1) If a dealer carries on business within the limits of jurisdiction of only one Assistant Commissioner that officer shall be the Assessing Authority in respect of such dealer and the place where he carries on business shall be deemed to be his principal place of business.

- (2) If a dealer other than a casual dealer carries on business within the limits of jurisdiction of more than one Assistant Commissioner he shall, within thirty days of the commencement of business, declare one of the places of his business as his principal place of business in Uttar Pradesh and shall intimate all the Assistant Commissioners within whose limits of jurisdiction his places of business are situated. The Assistant Commissioner within whose limits of jurisdiction the principal place of business so declared by the dealer is situated shall be the Assessing Authority in respect of such dealer.

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1. Substituted by Notification No. Ka.Ni.-2-241/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(55)-2010 dated 04-02-2010 w.e.f. 04-02-2010. Before substitution Rule 6 was as under:

**6. Jurisdiction of Assessing Authority.** (1) If a dealer carries on business within the limits of jurisdiction of only one Assistant Commissioner that officer shall be the assessing authority in respect of such dealer and the place where he carries on business shall be deemed to be his principal place of business.

(2) If a dealer carries on business within the limits of jurisdiction of more than one Assistant Commissioner he shall, within thirty days of the commencement of business, declare one of the places of his business as his principal place of business in Uttar Pradesh and shall intimate all the Assistant Commissioners within whose limits of jurisdiction his places of business are situated. The Assistant Commissioner within whose limits of jurisdiction the principal place of business so declared by the dealer is situated shall be the assessing authority in respect of such dealer.

**Provided** that in the case of any department of the Central Government or of a State Government or of a Company, Corporation, undertaking, Board and Federation carrying on business within the limit of jurisdiction of more than one Assistant Commissioner, the Commissioner or any officer authorized by him in this behalf may order that each Assistant Commissioner within whose jurisdiction such department, Company, Corporation, undertaking, Board and Federation is carrying on business shall be the assessing authority in respect of the place or places of business within the limits of his jurisdiction, or

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permit such Department, Company, Corporation, undertaking, Board and Federation to declare one place of business as the principal place of business

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**Provided** that in the case of any department of the Central Government or of a State Government or of a Company, Corporation, undertaking, Board and Federation carrying on business within the limit of jurisdiction of more than one Assistant Commissioner, the Commissioner or any officer authorized by him in this behalf may order that each Assistant Commissioner within whose jurisdiction such department, Company, Corporation, undertaking, Board and Federation is carrying on business shall be the Assessing Authority in respect of the place or places of business within the limits of his jurisdiction or permit such Department, Company, Corporation, undertaking, Board and Federation to declare one place of business as the principal place of business in Uttar Pradesh, in which case the Assistant Commissioner, within whose limits of jurisdiction such declared principal place of business is situated, shall be the assessing authority in respect of such Department, Company, Corporation undertaking, Board and Federation.

- (3) If the principal place of business of a dealer other than a casual dealer is situated outside Uttar Pradesh and such dealer carries on business at only one place in Uttar Pradesh the Assistant Commissioner within whose limits of jurisdiction of the place of business in Uttar Pradesh is situated shall be the assessing authority in respect of such dealer.

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in Uttar Pradesh, in which case the Assistant Commissioner, within whose limits of jurisdiction such declared principal place of business is situated, shall be the assessing authority in respect of such Department, Company, Corporation undertaking, Board and Federation.

(3) If the principal place of business of a dealer is situated outside Uttar Pradesh and such dealer carries on business at only one place in Uttar Pradesh the Assistant Commissioner within whose limits of jurisdiction of the place of business in Uttar Pradesh is situated shall be the assessing authority in respect of such dealer.

(4) If the principal place of business of a dealer is situated outside Uttar Pradesh and such dealer carries on business at more than one place in Uttar Pradesh, he shall declare one of his places of business in Uttar Pradesh, as the principal place of business in Uttar Pradesh, within thirty days of commencement of business and shall intimate all the Assistant Commissioners within whose limits of jurisdiction his places of business are situated. The Assistant Commissioner within whose limits of jurisdiction the principal place of business so declared by the dealer, is situated shall be the assessing authority in respect of such dealer.

(5) If no declaration as required under sub-rule (2) or sub-rule (4) is made by a dealer within the time specified therein, the Commissioner or any officer not below the rank of joint Commissioner, authorized by him in this behalf shall determine the Assistant Commissioner who will be the assessing authority in respect of such dealer and his decision shall be final.

(6) If a dealer has no fixed place of business, the Assistant Commissioner

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within whose limits of jurisdiction he ordinarily resides shall be the assessing authority in respect of such dealer.

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- (4) If the principal place of business of a dealer other than a casual dealer is situated outside Uttar Pradesh and such dealer carries on business at more than one place in Uttar Pradesh, he shall declare one of his places of business in Uttar Pradesh, as the principal place of business in Uttar Pradesh, within thirty days of commencement of business and shall intimate all the Assistant Commissioners within whose limits of jurisdiction his places of business are situated. The Assistant Commissioner within whose limits of jurisdiction the principal place of business so declared by the dealer, is situated shall be the assessing authority in respect of such dealer.
- (5) If no declaration as required under sub-rule (2) or sub-rule (4) is made by a dealer within the time specified therein, the Commissioner or any officer not below the rank of Joint Commissioner, authorized by him in this behalf shall determine the Assistant Commissioner who will be the assessing authority in respect of such dealer and his decision shall be final.
- (6) If a dealer has no fixed place of business, the Assistant Commissioner within whose limits of jurisdiction he ordinarily resides shall be the assessing authority in respect of such dealer.
- (7) In a case in which the driver or person-in-charge of a vehicle carrying goods referred to in sub-section (1) of Section 50, with the documents referred to in rule 58 to carry such goods outside the State and is found not to carry such goods outside the State, the Commissioner shall nominate the assessing authority for assessment and penal proceedings.

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(7) In a case in which Authorization for Transit of goods under section 52 has been obtained from a check-post, the officer-in-charge of such check-post and in any other case the officer who has issued such Authorization shall be the assessing authority for all purposes under the Act.

(8) No dealer, who has once made a declaration under above sub-rules or who has failed to make such declaration within the time specified therein, shall be allowed to change the same or, as the case may be, to make a declaration except with the previous written permission of the Commissioner or any officer authorized by him in this behalf, and on such conditions as he may deem fit to impose.

(9) Whenever there is any doubt or if any of the sub-rules of this rule do not apply, the commissioner shall determine the Assistant Commissioner who will be the assessing authority in respect of a dealer, and his decision shall be final.

(10) Notwithstanding anything contained in any other sub-rule, in a case in which any dealer affects a change in his place of business on any day after the first day of an assessment year and as a result of which there are more than one assessing authorities for single assessment year, the assessing authority in respect of last segment of period of business during the assessment year shall be deemed to be the assessing authority for such whole assessment year.

(11) Except sub-rules (7) and (10), all other sub-rules shall, mutatis mutandis,

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apply to a transporter, carrier or a forwarding agent, railway container contractor and an owner or person in charge of warehouse, cold storage or go-down who carry on business of a transporter, carrier or forwarding agent or of storage within the State.

- (8) No dealer, who has once made a declaration under above sub-rules or who has failed to make such declaration within the time specified therein, shall be allowed to change the same or, as the case may be, to make a declaration except with the previous written permission of the Commissioner or any officer authorized by him in this behalf, and on such conditions as he may deem fit to impose.
- (9) Whenever there is any doubt or if any of the sub-rules of this rule do not apply, the Commissioner shall determine the Assistant Commissioner who will be the assessing authority in respect of a dealer, and his decision shall be final.
- (10) Notwithstanding anything contained in any other sub-rule, in a case in which any dealer affects a change in his place of business on any day after the first day of an assessment year and as a result of which there are more than one assessing authorities for single assessment year, the assessing authority in respect of last segment of period of business during the assessment year shall be deemed to be the assessing authority for such whole assessment year.
- (11) Except sub-rules (7) and (10), all other sub-rules shall, mutatis mutandis, apply to a railway container contractor, air cargo operator or courier service provider or an owner or person in charge of warehouse, cold storage or go-down who carry on such business of railway container contractor, air cargo operator or courier service provider or an owner or person in charge of warehouse, cold storage or go-down within the State.]

## CHAPTER II INCIDENCE AND LEVY OF TAX

**7. Determination of turnover of sale.** For the purposes of determining turnover of sale, turnover of sales falling under sub-clauses (i), (ii) or (iii) of clause (a) of section 7, shall be deducted from gross turnover of sales.

**1[8. Determination of taxable turnover of sale.** For the purpose of determining taxable turnover of sale, amounts specified below shall be deducted from the turnover of sale, determined in accordance with rule 7, if included in such turnover of sale:

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1. Substituted by Notification No. Ka.Ni.-2-241/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(55)-2010 dated 04-02-2010 w.e.f. 04-02-2010. Before substitution Rule 8 was as under:

**8. Determination of taxable turnover of sale.** For the purposes of determining taxable turnover of sale, amounts specified below shall be deducted from the turnover of sale, determined in accordance with rule 7, if included in such turnover of sale:

- (i) all amounts allowed as discount provided that such discount is allowed in accordance with the normal trade practice.

(ii) Subject to provisions of the Act, all amounts allowed to purchasers in respect of goods returned by them to the dealer within six months from the date of sale of such goods:

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- (i) all amounts allowed as cash or trade discount at the time of sale as evident from the invoice;
- (ii) Subject to provisions of the Act, all amounts allowed to purchasers in respect of goods returned by them to the dealer within six months from the date of sale of such goods:  
**Provided that –**
  - (a) the selling dealer issues credit note to the purchasing dealer and obtains a debit note from purchasing dealer.
  - (b) the accounts show the dates on which the goods were sold and returned and also the date on which amount for which refund was made or credit was allowed;
- (iii) all amounts realized from the sale by the dealer of his business as a whole;
- (iv) in respect of non-vat goods, all amounts for which the dealer sells such goods after their purchase from inside the State;
- (v) all amounts representing turnover of sale of goods exempt under the Act;

**Provided that –**

- (a) the selling dealer issues credit note to the purchasing dealer and obtains a debit note from purchasing dealer;
- (b) the accounts show the dates on which the goods were sold and returned and also the date on which amount for which refund was made or credit was allowed;
- (iii) all amounts realized from the sale by the dealer of his business as a whole;
- (iv) in respect of non-vat goods, all amounts for which the dealer sells such goods after their purchase from inside the State;
- (v) all amounts representing turnover of sale of goods exempt under the Act;
- (vi) all amounts representing turnover of sales of goods where such sales are exempt from levy of tax in view of provisions of clause (c) of section 7;
- (vii) all amounts representing the sale value of goods in respect of which the dealer has opted the scheme of payment of lump sum in lieu of actual amount of tax on turnover of sale of goods under section 6;
- (viii) amount of tax payable on sale of goods by the dealer where such amount has been realized from the purchaser separately on a tax-invoice issued by the dealer;
- (ix) In the case of a dealer other than a dealer to whom section 6 applies, where tax is payable in respect of a sale and the dealer has not realized amount of tax from the purchaser separately, amount of tax computed using the formula:

Amount of tax = (Turnover x Rate of tax) ÷ (100+rate of tax);

Provided that turnover of sales in cases of transfer of property in goods

involved in the execution of a works contract and taxable turnover of sale of such goods; and turnover of sale and taxable turnover of sale in cases of transfer of right to use any goods, shall be determined in the manner provided under rule 9 and rule 10.

- (vi) all amounts representing turnover of sales of goods where such sales are exempt from levy of tax in view of provisions of clause (c) of Section 7;
- (vii) all amounts representing the sale value of goods in respect of which the dealer has opted the scheme of payment of lump sum in lieu of actual amount of tax on turnover of sale of goods under Section 6;
- (viii) amount of tax payable on sale of goods by the dealer where such amount has been realized from the purchaser separately on a tax-invoice issued by the dealer;
- (ix) In the case of a dealer other than a dealer to whom Section 6 applies, where tax is payable in respect of a sale and the dealer is not entitled to realize or has not realized if entitled amount of tax from the purchaser separately, amount of tax computed using the formula:

Amount of tax =  $(\text{Turnover} \times \text{Rate of Tax}) \div (100 + \text{Rate of Tax})$ :

**Provided** that turnover of sales in cases of transfer of property in goods involved in the execution of a works contract and taxable turnover of sale of such goods; and turnover of sale and taxable turnover of sale in cases of transfer of right to use any goods, shall be determined in the manner provided under Rule 9 and Rule 10.]

**1[9. Determination of turnover of sale of goods involved in the execution of a works contract.** (1) Subject to other provisions of these rules, the tax on turnover of sale of goods where such sale is affected by way of transfer of property in goods (whether as goods or in some other form) involved in the execution of a work contract shall be computed on the taxable turnover of sale of taxable goods. For the purposes of determining the taxable turnover of sale of such goods, the amounts specified below shall be deducted if included in the gross amount received or receivable in respect of the works contract:-

- (a) all amounts representing the value of goods consumed in execution of the works contract; in which property in goods is not transferred in the execution of the works contract;

1. Substituted by Notification No. Ka.Ni.-2-241/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(55)-2010 dated 04-02-2010 w.e.f. 04-02-2010. Before substitution Rule 9 was as under:

**9. Determination of turnover of sale of goods involved in the execution of a works contract.** (1) Subject to other provisions of these rules, the tax on turnover of sale of goods where such sale is affected by way of transfer of property in goods (whether as goods or in some other form) involved in the execution of a work contract shall be computed on the taxable turnover of sale of taxable goods. For the purposes of determining the taxable turnover of sale of such goods, the amounts specified below shall be deducted if included in the gross amount received or receivable in respect of the works contract:-

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(a) all amounts representing the value of goods consumed in execution of the works contract; in which property in goods is not transferred in the execution of the works contract;

*(Continued on next page)*

- (b) all amounts representing the value of exempt goods and amount of profit thereon;
- (c) all amounts representing the rent paid or payable in respect of machinery and other equipments taken on hire for use in the execution of such works contract;
- (d) all amounts representing the value of service and labour and profit thereon;
- (e) all amounts representing the value of goods in which property has been transferred in the execution of the works contract as a result of sale in the course of inter-State trade or commerce;
- (f) all amounts representing the value of goods in which property has been transferred in the execution of the works contract as a result of sale in the course of export of goods out of the territory of India or sale in the course of import of goods into the territory of India;
- (g) all amounts representing the value of goods in which property has been transferred as a result of a sale outside the State;
- (h) all amounts representing the value of non-vat goods purchased from within the State in the circumstances in which the dealer executing the works contract himself is liable to pay tax on turnover of purchase of such goods;
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(b) all amounts representing the value of exempt goods and amount of profit thereon;

(c) all amounts representing the rent paid or payable in respect of machinery and other equipments taken on hire for use in the execution of such works contract;

(d) all amounts representing the value of service and labour and profit thereon;

(e) all amounts representing the value of goods in which property has been transferred in the execution of the works contract as a result of sale in the course of inter-state trade or commerce;

(f) all amounts representing the value of goods in which property has been transferred in the execution of the works contract as a result of sale in the course of export of goods out of the territory of India or sale in the course of import of goods into the territory of India;

(g) all amounts representing the value of goods in which property has been transferred as a result of a sale outside the State;

(h) all amounts representing the value of non-vat goods purchased from within the State in the circumstances in which the dealer executing the works contract himself is liable to pay tax on turnover of purchase of such goods;

(i) all amounts representing value of non vat goods where such goods are purchased by the dealer from a registered dealer.

(j) the amount representing the cost of establishment and other similar



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expenses of the contractor to the extent it is relatable to supply of labour and services, and profit thereon.

*(Continued on next page)*

- (i) all amounts representing value of non vat goods where such goods are purchased by the dealer from a registered dealer;
- (j) the amount representing the cost of establishment and other similar expenses of the contractor to the extent it is relatable to supply of labour and services, the profit thereon;
- (k) amount paid to sub-contractor for the execution of works contract on furnishing certificate obtained from the assessing authority of sub-contractor certifying that,-
  - (i) the sub-contractor is registered dealer under the Act;
  - (ii) the sub-contractor has disclosed turnover in the relevant return of tax period and has paid tax according to the provisions of the Act;
- (l) proportionate amount of actual cost of land required to be used in the construction of building, by the builder contractor where cost of such land is included in the amount received or receivable from the purchaser;

**Explanation:**

- (i) For the purposes of clauses (a) and (e) to (h), the value of goods referred to in such clauses includes amount of profit thereon.
- (ii) Actual cost of land required to be used in construction of building by the builder contractor means the value of land computed at rate notified by the Collector of the relevant district in accordance with the procedure laid down for determination of the value of land for the purpose of payment of stamp duty under the Indian Stamp Act, 1899.

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**Explanation:** For the purposes of clauses (a) and (e) to (h), the value of goods referred to in such clauses include amount of profit thereon.

(2) Where any amount has been deducted by the contractee from the amount of the contract on account of breach of any condition of the contract, such amount shall be deemed part of amount payable to the contractor in respect of such contract.

(3) Where accounts maintained by the contractor do not show separately the value of labour and services and amount of profit accrued on such labour and services, or accounts maintained by the dealer are not worthy of credence or if the dealer has not maintained accounts, for the purpose of determining turnover of goods in which transfer of property in goods has taken place, in cases other than those mentioned in the table below, an amount, representing twenty percent of gross amount received or receivable, shall be deducted towards labour and services and amount of profit accrued thereon and in the cases described or mentioned in column 2 of the table given bellow, amount of deduction towards such labour and services and amount of profit accrued

thereon shall be computed at the rate percentages, given in column 3 against the entry in column 2 of the table, of the amount received or receivable.

*(Continued on next page)*

- (2) Where any amount has been deducted by the contractee from the amount of the contract on account of breach of any condition of the contract, such amount shall be deemed part of amount payable to the contractor in respect of such contract.
- (3) Where accounts maintained by the contractor do not show separately the value of labour and services and amount of profit accrued on such labour and services, or accounts maintained by the dealer are not worthy of credence or if the dealer has not maintained accounts, for the purpose of determining turnover of goods in which transfer of property in goods has taken place, in cases other than those mentioned in the table below, an amount, representing twenty percent of gross amount received or receivable, shall be deducted towards labour and services and amount of profit accrued thereon and in the cases described or mentioned in column 2 of the table given below, amount of deduction towards such labour and services and amount of profit accrued thereon shall be computed at the rate percentages, given in column 3 against the entry in column 2 of the table, of the amount received or receivable.

**Table**

<b>Sl. No.</b>	<b>Description of works contracts</b>	<b>Rate</b>
1	2	3
1-	Fabrication and installation of plant and machinery	10%
2-	Fabrication and erection of structural works including fabrication, supply and erection of iron trusses, purline.	10%
3-	Fabrication and installation of cranes and hoists	10%

**Table**

<b>Sl. no.</b>	<b>Description of works contracts</b>	<b>Rate</b>
1	2	3
1-	Fabrication and installation of plant and machinery	10%
2-	Fabrication and erection of structural works including fabrication, supply and erection of iron trusses, purline.	10%
3-	Fabrication and installation of cranes and hoists	10%
4-	Fabrication and installation of elevator(lifts) and escalators	10%
5-	Supply and installation of air conditioning equipment including deep freezers, cold storage	10%

	plants, humidification plants and dehumidifier	
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*(Continued on next page)*

4-	Fabrication and installation of elevator (lifts) and escalators	10%
5-	Supply and installation of air conditioning equipment including deep freezers, cold storage plants, humidification plants and dehumidifier.	10%
6-	Supply and installation of air conditioners and air coolers.	10%
7-	Supply and fitting of electrical goods, supply and installation of electrical equipment including transformers.	10%
8-	Supply and fixing of furnitures and fixtures, partitions, including contracts of interior decorations.	10%

6-	Supply and installation of air conditioners and air coolers	10%
7-	Supply and fitting of electrical goods, Supply and installation of electrical equipment including transformers	10%
8-	Supply and fixing of furnitures and fixtures, partitions, including contracts of interior decorations	10%
9-	Construction of railway coaches and wagons on under carriages supplied by railways	10%
10-	Construction of bodies of motor vehicle and construction of trailers	10%
11-	Fabrication and installation of rolling shutters and collapsible gates	30%
12-	Civil works like construction of building, bridge, roads, dams, barrages, spillways and diversions, sewages and drainage system	30%
13-	Installation of doors, doors frames, windows, window frames and grills	30%
14-	Supply and fixing of tiles, slabs, stone and sheets	30%
15-	Sanitary fitting for plumbing, for drainage or sewerage system	30%
16-	Whitewashing, painting, and polishing	40%

**Explanation:** For the purposes of this rule, where period of execution of a works contract is spread over several tax periods or several assessment years, the aggregate, of all amounts of deductions towards labour and services; and amount of profit accrued thereon, shall not exceed the

percentage of the gross amount receivable in respect of execution of such works contract.

*(Continued on next page)*

9-	Construction of railway coaches and wagons on under carriages supplied by railways.	10%
10-	Construction of bodies of motor vehicle and construction of trailers.	10%
11-	Fabrication and installation of rolling shutters and collapsible gates.	30%
12-	Civil works like construction of building, bridge, roads, dams, barrages, spillways and diversions, sewages and drainage system	30%
13-	Installation of doors, doors frames, windows, window frames and grills.	30%
14-	Supply and fixing of tiles, slabs, stone and sheets	30%
15-	Sanitary fitting for plumbing, for drainage or sewerage system.	30%
16-	Whitewashing, painting, and polishing.	40%

**Explanation:** for the purposes of this rule,-

- (a) where period of execution of a works contract is spread over several tax periods or several assessment years; or
- (b) where a part of a works contract awarded to sub-contract relates to different category of works contract;  
or
- (c) where whole or part of a works contract is awarded to sub-contractors,  
the amount towards labour and services and the amount of profit accrued thereon claimed by contractor or sub-contractor together, shall not exceed the percentage of the gross amount received or receivable in respect of execution of each category of such works contract.

(4) For removal of doubts it is hereby made clear that, for the purposes of this rule, in arriving at the turnover of sale of goods involved in the execution of a work contract, amounts of following nature shall not be deducted from the gross amount receivable.

- (a) any amount proposed to be deducted in the name of any tax or fee or any other levy;
- (b) any amount which has been deducted by the contractee from the contractor as demurrage or penalty or a fine or in any other name for breach

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of any conditions of the contract or otherwise;

(c) any amount which has been deducted by the contractee from the contractor as compensation;

(4) For removal of doubts it is hereby made clear that, for the purposes of this rule, in arriving at the turnover of sale of goods involved in the execution of a works contract, amounts of following nature shall not be deducted from the gross amount receivable.

(a) any amount proposed to be deducted in the name of any tax or fee or any other levy;

(b) any amount which has been deducted by the contractee from the contractor as demurrage or penalty or a fine or in any other name for breach of any conditions of the contract or otherwise;

(c) any amount which has been deducted by the contractee from the contractor as compensation;]

**10. Determination of turnover of sale in cases of transfer of right to use any goods.** The tax on the turnover of sale where such sale of any taxable goods is effected by way of transfer of right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration shall be computed on taxable turnover. For the purpose of determining the taxable turnover of sale of such goods, the amounts specified below shall be deducted if they are included in the gross turnover-

(a) the amount representing the amount receivable in respect of transfer of right to use any exempt goods;

(b) amount receivable as penalty for defaults in payments or as damages or any loss caused to the goods by the person to whom such transfer was made;

(c) amount receivable in respect of transfer, delivery or supply of goods under the contract or agreement of transfer of right to use goods for any purpose where such transfer, by the lessor to the lessee, is made as a result of a sale-

(i) in the course of inter-state trade or commerce; or

(ii) outside the State; or

(iii) in the course of export of the goods out of the territory of India or in the course of import of goods into the territory of India.

**Explanation:** Where under an agreement of transfer of right to use any goods, such right is exercised in more than one assessment year, for the purpose of computing turnover for any assessment year subsequent to the assessment year in which actual date of transfer of right to use such goods falls, it shall be deemed that transfer of right to use such goods, for any such

subsequent assessment year, has been affected on the first day of each such subsequent assessment year.

**11. Determination of turnover of purchase.** The tax, payable in respect of turnover of purchase under the Act, shall be computed on the taxable turnover of purchase of taxable goods and for the purpose of determination of such turnover, amounts specified below shall be deducted from the gross turnover of purchase if they are included in such gross turnover:

- (a) all amounts allowed to the dealer as discount,

**Provided** that such discount is allowed in accordance with the normal trade practice or is in accordance with the terms of the contract or agreement entered into a particular case:

**Provided further** that the accounts show that the dealer has paid only the sum-originally charged by the person selling goods less the discount.

- (b) Subject to the provisions of the Act, all amounts allowed to the dealer in respect of any goods returned by him to the person selling such goods within six months of their receipt:

**Provided** that –

- (i) the purchasing dealer issues a debit note to the person selling the goods and receives a credit note, from such person, of the amount representing the purchase value of the goods so returned; and
- (ii) the accounts show the dates on which the goods were purchased, received and returned and also the dates on which the amount for which refund was received or credit was allowed by the selling person.
- (c) all amounts for which any non-vat goods are purchased from a registered dealer and purchasing dealer possesses sale invoice issued by the selling dealer;
- (d) all amounts representing turnover of purchase of taxable goods except non-vat goods where such taxable goods are purchased from registered dealers and purchasing dealer possesses tax invoice issued by the selling dealer;
- (e) all amounts representing turnover of purchase of exempt goods;
- (f) all amounts paid by a dealer for the purchase of a business as whole;
- (g) all amounts representing turnover of purchase of goods where such purchase is exempt from levy of tax in view of provisions of clause (c) of section 7;

- (h) all amounts representing turnover of purchase of goods where such purchase is covered under any of the sub-clauses (i), (ii) or (iii) of clause (a) of section-7.

**12. Manner of Payment of Tax, Penalty, Fee or any other amount due under the Act.** (1) Any amount of fee payable under the Act or these rules or cost of any form of declaration or certificate prescribed under these rules where amount of such fee or cost does not exceed Rupees one hundred shall be paid by affixing court fee stamps of equivalent amount on the application.

**Provided** that if court fee stamps are not available, the fee or cost of forms referred to in sub-rule (1) shall be deposited in the Government treasury in the manner prescribed under sub-rule(2)

- (2) Subject to provisions of rule (1) unless otherwise expressly provided, any amount payable under the Act or the rules as tax, fee, penalty, interest, composition money, sale proceeds, cost of forms of declaration or certificate or any other money shall be deposited in any of the following manners along with Treasury challan in quadruplicate:
- (a) in cash in any treasury or sub-treasury or State Bank of India or its subsidiary bank or any public sector bank, authorized to accept deposits under the Act; or
  - (b) by the draft drawn in favour of depositor on such bank; or
  - (c) by cheque either issued by the depositor to self on such bank or drawn in his favour in such bank; or
  - (d) by book transfer, in case of Government Department, if so desired; or
  - (e) by electronic payment.
- (3) On every copy of Treasury challan a registered dealer shall mention his Taxpayer's Identification Number. If the dealer or person depositing the money is not a registered dealer he shall write the words "A person other than registered dealer".
- (4) Treasury challan shall be in Form I.
- (5) Where any amount of security for release of seized goods is received in cash by any officer, such officer shall grant receipt in Form 385 prescribed for Government receipts to the person from whom the amount is received.
- (6) The Officer who has accepted cash amount under sub-rule (5) shall deposit such amount in the bank, treasury or sub-treasury in the manner provided in this rule on behalf of the dealer or the person on whose behalf it was received.

**Explanation:** Unless it is repugnant with subject or context for the purposes of these rules, bank includes its branches also.

**13. Procedure to be adopted by the bank and the treasury.** (1) If the cash amount, cheque or draft tendered or deposited by a person is in order, the bank shall accept and acknowledge it under the signature of the officer authorized for the purpose and seal of the bank. In the acknowledgement, the amount deposited shall be mentioned in words and figures both. The bank shall also put the serial number on each copy of the challan.

- (2) The serial number shall be prefixed by alphabets to identify the name of the bank and its branch.
- (3) The two copies marked "C" and "D" of the challan shall be returned to the depositor who shall submit the copy marked "C" to his Assistant Commissioner and retain the other copy marked "D" with him.
- (4) At the end of each day every branch of the bank shall send two copies of the challan marked "A" and "B" retained by it to its link branch nominated for the purpose in that district or as the case may be, the circle, duly stitched separately in the order of the challan number along with copies of the list of such challans.
- (5) The link branch shall send one copy marked "B" of the challan along with one copy of the list of such challans by the working day next following to the Assistant Commissioner of the District or as the case may be, the circle.
- (6) The link branch of each bank shall send the copies marked 'A' of the challans alongwith two copies of the list of such challans to the focal point branch of the State Bank of India nominated for the purpose by following working day. The focal point branch shall send the copies of the challan marked 'A' alongwith one copy of the list to the treasury officer by the next working day.

**14. Verification by treasury and reconciliation of discrepancy.** (1) The assessing authority shall maintain record of Treasury Challans marked as B received from link banks in form II and shall reconcile with the copy of the Treasury Challan marked as C submitted by the dealer.

- (2) If the assessing authority discovers any discrepancy between the copy of the Treasury Challans obtained from link bank and submitted by the dealer, he shall take the necessary steps regarding security of the revenue and also other actions as required by any other law for time being in force.
- (3) The assessing authority shall send to the Officer-in-charge of the treasury or sub-treasury a statement in Form III for verification of revenue receipt in the first week of every month
- (4) If any discrepancy is discovered at the time of verification, the assessing authority shall send necessary records to the treasury or sub-treasury for reconciliation of accounts.

**15. Intimation of deposits to the authorities concerned.** The assessing authority shall send intimation along with the copy of Treasury Challan



regarding the deposit of any amount to the officer or the authority concerned to whose office the deposit relates.

**16. Intimation by a dealer regarding discontinuance of business.** (1) A dealer referred to in sub-section (5) of section 3, shall, within thirty days of discontinuance of business intimate to his assessing authority in Form IV.

<sup>1</sup>[(2) If the assessing authority is satisfied that information furnished in the application is correct, he shall cancel the registration certificate under sub-section (11) of section 17 of the Act and shall inform the dealer accordingly.]

**17. Form of certificate to be issued by agent to his principal.** (1) Every dealer, who makes sale of any taxable goods belonging to a principal on behalf of such principal, shall issue certificate in respect of sale of goods and payment of tax to the principal in Form V.

(2) Every dealer, who makes purchase of any taxable goods for and on behalf of a principal, shall issue certificate about purchase of such goods and payment of tax in Form VI.

**18. Inventories to be maintained.** (1) Every dealer shall maintain inventory of goods held by him-

- (a) in opening stock on the date from which dealer is liable for payment of tax under the Act;
  - (b) in closing stock on the last day of every assessment year;
  - (c) in opening stock on the date on which period of composition under section 6 commences;
  - (d) in closing stock on the date on which period of composition under section 6 terminates; and
  - (e) in closing stock on the date of discontinuance of business.
- (2) Every manufacturer shall also prepare inventory of goods used in semi-finished goods and finished goods held by him in stocks on the dates given in sub-rule (1).
- (3) Inventories prepared under sub-rule (1) in respect of goods held by the dealer in the same form and condition in which those were purchased and inventories prepared under sub-rule (2), in respect of goods used or consumed in manufacture or processing of finished goods and semi-finished goods held by him, shall consists of quantity or measure of goods, their purchase value, amount of input tax.
- (4) Inventory of goods purchased from within the State and from outside the State shall be prepared separately.

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1. Substituted by Notification No. Ka.Ni.-2-260/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(40)-2009 dated 30-01-2009. Before substitution sub-rule (2) of Rule 16 was as under:-

(2) If the assessing authority is satisfied that information furnished in the

application is correct he shall start proceeding under sub-section (11) of section 17 of and shall inform the dealer accordingly.

- (5) Amount of input tax in respect of goods held by a dealer who is liable for payment of tax from the date of the commencement of the Act shall be computed in accordance with provisions of rule 19.
- (6) The Commissioner may prescribe the Form in which inventories shall be submitted to assessing authority.

**19. Computation of input tax in respect of goods held in opening stock on the date of commencement of the tax liability.** (1) Amount of input tax, in respect of any goods referred to in clause (c) of sub-section (1) of section 13, shall be computed using the equation:

$$\text{Amount of input tax} = (\text{Deemed purchase price of purchase of goods} \times \text{deemed rate of tax}) \div 100$$

Where-

- (a) "Deemed purchase price of goods" shall be-
  - (i) the sale price, where the registered selling dealer has charged any amount as tax, separately on the sale bill or cash memo issued to the dealer, under the Uttar Pradesh Trade Tax Act, 1948;
  - (ii) the purchase price on which the dealer has deposited tax, himself on purchase of such goods, under the Uttar Pradesh Trade Tax Act, 1948;
  - (iii) the purchase price where sale of goods, under the Uttar Pradesh Trade Tax Act, 1948, had been liable to tax at the point of sale to consumer and the dealer had purchased such goods without payment of tax after furnishing declaration in Form III-A, prescribed under the Uttar Pradesh Trade Tax Rules, 1948;
  - (iv) the purchase price where sale or purchase of such goods had been exempt from levy of tax under section 4 of the Uttar Pradesh Trade Tax Act, 1948;
  - (v) the purchase price where goods had been purchased without payment of tax from units enjoying exemption from payment of tax under any of the provision of the Uttar Pradesh Trade Tax Act, 1948;
  - (vi) seventy five percent of the purchase price of goods where-
    - (a) the dealer had purchased such goods from a registered dealer from within the State; and
    - (b) selling dealer has not charged separately any amount as trade tax under the Uttar Pradesh Trade Tax Act, 1948.
  - (vii) 55 percent of the closing stock of the trading account prepared for the period ending on 31 December 2007 where the dealer is unable to submit item wise inventory of the stock in the form

prescribed by the Commissioner or it is difficult to co-relate the items with bill/invoice/cash memo on account of large number or variety of goods (purchased from registered dealer inside the State within six month preceding the commencement of the Act) relating to trades of hardware, mill-stores, medicines, general merchandise, stationery, electrical goods, readymade garments, spices and condiments.

- (b) "Deemed rate of tax" shall be:
- (i) rate of tax at which tax had been –
    - (a) charged and shown separately on the sale invoice issued by the selling dealer; or the rate of tax provided under section 4, which ever is less or ;
    - (b) paid by the dealer on purchase of goods under the provisions of the Uttar Pradesh Trade Tax Act, 1948 ; or the rate of tax provided under section 4, whichever is less,
  - (ii) rate of tax prescribed under section 3-A or section 3-D of the erstwhile Act or the rate of tax provided under section 4 of the Act whichever is less, where, goods have been purchased from a registered dealer and sale bill or cash memo does not show separately amount of trade tax or where the dealer is unable to submit item wise inventory of the stock in the form prescribed by the Commissioner or it is difficult to co-relate the items with bill/invoice/cash memo on account of large number or variety of goods (purchased from registered dealer inside the State within six month preceding the commencement of the Act) relating to trades of hardware, mill-stores, medicines, general merchandise, stationery, electrical goods, readymade garments, spices and condiments.
  - (iii) nil in all other cases.

**Explanation:** Deemed rate under this rule shall not include one percent Development Tax paid or payable under section 3H of the Uttar Pradesh Trade Tax Act 1948.

- (2) Amount of input tax, in respect of any goods referred to in clause (d) of sub-section (1) of section 13 in case where tax has not been charged separately by the registered dealer in sale invoice, shall be computed using the equation:

$$\text{Amount of input tax} = \frac{\text{amount of sale price of goods} \times \text{applicable rate of tax}}{100 + \text{applicable rate of tax}}$$

Where-

- (a) the amount of sale price of goods is the sale price of goods shown on sale invoice
  - (i) bearing full name and complete address of the purchasing dealer; and

- (ii) has been issued by the registered selling dealer;
  - (b) “applicable rate of tax” means the rate of tax provided by or under section 4.
- 20. Submission of inventories.** (1) Every dealer shall submit, to his assessing authority a copy of inventories prepared by him under sub-rules (1) and (2) of rule 18 in respect of goods held by him-
- (a) in opening stock on the date of the commencement of the Act, where the dealer is liable for payment of tax from such date, within sixty days from the date of the commencement of the Act.
  - (b) in opening stock on the date from which dealer is liable for payment of tax, where such date falls after the date of the commencement of the Act, along with application for registration and;
  - (c) in closing stock on the last day of each assessment year along with annual return of turnover and tax
- (2) Every dealer, who-
- (a) discontinues his business, shall submit, to his assessing authority, along with tax return of the tax period in which he has discontinued his business, a copy of inventories prepared by him under sub-rules (1) and (2) of rule 18 in respect of goods held by him in closing stock on the date on which he has discontinued his business;
  - (b) opts for payment of tax under section 6, shall submit, to his assessing authority a copy of inventories prepared by him under sub-rules (1) and (2) of rule 18 in respect of goods held by him in opening stock on the date on which period of composition under section 6 commences, along with tax return of the tax period in which day preceding the date of commencement of period of composition falls;
  - (c) has, for any period, opted for payment of tax under section 6, shall submit, to his assessing authority a copy of inventories prepared by him under sub-rules (1) and (2) of rule 18 in respect of goods held by him in closing stock on the date on which period of composition under section 6 expires, along with tax return of the tax period in which day, succeeding the date on which period of composition has expired, falls.
- (3) Every dealer shall furnish the inventories as provided above in the form prescribed by the Commissioner.
- (4) In respect of clauses (a) and (b) of sub-rule (1),
- (a) If the assessing authority is satisfied that information furnished is correct and complete, he shall, before expiry of four months from the last date prescribed for filing the inventory as provided under clause(a) of sub rule(1), pass an order computing the input tax in accordance with the provisions of the Act and rules. A copy of the order so passed shall be served to the dealer.

- (b) If the assessing authority, on the basis material available on the record, is satisfied that information furnished is incorrect and incomplete or not worthy of credence, he shall, after giving a reasonable opportunity of being heard and making such enquiry as he deems fit, pass an order computing the input tax in accordance with the provisions of the Act and rules made thereunder. A copy of the order so passed shall be served to the dealer.
- (c) If the assessing authority fails to pass the appropriate order under sub clause (a) or sub clause (b) within prescribed period, the Joint Commissioner (executive) if he is satisfied that the sufficient reasons exist, may permit the assessing authority in general or in specific case to pass the order beyond the period of four month but before the last date prescribed for filing the return of the tax period in which claim of first installment of input tax credit is due.
- <sup>1</sup>(5) In respect of clauses (a) and (b) of sub-rule (2),
- (a) If the assessing authority is satisfied that information furnished is correct and complete, he shall, before expiry of one month from the last date prescribed for submitting the inventory as provided under clause (a) or clause (b) of sub-rule (2), pass an order computing the reverse input tax in accordance with the provisions of the Act and these rules. A copy of the order so passed shall be served to the dealer.
- (b) If the assessing authority, on the basis of the material available on the record, is satisfied that information furnished is incorrect and incomplete or not worthy of credence, or no inventory has been submitted, he shall, after giving a reasonable opportunity of being heard and making such enquiry as he deems fit, pass an order computing the reverse input tax in accordance with the provisions of the Act and these rules. A copy of the order so passed shall be served to the dealer.
- (c) The assessing authority shall debit the amount of reverse input tax in the account of input tax credit and if the account of input tax credit shows nil or negative figure, he shall serve notice of demand along with the order of reverse input tax credit passed under clause (a) or (b) and shall realize the amount of reverse input tax credit in accordance with the provisions of the Act and these rule.
- (6) In respect of clauses (b) of sub-rule (1) and clause (c) of sub-rule (2),-
- (a) If the assessing authority is satisfied that information furnished is correct and complete, he shall, pass an order computing the input tax credit in accordance with the provisions of the Act and these rules. A copy of the order so passed shall be served to the dealer

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1. Sub-rule (5) and (6) of Rule 20 inserted by Notification No. Ka.Ni.-2-260/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(40)-2009 dated 30-01-2009.

before expiry of last date prescribed for claiming the first installment of input tax credit on such stock, in the return of tax period.

- (b) If the assessing authority, on the basis of the material available on the record, is satisfied that information furnished is incorrect and incomplete or not worthy of credence, he shall, after giving a reasonable opportunity of being heard and making such enquiry as he deems fit, pass an order computing the input tax credit in accordance with the provisions of the Act and these rules. A copy of the order so passed shall be served to the dealer before expiry of last date prescribed for claiming the first installment of input tax credit on the stock, in the return of tax period.
- (c) If the assessing authority fails to pass the appropriate order under sub clause (a) or sub clause (b) within prescribed period, the dealer may claim the credit of input tax as provided under rule 24. However, if on passing order the claim is not found correct or claim is found for less amount, the dealer shall deposit the claim of excess amount of input tax credit along with interest provided under section 14 of the Act.]

**21. Input Tax Credit not to be allowed in certain cases.** (1) No credit of any amount of input tax shall be allowed in respect of goods which-

- (a) are brought or received by any dealer from any place outside the State whether such place is situated within the territory of India or outside such territory;
- (b) have been purchased without payment of tax either under the Uttar Pradesh Trade Tax Act, 1948 or under the Uttar Pradesh Value Added Tax Act, 2008;
- (c) have been purchased, on any date beyond a period of six months ending on the day preceding the date of the commencement of the Act, by a dealer who is liable for payment of tax with effect from the date of the commencement of the Act;
- (d) have been purchased, by a dealer who has become liable for payment of tax on any date after the date of the commencement of the Act, on any date before the date on which dealer has become liable for payment of tax, but on or after the date of commencement of the Act and beyond a period of six months ending on the date preceding the date on which such dealer has become liable to pay tax;
- (e) have been purchased from within the State, within a period of six months ending on the day preceding the date of such commencement, by a dealer who is liable for payment of tax with effect from the date of the commencement of the Act but the dealer does not possess purchase invoice issued by the selling registered dealer;

- (f) have been purchased from within the State, on any date before the date on which dealer has become liable for payment of tax, by a dealer who has become liable for payment of tax on any date after the date of the commencement of the Act but within a period of six months ending on the date preceding the date on which such dealer has become liable to pay tax but dealer does not possess a sale invoice, bearing his name and complete address, issued by the registered selling dealer;
- (g) have been purchased by a dealer, within a period of six months ending on the day preceding the date of the commencement of the Act, who is liable for payment of tax with effect from the date of such commencement, from within the State in the circumstances in which such dealer has been liable to pay tax on purchase of such goods, but the dealer, fails to prove that tax has been paid on purchase of such goods under the Uttar Pradesh Trade Tax Act, 1948;
- (h) have been purchased within a period of six months ending on the day preceding the date of the commencement of the Act by a dealer who is liable for payment of tax on and from the date of such commencement and where such goods have not suffered levy of tax under the provisions of the Uttar Pradesh Trade Tax Act, 1948; or
- (i) have been purchased after issue of Taxpayer's Identification Number but without obtaining tax invoice;
- (j) have been purchased after obtaining tax invoice but copy of tax invoice, marked as Original is not available and such purchase is not verifiable from the list filed by the selling dealer along with tax return; or
- (k) have been purchased by a dealer in the period commencing on the date on which such dealer has become liable to pay tax and ending on the date preceding the date on which Taxpayer Identification Number issued to him but the dealer does not possess a sale invoice, issued by selling dealer, bearing name and complete address of such dealer; or
- (l) are taxable goods, other than non-vat goods, but sale of such goods is not liable to tax in the hands of the purchasing dealer; or
- (m) are purchased after cancellation of registration certificate of the dealer; or
- (n) are capital goods within the meaning of clause (e) of section 2 of the Act and such capital goods-
  - (i) have been purchased by a dealer on any date before the date on which he has become liable for payment of tax;
  - (ii) have been purchased by a dealer for use or consumption in the manufacture of any exempt goods where such exempt goods

are not sold in the course of the export of the goods out of the territory of India; or

- (o) are capital goods but such goods, for the purpose of section 13, do not fall under the category of capital goods as defined in clause (f) of section 2; or
- <sup>1</sup>[(p) Omitted]
- (q) are taxable goods mentioned or described in column (2) of Schedule-IV;
- (r) are capital goods or heavy earth movers used by a dealer in the execution of works contract;
- (s) are motor vehicles or any other vehicle, used for carriage of passengers or goods or both; or
- (t) are air coolers, air conditioners, electric fans, heaters, air circulators, water coolers, water purifiers used in factory or workshop where the same are not connected with manufacture or processing, packing of goods for sale by the dealer;
- (u) are goods used in civil construction work related to office premises or furniture, fittings, office equipments, air coolers, air conditioners, electric fans, heaters, air circulators, water coolers, and water purifiers not connected with manufacturing process; or
- (v) are parts, components, accessories or consumables which are used for maintenance, repair or running of any goods for which facility of input tax credit is not admissible; or
- (w) are held by a dealer in opening stock, in the same form and condition in which those were purchased, on the date on which period of composition under section 6 commences; or
- (x) are goods which have been used or consumed in manufacture or processing of finished goods or semi-finished goods or in packing of such finished or semi-finished goods held by the dealer in opening stock on the date on which period of composition under section 6 commences; or
- (y) are held by a dealer in closing stock at the time of discontinuance of business in the same form and condition in which those were purchased; or

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1. Clause (p) of sub-rule (1) of Rule 21 omitted by Notification No. Ka.Ni.-2-260/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(40)-2009 dated 30-01-2009. Before omission clause (p) was as under:

(p) are captive power plant or parts, components or accessories of a captive power plant; or



- (z) are goods which have been used or consumed in manufacture or processing of finished or semi-finished goods or in packing of such finished or semi-finished goods held by the dealer in closing stock at the time of discontinuance of business; or
- (aa) are used or consumed in packing of any goods where such goods belong to any other person; or
- (ab) are used or consumed in manufacture or processing of goods or in packing of such manufactured or processed goods where such goods are manufactured or processed or packed for any other person; or
- (ac) are used or consumed in the manufacture or processing of any taxable goods other than non-vat goods or in packing of such manufactured or processed goods or any other goods where sale of the manufactured or processed goods or such other goods is not liable to tax in the hands of the purchasing dealer; or
- (ad) have been re-sold during the period of composition under section 6 ; or
- (ae) have been used or consumed in manufacture or processing of goods and such manufactured or processed goods have been sold in the period of composition under section 6 ; or
- (af) are gifted or otherwise distributed free of cost or lost, destroyed or stolen; or
- (ag) are used or consumed in manufacture or processing of any goods or packing of such manufactured or processed goods and such manufactured or processed goods are gifted or otherwise distributed free of cost or lost, destroyed or stolen; or
- (ah) are returned to selling dealer within a period of six months from the date of purchase; or
- (ai) are used in packing of any exempt goods and such exempt goods are not sold in the course of export of the goods out of the territory of India; or
- (aj) are used in manufacture or processing of any exempt goods or in packing of such manufactured or processed goods and such manufactured, processed or packed goods are disposed of in any manner other than by way of sale in the course of the export of the goods out of territory of India; or
- (ak) are used or consumed in manufacture or processing of any non-vat good or in packing of any non-vat goods; or
- (al) are any other goods in respect of which or any other circumstances in which any provision of the Act does not permit benefit of input tax credit

- <sup>1</sup>[(2) In respect of goods which are –
- (a) consigned outside the State otherwise than as a result of a sale in the same form and condition in which those were purchased; or
  - (b) used or consumed in manufacture or processing of any taxable goods or in packing of such goods and such manufactured or processed goods are consigned outside the State otherwise than as a result of a sale,
- credit of part amount of input tax obtained by using expression  $\{(P \times R) / 100\}$ , shall not be allowed:
- Where-
- (i) P is the purchase price of the goods consigned or used or consumed, as the case may be;
  - (ii) R is rate of tax applicable to the commodity under the Act if it is less than 4 and in other cases is equal to 4.]
- (3) No input tax credit shall be allowed on the basis of a tax invoice or sale invoice which has been obtained without making actual purchase of goods.
- (4) No credit of amount, of input tax in respect of which purchasing dealer has received credit note from the selling dealer, shall be allowed as input tax credit.
- (5) No credit of amount of input tax in respect of stock shall be allowed if the dealer fails to submit the inventories within prescribed time and in prescribed Form.
- (6) No credit of amount of input tax in respect of Development Tax paid or payable under section 3H of the Uttar Pradesh Trade Tax Act 1948, shall be allowed in any case or in any circumstances what so ever.

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1. Substituted by Notification No. Ka.Ni.-2-241/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(55)-2010 dated 04-02-2010 w.e.f. 04-02-2010. Before substitution sub-rule (2) of Rule 21 was as under:
- (2) In respect of goods which are -
- (a) consigned outside the State otherwise than as a result of a sale in the same form and condition in which those were purchased; or
- (b) used or consumed in manufacture or processing of any taxable goods or in packing of such goods and such manufactured or processed goods are consigned outside the State otherwise than as a result of a sale,
- credit of part amount of input tax obtained by using expression  $\{(P \times R)/100\}$ , shall not be allowed:
- Where-
- (i) P is the purchase price of the goods consigned or used or consumed, as the case may be;
- (ii) R is rate prescribed under sub-section (1) of section 8 of The Central Sales Tax Act 1956.
- (7) No credit of amount of input tax in respect of goods purchased before commencement of the Act shall be allowed if such goods are exempt under the Act.
- (8) No credit of amount of input tax in respect of goods purchased before the commencement of the Act, held in the opening stock on the date of such commencement, shall be allowed in case of the dealers who had availed the facility of compound scheme issued by the State Government in exercise of the power under section-7D of the Uttar Pradesh Trade Tax Act, 1948.
- (9) No credit of amount of input tax in respect of goods purchased before the commencement of the Act, held in the opening stock on the date of such commencement, shall be allowed in case of the dealers who had availed the facility of exemption on the purchase or on the sale under clause (c) of section 4 of the Uttar Pradesh Trade Tax Act, 1948.
- <sup>1</sup>(10) No credit of amount of input tax shall be allowed in case of paddy used in manufacturing of rice for sale if dealer has availed the benefit of provision of clause (c) of section 15 of the Central Sales Tax Act 1956
- (11) No credit of amount of input tax shall be allowed on the purchase of goods and held in opening stock on the day when the such goods has been declared exempt under section 7 of the Act or such goods has been included in Schedule I.
- (12) No credit of amount of input tax shall be allowed in respect of purchases of vat goods which has been sold to registered dealer by a registered dealer and such selling registered dealer has not issued tax invoice.]
- 22. Computation of amount of reverse input tax credit by a trader. (1)**  
Where a dealer, who carries on exclusive business of purchase and re-sale of

goods (hereinafter in this rule referred to as the trader) and who has claimed input tax credit of full amount of input tax in respect of any goods, uses, consumes, disposes of or dispossesses such goods in a manner in which he either is not entitled to claim any amount of input tax credit or is entitled to claim input tax credit of an amount which is lesser than the amount of input tax, shall compute amount of reverse input tax credit in respect of such goods.

- (2) Amount of reverse input tax credit, in respect of any quantity or measure of any goods in respect of which a trader has not been entitled to claim any amount as input tax credit, shall be equal to the amount of input tax in respect of such quantity or measure of such goods.

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1. Sub-rule (10), (11) and (12) of Rule 21 inserted by Notification No. Ka.Ni.-2-260/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(40)-2009 dated 30-01-2009.

- <sup>1</sup>[(3) Amount of reverse input tax credit, in respect of any quantity or measure of any goods which have been consigned by the trader outside the State otherwise than by reason of an inter-State sale, shall be computed using the expression:

$$P \times R / 100$$

Where, in respect of quantity or measure of goods consigned outside the State,-

- (i) P is the purchase price, according to the tax invoice or purchase invoice in respect of which input tax credit has been claimed of full amount of input tax; and
- (ii) R is rate of tax applicable to the commodity under the Act if it is less than 4 and in other cases is equal to 4.]
- (4) In respect of any quantity or measure of any goods held by a trader who-
- (i) opts for payment of tax under section 6, in opening stock on the date from which provisions of section 6 apply; and
- (ii) discontinues his business, in closing stock, on the date on which he has discontinued business, amount of reverse input tax credit shall be computed in accordance with provisions of sub-rule (2).

**23. Computation of reverse input tax credit in cases of a dealer other than trader.** (1) In case of a dealer, other than a dealer referred to in sub-rule (1) of rule 22, amount of reverse input tax credit, in respect of any quantity or measure of any goods-

- (a) held by the dealer in stock as referred to in sub-rule (4) of rule 22 in the same form and condition in which they were purchased; or
- (b) used, consumed, disposed of or dispossessed, in the same form and condition in which they were purchased, in a manner in which he either is not entitled to claim any amount of input tax credit or is

entitled to claim input tax credit of an amount which is lesser than the amount of input tax; or

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1. Substituted by Notification No. Ka.Ni.-2-241/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(55)-2010 dated 04-02-2010 w.e.f. 04-02-2010. Before substitution sub-rule (3) of Rule 22 was as under:

(3) Amount of reverse input tax credit, in respect of any quantity or measure of any goods which have been consigned by the trader outside the State otherwise than by reason of an inter-State sale, shall be computed using the expression:

$$P \times R / 100$$

Where, in respect of quantity or measure of goods consigned outside the State,-

- (i) P is the purchase price, according to the sale invoice, in respect of which input tax credit has been claimed of full amount of input tax; and
- (ii) R is the rate prescribed under sub section (1) of section 8 of the Central Sales Tax Act 1956.
- (c) consigned by the trader outside the State otherwise than by reason of an inter-State sale, shall be computed in accordance with provisions of various sub-rules of rule 22, as may be applicable.
- (2) Where a dealer has used or consumed any quantity or measure of any goods in manufacture or processing of any other goods or in packing of such goods but he has used, consumed, disposed of or disposed in a manner in which he either is not entitled to claim any amount of input tax credit or is entitled to claim input tax credit of an amount which is lesser than the amount of input tax, for the purpose of computing amount of reverse input tax credit, the dealer shall compute the quantity or measure of all goods used or consumed in manufacture, processing or packing of goods and thereafter, he shall compute amount of reverse input tax credit for the quantity or measure of all such goods used or consumed in accordance with sub-rule (1) or sub-rule (2) of rule 22, as may be applicable.
- (3) Where a dealer has used or consumed any quantity or measure of any goods in manufacture or processing of any semi-finished goods or in manufacture, processing or packing of any manufactured or processed goods and such semi-finished or finished goods are held in stock on any date, he shall compute amount of reverse input tax credit for the quantity or measure of all such goods used or consumed in manufacture or processing or packing of such semi-finished or finished goods in accordance with sub-rule (1) or sub-rule (2) of rule 22, as may be applicable.
- (4) For the purpose of computing amount of reverse input tax credit in respect of any manufactured or processed goods, it shall be deemed that goods used or consumed in manufacture, processing or packing of such manufactured or processed goods have been disposed of or disposed in the manner in which the manufactured or processed

goods have been disposed of or dispossessed and in the like manner, for the purpose of computing amount of reverse input tax credit in respect of any semi-finished or finished goods held by the dealer in stock, it shall be deemed that goods used or consumed in manufacture, processing or packing of such semi-finished or finished goods, as the case may be, are held by the dealer in stock in the same form and condition in which those were purchased.

- (5) Amount of reverse input tax credit in respect of any semi-finished goods or finished goods shall be the aggregate of amounts of reverse input tax credit in respect of goods used or consumed in manufacture, processing or packing of such semi-finished or finished goods, as the case may be.

**1[24. Claim of amount of input tax credit.** Credit of amount of input tax, in respect of goods in respect of which dealer is entitled for claiming input tax credit, shall be claimed as under:-

- (a) In respect of capital goods required for use in manufacture, in three successive annual installments of equal amount and shall be claimed in the tax return of the first tax period of the assessment year. The first such installment shall be claimed in the tax return of first tax period of the assessment year succeeding the assessment year in which capital goods liable to input tax credit, has been purchased and subsequent installment shall be claimed in first tax period of subsequent assessment year:

**Provided** that where the manufactured goods is disposed of in different modes whether by way of sale or otherwise, only proportionate amount of annual installment computed on pro rata basis shall be claimed and be allowed to the extent it is admissible:

**Provided further** that in case of captive power plant where percentage consumption of electrical energy is less than ninety, only proportionate amount of annual installment of input tax credit shall be claimed and be allowed;

- (b) in respect of goods purchased within six months before the date of the commencement of the Act and held in opening stock on the date of such commencement, in six successive monthly or quarterly installments, as the case may be, of equal amount and first such installment shall be claimed in the tax return of the tax period which starts after expiry of period of five months commencing on the date of the commencement of the Act and subsequent installment shall be claimed in successive return of tax period, monthly or quarterly, as the case may be;

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1. Substituted by Notification No. Ka.Ni.-2-241/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(55)-2010 dated 04-02-2010 w.e.f. 04-02-2010. Before

substitution Rule 24 was as under:

**24. Claim of amount of input tax credit.** Credit of amount of input tax, in respect of goods in respect of which dealer is entitled for claiming input tax credit, shall be claimed as under: -

(a) In respect of capital goods required for use in manufacture, in three successive annual installments of equal amount and shall be claimed in the tax return of the first tax period of the assessment year. The first such installment shall be claimed in the tax return of first tax period of the assessment year succeeding the assessment year in which capital goods liable to input tax credit, has been purchased and subsequent installment shall be claimed in first tax period of subsequent assessment year;

**Provided** where manufactured goods are exempt under the Act and such manufactured goods are disposed of in different modes, only partial amount of such annual installments shall be claimed and be allowed to the extent it is related to or proportionate to sale in the course of export out of the territory of India.

*(Continued on next page)*

- (c) in the case in which a dealer becomes liable to pay tax on any date after the date of the commencement of the Act, in respect of goods held in opening stock on the date on which a dealer becomes liable to pay tax, in six successive monthly or quarterly installments, as the case may be, of equal amount and first such installment shall be claimed in the tax return of the tax period which starts after expiry of period of four months commencing from the month in which registration certificate is issued to such dealer and subsequent installment shall be claimed in successive return of tax period, monthly or quarterly, as the case may be;
- (d) in respect of goods held in closing stock on the last day of period of composition under Section 6, in the tax return of the period in which the day following the last day of the period under composition falls;  
and

<sup>1A</sup>**Provided further** that in case of captive power plant where percentage consumption of electrical energy is less than ninety, only proportionate amount of installment of input tax credit shall be admissible.]

(b) in respect of goods purchased within six months before the date of the commencement of the Act and held in opening stock on the date of such commencement, in six successive monthly or quarterly installments, as the case may be, of equal amount and first such installment shall be claimed in the tax return of the tax period which starts after expiry of period of five months commencing on the date of the commencement of the Act and subsequent installment shall be claimed in successive return of tax period, monthly or quarterly, as the case may be;

(c) in a case in which a dealer becomes liable to pay tax on any date after the date of the commencement of the Act, in respect of goods held in opening stock on the date on which a dealer becomes liable to pay tax, in six successive monthly or quarterly installments, as the case may be, of equal amount and first such installment shall be claimed in the tax return of the tax period which starts after expiry of period of four months commencing from the month in which registration certificate is issued to such dealer and

subsequent installment shall be claimed in successive return of tax period, monthly or quarterly, as the case may be;

(d) in respect of goods held in closing stock on the last day of period of composition under section 6, in the tax return of the period in which the day following the last day of the period under composition falls; and

(e) in all other cases in the tax return of the tax period in which goods have been purchased.

**Explanation:**

(1) For the purposes of clauses (b), (c) and (d) of this rule goods held in stock includes goods, used in manufacture or processing of finished goods or semi-finished goods in the process of manufacture and held in stock.

(2) For the purposes of clauses (b) and (c) of this rule if fifth month expires in a tax period as defined under clause (b) of sub-rule (1) of rule 45 the first installment shall be claimed in the tax return of the tax period in which fifth month expires.

1A. Second Proviso inserted by Notification No. Ka.Ni.-2-260/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(40)-2009 dated 30-01-2009.

(e) in all other cases in the tax return of the tax period in which goods have been purchased.

**Explanation:**

(1) For the purposes of clauses (b), (c) and (d) of this rule goods held in stock includes goods, used in manufacture or processing of finished goods or semi-finished goods in the process of manufacture and held in stock.

(2) For the purposes of clauses (b) and (c) of this rule if fifth or fourth month expires in a tax period respectively as defined under clause (b) of sub-rule (1) of rule 45 the first installment shall be claimed in the tax return of the tax period in which fifth or fourth month respectively expires.]

**25. Reduction on account of reversal of input tax credit.** Where a dealer, who has claimed input tax credit of full amount of input tax in respect of any goods, uses, consumes, disposes of or dispossesses,-

(a) such goods; or

(b) any goods manufactured, processed or packed by using such goods, in a manner in which he is either not entitled to claim any amount of input tax credit or is entitled to claim input tax credit of an amount which is lesser than the amount of input tax,

shall compute amount of reverse input tax credit in respect of such goods or such manufactured, processed or packed goods on the day on which such goods or such manufactured, processed or packed goods are disposed of or dispossessed and such amount of reverse input tax credit shall be debited in the input tax credit account on the same day.

**26. Computation of admissible amount of input tax credit for a tax period.** (1) For the purpose of tax return of any tax period, amount of input



tax credit earned by the dealer for such tax period, shall be obtained by deducting aggregate of all amounts of reverse input tax credit computed for the tax period from aggregate of amounts of credit of input tax computed for the same tax period.

- (2) Amount of input tax credit that can be claimed by a dealer in tax return of any tax period shall be computed using the expression:

$$\text{ITC earned} + \text{ITC carried forward} + \text{ITC installment due}$$

Where expression-

- (a) "ITC earned" represents aggregate of input tax net of aggregate of amounts of reverse input tax credit for the tax period;
- (b) "ITC carried forward" represents the amount of input tax credit carried forward from the tax return of the tax period preceding such tax period; and
- (c) "ITC installment due" represents the aggregate of amounts of installments, if any, of input tax in respect of capital goods and in respect of goods held in opening stock on the date on which dealer has become liable for payment of tax.

**27. Computation of admissible amount of input tax credit for an assessment year.** (1) Admissible amount of input tax credit for any assessment year shall be computed using the expression:

$$A + B + C$$

Where -

- (a) "A" represents aggregate of amounts of input tax for such assessment year net of aggregate of amounts of reverse input tax credit for the assessment year;
  - (b) "B" represents the amount of input tax credit carried forward from the tax return of the last tax period of the assessment year preceding such assessment year; and
  - (c) "C" represents the aggregate of amounts of installments, if any, of input tax in respect of capital goods purchased on or after the date from which dealer has become liable for payment of tax and in respect of goods held in opening stock on the date on which dealer has become liable for payment of tax.
- (2) Where, for any assessment year, expression in sub-rule (1) results in a negative figure, the dealer shall, without prejudice to his liability for payment of interest on such amount, deposit such amount of negative figure before submitting tax return for the last tax period of such assessment year.

**28. Maintenance of register by traders for computing input tax credit and reverse input tax credit.**

- <sup>1</sup>[(1) For the purpose of computing admissible amount of input tax credit and amount of reverse input tax credit, every trader shall maintain a register in respect of every purchase of goods made from inside the State in the Form L.]
- (2) Where a dealer along with purchase of any goods from within the State, also makes purchase or procurement of goods from any place outside the State, he shall maintain separate accounts of goods purchased from inside the State and purchased or procured from outside the State and shall maintain particulars relating to disposal of such goods.

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1. Substituted by Notification No. Ka.Ni.-2-241/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(55)-2010 dated 04-02-2010 w.e.f. 04-02-2010. Before substitution sub-rule (1) of Rule 28 was as under:

(1) For the purpose of computing admissible amount of input tax credit and amount of reverse input tax credit, every trader shall maintain a register in respect of every purchase of goods made from inside the State.

- (3) Where a dealer, along with purchase of any goods from within the State, also makes purchase or procurement of such goods from any place outside the State, but does not maintain separate accounts of such goods, as required in sub-rule (2), for the purpose of computing input tax credit, it shall be deemed that goods purchased from within the State have been used, consumed or utilized for various purposes in the ratio of purchase price of such goods purchased from within the State to the aggregate of purchase prices of such goods purchased from both sources:

**Provided** that where, due to any reason, value of goods, brought or received from outside the State, cannot be ascertained, whole sale price of such goods in the local market shall be taken into account for determining the ratio.

- (4) The dealer shall maintain commodity-wise accounts of all goods purchased or procured by him.

**29. Maintenance of register by manufacturer for computing amount of input tax credit.** (1) For the purpose of computing admissible amount of input tax credit, every dealer, other than a trader, shall maintain a register in respect of every purchase of goods made from inside the State.

- (2) Where a dealer, along with purchase of any goods from within the State, also makes purchase or procurement of such goods from any place outside the State, he shall maintain separate accounts of goods purchased from inside the State; and purchased or procured from outside the State and shall maintain particulars relating to use, consumption or disposal of such goods.

- (3) Where a dealer, along with purchase of any goods from within the State, also makes purchase or procurement of such goods from any place outside the State, but does not maintain separate accounts of such goods, as required in sub-rule (2), for the purpose of computing input tax credit and reverse input tax credit, it shall be deemed that goods purchased from within the State have been used, consumed or utilized for various purposes in the ratio of purchase price of such goods purchased from within the State to the aggregate of purchase prices of such goods purchased from both sources:

**Provided** that where, due to any reason, value of goods, brought or received from outside the State, cannot be ascertained, whole sale price of such goods in the local market shall be taken into account for determining the ratio.

- (4) The dealer shall maintain commodity-wise accounts of-
- (i) all goods purchased or procured by him;
  - (ii) goods used or consumed by him in manufacture, processing of any goods or in packing of such manufactured or processed goods;
  - (iii) goods manufactured or processed or packed

**30. Procedure for allowing benefit of input tax credit in absence of tax invoice.** (1) Where tax invoice has been issued by the selling dealer to the registered purchasing dealer but the same has been lost, destroyed or defaced, benefit of input tax credit shall be allowed on the basis of tax payment certificates issued by the assessing authority of selling dealer.

- <sup>1</sup>[(2) Where a dealer becomes liable for payment of tax on any date after the date of the commencement of the Act, benefit of input tax credit, in respect of purchases, of goods made during the period in which he remains liable for payment of tax as unregistered dealer, shall be allowed on the basis of sale invoices issued by the selling dealer in accordance with provisions of sub-section (3) of Section 22.]

- (3) In any other case or class of cases in which Commissioner may permit.

**31. Purchase price for computing reverse input tax credit.** (1) Subject to the provisions of sub-rule (2), amount of reverse input tax credit shall be computed on the basis of actual purchase price of goods, on which tax has been paid.

- (2) Where actual purchase price of goods is not ascertainable, purchase price, for the purpose of computing reverse amount of input tax credit, of goods which have been in respect of goods purchased from

within the State immediately before the date of event giving rise to reverse input tax credit.

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1. Substituted by Notification No. Ka.Ni.-2-241/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(55)-2010 dated 04-02-2010 w.e.f. 04-02-2010. Before substitution sub-rule (2) of Rule 30 was as under:

(2) Where a dealer becomes liable for payment of tax on any date after the date of the commencement of the Act, benefit of input tax credit, in respect of purchases, of goods, made during the period in which he remains liable for payment of tax as unregistered dealer, shall be allowed on the basis of sale invoices issued by the selling dealer in accordance with provisions of clause (b) of sub-section (3) of section-22.

### CHAPTER III

#### Registration, Security and Maintenance of Accounts

**32. Registration of Dealers.** (1) For the purpose of obtaining registration certificate under the Act, the dealer except casual dealer shall present application in Form VII-G in case of Government Department and in Form VII in other cases, as the case may be, completed in all respects before the Registering Authority of the Circle in which principal place of his business is situated.

- (2) Each registration application shall be accompanied by satisfactory proof of deposit of the fee along with late fee, if any, and penalty specified in the Act, where payable and certified copy of any one of the following:

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1. Substituted by Notification No. Ka.Ni.-2-241/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(55)-2010 dated 04-02-2010 w.e.f. 04-02-2010. Before substitution Rule 32 was as under:

**32. Registration of Dealers.** (1) For the purpose of obtaining registration certificate under the Act, the dealer shall present application in Form VII-G in case of Government Department and in Form VII in other cases, as the case may be, completed in all respects before the Registering Authority of the Circle in which principal place of his business is situated.

(2) Each registration application shall be accompanied by satisfactory proof of deposit of the fee along with late fee, if any, and penalty specified in the Act, where payable and certified copy of any two of the following;

- (a) Electoral Identity Card issued by Election Commission of India;
- (b) PAN Card issued by Income Tax Department, Government of India;

(c) Passport;

(d) Bank Passbook

Provided that the registering authority shall not accept incomplete application for registration.

(3) Application, for endorsement, referred to in sub-section (5) of section 17, on the certificate of registration issued under the Uttar Pradesh Trade Tax Act, 1948, shall be presented by the dealer before the registering authority within 60 days from the date of commencement of the Act in form VIII along with annexures, completed in all respects.

(4) Every dealer, referred to in sub-section (2) of section 18, for the purpose of retaining registration certificate granted to it under the Uttar Pradesh Trade Tax Act, 1948, shall present an application within 30 days of the commencement of the Act in Form IX along with annexures, completed in all respects before the registering authority.

(5) Every dealer, referred to in sub-section (3) of section 18, for the purpose of retaining registration certificate granted to it under the Uttar Pradesh Trade Tax Act, 1948, shall present an application within 30 days from the date of issue of registration certificate to him in Form X along with annexures, completed in all respects before the registering authority.

*(Continued on next page)*

(a) Electoral Identity Card issued by Election Commission of India;

(b) PAN Card issued by Income Tax Department, Government of India;

(c) Passport;

(d) Bank Passbook

**Provided** that the registering authority shall not accept incomplete application for registration.

**Provided** that every dealer referred to in sub-rule (3), (4) and (5) of this rule shall also submit form VII or VII-G, as the case may be, completed in all respect, along with the application.

(6) All applications referred to in sub-rule (1), sub-rule (3), sub-rule (4) and sub-rule (5) shall be duly filled in and signed by the person described in column 2 of the table below and shall use the status code describe in column 3 of the table

Sl. No.	Description	Status code	
1	2	3	
1-	The proprietor in case of proprietorship business; or	0	1
2-	A partner duly authorized by all other partners in case of partnership business; or	0	2
3-	The Karta in case of Hindu Undivided Family; or	0	3

4-	The Managing Director or Director or a person authorized by the Board of Directors, in the case of limited companies; or	0	4
5-	The President or Secretary in the case of Society or a Club; or	0	5
6-	The Head of the office or any other person authorized by him in case of a department of a State Government or the Central Government; or	0	6
7-	The guardian of minor where business is in the name of the minor; or	0	7
8-	Duly authorized person having a general power of attorney where business is in the name of an incapacitated person, or	0	8
9-	Trustee in case of a trust, or	0	9
10-	In any other case, person duly authorized by dealer or any other officer authorized by competent authority	1	0

*(Continued on next page)*

- (3) Application referred to in sub-section (5) of Section 17 shall be presented by the dealer before the registering authority in Form VIII along with annexure completed in all respects.
- (4) Every dealer, referred to in sub-section (2) of Section 18, for the purpose of retaining registration certificate granted to it under the Uttar Pradesh Trade Tax Act, 1948, shall present an application within 30 days of the commencement of the Act in Form IX along with annexure, completed in all respects before the registering authority.
- (5) Every dealer, referred to in sub-section (3) of Section 18, for the purpose of retaining registration certificate granted to it under the Uttar Pradesh Trade Tax Act, 1948, shall present an application within 30 days from the date of issue of registration certificate to him in Form X along with annexure, completed in all respects before the registering authority:
- Provided** every dealer referred to in sub-rule (3), (4) and (5) of this rule shall also submit Form VII or VII-G, as the case may be, completed in all respects, along with the application.
- (6) All applications referred to in sub-rule (1), sub-rule (3), sub-rule (4) and sub-rule (5) shall be duly filled in and signed by the person described in column 2 of the table below and shall use the status code described in column 3 of the table.

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(7) Every application for registration received under sub-rule (1) shall be disposed of in the manner provided in section 17 in following schedule of time:

- (a) Biometric data and verification from original documents – one week;

(b) Site inspection and digital photograph of premises – one week;

(c) Processing of security, if required – 10 days;

(d) Issue of TIN –six days.

(8) If the registering authority after such enquiry as he may think fit, is satisfied that application is in order and information and documents submitted are correct and genuine, he shall cause the dealer to be registered with effect from the date of receipt of registration application.

Provided that where the Registering Authority has demanded security under section 19, the dealer shall be registered and granted a certificate of registration only if the security so demanded has been furnished to the satisfaction of such Registering Authority

Provided further that Joint Commissioner [Executive] may permit the registering authority beyond the period of 30 days if he is satisfied that the reasons exist preventing the Registering Authority to dispose of the registration application within 30 days.

(9) If registering authority is satisfied that an application is not in order or information given therein is not correct or document submitted are forged or not genuine or security demanded has not been furnished, the registering authority shall reject the application and shall inform the dealer accordingly.

*(Continued on next page)*

Sl. No.	Description	Status code
1	2	3
1-	The proprietor in case of proprietorship business; or	01
2-	A partner duly authorized by all other partners in case of partnership business; or	02
3-	The Karta in case of Hindu Undivided Family; or	03
4-	The Managing Director or Director or a person authorized by the Board of Directors, in the case of limited companies; or	04
5-	The President or Secretary in the case of Society or a Club; or	05
6-	The Head of the office or any other person authorized by him in case of a department of a State Government or the Central Government; or	06
7-	The guardian of minor where business is in the name of the minor; or	07
8-	Duly authorized person having a general power of attorney where business is in the name of an incapacitated person; or	08

Provided that the registration application shall not be rejected without giving

reasonable opportunity of hearing to the applicant.

(10) Certificate of registration shall be issued by the Registering Authority in Form XI.

(11) Every registration certificate issued under sub-rule (8) shall bear a number called Taxpayer's Identification Number (TIN).

(12) TIN referred to in sub-rule (11) shall be of eleven digits and each digit or class of digits shall represent the code as determined by the Commissioner.

(13) Where there is no Registering Authority in any circle, assessing authority having jurisdiction over the principal place of business of the dealer shall be the registering authority.

(14) If any dealer fails to furnish the application as provided under sub rule (3), (4) and (5) within the prescribed time the person who had signed the registration application for the grant of registration under section-8-A or 8-B of the Uttar Pradesh Trade Tax Act, 1948 shall be the only person as authorized signatory for authentication of tax invoice or any other document.

Explanation: Taxpayer's Identification Number, granted under the provisions of the Uttar Pradesh Trade Tax Act, 1948, shall be deemed to be Taxpayer's Identification Number issued under the Act.

(15) The commissioner may from time to time issue instructions with regard to the procedure to be followed in respect of disposal of registration application and issue of registration certificate under the Act and other matters related to registration.

9-	Trustee in case of a trust; or	09
10-	In any other case, person duly authorized by dealer or any other officer authorized by competent authority.	10

(7) Every application for registration received under sub-rule (1) shall be disposed of in the manner provided in Section 17 in following schedule of time:

- (a) Biometric data and verification from original documents – one week;
- (b) Site inspection and digital photograph of premises – one week;
- (c) Processing of security, if required – 10 days;
- (d) Issue of TIN – six days.

However where the Commissioner is of the opinion that it is expedient so to do in the public interest he may by an order in writing reschedule the timing for disposal of the registration application.

(8) If the registering authority after such enquiry as he may think fit, is satisfied that application is in order and information and documents submitted are correct and genuine, he shall cause the dealer to be registered with effect from the date of receipt of registration application:



**Provided** that where the Registering Authority has demanded security under Section 19, the dealer shall be registered and granted a certificate of registration only if the security so demanded has been furnished to the satisfaction of such Registering Authority:

**Provided further** that Joint Commissioner [Executive] may permit the registering authority beyond the period of 30 days if he is satisfied that the reasons exist preventing the registering authority to dispose of the registration application within 30 days,

- (9) If registering authority is satisfied that application is not in order or information given therein is not correct or document submitted are forged or not genuine or security demanded has not been furnished, the registering authority shall reject the application and shall inform the dealer accordingly:

**Provided** that the registration application shall not be rejected without giving reasonable opportunity of hearing to the applicant.

- (10) Certificate of registration shall be issued by the Registering Authority in Form XI.
- (11) Every registration certificate issued under sub-rule (8) shall bear a number called Taxpayer's Identification Number (TIN).
- (12) TIN referred to in sub-rule (11) shall be of eleven digits and each digit or class of digits shall represent the code as determined by the Commissioner.
- (13) Where there is no Registering Authority in any circle, assessing authority having jurisdiction over the principal place of business of the dealer shall be the registering authority.
- (14) If any dealer fails to furnish the application as provided under sub-rule (3) within the time prescribed under sub-section (5) of Section 17 of the Act, the registration certificate shall cease to have effect.

**Explanation:** Taxpayer's Identification Number, granted under the provisions of the Uttar Pradesh Trade Tax Act, 1948, shall be deemed to be Taxpayer's Identification Number issued under the Act.

- (15) The Commissioner may from time to time issue instructions with regard to the procedure to be followed in respect of disposal of registration application and issue of registration certificate under the Act and other matters related to registration.]

#### **1[32-A. Registration of casual dealers.**

- (1) For the purpose of obtaining registration certificate under Section 26-A of the Act, every casual dealer shall make an application in Form VII-A completed in all respects before the registering authority of the Circle in which place of his business is situated.

- (2) Each application referred to in sub-rule (1) shall be accompanied by satisfactory proof of deposit of the fee of one hundred rupees and certified copy of any one of the following:-
- (a) Electoral Identity Card issued by Election Commission of India;
  - (b) PAN Card issued by Income Tax Department, Government of India;
  - (c) Passport;
  - (d) Bank Passbook;

**Provided** that the registering authority shall not accept incomplete application for registration:

**Provided further** that if the dealer fails to apply within the period provided under Section 26-A, he may apply after depositing late fee of rupees fifty per day upto the date of submission of application.

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1. Inserted by Notification No. Ka.Ni.-2-241/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(55)-2010 dated 04-02-2010 w.e.f. 04-02-2010.
- (3) At the time of receiving the application the registering authority shall examine the authenticity of document and after recording the statement of the applicant on oath, he shall order the amount and form of security to be furnished.
- (4) If the registering authority after such enquiry as he may think fit, is satisfied that,-
- (a) application is in order and information and documents submitted are correct and genuine;
  - (b) security demanded has been furnished; and
  - (c) biometric data of the applicant has been taken;
- he shall cause the dealer to be registered with effect from the date of receipt of registration application till casual business continues.
- (5) If the registering authority is satisfied that application is not in order or information given therein is not correct or document submitted are forged or not genuine or security demanded has not been furnished or for any other sufficient ground, he shall reject the application and shall inform the dealer accordingly:
- Provided** that the application shall not be rejected without giving reasonable opportunity of being heard.
- (6) Certificate of registration shall be issued by the registering authority in Form XI-A.

- (7) Every registration certificate issued under sub-rule (6) shall bear a number called Taxpayer's Identification Number (TIN).
- (8) TIN referred to in sub-rule (7) shall be of eleven digits and each digit or class of digits shall represent the code as determined by the Commissioner.
- (9) Where there is no registering authority in any circle, assessing authority having jurisdiction over the place of business of the dealer shall be the registering authority.
- (10) Provisions of rules 35, 36 and 37-A shall mutatis mutandis apply to registration certificate issued to a casual dealer as they apply to other dealers.
- (11) Where the casual dealer is doing business under the jurisdiction of the different assessing authority, he shall obtain separate registration certificate for each place of business from the respective assessing authorities.
- (12) The Commissioner may from time to time issue instructions with regard to the procedure to be followed in respect of disposal of application under this rule and other matters related to registration of casual dealers.]

**1[33. Information Regarding Change of Business.** (1) The information regarding change of business under Section 75, shall be furnished to the registering authority in Form XII along with Form VII or VII-G, as the case may be, and shall be signed by the person referred to in sub-rule (6) of rule 32.

- (2) The application under sub-rule (1) shall accompany the registration certificate and evidence regarding change of business.
- (3) On receiving the information referred to in sub-rule (1) the registering authority or the assessing authority, as the case may be, shall verify the correctness of information and after making such enquiry as he may deem fit, including enquiry at business premises, pass appropriate order and make necessary amendment in relevant records including registration certificate as for as possible within a period of 30 days.]

**34. Additional copy of registration certificate and display of Taxpayers Identification Number.** (1) The Registering Authority shall furnish to the dealer, free of cost, an attested copy of the registration certificate for every additional place of business specified therein.

- <sup>2</sup>[(2)(a) Every registered dealer shall get his Taxpayer's Identification Number and date from which it is effective, painted on the sign board of his shop in letters and figures not less than 6 cm. in height in such manner that the same are easily readable from the road; or shall display prominently at the main entrance of his shop on a painted board, which shall not be less than 60 cm. x 30 cm. in size, clearly indicating the Taxpayer's Identification Number allotted to him and

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1. Substituted by Notification No. Ka.Ni.-2-241/XI-9(295)/07-U.P.Act-5-2008-

VAT-Rules-08-Order-(55)-2010 dated 04-02-2010 w.e.f. 04-02-2010. Before substitution Rule 33 was as under:

**33. Information Regarding Change of Business.** (1) The information regarding change of business under section 75, shall be furnished to the registering authority in Form XII along with form VII or VII-G, as the case may be, and shall be signed by the person referred to in sub-rule (6) of rule 32.

(2) The application under sub-rule (1) shall accompany the registration certificate and evidence proving change.

2. Substituted by Notification No. Ka.Ni.-2-241/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(55)-2010 dated 04-02-2010 w.e.f. 04-02-2010. Before substitution sub-rule (2) of Rule 34 was as under:

(2) (a) Every registered dealer shall get his Taxpayer's Identification Number and date from which it is effective, painted on the sign board of his shop in letters and figures not less than 6 cm. in height in such manner that the same are easily readable from the road; or shall display prominently at the main entrance of his shop on a painted board, which shall not be less than 60cm. x 30 cm. in size, clearly indicating the Taxpayer's Identification Number allotted to him and the date from which it is effective in letters and figures not less than 6 cm. in height.

(b) Every registered dealer shall get his Taxpayer's Identification Number and date from which it is effective, printed on every tax invoice, sale invoice, cash memo, bill, purchase invoice, credit and debit notes, challan or goods transfer invoice.

the date from which it is effective in letters and figures not less than 6 cm. in height.

- (b) Every registered dealer shall get his Taxpayer's Identification Number and date from which it is effective, printed on every tax invoice, sale invoice, purchase invoice, credit and debit notes, challan or goods transfer invoice.]

**35. Registration certificate not transferable.** A registration certificate granted under these rules shall not be transferable. Where a registered dealer is succeeded in the business by another dealer by transfer, reconstitution or otherwise; the successor dealer shall obtain a fresh certificate of registration in accordance with these rules.

**36. Loss of certificate of registration.** If a certificate or revised certificate of registration granted is lost, destroyed or defaced, the Registering Authority shall, on being satisfied that the certificate has so been lost, destroyed or defaced, issue a duplicate copy thereof on presentation of an application by the dealer, which shall be accompanied by satisfactory proof of deposit of a fee of one hundred rupees.

**37. Form of security.**

<sup>1</sup>[(1) Security or additional security demanded under sub-section (1) of Section 19 may be furnished in any one of the following forms:-

- (a) by pledging personal immovable assets of the proprietor, partner, Karta of Hindu Undivided Family, Company, Society, Club or Association, as the case may be, at first charge in

favour of the Government of Uttar Pradesh with the Registrar of properties; or

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1. Substituted by Notification No. Ka.Ni.-2-241/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(55)-2010 dated 04-02-2010 w.e.f. 04-02-2010. Before substitution sub-rule (1) of Rule 37 was as under:

(1) Security or additional security demanded under subsection (1) of section 19 may be furnished in any one of the following forms:-

(a) by pledging personal immovable assets of the proprietor, partner, Karta of Hindu Undivided Family, company, society, club or association, as the case may be, at first charge in favour of the Government of Uttar Pradesh with the Registrar of properties; or

(b) by furnishing surety from two dealers who are and have been registered dealers either under the Uttar Pradesh Trade Tax Act, 1948 or under the Uttar Pradesh Value Added Tax Act, 2008 during a minimum period of past three completed assessment years and who are not defaulters under the Uttar Pradesh Trade Tax Act, 1948, the Central Sales Tax Act, 1956 and the Uttar Pradesh Value Added Tax Act, 2008; or

(c) by furnishing security bond from two sureties duly verified by the Collector of the District where sureties reside:

**Provided** that where upon verification any security furnished by a dealer is found false, without prejudice to any other action under the Act or any other law for the time being in force, the registering authority may require the dealer to furnish security in any of the forms mentioned in sub-rule (2).

(b) by furnishing surety from two dealers who are and have been registered dealers either under the Uttar Pradesh Trade Tax Act 1948 or under the Uttar Pradesh Value Added Tax Act, 2008 during a minimum period of past three completed assessment years and who are not defaulters under the Uttar Pradesh Trade Tax Act 1948, the Central Sales Tax Act, 1956, the Uttar Pradesh Value Added Tax Act, 2008 and the Uttar Pradesh Tax on Entry of Goods into Local Areas Act, 2007; or

(c) by furnishing security bond from two sureties duly verified by the Collector of the District where sureties reside:

**Provided** that where upon verification any security furnished by a dealer is found false, without prejudice to any other action under the Act or any other law for the time being in force, the registering authority may require the dealer to furnish security in any of the forms mentioned in sub-rule (2).]

- (2) Notwithstanding anything containing in sub-rule (1) the dealer may, at his option, furnish security or additional security referred to in sub-section (1) of section 19, in any one of the following forms:

(a) By depositing amount in cash; or

(b) By furnishing bank guarantee from a scheduled bank; or

(c) By pledging fix deposit certificate; or

- (d) By pledging National Saving Certificates or any other saving certificates issued by Indian Postal Services.
- (3) Undertaking from surety referred to in sub-section (6) of section 81 shall be presented in Form XIII.
- (4) The undertaking referred to in sub-rule (3) shall be complete in all respects.

**<sup>1</sup>[37A. Cancellation of registration certificate and matter incidental to it.**

- (1) Where registration certificate of any person or dealer has been cancelled under any provision of the Act or these rule, the assessing authority or the registering authority, as the case may be, shall serve the copy of the order of cancellation to the dealer or person concerned, and order to deposit the such certificate in the office of assessing authority or registering authority along with any other certificate or declaration or O.C. stamp which have been obtained from the department or countersigned by competent authority.
- (2) After cancellation of the registration certificate the registering authority or assessing authority, as the case may be, shall make public notice regarding cancellation within twenty four hours and

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1. Inserted by Notification No. Ka.Ni.-2-260/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(40)-2009 dated 30-01-2009.

shall send information to all Additional Commissioners Zone and Additional Commissioner (Special Investigation Branch) of the Zone and send a copy of order to the Commissioner.

- (3) On receiving the information of cancellation of registration certificate every Additional Commissioner Zone and Additional Commissioner (Special Investigation Branch) shall immediately inform to all officers under the zone thereof by public notice and electronic media.
- (4) The Commissioner or an officer not below the rank of Joint Commissioner authorized by the Commissioner in this behalf shall make public notice regarding the cancellation of registration by way of circular and through electronic media fortnightly.
- (5) The provisions of this rule shall mutatis mutandis apply to Tax Deduction Number (TDN) and Service Provider Number (SPN).]

**<sup>1</sup>[38. Registration of railway container contractor, an air cargo operator, a courier service operator, owner or person incharge of godown or cold storage or warehouse other than transporter. (1) (a) Every person, who starts business in the capacity of a railway container contractor, an air cargo operator or a courier service provider, or an owner or person in-charge of godown or cold storage or warehouse other than transporter or carrier who stores commercial goods, on or after the date of the commencement of the Act; or**

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1. Substituted by Notification No. Ka.Ni.-2-241/XI-9(295)/07-U.P.Act-5-2008-

VAT-Rules-08-Order-(55)-2010 dated 04-02-2010 w.e.f. 04-02-2010. Before substitution Rule 38 was as under:

**38. Registration of transporter, carrier or forwarding agent, railway container contractor, owner or person incharge of godown or cold storage or warehouse.** (1) Every person, who starts business in the capacity of a transporter, carrier or forwarding agent, railway container contractor, owner or person incharge of godown or cold storage or warehouse on or after the date of the commencement of the Act, shall apply in Form XIV to the registering authority within thirty days from the date of commencement of such business for grant of service provider number:

**Provided** that transporter, carrier or forwarding agent who has been carrying on such business from a date earlier than the date of the commencement of the Act, shall apply within thirty days from the date of such commencement.

**Provided further** that if a transporter, carrier or forwarding agent who has been carrying on such business from a date earlier than the date of the commencement of the Act, or carrying on business on or after the date of the commencement of the Act, holds registration certificate issued under The Carriage By Road Act, 2007 it shall not be necessary for applying for registration under the Act.

(2) Every transporter, carrier or forwarding agent who holds registration certificate issued under The Carriage By Road Act, 2007 shall inform the assessing authority in Form XV along with certificate of registration issued under The Carriage By Road Act, 2007 and duly filled Form XIV, within 30 days from the commencement of the Act.

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- (b) Every person who carried on business in the capacity of a railway container contractor, an air cargo operator or a courier service provider, or an owner or person in-charge of go-down or cold storage or warehouse other than transporter or carrier who stores commercial goods before the date of the commencement of the Act and continues the business in capacity of a railway container contractor, an air cargo operator or a courier service provider, or an owner or person in-charge of godown or cold storage or warehouse other than transporter or carrier who stores commercial goods on or after the commencement of the Act;

shall apply in Form XIV to the registering authority within thirty days from the date of commencement of such business or ninety days from the date of publication of the notification of this rule which ever is later, for grant of Service Provider Number.

- (2) Every application, referred to in sub-rule (1) shall accompany proof of deposit of fee of rupees one hundred:

**Provided** that a person referred to in sub-rule (1) fails to apply within the time for issue of Service Provider Number without prejudice to any other liability under the Act, may apply after depositing late fee at the rate of Rs. Fifty for every month or part thereof for the period of delay.

- (3) Applications shall be duly filled in and signed by the person described in column 2 of the table below and the person shall use the status code described in column 3 of the table:

(3) Every application, referred to in sub-rule (1) shall accompany proof of deposit of fee of rupees one hundred and late fee, if any.

(4) All applications shall be duly filled in and signed by the person described in column 2 of the table below and the dealer shall use the status code described in column 3 of the table:

Sl. No.	Description	Status code	
1	2	3	
1-	The proprietor in case of proprietorship business; or	0	1
2-	A partner duly authorized by all other partners; or	0	2
3-	The Karta in case of Hindu Undivided Family; or	0	3
4-	The Managing Director or Director or a person authorized by the Board of Directors, in the case of limited companies; or	0	4
5-	The President or Secretary in the case of Society or a Club; or	0	5
6-	The Head of the office or any other person authorized by him in case of a department of a State Government or the Central Government; or	0	6

(Continued on next page)

Sl. No.	Description	Status code
1	2	3
1-	The proprietor in case of proprietorship business; or	01
2-	A partner duly authorized by all other partners; or	02
3-	The Karta in case of Hindu Undivided Family; or	03
4-	The Managing Director or Director or a person authorized by the Board of Directors, in the case of limited companies; or	04
5-	The President or Secretary in the case of Society or a Club; or	05
6-	The Head of the office or any other person authorized by him in case of a department of a State Government or the Central Government; or	06
7-	The guardian of minor where business is in the name of the minor; or	07



8-	Duly authorized person having a general power of attorney where business is in the name of an incapacitated person, or	08
9-	Trustee in case of a trust, or	09
10-	In any other case, person duly authorized by dealer or any other officer authorized by competent authority	10

7-	The guardian of minor where business is in the name of the minor; or	0	7
8-	Duly authorized person having a general power of attorney where business is in the name of an incapacitated person, or	0	8
9-	Trustee in case of a trust; or	0	9
10-	In any other case, person duly authorized by dealer or any other officer authorized by competent authority	1	0

(5) Where after examination of the application and after making such inquiry as he may deem fit, registering authority is satisfied that particulars furnished are correct and complete and required fee and late fee, if any has been deposited by the applicant, he shall cause the transporter, carrier or transporting agent, railway container contractor, owner or person in-charge of godown or cold storage or warehouse to be registered.

*(Continued on next page)*

- (4) Where after examination of the application and after making such enquiry as he may deem fit, the registering authority is satisfied that particulars furnished are correct and complete and required fee and late fee, if any, has been deposited by the applicant, he shall cause a railway container contractor, an air cargo operator or a courier service provider, or an owner or person in-charge of go-down or cold storage or warehouse other than transporter or carrier to be registered.
- (5) Every railway container contractor, an air cargo operator or a courier service provider or an owner or person in-charge of go-down or cold storage or warehouse other than transporter or carrier registered under sub-rule (4) shall be granted a registration certificate in Form XVI bearing a number which shall be comprised of such number of numeric or alpha-numeric digits as may be determined by the Commissioner.
- (6) Provisions of rules 33, 34, 35, 36 and 37-A shall, mutatis mutandis apply to registration certificates issued to a railway container contractor, an air cargo operator or a courier service provider or an owner or person in-charge of go-down or cold storage or warehouse other than transporter or carrier as they apply to dealers.

(6) Every transporter, carrier or forwarding agent, railway container contractor, owner or person in charge of godown or cold storage or warehouse

registered under sub-rule (5) shall be granted a registration certificate in Form XVI bearing a number which shall be comprised of such number of numeric or alpha-numeric digits as may be determined by the Commissioner

(7) Provisions of rules 33, 34, 35 and 36 shall, mutatis mutandis apply to registrations issued to transporter, carrier or forwarding agent as they apply to dealers.

(8) Every person transporting or storing goods shall maintain following records:-

(a) A register in respect of all consignments of goods received by him for transportation or storage;

(b) Office copy of goods receipt or consignment note issued in respect of goods received by him for transportation or storage;

(c) Office copy of goods challan prepared by him for delivery to the person in charge of the vehicle or driver of the vehicle;

(d) a goods receipt and delivery register in respect of all consignments of goods received and delivered by him;

(9) (a) Where a transporter, carrier or forwarding agent, railway container contractor, receives any goods from any person for transporting to any destination, he shall require the person to submit a declaration in Form XVII and like wise where a transporter, carrier or forwarding agent or railway container contractor receives any good for delivery he shall obtain declaration in Form XVIII from the person to whom goods are delivered;

(b) Where a owner or person in charge of godown or cold storage or warehouse receives any goods for storage he shall obtain declaration in form XIX from the owner of the goods, at the time of receiving the goods for storage and likewise where a owner or person in charge of godown or cold storage or warehouse delivers the goods, shall obtain declaration in form XX from owner of the goods at the time of delivery of goods.

***(Continued on next page)***

- (7) Every person under this rule shall maintain following records:-
- (1) A register in respect of all consignments of goods received by him for transportation or storage;
  - (2) Office copy of goods receipt or consignment note issued in respect of goods received by him for transportation or storage;
  - (3) Office copy of goods challan prepared by him for delivery to the person in charge of the vehicle or driver of the vehicle;
  - (4) a goods receipt and delivery register in respect of all consignments of goods received and delivered by him;
- (8) (a) Where a railway container contractor, an air cargo operator or a courier service provider, receives any goods from any person for carrying to any destination, he shall require the person to submit a declaration in Form XVII and like wise where a railway container contractor, an air cargo operator or a courier service provider receives any goods for delivery he shall obtain declaration in Form XVIII from the person to whom goods are delivered;

- (b) Where an owner or person in-charge of go-down or cold storage or warehouse other than transporter or carrier receives any goods for storage he shall obtain declaration in Form XIX from the owner of the goods, at the time of receiving the goods for storage and likewise where an owner or person in-charge of go-down or cold storage or warehouse other than transporter or carrier delivers the goods, shall obtain declaration in Form XX from owner of the goods at the time of delivery of goods.
- (9) Every a railway container contractor, an air cargo operator or a courier service provider or an owner or person in-charge of godown or cold storage or warehouse other than transporter or carrier shall preserve all records maintained by him for a period of 8 years after the expiry of the assessment year to which they belong.
- (10) The commissioner may from time to time issue instructions with regard to the procedure to be followed in respect of disposal of registration application and issue of registration certificate under the Act.]

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(10) Every transporter, carrier and forwarding agent, railway container contractor, owner or person in-charge of godown or cold storage or warehouse shall preserve all records maintained by him for a period of 8 years after the expiry of the assessment year to which they belong.

(11) The commissioner may from time to time issue instructions with regard to the procedure to be followed in respect of disposal of registration application and issue of registration certificate under the Act.

**39. Period for which books, accounts and documents are to be preserved.** All books of accounts and documents maintained by a dealer or other person shall be preserved for a period of eight years after expiration of the assessment year to which such books, accounts or documents relate:

**Provided** that where any proceedings are pending against a dealer, he shall maintain books, accounts or documents beyond period of eight years till such proceedings are finalized.

**40. Transport memo.** (1) Transport memo referred to in sub-section (4) of section 21 shall be in Form XXI and blank forms shall be issued to a registered dealer by his assessing authority.

- (2) A registered dealer who requires blank Form XXI for use by him shall apply to his assessing authority for the issue of Blank Forms.
- (3) No blank form shall be issued by the assessing authority except on payment of a fee at the rate of five rupees per form. The application shall be signed by one of the persons mentioned in sub-rule (6) of rule 32.
- (4) If the assessing authority is satisfied that the demand of the dealer for blank forms is genuine and reasonable, he may issue such number of

forms, as he deems fit. No form shall be issued unless the dealer has rendered an account of all such forms obtained earlier.

- (5) If the fee paid is more than the fee payable for the forms issued, the balance shall remain to the credit of the dealer to be adjusted against future issue of the forms to him.
- (6) Where any registered dealer consigns or delivers any goods or class of goods specified or notified exceeding quantity, value or measure notified under sub-section (4) of section 21 shall, after filling necessary columns on the Original Copy of Form XXI deliver such copy to the person to whom goods are delivered for transportation to the business place of the consignee dealer.
- (7) Dealer shall fill the form and punch the required box covering the minimum value of goods and it shall be carried along with the goods.
- (8) Dealer shall keep the account of all blank forms received from his assessing authority and forms used by him in Form XXII and shall retain its remaining portion and give the details of use of such forms to the assessing authority as and when asked by him.
- (9) Owner or person in-charge of the vehicle shall duly fill and deliver the form, to the purchasing dealer at the time of delivery of the goods.
- (10) The purchasing dealer shall retain the used form safely till the completion of assessment proceedings and shall produce as and when demanded by the assessing authority.
- (11) Every form obtained under sub-rule (4) shall be kept by the registered dealer in safe custody. He shall be personally liable for the loss, destruction or theft of any such form and the loss to the Government revenue, if any, resulting directly or indirectly from such loss, destruction or theft.
- (12) The registered dealer shall forthwith surrender all unused forms remaining in stock with him at the time of discontinuance of his business or on the cancellation of his registration certificate, as the case may be.
- (13) The Commissioner may, by notification in the Gazette, declare that forms of a particulars series, design or colour shall be deemed obsolete and invalid with effect from such date as he may specify, and may in their place substitute new forms of fresh series, design or colour.
- (14) Where a notification is issued under sub-rule (13), all registered dealers shall on or before the date with effect from which the forms are so declared obsolete and invalid, surrender to the Assessing authority all unused forms declared obsolete and invalid which may be in their possession and obtain in exchange such new forms as may be substituted in place thereof:

**Provided** that new forms shall not be issued to a dealer until he has rendered account of the forms previously issued to him and until he has returned the balance, if any, to his assessing authority.

- (15) No registered dealer shall issue any form except a form obtained by him from his assessing authority and not declared obsolete or invalid under the provisions of sub-rule (13).
- (16) Goods referred to in sub-section (4) of section 21, shall be the goods or class of goods as may be specified in the notification issued by the State Government on the recommendation of the Commissioner.

**1[41. Challan or Transfer Invoice.** (1) The dealer shall prepare the challan or transfer invoice referred to in sub-section(5) of section 21 in three copies marked Original, Duplicate and Triplicate from a bounded book and each copy of challan or transfer invoice shall contain following particulars in respect of goods delivered or dispatched:

- (i) Name and address of the dealer;
- (ii) Name of branch or depot;
- (iii) Taxpayer's Identification Number (Registration Number) of dealer consigning or delivering goods;

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1. Substituted by Notification No. Ka.Ni.-2-260/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(40)-2009 dated 30-01-2009. Before substitution Rule 41 was as under:-

**41. Challan or transfer invoice.** (1) The dealer shall prepare the challan or transfer invoice referred to in sub-section (5) of section 21 in three copies marked Original, Duplicate and Triplicate from a bounded book and each copy of challan or transfer invoice shall contain following particulars in respect of goods delivered or dispatched:

- (i) Name and address of the dealer;
- (ii) Name of branch or depot;
- (iii) Taxpayer's Identification Number (Registration Number) of dealer consigning or delivering goods;

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- (iv) Serial No.
- (v) Date;
- (vi) Signature of the authorized person who has authenticated the challan or invoice
- (vii) Name and address of the dealer or person to whom goods are delivered or consigned
- (viii) Taxpayer's Identification Number of consignee dealer, if any;
- (ix) Sale or stock transfer.....
- (x) Time of removal of goods in case of manufacturer
- (xi) Following details in respect of goods delivered or consigned;
  - (a) Description of goods,
  - (b) Identification mark or batch no. if any,
  - (c) Quantity or measure of goods

- (d) No. of packets
- (e) Actual or estimated value of goods;
- (xii) Tax-invoice or sale-invoice no. and date (if issued at the time of sale);
- (xiii) Mode of transportation:
- (xiv) Signature and status of person issuing challan or transfer invoice.

- (iv) Book No.;
- (v) Serial No.
- (vi) Date;
- (vii) Signature of the authorized person who has authenticated the challan or invoice
- (viii) Name and address of the dealer or person to whom goods are delivered or consigned
- (ix) Taxpayer's Identification Number of consignee dealer, if any;
- (x) Sale or stock transfer.....
- (xi) Time of removal of goods in case of manufacturer
- (xii) Following details in respect of goods delivered or consigned;-
  - (a) Description of goods,
  - (b) Identification mark or batch no. if any,
  - (c) Quantity or measure of goods
  - (d) No. of packets
  - (e) Actual or estimated value of goods;
- (xiii) Tax-invoice or sale-invoice no. and date (if issued at the time of sale);
- (xiv) Mode of transportation:
- (xv) Signature and status of person issuing challan or transfer invoice.

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- (2) Particulars under clauses (i) to (iv) of sub-rule (1) shall be printed on each challan or transfer invoice.
- (3) For each assessment year the serial no. in first challan or transfer invoice shall begin with serial no. 001. Challans or transfer invoices shall be in triplicate and on subsequent challan or transfer invoice serial number shall be in ascending order. The challan or transfer invoice shall be issued from bound book containing at least fifty in number.
- (4) Original and Duplicate copies of challan or transfer invoice shall be delivered to the person transporting goods for delivery to the consignee of goods and shall be delivered by such person to the consignee along with goods. Duplicate copy shall be returned by the consignee after acknowledging the receipt of goods to the dealer who has dispatched or delivered goods:

**Provided** that where goods are delivered to the dealer or its representative at the place of the seller, the purchasing dealer shall,

after acknowledging the receipt of goods, deliver the duplicate copy of the challan to the selling dealer.

- (5) Triplicate carbon copy of challan or transfer invoice shall be preserved by the dealer in the challan book or transfer invoice book as part of records.
- (6) Where the transfer invoice or challans are maintained on computer, dealer shall after the end of every working day take hard copy of the transfer invoice or challans and shall keep them in bound form not less than in fifty copies.

(2) Particulars under clauses (i) to (v) of sub-rule (1) shall be printed on each challan or transfer invoice.

(3) For each assessment year book no. and serial no. in first challan or transfer invoice book shall begin with serial no.001 and each book shall contain fifty challans or transfer invoices in triplicate and on other challan or transfer invoice books, both numbers will be in ascending order.

(4) Original and Duplicate copies of challan or transfer invoice shall be delivered to the person transporting goods for delivery to the consignee of goods and shall be delivered by such person to the consignee along with goods. Second copy shall be returned by the consignee of goods to the dealer who has dispatched or delivered goods:

Provided that where goods are delivered to the dealer or its representative at the place of the seller, the purchasing dealer shall, after acknowledging the receipt of goods, deliver the second copy of the challan to the selling dealer.

(5) Third carbon copy of challan or transfer invoice shall be preserved by the dealer in the challan book or transfer invoice book as part of records.

(6) Where the transfer invoice or challans are maintained in computer the hard copy of the same shall be kept in bound book of fifty in numbers.

(7) The commissioner may issue instructions and clarifications regarding form, maintenance and issue of challan or transfer invoice from time to time.

- (7) The Commissioner may issue instructions and clarifications regarding form, maintenance and issue of challan or transfer invoice from time to time.]

**42. Audit by specified authority.** (1) Audit report referred to in sub-section (17) of section 21 shall be submitted by the dealer referred to in that subsection to his assessing authority in Form XXIII along with the annual return of turnover and tax referred to in sub-section (7) of section 24.

- (2) In the report, prepared by the authority referred to in sub-section (17) of section 21, the authority shall mention names of books of account and nature of documents which are produced before him for audit and which were audited by him. He shall give a precise note about the manner in which the same have been maintained.
- (3) The specified authority, who has made audit, shall audit the accounts and documents with a view to ascertain the claim of input tax credit

and reduction in the input tax credit on account of reverse input tax credit.

- (4) The specified authority shall, in its audit report, indicate whether or not the dealer has computed amount of reverse input tax credit in accordance with provisions of the Act and these rules and Inventories prepared are in accordance with provisions of these rules.

<sup>1</sup>[**Explanation:** For the purposes of this rule, gross turnover of purchase or sale or both as the case may be, shall mean the aggregate of,—

- (a) turnover of purchase of goods liable to tax under section 5 ;
- (b) turnover of sale of goods other than goods covered under clause (a) above, where such sale is,—
  - (i) inside the State; or
  - (ii) in the course of inter-State trade or commerce ;or
  - (iii) in the course of the export of the goods out of the territory of India; or
  - (iv) in the course of import of goods into the territory of India;
- (c) sale of goods outside the State.]

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1. Inserted by Notification No. Ka.Ni.-2-241/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(55)-2010 dated 04-02-2010 w.e.f. 04-02-2010.

**43. Tax Audit by departmental authorities.** (1) For the purposes of examining the correctness of tax return or returns filed by the dealers or class of dealers and to verify the admissibility of various claims including claim of input tax credit, the Commissioner or any officer subordinate to him not below the rank of Joint Commissioner may select the dealers or class of dealers for tax audit by departmental authorities.

- (2) The tax audit authority shall be posted or nominated by the Commissioner and shall be among the officers of the Commercial Tax Department not below the rank of an Assistant Commissioner
- (3) The Commissioner shall prescribe the modalities, manners and norms for selection and audit of dealers or class of dealers from time to time as he thinks fit.

<sup>2</sup>[**44. Requirements of tax Invoice, sale invoice, bill, cash memo and purchase invoice.** (1) Every tax invoice referred to in sub-section (1) of section 22 shall contain name and complete address of the selling dealer,



name and address of its branch or depot from where goods are sold, Taxpayer's Identification Number of selling dealer, tax invoice serial no., date of issue, signature of the person authenticating tax invoice, name and address of the purchaser, Taxpayer's Identification Number of purchaser, if any, description of goods, quantity or measure of goods, value of goods, other charges, if any, amount of discount, if any, rate of tax, amount of tax charged, total amount of tax invoice and signature of person issuing tax invoice.

<sup>1</sup>[(2) Sale invoice, to be issued under sub-section (3) of Section 22 shall contain name and complete address of the selling dealer, name and

1. Substituted by Notification No. Ka.Ni.-2-241/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(55)-2010 dated 04-02-2010 w.e.f. 04-02-2010. Before substitution sub-rule (2) of Rule 44 was as under:

(2) Sale invoice, to be issued under sub-section (3) of section 22 shall contain name and complete address of the selling dealer, name and address of branch or depot from where goods are sold, Taxpayer Identification Number of selling dealer, sale invoice serial no., date of issue, name and address of the purchaser, Taxpayer Identification Number of purchaser, if any, description of goods, quantity or measure of goods, value of goods, other charges, if any, amount of discount, if any, rate of tax, amount of tax charged, total amount of sale invoice, such other details as the dealer consider necessary, if any, and signature of person issuing sale invoice:

**Provided** that where sales are made to any person other than a dealer, it shall not be necessary to mention name and address of the purchaser and Taxpayer's Identification Number of such purchaser.

2. Substituted by Notification No. Ka.Ni.-2-260/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(40)-2009 dated 30-01-2009. Before substitution Rule 44 was as under:-

**44. Requirements of tax invoice, sale invoice, bill, cash memo and purchase invoice.** (1) Every tax invoice referred to in sub-section (1) of section 22 shall contain name and complete address of the selling dealer, name and

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address of branch or depot from where goods sold, Taxpayer Identification Number of selling dealer, sale invoice serial no., date of issue, name and address of the purchaser, Taxpayer Identification Number of purchaser, if any, description of goods, quantity or measure of goods, value of goods, other charges, if any, amount of discount, if any, rate of tax, amount of tax charged, total amount of sale invoice, such other details as the dealer consider necessary, if any, and signature of person issuing sale invoice:

**Provided** that where sales of vat goods are made to any person other than a registered dealer and value of such goods exceeds Rs. Fifty thousand or such amount as the State Government may determine from time to time and the purchaser pays the sale amount other than by way of account payee cheque, the selling dealer shall obtain and keep self certified copy of identification proof of the purchaser as prescribed by the Commissioner.

**Provided further** that in case of sale of single unit of a commodity, whose value exceeds Rs. Fifty thousand, to a person other than a registered dealer the aforesaid proviso shall not apply.]

- (3) Where any person or dealer is using any invoice prescribed under any other law for time being in force containing particulars as stated in sub rule (1) or sub rule (2), contains any other particular or details, it shall not be deemed invalid for any purpose of the Act.

address of its branch or depot from where goods are sold, Taxpayer's Identification Number of selling dealer, tax invoice book number, tax invoice serial no., date of issue, signature of the person authenticating tax invoice, name and address of the purchaser, Taxpayer's Identification Number of purchaser, if any, description of goods, quantity or measure of goods, value of goods, other charges, if any, amount of discount, if any, rate of tax, amount of tax charged, total amount of tax invoice and signature of person issuing tax invoice:

Provided that if any invoice prescribed under any other Act for time being in force containing particulars as stated above, contains any other details, it shall not be deemed invalid for any purpose of the Act.

(2) Sale invoice, to be issued under clause (a) of subsection (3) of section 22 in respect of sale of any non vat goods, shall contain name and complete address of the selling dealer, name and address of branch or depot from where goods are sold, Taxpayer Identification Number of selling dealer, sale invoice book number, sale invoice serial no., date of issue, name and address of the purchaser, Taxpayer Identification Number of purchaser, if any, description of goods, quantity or measure of goods, value of goods, other charges, if any, amount of discount, if any, rate of tax, amount of tax charged, total amount of sale invoice, such other details as the dealer consider necessary, if any, and signature of person issuing sale invoice:

Provided that where sales are made to any person other than a dealer, it shall not be necessary to mention name and address of the purchaser and Taxpayer's Identification Number of such purchaser.

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- (4) For the purposes of clause (i) of sub-section (4) of section 22, rupees two hundred fifty shall be the prescribed sale value of goods for a single sale of any goods.
- (5) Purchase invoice, referred to in sub-section (9) of section 22 shall be prepared in duplicate, marked as Original and Office Copy, and shall contain name and address of the purchasing dealer, name and address of branch or depot from where goods are being purchased, his taxpayer identification number, purchase invoice number, date of issue, full name and complete address of the person selling the goods, description of goods, quantity or measure of goods, purchase value of

(3) In respect of sale of any taxable goods except non vat goods, sale invoice, to be issued under clause (b) of sub-section (3) of section 22, shall contain name and complete address of the selling dealer, name and address of branch or depot, from where goods are sold Taxpayer Identification Number of selling dealer, sale invoice book number, sale invoice serial no., date of

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issue, full name and complete address of the purchasing dealer, description of goods, quantity or measure of goods, sale price of goods, other charges, if any, amount of discount, if any, total amount of sale invoice, such other details as the dealer consider necessary, if any, and signature of person issuing sale invoice.

(4) For the purposes of clause (i) of sub-section (4) of section 22, rupees two hundred fifty shall be the prescribed sale value of goods for a single sale of any goods.

(5) Bill referred to in sub-section (4) of section 22 shall contain name and complete address of the selling dealer, name and address of branch or depot, from where goods are sold Taxpayer Identification Number of selling dealer, bill book number, bill serial no., date of issue, full name and complete address of the person purchasing the goods, description of goods, quantity or measure of goods, value of goods, other charges, if any, amount of discount, if any, total amount of bill, such other details as the dealer consider necessary, if any, and signature of person issuing bill.

(6) Cash memo referred to in sub-section (4) of section 22 shall contain name and complete address of the selling dealer, name and address of branch or depot, from where goods are sold Taxpayer's Identification Number of selling dealer, cash memo book number, cash memo serial no., date of issue, description of goods, quantity or measure of goods, value of goods, other charges, if any, amount of discount, if any, total amount of cash memo, such other details as the dealer considers necessary, if any, and signature of person issuing cash memo.

(7) Bill book and cash memo book shall be separate; and bill and cash memo referred to in sub-rule (8) and subrule (9), as the case may be, shall, for the sale of-

(i) taxable goods other than non-vat goods; and

(ii) any goods except goods covered under (i), be issued from separate bill book and cash memo book:

Provided that where a dealer maintains single book for cash memo and bill, he shall maintain separate books for goods mentioned in clauses (i) and (ii) above.

***(Continued on next page)***

goods, any other charges, if paid, total amount of purchase invoice value, signature or thumb impression of person selling goods, such other details as the purchasing dealer considers necessary, if any, and signature of the person issuing purchase invoice.

(6) On every tax-invoice and sale invoice, full name and complete address of the selling dealer, name and address of branch or depot from where goods are being sold, Taxpayer Identification Number of selling dealer, tax invoice serial no. or sale invoice serial number, as the case may be, shall be in printed form. Likewise, on every purchase invoice,

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(8) Purchase invoice, referred to in sub-section (9) of section 22, shall be prepared in two copies, marked as Original and Office Copy, and shall contain name and address of the purchasing dealer, name and address of branch or depot from where goods are being purchased, his taxpayer identification number, purchase invoice book no., purchase invoice number, date of issue, full name and complete address of the person selling the

goods, description of goods, quantity or measure of goods, purchase value of goods, any other charges, if paid, total amount of purchase invoice value, signature or thumb impression of person selling goods, such other details as the purchasing dealer considers necessary, if any, and signature of the person issuing purchase invoice.

(9) On every tax-invoice, sale invoice, bill or cash memo full name and complete address of the selling dealer, name and address of branch or depot from where goods are being sold, Taxpayer Identification Number of selling dealer, tax invoice book number, sale invoice book number, cash memo book number or bill book number, as the case may be, tax invoice serial no., sale invoice serial number, cash memo serial number or bill serial number, as the case may be, shall be in printed form. Likewise, on every purchase invoice, referred to in sub-rule (8), full name and complete address of the purchasing dealer, name and address of branch or depot from where goods are being purchased, Taxpayer Identification Number of purchasing dealer, purchase invoice book number and purchase invoice serial no. shall be in printed form.

(10) Three copies of every tax invoice, sale invoice and bill, marked as Original, Duplicate and Office Copy, shall be prepared and shall be issued from bounded book. First copy marked as Original and second copy marked as Duplicate shall be issued to the purchaser and third copy marked as Office Copy shall be retained by the selling dealer. Copy marked as Duplicate shall accompany the goods during transport of goods to their destination.

Provided that where account books are maintained on computer, after the end of every working day dealer shall take hard copy of the tax invoice, sale invoice, bill or cash memo, transfer invoice and challan etc. and shall keep them in bound form for every month not less than in fifty copies each.

(11) Two copies, of every purchase invoice referred to in sub-rule (8) and cash memo referred to in sub-rule (6), marked as Original and Office Copy, shall be prepared and be issued from bounded purchase invoice book or cash memo book, as the case may be. Original copy of purchase invoice and original copy of cash memo shall, respectively, be delivered to the seller and purchaser of goods:

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referred to in sub-rule (5), full name and complete address of the purchasing dealer, name and address of branch or depot from where goods are being purchased, Taxpayer Identification Number of purchasing dealer, and purchase invoice serial no. shall be in printed form.

- (7) Three copies of every tax invoice and sale invoice marked as Original, Duplicate and Office Copy, shall be prepared and shall be issued from bounded book. First copy marked as Original and second copy marked as Duplicate shall be issued to the purchaser and third copy marked as Office Copy shall be retained by the selling dealer. Copy marked as Duplicate shall accompany the goods during transport of goods to their destination.

**Provided** that where account books are maintained on computer, after the end of every working day dealer shall take hard copy of the tax invoice, sale invoice transfer invoice or challan etc. and shall keep them in bound form not less than in fifty copies each.

- (8) Two copies, of every purchase invoice referred to in sub-rule (5) marked as Original and Office Copy, shall be prepared and be issued from bounded purchase invoice book containing at least fifty in number. Original copy of purchase invoice shall be delivered to the seller.

**Provided further** where account books are maintained on computer, after the end of every working day dealer shall take hard copy of the purchase invoice and shall keep them in bound form not less than in fifty copies each.

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Provided that where a dealer maintains single book for cash memo and bill, he shall prepare three copies of cash memo marked as Original, Duplicate and Office Copy.

Provided further where account books are maintained on computer, after the end of every working day dealer shall take hard copy of the purchase invoice and shall keep them in bound form for every month not less than in fifty copies each'

- (12) Every tax invoice, sale invoice, bill, cash memo and purchase invoice shall be in legible form.
- (13) For each assessment year book no. and serial no. in first tax-invoice or sale-invoice book shall begin with serial no. 001 and each book shall contain fifty tax or sale-invoices in triplicate and subsequent tax-invoices, sale-invoices, tax-invoice books and sale-invoice books, book number and serial number shall be in ascending order.
- (14) Each tax-invoice shall be pre-authenticated by the person who has been authorized by the dealer in this behalf and intimation in this respect has been furnished by the dealer to his registering authority.
- (15) In respect of sales in the course of inter-state trade or commerce, sale-invoices shall be issued from separate sale-invoice books.
- (16) The commissioner may issue instructions and clarifications regarding form, maintenance and issue of tax invoice, sale invoice, bill, cash memo, and purchase invoice from time to time.
- (9) Every tax invoice, sale invoice and purchase invoice shall be in legible form.
- (10) For each assessment year serial no. in first tax-invoice, sale-invoice and purchase invoice shall begin with serial no. 001 and subsequent tax invoice, sale invoice and purchase invoice serial number shall be in ascending order. Tax invoice, sale invoice and purchase invoice shall be kept in bound book containing at least fifty copies of tax invoice, sale invoice and purchase invoice.
- (11) Each tax-invoice shall be pre-authenticated by the person who has been authorized by the dealer in this behalf and intimation in this respect has been furnished by the dealer to his registering authority in prescribed manner in prescribed form.
- (12) In respect of sales in the course of inter-state trade or commerce, issue of sale-invoice may be made from separate sale-invoice book.

- (13) Where a dealer maintains single book for tax invoice and sale invoice it shall be valid only if it contains all particulars as provided under sub rules (1) and (2)
- (14) The commissioner may issue instructions and clarifications regarding form, maintenance and issue of tax invoice, sale invoice and purchase invoice from time to time.]

#### CHAPTER IV

##### Tax Returns, Assessment, Payment and Recovery of Tax

**45. Submission of returns.** (1) In cases of dealers mentioned in the following clauses, tax periods referred to in Section 24, shall be as given in each such clause:-

- (a) in case of a dealer who becomes liable for payment of tax for the first time in any assessment year, tax periods shall be as under:
- (i) first tax period for such assessment year shall commence on the date on which the dealer has become liable for payment of tax and shall end with the last day of the calendar month in which the dealer has become liable for payment of tax;

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1. Substituted by Notification No. Ka.Ni.-2-241/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(55)-2010 dated 04-02-2010 w.e.f. 04-02-2010. Before substitution Rule 45 was as under:

**45. Submission of returns.** (1) In cases of dealers mentioned in the following clauses, tax periods referred to in section 24, shall be as given in each such clause :-

- (a) in case of a dealer who becomes liable for payment of tax for the first time in any assessment year, tax periods shall be as under:
- (i) first tax period for such assessment year shall commence on the date on which the dealer has become liable for payment of tax and shall end with the last day of the calendar month in which the dealer has become liable for payment of tax;

*(Continued on next page)*

- (ii) after expiry of first tax period, each calendar month, of the assessment year in which the dealer has become liable for payment of tax, shall be a tax period;
- (b) in case of a dealer, except as provided in clause (c) every quarter, of the assessment year, ending with thirtieth June, thirtieth September, thirty-first December and thirty-first of March, shall be tax period;
- (c) in case of a dealer, who deals in sensitive commodities specified by the Commissioner or is entitled for refund provided under Section 42 and whose aggregate of turnover, as defined in explanation given hereunder, for any assessment year, exceeds one crore rupees every calendar month of the assessment year shall be a tax period;
- (d) in case of a dealer who has discontinued his business –
- (i) the calendar month, of any assessment year, immediately preceding the calendar month in which he has discontinued

business, has been a tax period, the period, commencing on the first day of the calendar month in which he has discontinued business and ending with the day on which he has discontinued business, shall be the last tax period;

(ii) after expiry of first tax period, each calendar month, of the assessment year in which the dealer has become liable for payment of tax, shall be a tax period;

(b) in case of a dealer, whose aggregate of turnover, as defined in explanation given hereunder, for any assessment year is not likely to exceed one crore rupees or whose such aggregate for the assessment year or part of the assessment year, as the case may be, immediately preceding such assessment year, has not exceeded one crore rupees, every quarter, of the assessment year, ending with thirtieth June, thirtieth September, thirty-first December and thirty-first of March, shall be tax period;

(c) in case of a dealer, whose aggregate of turnover, as defined in explanation given hereunder, for any assessment year is likely to exceed one crore rupees or whose such aggregate for the assessment year or part of the assessment year, as the case may be, immediately preceding such assessment year, has exceeded one crore rupees, every calendar month of the assessment year shall be a tax period;

(d) in case of a dealer who has discontinued his business -

(i) the calendar month, of any assessment year, immediately preceding the calendar month in which he has discontinued business, has been a tax period, the period, commencing on the first day of the calendar month in which he has discontinued business and ending with the day on which he has discontinued business, shall be the last tax period;

(ii) the quarter, of any assessment year, immediately preceding the quarter of the assessment year in which he has discontinued business, has been a tax period, the period, commencing on the first day of the quarter in which he has discontinued business and ending with the day on which he has discontinued business, shall be the last tax period;

**Explanation:** For the purposes of this rule, aggregate of turnover shall be the aggregate of-

(a) turnover of purchase of goods, the purchase of which is liable to tax under section 5 ;

*(Continued on next page)*

(ii) the quarter, of any assessment year, immediately preceding the quarter of the assessment year in which he has discontinued business, has been a tax period, the period, commencing on the first day of the quarter in which he has discontinued business and ending with the day on which he has discontinued business, shall be the last tax period;

**Explanation:** For the purposes of this rule, aggregate of turnover shall be the aggregate of-

(a) Turnover of purchase of goods, the purchase of which is liable to tax under Section 5;

(b) turnover of sale of all other goods, except goods covered under clause (a) above, where such sale is inside the State, in the course of inter-State trade or commerce or in the course of the export of the goods

out of or in the course of import into the territory of India;

- (c) value of goods reported to have been distributed free of cost or gifted or stolen, destroyed or lost;
- (d) value of goods consigned outside the State otherwise than as a result of a sale; and
- (e) purchase price of capital goods;

(b) turnover of sale of all other goods, except goods covered under clause (a) above, where such sale is inside the State, in the course of inter-State trade or commerce or in the course of the export of the goods out of or in the course of import into the territory of India;

(c) value of goods reported to have been distributed free of cost or gifted or stolen, destroyed or lost;

(d) value of goods consigned outside the State otherwise than as a result of a sale; and

(e) purchase price of capital goods;

(2) Except as provided in sub rule (10) of this rule, every dealer liable to pay tax, shall, before expiry of a period of twenty days, commencing on the day following the day on which a tax period has expired, submit to his assessing authority tax return for each tax period in Form XXIV along with detailed information, according to code numbers notified by the State Government from time to time, in respect of each category of goods in which he carries on business:

**Provided** that a dealer, whose aggregate of turnover, referred to in sub-rule (1), for any assessment year, is likely to exceed twenty-five lakh rupees but is not likely to exceed one crore rupees and whose such aggregate for the assessment year or part of the assessment year, as the case may be, immediately preceding such assessment year, has not exceeded one crore rupees, shall, before expiry of a period of twenty days after the last day of each calendar month of a quarter referred to in clause (b) of sub-rule (1), deposit amount of net tax payable by him and shall submit to his assessing authority tax return within twenty days after expiry of the quarter along with proof of deposit of net amount of tax payable by him.

*(Continued on next page)*

- (2) Except as provided in sub-rule (10) of this rule, every dealer liable to pay tax, shall, before expiry of a period of twenty days, commencing on the day following the day on which a tax period has expired, submit to his assessing authority tax return for each tax period in Form XXIV along with detailed information, according to code numbers notified by the State Government from time to time, in respect of each category of goods in which he carries on business:

**Provided** that a dealer, whose aggregate of turnover, referred to in sub-rule (1), for any assessment year, is likely to exceed twenty-five lakh rupees or whose such aggregate for the assessment year or part of the assessment year, as the case may be, immediately preceding such assessment year, has exceeded twenty-five lakh rupees, shall, before expiry of a period of twenty days after the last day of each calendar month of a quarter referred to in clause (b) of sub-rule (1),



deposit amount of net tax payable by him and Treasury Challan of such deposit shall be submitted to the assessing authority and shall submit to his assessing authority tax return within twenty days after expiry of the quarter along with proof of deposit of net amount of tax payable by him.

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(3) Every dealer, who is required to submit tax return under sub-rule (2), shall, along with tax return of each tax period, submit the following lists:

(a) A list having following particulars in respect of tax invoices received by him in respect of purchases made by him during the tax period:

- (i) Name and address of dealer
- (ii) Taxpayer's Identification Number
- (iii) Assessment year
- (iv) Tax period
- (v) Name and address of registered dealer from whom goods purchased
- (vi) Taxpayer's Identification Number of dealer selling goods
- (vii) Tax-invoice No.
- (viii) Date of tax-invoice
- (ix) Description of goods
- (x) Total amount of tax-invoice
- (xi) Value of taxable goods
- (xii) Amount of tax charged.

(b) A list having following particulars in respect of all tax invoices issued by him in respect of sales affected during the tax period:

- (i) Name and address of dealer
- (ii) Taxpayer's Identification No.
- (iii) Assessment year
- (iv) Tax period
- (v) Tax invoice No.
- (vi) Tax invoice date
- (vii) Full Name and complete address of the dealer or person to whom tax-invoice has been issued
- (viii) TIN of purchaser, if any

***(Continued on next page)***

(3) Every dealer, who is required to submit tax return under sub-rule (2), shall, along with tax return of each tax period, submit the following lists:

(a) A list having following particulars in respect of tax invoices received by him in respect of purchases made by him during the tax period:

- (i) Name and address of dealer
- (ii) Taxpayer's Identification Number
- (iii) Assessment year

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- (ix) Description of goods
  - (x) Total amount of Tax-invoice
  - (xi) Taxable value of goods

(xii) Amount of tax charged.

(4) Before submitting the return under sub-rule (2) for a tax period, the dealer shall in the manner laid down in these rules, deposit the net amount of tax payable by him under the Act as disclosed in the return and shall submit to the assessing authority, along with the return a copy of the treasury challan in Form I:

**Provided** that where a Government department wants to deposit the tax by book transfer, such department shall, before submitting such return, prepare a bill, in triplicate, for the net amount of tax payable, endorse it to the assessing authority in accordance with the financial rules on the subject and two copies thereof with such return. One of the copies shall be retained by the assessing authority and the other copy shall be sent to the Accountant General, Uttar Pradesh for crediting the amount to the account of the Commercial Tax Department.

**Provided further** that the net tax payable upto 20th March for the tax period ending on 31st March of an year, shall be deposited and Treasury Challan of such deposit shall be submitted to the assessing authority upto 25th March of that year.

(5) The amount deducted under sub-section (1) or subsection (7) of section 34, shall be deposited into the Government Treasury by the person making such deduction before the expiry of period of twenty days commencing on the day following the last day of the month in which deduction is made.

(6) Every person, responsible for making tax deduction under any provision of section 34, shall, for each quarter ending with thirtieth June, thirtieth September, thirty-first December and thirty-first of March of each assessment year, submit the statement in Form XXV containing following particulars:

- (a) Name and address of the person
- (b) Tax Deduction Number or Taxpayer's Identification Number
- (c) Assessment year
- (d) Tax period in which tax has been deducted
- (e) Name and address of the person from whom tax has been deducted
- (f) Taxpayer's Identification Number of the dealer from whom amount of tax deducted
- (g) Contract No. and Date (in cases of works contracts)
- (h) Bill No., if any, submitted by the seller

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- (iv) Tax period
- (v) Name and address of registered dealer from whom goods purchased
- (vi) Taxpayer's Identification Number of dealer selling goods
- (vii) Tax-invoice No.
- (viii) Date of tax-invoice.
- (ix) Description of goods
- (x) Total amount of tax-invoice
- (xi) Value of taxable goods

- (xii) Amount of tax charged.
- (b) A list having following particulars in respect of all tax invoices issued by him in respect of sales affected during the tax period:
- (i) Name and address of dealer
  - (ii) Taxpayer's Identification No.
  - (iii) Assessment year
  - (iv) Tax period
  - (v) Tax invoice No.
  - (vi) Tax invoice date
  - (vii) Full Name and complete address of the dealer or person to whom tax-invoice has been issued
  - (viii) TIN of purchaser, if any
  - (ix) Description of goods
  - (x) Total amount of Tax-invoice
  - (xi) Taxable value of goods
  - (xii) Amount of tax charged.

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- (i) Date of sale-invoice or bill
  - (j) description of goods;
  - (k) Amount of sale-invoice or Bill
  - (l) Amount of tax deducted
  - (m) Serial Number of Tax deduction certificate, if issued
  - (n) Details of amount of tax deposited
  - (o) Treasury challan No.....Date.....
  - (p) Name of bank, treasury or sub-treasury.....
  - (q) Amount deposited in Rupees

*(Continued on next page)*

- (4) Before submitting the return under sub-rule (2) for a tax period, the dealer shall in the manner laid down in these rules, deposit the net amount of tax payable by him under the Act as disclosed in the return and shall submit to the assessing authority, along with the return a copy of the treasury challan in Form I:

**Provided** that where a Government department wants to deposit the tax by book transfer, such department shall, before submitting such return, prepare a bill, in triplicate, for the net amount of tax payable, endorse it to the assessing authority in accordance with the financial rules on the subject and two copies thereof with such return. One of the copies shall be retained by the assessing authority and the other copy shall be sent to the Accountant General, Uttar Pradesh for

crediting the amount to the account of the Commercial Tax Department.

**Provided further** that the net tax payable upto 20th March for the tax period ending on 31st March of an assessment year, shall be deposited and Treasury Challan of such deposit shall be submitted to the assessing authority upto 25th March of that year.

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<sup>1A</sup>[(7) Every dealer liable to pay tax shall, on or before October 31, submit to the assessing authority in addition to return filed under sub-rule (2) an annual return of his turnover and tax

(a) in Form XXVI A in case of dealer exclusively dealing sale and purchase within the State

(b) in form XXVI B in case of dealer executing works contract

(c) in form XXVI in cases other than (a) and (b) above.

for the preceding assessment year along with copies marked "Original" of all forms of declaration or certificates, on the basis of which exemption or concession from tax is claimed or which determine the nature of a transaction and annexure as described in the relevant form:

**Provided** that the annual return for the assessment year 2007-2008 may be submitted till March 31, 2009:

**Provided further** that the assessing authority may, for adequate reasons to be recorded in writing, extend the time for filing such return up to a period of ninety days beyond the period prescribed under this sub rule.]

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1A. Substituted by Notification No. Ka.Ni.-2-260/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(40)-2009 dated 30-01-2009. Before substitution sub-rule (7) of Rule 45 was as under:-

(7) Every dealer liable to pay tax shall, on or before October 31, submit to the assessing authority in addition to return filed under sub-rule (2) an annual return of his turnover and tax in Form XXVI for the preceding assessment year along with copies marked "Original" of all forms of declaration or certificates, on the basis of which exemption or concession from tax is claimed or which determine the nature of a transaction:

Provided that the assessing authority may, for adequate reasons to be recorded in writing, extend the time for filing such return up to a period of ninety days beyond October 31.

(5) The amount deducted under sub-section (1) or sub-section (7) of Section 34, shall be deposited into the Government Treasury by the person making such deduction before the expiry of period of twenty days commencing on the day following the last day of the month in which deduction is made.

(6) Every person, responsible for making tax deduction under any provision of Section 34, shall, for each quarter ending with thirtieth June, thirtieth September, thirty-first December and thirty-first of March of each assessment year, submit the statement in Form XXV containing following particulars:

(a) Name and address of the person

(b) Tax Deduction Number or Taxpayer's Identification Number

- (c) Assessment year
- (d) Tax period in which tax has been deducted
- (e) Name and address of the person from whom tax has been deducted

(8) Dealers having more than one place of business shall include the turnover of all braches of his business in Uttar Pradesh in the return submitted for the principal place of business and shall send intimation thereof to each Assistant Commissioner concerned.

(9) Upon expiry of the assessment year, every person liable to deduct amount of tax at source under provisions of section 34, shall submit to the Assistant Commissioner having jurisdiction over the principal place of business of such person, a statement in Form XXVII on or before June 30 for the preceding assessment year.

**Provided** that the assessing authority may, on request of the person concerned and for adequate reasons to be recorded in writing, extend the time for filing such statement for a period not exceeding sixty days.

(10) (a) Every dealer to whom first proviso of subsection (1) of section-6 applies shall, for each quarter ending on 30th June, 30th September, 31st December and 31st of March of assessment year, submit the tax return in form XXIV-A along with annexures.

(b) Where a Company or Corporation is a dealer and deals in petroleum product manufactured or imported including crude oil, petrol, diesel, naphtha, etc shall before expiry of period of 20 days commencing on the day following on which a tax period has expired, submit to his assessing authority tax return for each tax period in form XXIV-B along with the detailed information according to code numbers notified by the State Government from time to time, in respect of each category of goods in which he carries on business along with the Annexures. The dealer shall also submit the list of purchases and sales as provided under sub-rule (3).

(11) Every dealer, who is required to submit tax return under clause(a) of sub-rule (10), shall, along with tax return of each tax period, submit a list having following particulars in respect of tax invoices/sale invoice received by him in respect of purchases made by him during the tax period;

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- (f) Taxpayer's Identification Number of the dealer from whom amount of tax deducted
- (g) Contract No. and Date (in cases of works-contract)
- (h) Bill No., if any, submitted by the seller
- (i) Date of sale-invoice or bill
- (j) description of goods;
- (k) Amount of sale-invoice or Bill
- (l) Amount of tax deducted
- (m) Serial Number of Tax deduction certificate, if issued
- (n) Details of amount of tax deposited

- (o) Treasury challan No.....  
Date .....
- (p) Name of bank, treasury or sub-treasury.....
- (q) Amount deposited in Rupees
- (7) Every dealer liable to pay tax shall, on or before October 31, submit to the assessing authority in addition to return of tax period filed under sub-rule (2) or sub-rule (10) an annual return of his turnover and tax;-
- (a) in Form XXVI A in case of dealer exclusively dealing sale and purchase within the State
- (b) in Form XXVI B in case of dealer executing works contract

- (i) Name and address of dealer  
(ii) Taxpayer's Identification Number  
(iii) Assessment year  
(iv) Tax period  
(v) Name and address of registered dealer from whom goods purchased  
(vi) Taxpayer's Identification Number of dealer selling goods  
(vii) Tax-invoice no. or sale invoice no.  
(viii) Date of tax-invoice or sale invoice  
(ix) Description of goods  
(x) Total amount of tax-invoice or sale invoice  
(xi) Value of taxable goods  
(xii) Amount of tax charged.

(12) Before submitting the return under sub-rule (10) for a tax period, the dealer shall in the manner laid down in these rules, deposit the amount of tax payable by him under the Act as disclosed in the return and shall submit to the assessing authority, along with the return a copy of the treasury challan in Form I :

**Provided** that the tax payable upto 20th of March for the tax period ending on 31st of March of an year, shall be deposited upto 25th of March of that year.

**(Continued on next page)**

- (c) in Form XXVI in cases other than (a) and (b) above.  
for the preceding assessment year along with copies marked "Original" of all forms of declaration or certificates, on the basis of which exemption or concession from tax is claimed or which determine the nature of a transaction and annexure as described in the relevant form:

**Provided** that the annual return for the assessment year 2007-2008 may be submitted till March 31, 2009:

**Provided further** that the assessing authority may, for adequate reasons to be recorded in writing, extend the time for filing such return up to the period of ninety days beyond the period prescribed under this sub-rule:

**Provided further** that the Commissioner or the State Government may, for adequate reasons to be recorded in writing, by an order in general, extend the time for filing the annual return beyond the period prescribed under this sub-rule.

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<sup>1A</sup>[(12-A)(a) Various returns prescribed in this rule may be submitted either online on the official website of the department or in hard copy.

Provided that in case of dealers, whose aggregate of turnover as referred to in sub-rule (1), is likely to exceed one crore rupees in the assessment year or has already exceeded one crore rupees in the assessment year immediately preceding the assessment year, such dealer shall submit return on line on the official web-site of the department but the Commissioner, in case of any unforeseen circumstances for adequate reasons to be recorded in writing, may permit submission of return in hard and / or soft copy by a general or specific order.

(b) The return being submitted online on the official website of the department must be authenticated by the digital signature of the dealer or of the person referred to in sub-rule (6) of rule 32, issued by a certifying authority in accordance with the provision of Section 35 of the Information Technology Act, 2000, failing which it shall be treated as a soft copy of the return only and the dealer will have to file a hard copy thereof within seven days from the last date prescribed for submitting the return.

(c) The copy of the treasury challans referred to in sub-rule (4) and sub-rule (12) may be submitted within seven days of submitting the return, in cases where the return has been submitted online.]

<sup>1B</sup>[(13) The Commissioner shall have power to modify or amend the format of tax return or annual return and may issue instructions regarding submission of tax return of tax period.]

1A. Sub-rule (12-A) of Rule 45 inserted by Notification No. Ka.Ni.-2-260/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(40)-2009 dated 30-01-2009.

1B. Substituted by Notification No. Ka.Ni.-2-260/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(40)-2009 dated 30-01-2009. Before substitution sub-rule (13) of Rule 45 was as under:-

(13) The Commissioner shall have power to modify or amend the format of tax return and may issue instructions regarding submission of tax return of tax period.

(8) Dealers having more than one place of business shall include the turnover of all branches of his business in Uttar Pradesh in the return submitted for the principal place of business and shall send intimation thereof to each Assessing Authority concerned.

(9) Upon expiry of the assessment year, every person liable to deduct amount of tax at source under provisions of Section 34, shall submit to the Assessing Authority having jurisdiction over the principal place of business of such person, a statement in Form XXVII on or before October 31, for the preceding assessment year,

**Provided** that the assessing authority may, on request of the person concerned and for adequate reasons to be recorded in writing, extend

the time for filing such statement for a period not exceeding ninety days.

- (10)(a) Every dealer to whom first proviso to sub-section (1) of Section 6 applies, shall before expiry of period of 20 days after the end of the quarter, deposit tax in the prescribed manner and shall submit the treasury challan to the assessing authority and shall submit only annual return as prescribed under sub-rule (7).
- (b) Where a company or a corporation is a dealer and deals in petroleum products, manufactured or imported including crude oil, petrol, diesel, naphtha etc., shall before expiry of period of 20 days commencing on the day following on which a tax period has expired, submit to his assessing authority tax return for each tax period in Form XXIV-B along with the detailed information according to code numbers notified by the State Government from time to time, in respect of each category of goods in which he carries on business along with the Annexures. The dealer shall also submit the list of purchases and sales as provided under sub-rule (3).
- (c) Every dealer executing works contract shall before expiry of period of 20 days of the end of a tax period, submit to the assessing authority tax return for each tax period in Form XXIV-C along with the detailed information and Annexures:
- Provided** that where a dealer executing works contract, also carries on the business of buying, selling or manufacturing goods, he shall keep separate account of such activities and submit the return for the tax period in respect of such activities in Form XXIV, or as the case may be, in Form XXIV-A along with the return in Form XXIV-C.
- (10A)(i) Every casual dealer shall furnish to the assessing authority the tax return in Form XXIV-D on the succeeding day after the conclusion of the business.
- (ii) Where a casual dealer fails to file the tax return within the time or the assessing authority is of the opinion that casual dealer is liable to pay tax under the Act and does not submit the tax return, the assessing authority shall serve a show cause notice to furnish the tax return and if he fails to furnish the tax return, the assessing authority shall assess according to the provisions of the Act.
- (11) Every dealer who is required to submit tax return under clause (a) and clause (c) of sub-rule (10), shall, along with tax return of each tax period, submit a list having following particulars in respect of tax invoices/sale invoice received by him in respect of purchases made by him during the tax period:
- (i) Name and address of dealer
  - (ii) Taxpayer's Identification Number
  - (iii) Assessment year



- (iv) Tax period
  - (v) Name and address of registered dealer from whom goods purchased
  - (vi) Taxpayer's Identification Number of dealer selling goods
  - (vii) Tax-invoice no. or sale invoice no.
  - (viii) Date of tax-invoice or sale invoice
  - (ix) Description of goods
  - (x) Total amount of tax-invoice or sale invoice.
  - (xi) Value of taxable goods
  - (xii) Amount of tax charged.
- (12) Before submitting the return under sub-rule (10) for a tax period, the dealer shall in the manner laid down in these rules, deposit the amount of tax payable by him under the Act as disclosed in the return and shall submit to the assessing authority, along with the return a copy of the treasury challan in Form I :

**Provided** that the net tax payable upto 20th March for the tax period ending on 31st March of an year, shall be deposited and Treasury Challan of such deposit shall be submitted to the assessing authority upto 25th March of that year.

**Explanation:-**

For the purposes of this sub-rule,-

- (i) the word "tax payable" includes amount of composition money;
  - (ii) Treasury Challan includes the Certificate of Tax Deducted under Section 34 of the Act in Form XXXI.
- (12-A)(a) Various returns prescribed in this rule may be submitted either online on the official website of the department or in hard copy:

**Provided** that in case of dealers, whose aggregate of turnover as referred to in sub-rule (1), is likely to exceed or has exceeded in preceding assessment year one crore rupees or such amount as may be determined by the State Government from time to time, such dealer shall submit return on line on the official web-site of the department but the Commissioner by general or specific order, in case of any unforeseen circumstances for adequate reasons to be recorded in writing, may permit submission of return in hard and/or soft copy.

- (b) The return being submitted online on the official website of the department must be authenticated by the digital signature of the dealer or of the person referred to in sub-rule (6) of rule 32, issued by a certifying authority in accordance with the provision of Section 35 of

the Information Technology Act, 2000, failing which it shall be treated as a soft copy of the return only and the dealer will have to file a hard copy thereof within seven days from the last date prescribed for submitting the return.

- (c) The copy of the treasury challans referred to in sub-rule (4) and sub-rule (12) may be submitted within seven days of submitting the return, in cases where the return has been submitted online.
- (13) The Commissioner shall have power to issue instructions regarding submission of tax return.]

**1[46. Notice of demand.** (1) As soon as assessment has been made the assessing authority shall serve to the dealer a notice of assessment and demand together with certified copy of order of assessment free of charge.

- (2) Any amount of tax assessed by the assessing authority under Section 25 or Section 26 or Section 28 in excess of tax deposited by the dealer shall be deposited in the manner prescribed in rule 12 after service of notice of demand along with copy of the order of assessment on the dealer.
- (3) Notice of demand referred to in sub-section (3) of Section 25, sub-section (5) of Section 26, sub-section (6) of Section 28 and sub-rule (1) shall be prepared in Form XXVIII.]

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1. Substituted by Notification No. Ka.Ni.-2-241/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(55)-2010 dated 04-02-2010 w.e.f. 04-02-2010. Before substitution Rule 46 was as under:

**46. Notice of demand.** (1) Any amount of tax assessed by the assessing authority under section 25 or section 26 or Section 28 in excess of tax deposited by the dealer shall be deposited in the manner prescribed in rule 12 after service of notice of demand on the dealer.

(2) Notice of demand referred to in sub-section (3) of section 25, sub-section (5) of section 26, sub-section (6) of Section 28 and sub-rule (1) shall be prepared in form XXVIII.

**47. Recovery of tax from legal heir.** Where a legal heir of a deceased person has not been heard in any assessment of tax, recovery of any amount due against a deceased person shall be made from his legal heir only after the legal heir has been served with a show cause notice.

**48. Allotment of Tax Deduction Number to a person responsible for making tax deduction at source.** (1) Except a registered dealer every other person responsible for making tax deduction at source in accordance with provisions of section 34, before he makes deduction of any amount, shall apply in Form XXIX to the registering authority, having jurisdiction over the principal place of business of such person, for allotment of tax deduction number.

- (2) All applications shall be duly filled in and signed by the person described in column 2 of the table below and the person shall use the status code described in column 3 of the table:

Sl. No.	Description	Status code	
1	2	3	
1-	The proprietor in case of proprietorship business; or	0	1
2-	A partner duly authorized by all other partners; or	0	2
3-	The Karta in case of Hindu Undivided Family; or	0	3
4-	The Managing Director or Director or a person authorized by the Board of Directors, in the case of limited companies; or	0	4
5-	The President or Secretary in the case of Society or a Club; or	0	5
6-	The Head of the office or any other person authorized by him in case of a department of a State Government or the Central Government; or	0	6
7-	The guardian of minor where business is in the name of the minor; or	0	7
8-	Duly authorized person having a general power of attorney where business is in the name of an incapacitated person, or	0	8
9-	Trustee in case of a trust, or	0	9
10-	In any other case, person duly authorized by dealer or any other officer authorized by competent authority	1	0

- (3) Where after examination of the application and after making such inquiry as he may deem fit, registering authority is satisfied that particulars furnished are correct and complete and required fee and late fee, if any has been deposited by the applicant, he shall allot tax deduction number certificate to such person in Form XXX
- (4) Every tax deduction number certificate, granted under sub-rule (3) shall comprise such number of numeric or alpha-numeric digits as may be determined by the Commissioner.

**49. Tax deduction at source.** (1) In respect of amount of tax deducted at source by a contractee in respect of payments to the contractor or by a contractor in respect of payment to a subcontractor or by a lessee to a lessor or by purchaser to seller, certificate referred to in sub-section (7) of section

34 shall be issued by the contractee to the contractor or by a contractor to his sub-contractor or by a lessee to a lessor or by purchaser to seller, as the case may be, in Form XXXI.

- <sup>1</sup>[(2) Each certificate referred to in sub-rule (1) shall be in respect of deductions made during a calendar month and shall be issued by the contractee to contractor or by contractor to sub contractor or by lessee to lessor or by purchaser to seller as the case may be, before expiry of 20th day of succeeding month in which deduction has been made.]
- (3) Every person, responsible for making deduction of amount of tax in accordance with provisions of subsection (1) of section 34, may obtain blank Certificates in Form XXXI from the assessing authority having jurisdiction over the place of business (in case of a dealer having jurisdiction over the principal place of business) after payment of fee at a rate of five rupees per form.
- (4) Where the Assistant Commissioner is satisfied that the request for the certificate is genuine and reasonable, he shall issue to the applicant certificates in such number as he thinks fit; otherwise he shall reject the application after giving the applicant an opportunity of being heard.
- (5) Every person who has obtained certificate in Form XXXI shall keep account of all such certificates in a register in Form XXXII.
- (6) An account in respect of certificate issued shall be maintained by the Assistant Commissioner in a register.
- (7) No certificate obtained under sub-rule (4) shall be transferred except for the lawful purpose mentioned in sub-rule (1).

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1. Substituted by Notification No. Ka.Ni.-2-241/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(55)-2010 dated 04-02-2010 w.e.f. 04-02-2010. Before substitution sub-rule (2) of Rule 49 was as under:

- (2) Each certificate referred to in sub-rule (1) shall be in respect of deductions made during a calendar month.
- (8) The person obtaining the certificate shall keep them in safe custody. He shall be personally liable for its loss, destruction or theft and also for the loss of Government revenue, if any, resulting directly or indirectly from such loss, destruction or theft.
- (9) If any certificate is lost, destroyed or stolen, the person who has obtained it shall forthwith report the fact to the Assistant Commissioner and shall take immediate steps to issue proper public notice of such loss, destruction or theft.
- (10) All unused certificates shall be returned to the Assistant Commissioner, who shall maintain its account in a register.

- (11) The Commissioner may, by notification in the Gazette, declare that the certificate of a particular series, design or colour shall be deemed obsolete and invalid with effect from such date as he may specify, and may in their place substitute new forms of fresh series, design or colour.
- (12) When a duly completed certificate, issued by the purchaser to the selling dealer or contractee to contractor or contractor to sub contractor or lessee to lessor is lost in transit or by the selling dealer or contractor or sub contractor or lessor, the purchaser or contractee or contractor or lessee shall, on demand by such selling dealer or contractor or sub contractor or lessor, issue a duplicate declaration form to him in the same manner as declaration form was originally issued:
- Provided** that before issuing it, the purchasing dealer or consignee shall give the following declaration in red ink, duly signed by him on each of the three portions of such duplicate form;
- “I, hereby declare that this is the duplicate of the declaration form no. ....signed on .....and issued to M/S .....in respect of ..... (Description of goods) valuing Rs. ....
- Signature”
- (13) The Commissioner shall, from time to time, publish in the Gazette the particulars of the dealer and the form in respect of which a report has been received under sub-rule (9).
- (14) Where a notification is issued under sub-rule (13), all registered dealers shall on or before the date with effect from which the forms are so declared obsolete and invalid, surrender to the Assistant Commissioner all unused forms declared obsolete and invalid which may be in their possession and obtain in exchange such new forms as may be substituted in place thereof:
- Provided** that new forms shall not be issued to a dealer until he has rendered account of the forms previously issued to him and until he has returned the balance, if any, to the Assistant Commissioner.

## CHAPTER V

### Refund and Adjustment

- 50. Refund and Adjustment.** (1) Where any amount has been deposited by a dealer or a person in any assessment year or has been paid as input tax and any amount is refundable to such dealer or person from such assessment year, the refund under the Act shall be made after adjustment towards any amount outstanding against the dealer or the person concerned, for the same or any other assessment year under the Act, under the Central Sales Tax Act, 1956 or under the Uttar Pradesh Trade Tax Act, 1948.

- (2) Where any amount is to be refunded to a dealer or a person (hereinafter in this rule referred to as recipient), he will have to give name and address of local branch of any Bank authorized to accept the tax, fee, penalty or any amount payable under the Act and his Bank account number in such local branch of the Bank to the assessing authority within a period of 10 days from date on which refund becomes due:

**Provided** that where the recipient has already given name and address of local branch of a Bank and his Bank account number in such local branch of the Bank to the assessing authority, it shall not be necessary to give such details again.

- (3) The assessing authority shall, before expiry of period of <sup>1</sup>[eighteen] days from the date on which the refund has become due and after proper scrutiny of all relevant records and necessary verification, and after satisfying himself that the amount is refundable, submit a copy of refund order passed by him in Form XXXIII to his Drawing and Disbursing Officer. The Drawing and Disbursing Officer, within five days from the date of receipt of copy of the order, after preparing a bill, send such bill to the Treasury Officer concerned for issuing crossed account payee cheque payable at the branch of State Bank of India or any other Bank conducting Treasury business:

**Explanation:** For the purpose of this rule, the date, on which refund has become due, shall be the date, following the date-

- (a) on which order giving rise to refund has been passed by the assessing authority;
- (b) on which order giving rise to refund has been received in the office of the assessing authority where such order has been passed by any Court or other authority; and
- (c) on the last date prescribed for submission of tax return or the date on which tax return is submitted, whichever is later, where refund relates to excess amount of input tax credit and refund of such amount is admissible.

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1. Substituted for word "twenty" by Notification No. Ka.Ni.-2-260/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(40)-2009 dated 30-01-2009.

- (4) In the bill, prepared by the Drawing and Disbursing Officer, name of Bank of the recipient, his account number and his name shall be mentioned.
- (5) The Treasury Officer, within a period of four days from the receipt of the bill shall issue a crossed account payee cheque, of the amount shown refundable in the bill, payable at the branch of State Bank of India or any other Bank conducting Treasury business <sup>1</sup>[and shall also make it available to the Drawing and Disbursing Officer along with the original and duplicate copy of advice of refund in Form XXXIV as referred to in sub-rule (8), within the aforesaid time.]

- (6) The cheque referred to in sub-rule (5) shall be issued by the Treasury Officer in favour of Bank name as mentioned in the aforesaid bill.
- (7) <sup>2</sup>[On receipt of the cheque issued under sub-rule(5) along with original copy of advice of refund the Drawing and Disbursing Officer shall send it to the service branch of the respective bank within three days from the date of receipt thereof.] The Service branch of the respective bank shall ensure for crediting the amount of refund in the account of respective recipient in the respective branches.
- (8) Simultaneously with the issue of cheque to Bank in whose favour cheque has been issued, the Treasury Officer, shall issue advice of refund in Form XXXIV to the branch of The State Bank of India or other Bank at which cheque is payable, and shall forward second copy of such advice to the Drawing and Disbursing Officer who has raised the bill.
- (9) For the purpose of the Act and these rules, the date, on which cheque relating to amount of refund is sent by the <sup>3</sup>[Drawing and Disbursing Officer] to recipient's Bank, shall be deemed to be date of refund.
- (10) Adjustment of any amount under the proviso to sub section (1) of section 40 shall be made by passing an order of adjustment in form XXXIII-A. The copy of the order shall be placed in relevant file of the dealer in which refund has been adjusted. A copy of the order so passed shall be served on the dealer or the person concerned
- (11) Refunds allowed during the month shall be verified with the records of the treasury in the following month for which a statement showing the details of the bills raised and cheques issued shall be prepared and signed by the Drawing Disbursing Officer and sent to the Treasury Officer. The Treasury Officer shall verify the refunds and return the statement to Drawing and Disbursing Officer.

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1. Inserted by Notification No. Ka.Ni.-2-260/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(40)-2009 dated 30-01-2009.

2. Inserted by Notification No. Ka.Ni.-2-260/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(40)-2009 dated 30-01-2009.

3. Substituted for words "Treasury Officer" by Notification No. Ka.Ni.-2-260/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(40)-2009 dated 30-01-2009.

- (12) The provisions of foregoing rules relating to refunds shall mutatis mutandis; apply to disbursement of amount under section 43.
- (13) A dealer who has realized any amount referred to in sub-section (1) of section 43, shall deposit such amount along with the returns filed under rule 38. If he is not liable to file the returns, he shall deposit the entire amount within thirty days of the expiry of the relevant assessment year. The amount so realized shall be deposited in the manner specified in rule 11.
- (14) The receipt of payment of amount to the dealer or a certificate from the dealer certifying the realization of amount from the claimant shall

be filed along with the claim for refund under sub-section (3) of section 43.

- (15) If the assessing authority, on the basis of evidence produced before it and after making such inquiry as it deems proper, is satisfied that the amount is refundable, it shall refund the amount to the claimant in the manner provided in sub-rules (1) to (9). Before rejecting a claim the assessing authority shall afford an opportunity of being heard to the claimant. The amount shall be refunded on furnishing an indemnity bond by the claimant in Form XXXV.
- (16) If at any time after refund of the amount, the assessing authority is satisfied, for reasons to be recorded in writing, that the amount was not refundable or has become not refundable, he shall pass an order directing the claimant to deposit the amount refunded in excess in Government Treasury, within thirty days of the receipt of the order. If the claimant fails to deposit the amount within the time as aforesaid, the same shall be realized from him in accordance with the provisions of section 33.

**Provided** that no order of deposit shall be made without affording the claimant reasonable opportunity of being heard.

**<sup>1</sup>[50A. Manner of refund to official or personnel of Diplomatic mission or consulate in India etc.** (1) Any official or personnel referred to in sub section (6) of section 40 of the Act may claim for the refund of the amount of tax in form XLIX after the end of the quarter ending on 30th June, 30th September, 31st December and 31st March but not before the 20th day of the succeeding month of the quarter.

- (2) The refund shall be made within 30 days from the date of receipt of completed application for refund and in case of incomplete application within 30 days from the date when shortcomings of application is fulfilled.
- (3) The provisions of rule 50 shall mutatis mutandis apply to the refund under this rule.]

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1. Rule 50A inserted by Notification No. Ka.Ni.-2-260/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(40)-2009 dated 30-01-2009.

**51. Payment of interest on delayed refunds.** (1) Where any amount is to be paid as interest on account of allowing refund after the prescribed period of refund, the assessing authority prepare order for payment of interest in Form XXXVI and shall, in the manner provided in sub-rule (3) of rule 50, send a copy of such order to the Drawing and Disbursing Officer. The Drawing and Disbursing Officer shall, after preparing a bill of the amount mentioned in the copy of the order, send such bill to the Treasury Officer within five days from the date of receipt of copy of order from assessing authority. The Treasury Officer shall, within four days from the date of receipt of bill in his office, issue a crossed account payee cheque in the manner provided in rule 50.



- (2) Sub-rules (2) to (8) of Rule 50 shall mutatis mutandis apply to issue of order by assessing authority for payment of interest, sending of bill by Drawing and Disbursing Officer to Treasury Officer, issue of cheque and Advice to Bank and Drawing and Disbursing Officer by the Treasury Officer, transfer of amount by Branch of State Bank of India or other Bank conducting treasury business to the recipient's Bank and transfer of amount of interest by such Bank in the recipient's Bank Account, as they apply to payment of amount of refund.
- (3) Amount of refunds allowed under rule 50 and amount of interest paid under this rule shall be paid from the receipt head of the tax receipt under the Act.

## CHAPTER VI

### Inspection, Search, Seizure and check-posts

**52. Form of summons for the production of a document.** Summons, referred to in sub-section (3) of section 47, for the production of a document or the attendance of any person shall be issued in Form XXXVII.

**53. Procedure for auction of goods.** (1) Where any goods are ordered to be sold, the same shall be sold by auction in accordance with the procedure mentioned hereinafter in this rule -

- (a) The goods shall be auctioned by a committee consisting of the following members-
- (i) the Deputy Commissioner nominated by the Joint Commissioner (Executive) of the region: Chairman
  - (ii) the Assistant Commissioner nominated by the Joint Commissioner of the region: member
  - (iii) the officer seizing the goods or the assessing authority authorized to cause the goods to be sold under sub-section (8) of section 48: ex-officio: member.
- (b) The ex-officio member shall send a requisition for auction to the Chairman of the committee. The requisition shall contain full description of the goods to be auctioned and also the date, time and place of auction. At least seven days' notice shall be given for the auction. The auction shall be advertised by the Chairman either by publication of the notice of auction in at least two newspapers having wide circulation in that area or by beat of drum. The notice of auction shall also be prominently displayed at the place of auction.
- (c) The committee shall determine the minimum price of the goods to be auctioned.
- (d) The goods to be auctioned may be placed in one or more lots.

- (2) The conditions of the auction shall be as given below:
- (i) The persons who have deposited an earnest money equal to rupees five percent of the minimum price, shall be entitled to bid in the auction,
  - (ii) The goods shall be auctioned on the principle of 'as it is where it is';
  - (iii) The committee shall have the right to accept provisionally or not to accept any bid. It may, in case of goods subject to speedy and natural decay for the reasons to be recorded in writing accept a bid even at a price lower than the minimum price fixed by the Chairman. The final acceptance of any bid shall be subject to the approval of the Joint Commissioner (Executive) of the region;
  - (iv) The auction purchaser shall have to deposit twenty percent of the auction money immediately after the acceptance of the bid by the Committee. The remaining amount of the auction money shall be deposited at the time of delivery of the goods. The delivery of the goods shall be made only after final acceptance of the bid by the Joint Commissioner (Executive) of the region;
  - (v) If the auction purchaser fails to deposit twenty percent of the auction money immediately after the acceptance of the bid provisionally by the Committee, the auction shall automatically stand cancelled and the earnest money for such auction purchaser shall stand forfeited;
  - (vi) If the bid is not finally accepted by the Joint Commissioner (Executive) of the region, the amount deposited by the auction purchaser including earnest money shall be refunded to him,
  - (vii) If the auction purchaser fails to take delivery of the goods within a week of receipt of information about the final acceptance of the bid, the auction shall stand cancelled. In such an event the earnest money deposited by the auction purchaser shall stand forfeited. The expenses incurred on the auction shall be deducted from the twenty percent of bid money deposited by the auction purchaser and balance amount of bid money, if any, shall be refunded to the auction purchaser within three months of the date of auction.
  - (viii) The earnest money deposited by other bidders shall be refunded to them within three working days of the date of auction.
  - (ix) The auction purchaser shall have to deposit tax on the price, in addition to the bid money.
  - (x) in case the bid is not finally accepted by the Joint Commissioner (Executive) region or is cancelled because the successful bidder fails to deposit the bid money or fails to take delivery of the auctioned goods within the specified time the goods shall be re-auctioned in accordance with the procedure specified in this rule.

- (xi) If the seizure or penalty order is quashed by the competent authority at any time after the proceedings for auction have started but have not been completed, the goods shall be returned to the owner or to the person from whom the goods were seized. If the auction has been completed the amount received from the auction shall be paid to such person after deducting the expenses incurred on the auction.
  - (xii) The amount received from the auction shall be adjusted towards any tax or penalty assessed or imposed after deducting expenses incurred on the auction. The excess amount if any shall be refunded to the owner, or the transporter of the goods or the person from whom the goods were seized.
  - (xiii) The amount adjusted towards any tax or penalty shall be deposited in the treasury in the name of the dealer, or as the case may be, transporter or the person from whom the goods were seized, and the certificate of deposit shall be sent to the ex-officio member.
- <sup>1</sup>**54.** (1)(a) The owner, driver or any other person-in-charge of the vehicle or vessel shall, in respect of such goods carried in the vehicle or the vessel as are notified under or referred to in sub-section (1) of Section 50 and exceeding the quantity, measure or value specified in the notification therein, carry with him the following documents-

- (i) form of declaration for import in Form XXXVIII or certificate in Form XXXIX hereinafter in these rules referred to as declaration or certificate, as the case may be, in duplicate, duly filled and signed by the purchaser and seller of the goods or where goods are transferred otherwise than by way of sale, by consignor & consignee of the goods with status and address;

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1. Substituted by Notification No. Ka.Ni.-2-241/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(55)-2010 dated 04-02-2010 w.e.f. 04-02-2010. Before substitution Rule 54 was as under:

**54. Establishment of Check Posts.** (1) The State Government may, by notification in the Gazette, direct, under section 49, the establishment of check-posts and barriers at such places within the State as may be specified in the notification.

*(Continued on next page)*

- (ii) Cash memo, bill, invoice or challan;
  - (b) The owner, driver or any other person-in-charge of the vehicle or vessel shall in respect of all other goods carried in such vehicle or vessel carry such documents as may be prescribed by the Commissioner in duplicate.
- (2) (a) A declaration or certificate –
- (i) in respect of which a report has been made under sub-rule (9) of rule 56 or sub-rule (8) of rule 57, or

- (2) When a Check Post is set up upon a thoroughfare or a road, barriers may be erected across the road or thoroughfare in the form of contrivance to enable vehicles or vessels being intercepted, detained or searched.
- (3) (a) The owner, driver any other person-incharge of the vehicle or vessel shall, in respect of such goods carried in the vehicle or the vessel as are notified under or referred to in sub-section (1) of section 50 and exceeding the quantity, measure or value specified in the notification therein, carry with him the following documents-
- (i) form of declaration for import in Form XXXVIII or certificate in Form XXXIX hereinafter in these rules referred to as declaration or certificate, as the case may be, in duplicate; duly filled and signed by the purchaser and seller of the goods or where goods are transferred otherwise than by way of sale, by consignor & consignee of the goods with status and address.
  - (ii) Cash memo, bill, invoice or challan;
  - (iii) authorization for transit of goods/goods challan (hereinafter referred to as trip sheet) in triplicate.
- (b) The owner, driver or any other person-incharge of the vehicle or vessel shall in respect of all other goods carried in such vehicle or vessel carry with him a trip sheet in triplicate.
- (4) (a) A declaration or certificate –
- (i) in respect of which a report has been made under sub-rule (9) or rule 56 or sub-rule (8) of rule 57, or
  - (ii) which is declared as obsolete and invalid by the Commissioner under subrule (13) of rule 56 or sub-rule (10) of rule 57, shall not be valid with effect from the date of the report or the date from which it is so declared, as the case may be, for the purpose of sub-rule (3).
- (b) A certificate whose period of validity as specified in sub-rule (4) of rule 57 has expired shall not be valid for the purposes of sub-rule (3).
- (5) The owner of the truck or vessel or the transport agency, forwarding agency or clearing agents, as the case may be, shall deliver to the consignee, while delivering the consigned goods, the duplicate copy of the declaration or certificate, as the case may be.
- (6) The trip sheet referred to in sub-rule (3) shall be in Form XL and shall contain details in respect of all goods referred to in clauses (a) and (b) of sub-rule (3) being carried by a vehicle or vessel. Separate trip sheets shall be submitted for goods meant for different destinations.
- (7) The commissioner may from time to time issue instructions with regard to the procedure to be followed regarding import of goods from out of State and submission of declaration or certificate before assessing authority.
- (ii) which is declared as obsolete and invalid by the Commissioner under sub-rule (13) of rule 56 or sub-rule (10) of rule 57, shall not be valid with effect from the date of the report or the date from which it is so declared, as the case may be, for the purpose of sub-rule (3).
- (b) A certificate whose period of validity as specified in sub-rule (4) of rule 57 has expired shall not be valid for the purposes of sub-rule (3).
- (3) The owner of the truck or vessel or the transport agency, forwarding agency or clearing agents, as the case may be, shall deliver to the

consignee, while delivering the consigned goods, the duplicate copy of the declaration or certificate, as the case may be.

- (4) The owner, driver or any other person-in-charge of the vehicle or vessel shall carry the trip sheet in Form XL in respect of goods referred to in clause (a) of sub-rule (1). Separate trip sheets shall be submitted for goods meant for different destinations.
- (5) The Commissioner may from time to time issue instructions with regard to the procedure to be followed regarding import of goods from out of State and submission of declaration or certificate before assessing authority.]

**1[55. Inspection of goods in transit.** (1) At any place inside the State when so required by an officer empowered under rule 5 to exercise powers under Section 45 or Section 48, the owner, driver or any other person-in-charge of the vehicle or vessel, as the case may be, shall stop the vehicle or vessel and keep it stationary as long as may be required by such officer. He shall also allow such officer to examine the contents of the vehicle or vessel and to inspect all documents and records relating to the goods carried, which may be in his possession or in the possession of any other person in the vehicle or vessel.

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1. Substituted by Notification No. Ka.Ni.-2-241/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(55)-2010 dated 04-02-2010 w.e.f. 04-02-2010. Before substitution Rule 55 was as under:

**55. Inspection of goods in transit.** (1) At every check-post or barrier or at any other place, when so required by the officer-in-charge of the check-post or an officer empowered under rule 5 to exercise powers under section 45 or section 48, the owner, driver or any other person-in-charge of the vehicle or vessel, as the case may be, shall stop the vehicle or vessel and keep it stationary as long as may be required by such officer. He shall also allow such officer to examine the contents of the vehicle or vessel and to inspect all documents and records relating to the goods carried, which may be in his possession or in the possession of any other person in the vehicle or vessel.

(2) The owner, driver or any other person-in-charge of the vehicle or vessel, as the case may be, shall, if so required by the officer referred to in sub-rule (1), give him his name and complete address, the name and complete address of the owner of the vehicle or vessel and the name and complete address of the owner of the goods if he is not present in the vehicle or vessel.

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- (2) If on such examination, the officer finds or has reason to believe that-
  - (a) any one or more consignments are not covered by one or more of the documents referred to in sub-rule (1) of rule 54; or
  - (b) any such documents in respect of any consignment is false, bogus, incorrect, incomplete or invalid, the officer shall issue a notice to the driver or person-in-charge of the vehicle or vessel why the goods should not be seized.
- (3) The officer, if he is satisfied as to the reason or reasons for the omission or defect, as the case may be, may vacate the notice after recording his finding therefor.

- (4) If the officer is not satisfied with the explanation furnished by the owner, driver or the person-in-charge of the vehicle, he shall order the seizure of the goods and furnish a receipt to the person aforesaid in respect of the goods seized.
- (5) The commissioner may from time to time issue instructions with regard to the procedure to be followed regarding search and seizure of goods imported into the State from out of State.]

**<sup>1</sup>[56. Issue and submission of declaration forms and matters incidental thereto.** (1) A registered dealer desirous of importing or receiving into the State from any place outside the State, goods notified under or referred to in sub-section (1) of Section 50 in excess of the quantity, measure or value specified thereunder, shall send to the selling dealer or consignor of the other State two copies of the declaration obtained by him under sub-rule (4) or downloaded from official website of the department.

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- (3) If on such examination, the officer finds or has reason to believe that –
- (a) any one or more consignments are not covered by one or more of the documents referred to in sub-rule (3) of rule 54; or
- (b) any such documents in respect of any consignment is false, bogus, incorrect, incomplete or invalid, the officer shall issue a notice to the driver or person-in-charge of the vehicle or vessel why the goods should not be seized.
- (4) The officer, if he is satisfied as to the reason or reasons for the omission or defect, as the case may be, may vacate the notice after recording his finding therefor.
- (5) If the officer is not satisfied with the explanation furnished by the owner, driver or the person-in-charge of the vehicle, he shall order the seizure of the goods and furnish a receipt to the person aforesaid in respect of the goods seized.
- (6) The commissioner may from time to time issue instructions with regard to the procedure to be followed regarding search and seizure of goods imported into the State from out of State.

1. Substituted by Notification No. Ka.Ni.-2-241/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(55)-2010 dated 04-02-2010 w.e.f. 04-02-2010. Before substitution Rule 56 was as under:

**56. Issue and submission of declaration forms and matters incidental thereto.** (1) A registered dealer desirous of importing or receiving into the State from any place outside the State, goods notified under or referred to in sub-section (1) of section 50 in excess of the quantity, measure or value

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- (2) The registered dealer shall apply to the assessing authority having jurisdiction over his principal place of business, for the issue of blank Declaration Forms or shall download from official website of the department in such manner as the Commissioner may prescribe:
- Provided** that the assessing authority at the time of issue of declaration or certificate may require the dealer to furnish such details as may be required by the instructions issued by the Commissioner from time to time.
- (3) No blank declaration form shall be issued by the assessing authority except on payment of a fee at a rate of fifty rupees per form or such amount as may be determined by the State Government from time to

time. The application shall be signed by one of the persons mentioned in sub-rule (6) of rule 32.

- (4) If the assessing authority is satisfied that the demand of the dealer for blank declaration forms is genuine and reasonable, he may issue such number of forms, as he deems fit. No declaration form shall be issued unless the dealer has rendered an account of all such forms obtained earlier.

specified there under, shall send to the selling dealer or consignor of the other State two copies of the declaration obtained by him under sub-rule (4).

(2) The registered dealer shall apply to the assessing authority having jurisdiction over his principal place of business, for the issue of blank Declaration Forms.

**Provided** that the assessing authority at the time of issue of declaration or certificate may require the dealer to furnish such details as may be required by the instructions issued by the commissioner from time to time.

(3) No blank declaration form shall be issued by the assessing authority except on payment of a fee at a rate of five rupees per form, The application shall be signed by one of the persons mentioned in sub-rule (6) of rule 32.

(4) If the assessing authority is satisfied that the demand of the dealer for blank declaration forms is genuine and reasonable, he may issue such number of forms, as he deems fit. No declaration form shall be issued unless the dealer has rendered an account of all such forms obtained earlier.

(5) If the fee paid is more than the fee payable for the forms issued, the balance shall remain to the credit of the dealer to be adjusted against future issues of the forms to him.

(6) The registered dealer shall send the original and duplicate portions of the form to the selling dealer or consignor of the other State after filling in all the required particulars and signing it.

(7) Every declaration form obtained under sub-rule (4) shall be kept by the registered dealer in safe custody. He shall be personally liable for the loss, destruction or theft of any such form and the loss to the Government revenue, if any, resulting directly or indirectly from such loss, destruction or theft.

(8) No registered dealer to whom a declaration form has been issued shall transfer the same to another person except for the lawful purpose of sub-rule (1).

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- (5) If the fee paid is more than the fee payable for the forms issued, the balance shall remain to the credit of the dealer to be adjusted against future issues of the forms to him.
- (6) The registered dealer shall send the original and duplicate portions of the form to the selling dealer or consignor of the other State after filling in all the required particulars and signing it.
- (7) Every declaration form downloaded or obtained under sub-rule (4) shall be kept by the registered dealer in safe custody. He shall be personally liable for the loss, destruction or theft of any such form and the loss to the Government revenue, if any, resulting directly or indirectly from such loss, destruction or theft.

- (8) No registered dealer who has downloaded or obtained a declaration form shall transfer the same to another person except for the lawful purpose of sub-rule (1).
- (9) Every registered dealer to whom a declaration form is issued under sub-rule (4) or downloaded by the dealer shall maintain in register in Form XLI a true and complete account of every such form. If any form is lost, destroyed or stolen, the dealer shall forthwith report the fact to the assessing authority, make appropriate entries in the aforesaid register and take steps to issue proper public notice of such loss, destruction or theft.

(9) Every registered dealer to whom a declaration form is issued under sub-rule (4) shall maintain in register in Form XLI a true and complete account of every such form. If any form is lost, destroyed or stolen, the dealer shall forthwith report the fact to the assessing authority, make appropriate entries in the aforesaid register and take steps to issue proper public notice of such loss, destruction or theft.

(10) The registered dealer shall forthwith surrender all unused forms remaining in stock with him at the time of discontinuance of his business or on the cancellation or expiry of the period of validity of his registration certificate, as the case may be.

(11) When a duly completed declaration form, issued by the purchasing dealer or the consignee to the selling dealer or consignor, is lost in transit or by the selling dealer or consignor, the purchasing dealer or consignee shall, on demand by such selling dealer or consignor, issue a duplicate declaration form to him in the same manner as declaration form originally issued:

**Provided** that before issuing it, the purchasing dealer or consignee shall give the following declaration in red ink, duly signed by him on each of the three portions of such duplicate form;

“I, hereby declare that this is the duplicate of the declaration form no. ....signed on .....and issued to M/S .....in respect of ..... (Description of goods) valuing Rs. ....

Signature”

(12) The Commissioner shall, from time to time, publish in the Gazette the particulars of the dealer and the form in respect of which a report has been received under sub-rule (9).

**(Continued on next page)**

- (10) The registered dealer shall forthwith surrender all unused forms remaining in stock with him at the time of discontinuance of his business or on the cancellation or expiry of the period of validity of his registration certificate, as the case may be.
- (11) When a duly completed declaration form, issued by the purchasing dealer or the consignee to the selling dealer or consignor, is lost in transit or by the selling dealer or consignor, the purchasing dealer or consignee shall, on demand by such selling dealer or consignor, issue a duplicate declaration form to him in the same manner as declaration form originally issued:



**Provided** that before issuing it, the purchasing dealer or consignee shall give the following declaration in red ink, duly signed by him on each of the three portions of such duplicate form;

“I, hereby declare that this is the duplicate of the declaration form No. .... signed on ..... and issued to M/s ..... in respect of ..... (Description of goods) valuing Rs. ....

Signature”

- (12) The Commissioner shall, from time to time, publish in the Gazette the particulars of the dealer and the form in respect of which a report has been received under sub-rule (9).
- (13) The Commissioner may, by notification, declare that forms of a particulars series, design or colour shall be deemed obsolete and invalid with effect from such date as he may specify, and may in their place substitute new forms of fresh series, design or colour.

(13) The Commissioner may, by notification, declare that forms of a particulars series, design or colour shall be deemed obsolete and invalid with effect from such date as he may specify, and may in their place substitute new forms of fresh series, design or colour.

(14) Where a notification is issued under sub-rule (13), all registered dealers shall on or before the date with effect from which the forms are so declared obsolete and invalid, surrender to the assessing authority all unused forms declared obsolete and invalid which may be in their possession and obtain in exchange such new forms as may be substituted in place thereof:

**Provided** that new forms shall not be issued to a dealer until he has rendered account of the forms previously issued to him and until he has returned the balance, if any, to the Assistant Commissioner.

(15) No registered dealer shall issue any declaration except in a declaration form obtained by him from the assessing authority having jurisdiction over his principal place of business and not declared obsolete or invalid under the provisions of sub-rule (13).

(16) The assessing authority shall, in respect of all declaration forms received from other authorities, issued by him to dealers and surrendered by the dealers, maintain an account in a register prescribed by the Commissioner.

- (14) Where a notification is issued under sub-rule (13), all registered dealer shall on or before the date with effect from which the forms are so declared obsolete and invalid, surrender to the assessing authority all unused forms declared obsolete and invalid which may be in their possession and obtain in exchange such new forms as may be substituted in place thereof:

**Provided** that new forms shall not be issued to a dealer until he has rendered account of the forms previously issued to him and until he has returned the balance, if any, to the Assistant Commissioner.

- (15) No registered dealer shall issue any declaration except in a form obtained by him from the assessing authority or downloaded by the

dealer from the website, having jurisdiction over his principal place of business and not declared obsolete or invalid under the provisions of sub-rule (13).

- (16) The assessing authority shall, in respect of all declaration forms received from other authorities, issued by him to dealers and surrendered by the dealers, maintain an account in a register prescribed by the Commissioner.]

**57. Issue and submission of certificate and matters incidental thereto.** (1) A person other than a registered dealer, who wishes to import or receive into the State from any place outside the State goods notified under or referred to subsection (1) of section 50 in excess of the quantity, measure or value specified there under, may obtain a certificate in Form XXXIX from the Assistant Commissioner in accordance with the provisions of this rule and send to the selling dealer or consignor of other State its original and duplicate copies.

- (2) The application for a certificate shall be in Form XLII and shall be submitted to the assessing authority within whose jurisdiction the applicant carries on business or, if he does not carry business, resides. Separate application shall be submitted for each consignment.
- (3) No certificate shall be issued except on the payment of fee at the rate of rupees five per form of certificate.
- (4) If the assessing authority is satisfied that the request for the certificate is genuine and reasonable, he may issue it; otherwise he may reject the application after giving the applicant an opportunity of being heard, the certificate shall be valid for a period of one month from the date of issue.
- (5) An account in respect of certificate issued shall be maintained by the assessing authority in a register.
- (6) No certificate obtained under sub-rule (4) shall be transferred except for the lawful purpose mentioned in sub-rule (1).
- (7) The applicant shall keep the certificate in safe custody. He shall be personally liable for its loss, destruction or theft and also for the loss of Government revenue, if any, resulting directly or indirectly from such loss, destruction or theft.
- (8) If any certificate is lost, destroyed or stolen, the person who has obtained it shall forthwith report the fact to the assessing authority and shall take immediate steps to issue proper public notice of such loss, destruction or theft.
- (9) All unused certificates shall be returned to the assessing authority, who shall maintain its account in a register of surrendered certificate.
- (10) The Commissioner may, by notification, declare that the certificate of a particular series, design or colour shall be deemed obsolete and

invalid with effect from such date as he may specify, and may in their place substitute new forms of fresh series, design or colour.

**58. The transit of goods by road through the State.** The driver or person-in-charge of a vehicle carrying goods referred to in sub-section (1) of Section 50, coming from a place outside the State and destined for a place outside the State, passes through the State, the driver or person-in-charge of a vehicle shall carry such documents and follow such procedures as may be determined by general or special order issued by the Commissioner from time to time, failing which it shall be presumed that the goods carried thereby are meant for sale within the State by the owner or person in charge of the vehicle.]

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1. Substituted by Notification No. Ka.Ni.-2-241/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(55)-2010 dated 04-02-2010 w.e.f. 04-02-2010. Before substitution Rule 58 was as under:

**58. The transit of goods by road through the State.** (1) The driver or person-in-charge of a vehicle carrying goods commencing journey from a place outside the State and destined for a place outside the State or the driver or person-in-charge of a vehicle which carries goods in the circumstances referred to section-52, shall present application in Form XLIII in triplicate for issue of authorization for transit of goods to the officer-in-charge of check-post or barrier, if any, established near the point of entry into the State hereinafter called the entry check-post:

**Provided** that where any goods are carried from outside the State by rail, river, air, post or courier at any place inside the State for transporting outside the State by road by a vehicle, the driver or person-in-charge of the vehicle which will carry goods outside the State shall present application in Form XLIV in triplicate for issue of authorization for transit of goods to the assessing authority having jurisdiction over the place where goods have been received by rail, river, air, post or courier.

(2) The officer-in-charge of the entry check-post or the assessing authority referred to in proviso to sub-rule (1), as the case may be, shall, after examining the documents and after making such enquiries as he deems necessary, specify on all the copies of the application for issue of transit authorization the check-post or barrier (hereinafter referred to as the Exit check-post ) of the State to be crossed by the vehicle and the time and date up to which it should be so crossed and deliver two copies of the authorization for transit to the driver or person-in-charge of the vehicle retaining one copy himself.

*(Continued on next page)*

**59. Import or receipt of goods by post, rail, river or air and matters incidental thereto.** (1) A registered dealer or a person other than a registered dealer desirous of importing or receiving into the State (from any place outside the State) by post, rail, river or air, any goods, notified under sub-section (1) of section 50, in excess of quantity, measure or value specified thereunder, shall submit for endorsement the original and duplicate portions of the declaration or certificate as the case may be duly filled in and signed by him to the assessing authority within whose territorial jurisdiction he carries on business or, if he does not carry on business, ordinarily resides.

- (2) The assessing authority to whom a declaration or certificate is submitted for endorsement shall, after satisfying himself about their correctness and completeness, sign and stamp with his official seal, retain the original portion of the declaration or the certificate and return to the registered dealer or the person other than the registered dealer, as the case may be, the duplicate portion thereof after endorsing thereon a receipt for the retained original portion. The assessing authority may, in his discretion, direct the dealer or the person concerned to furnish copies of bill or cash memorandum or challan or invoice received by him from the selling dealer or the consignor of the other State for verification of the contents of the declaration or the certificate.
- (3) The concerned authority of rail, air, or post shall not deliver the consignment to the dealer or person concerned unless the declaration or certificate dully endorsed as aforesaid, is furnished before him.
- (4) The provisions in rule 54, and rule 56, except sub-rules (1), (6), (8) and (11) thereof and of rule 57 except subrule (1) and (6) thereof shall mutatis mutandis, apply in regard to the declaration or certificate, as the case may be, referred to in sub-rule (1).
- (5) The commissioner may from time to time issue instructions with regard to the procedure to be followed regarding taking of delivery of goods and submission of declaration or certificate.

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(3) The driver or person-in-charge of the vehicle shall stop his vehicle at such exit check-post, surrender one copy of the authorization for transit of goods and allow the Officer-in-charge of the check-post to inspect the documents, consignments and goods in order to ensure that the consignment being taken out of the State is the same as mentioned in the trip sheet. The Officer-in-charge of the exit check-post shall issue a receipt on the other copy of the authorization for transit of goods.

(4) The officer-in-charge of the exit check-post shall have power to detain, unload and search contents of the vehicle for the purpose of detecting evasion of tax.

(5) The commissioner may from time to time issue instructions with regard to the procedure to be followed regarding issue and surrender of authorization for transit of goods.

## CHAPTER VII

### Appeal, Review, Revision and Determination of Disputed Question

- 60. Forum of appeal.** (1) An appeal under section 55 shall lie to –
- (a) the Additional Commissioner (Appeal) in case the order appealed against has been passed by a Joint Commissioner (Assessment); and

- <sup>1</sup>[(b) the Additional Commissioner (Appeal) or Joint Commissioner (Appeal) in cases other than clause (a) above.]
- (2) An appeal under section 57 shall lie to the Tribunal.
- 61. Memorandum of Appeal.** (1) Every appeal shall be presented in the form of a memorandum, written on water mark or any other stout paper.
- (2) The memorandum of appeal shall specify the name and complete address of the appellant shall set forth precisely and under distinct heads the grounds of objection and the relief prayed for and shall be signed by the appellant or his lawyer or his duly authorized agent and verified in the form given below:
- (i) "I, ....., the appellant /on behalf of the appellant, do hereby declare that the contents of this memorandum are true to the best of my knowledge and belief.
- (ii) I, ....., the appellant/on behalf of the appellant, do hereby declare that the appeal is being filed for the first time and it has not been filed before."
- (3) The memorandum of appeal shall be accompanied with proof of payment of the fee payable under the Act, and in the case of an appeal under section 55, also with a challan or a certificate of the concerned assessing authority showing deposit of the tax or fee in accordance with the first proviso to sub-section 10 of section 55.
- (4) The memorandum of appeal under section 55 shall be accompanied by a certified copy of the order appealed against and two true copies each thereof. The original copy of memorandum and the certified copy of the order aforesaid shall be retained by the appellate authority, and one copy each thereof shall be served on the assessing authority concerned and the departmental representative by the said authority.
- (5) The memorandum of appeal under section 57 shall be accompanied with a certified copy of the order appealed against and three true

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1. Substituted by Notification No. Ka.Ni.-2-260/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(40)-2009 dated 30-01-2009. Before substitution clause (b) of sub-rule (1) of Rule 60 was as under:-

- (b) The Joint Commissioner (Appeals) in all other cases.  
copies each thereof. The original copy of the memorandum and the certified copy of the order aforesaid shall be retained by the Tribunal and one copy each thereof shall be served on the assessing authority and the State Representative and in case of appeal filed by the Commissioner, copy shall be served on the opposite party.
- (6) The memorandum of appeal under sections 55 and 57, shall be accompanied with three self addressed unstamped envelopes. Any change in the address mentioned in the memorandum of appeal or envelope, shall be communicated by the appellant to the appellate

authority or the Tribunal, as the case may be, in the manner laid down for presentation of the memorandum of appeal.

**62. Memorandum of appeal how to be presented.** (1) The memorandum of appeal shall either be presented to the appellate authority or the Tribunal, as the case may be, by the appellant, his lawyer or his duly authorized agent, or be sent to such authority by registered post. A memorandum of appeal sent by ordinary post shall not be entertained.

- (2) If the memorandum of appeal presented by the lawyer or an authorized agent, the vakalatnama or power of Attorney, as the case may be, shall also be enclosed therewith.
- (3) On receipt of the memorandum of appeals, the Munsarim shall enter it in a register kept for the purpose, shall endorse on the memorandum of appeal the date of its presentation, examine it and record a report whether it has been presented within limitation in accordance with the prescribed procedure and is in order; and place it before the appellate authority or the Tribunal, as the case may be, for admission.
- (4) If the memorandum of appeal is in order, it shall be admitted –
  - (a) by the appellate authority or, as the case may be,
  - (b) by the Tribunal, unless it decides to dismiss it under sub-section (4) of section 57.
- (5) If the memorandum of appeal is not in order or is not presented according to the prescribed procedure, it shall be rejected.
- (6) If the memorandum of appeal is received by registered post, the date of its receipt by the appellate authority or the Tribunal, as the case may be, shall be deemed to be the date of its presentation.
- (7) The provisions of these rule, shall mutatis mutandis apply to any other application moved by or on behalf the parties.

**63. Disposal of appeal.** (1) The appeal shall be heard on the date to be fixed by the appellate authority or the Tribunal, as the case may be.

- (2) The appellate authority or the Tribunal, as the case may be, shall cause a notice of the date fixed to be served well in time on parties to the appeal at the addresses mentioned in the memorandum of appeal, or on their lawyer or authorized agent.
- (3) The notice for cases fixed for hearing in a week shall be fixed on the notice board of the appellate authority or the Tribunal, as the case may be, on the last working day of the preceding week.
- (4) On the date of hearing, if all the relevant records of appeal have been received, the parties shall be given reasonable opportunity of being heard and the appellate authority or the Tribunal, as the case may be, may after examining all the relevant records, decide the appeal:

**Provided** that if, despite proper service of the notice either party is not present, the appeal may be heard and decided ex-parte.

- (5) The judgment in appeal shall be in writing and shall state –
  - (a) the points for determination,
  - (b) the decision thereon, and
  - (c) the reasons for such decision.
- (6) Cross appeals arising out of the same case, admitted by the Tribunal shall, as far as possible, be heard and decided together.
- (7) Copy of every order under section 55 and section 57 shall be delivered to, or served on the parties concerned free of charge. Copies of such order other than the first copy shall be given to the parties concerned on application and on furnishing copying folio of the value of twenty rupees.
- (8) Any applicant or opposite party shall be entitled to have his case argued before the appellate authority or the Tribunal by a lawyer or an accountant or a State Representative, as the case may be.
- (9) The provisions of rule 72 shall, mutatis mutandis apply to service of notice, summons, order, etc. under this rule:

**Provided** that the service, on the State Representative, shall be deemed to be the service on the Commissioner.

**64. Tribunal.** (1) The headquarters of the President of the Tribunal shall be at Lucknow, and he shall exercise concurrent jurisdiction over all circles in Uttar Pradesh and may recall any case for hearing by himself.

- (2) The headquarters and jurisdiction of other single member benches, referred to in clause (a) of subsection (1) of section 57, shall be as the State Government may, from time to time, in consultation with the President, notify.
- (3) The president may, from time to time, constitute benches of two or more members, and specify thereof jurisdiction and place of sitting of such benches, as he may consider necessary.
- (4) In every bench of two or more members, the numbers of members from each of the sources referred to in clauses (a) and (b) of subsection (1) of section 57 shall, as far as practicable, be equal:

**Provided** that in every bench at least one member shall be from amongst persons who have been judges of a High Court or who are or have been members of Uttar Pradesh Higher Judicial Service.

- (5) An application for stay under sub-section (9) of section 57 may be heard and disposed by a single member bench irrespective of the amount involved.
- (6) The members of the Tribunal shall be under the administrative control and supervision of the President.

**65. Appointments to the Tribunal.** Appointments to the Tribunal shall be made by the State Government –

- (a) in the case of persons who have been judges of the High Court or are members of the Uttar Pradesh Higher Judicial Service, in consultation with the High Court;
- (b) in the case of Advocates, in consultation with the Uttar Pradesh Public Service Commission; and
- (c) in the case of persons belonging to the Uttar Pradesh Trade Tax service or Uttar Pradesh Value Added Tax Service, by selection on the principle of merit from amongst persons who hold or have held a post not below the rank of Joint Commissioner.

**66. Giving effect to the appellate or revisional orders.** If an order passed in appeal or revision has the effect of varying any order, the Assistant Commissioner shall refund the excess amount deposited as tax, penalty or fee, or realize the deficit, as the case may be.

**67. Documents to be submitted along with an application under subsection (1) of section 59 before the Commissioner.** Every application referred to in sub-section (1) of section 59 shall be addressed to Commissioner and shall be presented in the office of the Commissioner alongwith following documents:

- (a) Document in support of the fact that no proceedings are pending before any authority or court under the Act or for the purposes of the Act
- (b) Document in support of fee shall be required to be paid for entertainment of application under Section 59.
- (c) Document in support of the contention raised by the applicant in his favour.
- (d) Copies of the judicial decision relied upon by the applicant.
- (e) Copies of expert's report, if any, relied upon by the applicant.
- (f) Any other document that the applicant may like to submit.

## CHAPTER VIII

### Settlement Commission

**68. Petition before the Settlement Commission.** (1) Any dealer or other person who has been served with a notice under sub-section (10) of Section 45, under sub-section (4) of Section 48 or issued notice for imposing penalty in respect of acts or omissions mentioned at serial no. 2, or 14 of the table under subsection (1) of section 54 and who prefers a petition before Settlement Commission shall file such petition in the form given hereunder in five legible copies out of which first copy shall be typed on water-marked



paper. Each copy of petition shall be signed and verified by the petitioner or his authorized representative in the manner specified in the form of petition.

- <sup>1</sup>[(2) The petition shall contain the proof of deposit of required fee of rupees five thousand, proof of deposit of tax on disclosed turnover which has not been disclosed before the assessing authority and the copy of the notice impugned in the petition.]
- (3) The petition shall be filed within the time provided in sub-section (1) of section-64.
- (4) No petition shall be filed unless a copy of the petition has been served on the authority who had issued the show cause notice impugned in the petition as well as on the Representative of the Commissioner in the Settlement Commission.

<sup>2</sup>**69. Form of Petition to be presented before the Settlement Commission.** The Petition mentioned in Section 65 shall be presented before the Chairman of the Settlement Commission in the following format and shall accompany the annexures given below:

- 
1. Substituted by Notification No. Ka.Ni.-2-241/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(55)-2010 dated 04-02-2010 w.e.f. 04-02-2010. Before substitution sub-rule (2) of Rule 68 was as under:

(2) The petition shall be filed along with the proof of deposit of required fee of rupees five thousand and the copy of the notice impugned in the petition.

2. Substituted by Notification No. Ka.Ni.-2-241/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(55)-2010 dated 04-02-2010 w.e.f. 04-02-2010. Before substitution Rule 69 was as under:

**69. Form of Petition to be presented before the Settlement Commission.**

The Petition referred to in section 65 shall be presented before the Chairman of the Settlement Commission in the following format and shall accompany the annexures given below:

Before the: Hon'ble Chairman, Settlement Commission, Uttar Pradesh Values Added Tax, Lucknow

Subject - Petition under Section 64 of the Uttar Pradesh Value Added Tax Act, 2008 for the Assessment Year.....

M/S.....(Name and Address of the Petitioner)  
..... Petitioner vs. .... Respondent

**(Continued on next page)**

Before the :

Hon'ble Chairman,

Settlement Commission,

Uttar Pradesh Value Added Tax,

Lucknow

Subject – Petition under Section 64 of the Uttar Pradesh Value Added Tax Act, 2008 for the Assessment Year .....

M/s ..... (Name and Address of the Petitioner) .....

Petitioner

Vs.

.....Respondent

Sir,

The Petitioner above named begs to submit this petition Under Section 64 of the Uttar Pradesh Value Added Tax Act, 2008 against the notice served on him by ..... (name of the authority who served the notice on the petitioner) under Section ----- (mention name of sub-section and section of the Act) proposing to impose on the petitioner tax or penalty exceeding one lakh rupees over and above the liability accepted by the petitioner. The petitioner challenges the above action of the respondent on the following grounds:-

PRAYER

- (1) ---
- (2) ---
- (3) ---
- (4) ---

Name & Signature of the petitioner /the person authorized by the petitioner

**Verification**

I ..... the above named petitioner/the person authorized by the petitioner do hereby declare that the information, facts, and other contents of the petition are correct and true to the best of my knowledge and belief. I further declare that no other petition has been filed earlier before the Commission on the subject matter of this petition.

Place:

Date:

Name & Signature of the petitioner / the person authorized by the petitioner

Documents enclosed with this petition:

- (1) Copy of the notice impugned in this petition.
- (2) Copy of challan no..... dated ..... deposited in ..... as proof of deposit of the required fee.
- (3) Proof of deposit of admitted tax.
- (4) Any other relevant document, if any, ----- (*mention title of document*)

Sir,

The Petitioner above named begs to submit this petition under Section 64 of the Uttar Pradesh Value Added Tax Act, 2008 against the notice served on him by ..... (name of the authority who served the notice on the petitioner) under sub-section ..... of Section ..... (mention name of sub-section and section of the Act) proposing to impose on the petitioner tax or penalty exceeding one lakh rupees over and above the liability accepted by the petitioner. The petitioner is disclosing his turnover of Rs. .... which has not been disclosed before the assessing authority and the additional amount payable on such turnover is Rs. .... (details enclosed). The petitioner

hereby challenges the above action of the respondent on the following grounds:

.....  
.....  
.....

And prays as follows:-

PRAYER

- (1) .....
- (2) .....
- (3) .....
- (4) .....

Name & Signature of the petitioner/  
the person authorized by the petitioner

Verification

I ..... the petitioner/the person authorized by the petitioner do hereby declare that the information, facts, and other contents of the petition are correct and true to the best of my knowledge and belief. I further declare that no other petition has been filed earlier before the Commission on the subject matter of this petition.

Place:

Date:

Name & Signature of the petitioner/  
The person authorized by the petitioner

Documents enclosed with this petition:

- (1) Copy of the notice impugned in this petition.
- (2) Copy of challan No. .... dated ..... deposited in ..... as proof of deposit of the required fee.
- (3) Proof of deposit of admitted tax.
- (4) Proof of deposit of additional amount of tax payable as mentioned above.
- (5) Detail of full disclosure of turnover which has not been furnished to the assessing authority with additional amount of tax payable on such turnover.

- (6) Any other relevant document, if any, ..... (mention title of document).

## CHAPTER IX

### Miscellaneous

**1[70. Tax Deferment and Entitlement Certificate.** (1) An industrial unit entitled for refund of net tax payable or earned input tax credit or both, as the case may be, under Section 42, may apply in Form XLV duly filled in and signed by the person authorized under sub-rule (6) of rule 32, to the Commissioner for issue of Certificate of Entitlement:

**Provided** that where industrial unit is eligible for refund of earned input tax credit on the purchase of raw material, processing material, consumable stores, fuel other than petrol and diesel, lubricant required for use in manufacturing of goods and packing material used in the packing of manufactured goods, may apply to the Commissioner for issue of new or amended Certificate of Entitlement within 60 sixty days of publication of this rule:

- 
1. Substituted by Notification No. Ka.Ni.-2-241/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(55)-2010 dated 04-02-2010 w.e.f. 04-02-2010. Before substitution Rule 70 was as under:

#### **70. Tax Deferment.**

(1) Industrial unit availing or granted the facility of exemption or reduction in the rate of tax under erstwhile Act, may apply to the Commissioner for issue of certificate of entitlement duly filled and signed by the person authorized under sub-rule (6) of rule 32, in form XLV up to 31st August 2008 or within thirty days from the date of publication of this rule whichever is later.

(2) A copy of the application along with enclosures, if any, shall be served to the assessing authority and certified copy of such receipt shall be annexed to the application.

(3) The assessing authority shall, after examining relevant record and after giving the dealer a reasonable opportunity of being heard if necessary, send to the Commissioner a report in form XLVI within a period of thirty days from the date of receipt of the application.

*(Continued on next page)*

**Provided further** that where the amount of exemption or period of exemption of goods mentioned or described in the Certificate of Entitlement changes or varies on account of any order or direction of any competent Court or authority or in compliance with any condition of exemption or otherwise, the industrial unit may apply within 60 days from the end of assessment year in which such event has taken place requiring amendment or within 60 days from the date of publication of this rule whichever is later.

- (2) Before submitting the application under sub rule (1) a copy of the application along with enclosures, if any, shall be served to the

concerned assessing authority and certified copy of such receipt shall be annexed to the application.

- (3) The assessing authority shall, after examining relevant record and after giving the dealer a reasonable opportunity of being heard if necessary, send to the Commissioner a report in Form XLVI within a period of thirty days from the date of receipt of the application.
- (4) If the Commissioner is satisfied that information furnished is correct and complete and report of the assessing authority confirms the particulars of the application, he shall issue or amend the certificate of entitlement in Form XLVII within sixty days from the date of receipt of application:

(4) If the Commissioner is satisfied that information furnished is correct and complete and report of the assessing authority confirms the particulars of the application, he shall issue the certificate of entitlement in form XLVII within sixty days of the receipt of the application.

(5) If the net tax payable for tax periods commencing on January 2008 and ending with 30th June 2008, has not been deposited along with return of the tax period the same shall be deposited in following time schedule:-

Serial No.	Tax period ending on	Date up to which net tax has to be deposited
1-	31.01.2008	20.08.2008
2-	29.02.2008	20.09.2008
3-	31.03.2008	20.10.2008
4-	30.04.2008	20.11.2008
5-	31.05.2008	20.12.2008
6-	30.06.2008	31.07.2008

(6) The net tax payable for the tax period after the tax period ending on 30<sup>th</sup> June 2008 shall be deposited along with return of the relevant tax period.

(7) If an industrial unit fails to deposit the net tax payable for the period and within the time prescribed under sub-rule (5) of this rule, the unit shall be liable to pay the interest provided under subsection (2) of section 33 of the Act and penalty, if any, in accordance with the provisions of section 54 of the Act.

**(Continued on next page)**

**Provided** that if Commissioner is satisfied that there is prima-facie evidence on the record that particular contained in the application is wrong or incomplete or is not worthy of credence, he shall serve a show cause notice to the applicant and after considering the reply to show cause notice and further evidence, if any, submitted in the support of reply, may pass an order in writing for issue of a new or amended Certificate of Entitlement or reject the application. A copy of such order shall be served to the applicant.

- (5) If the net tax payable for tax periods commencing on January 2008 and ending with 30th June 2008, has not been deposited along with

return of the tax period the same shall be deposited in following time schedule:-

Sl. No.	Tax period ending on	Date up to which net tax has to be deposited
1-	31.01.2008	20.08.2008
2-	29.02.2008	20.09.2008
3-	31.03.2008	20.10.2008
4-	30.04.2008	20.11.2008
5-	31.05.2008	20.12.2008
6-	30.06.2008	31.07.2008

- (6) The net tax payable for the tax period after the tax period ending on 30th June 2008 shall be deposited along with return of the relevant tax period.
- (7) If an industrial unit fails to deposit the net tax payable for the period and within the time prescribed under sub-rule (5) of this rule, the unit shall be liable to pay the interest provided under sub-section (2)

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(8) The amount of refund or interest if any, under section 42 of the Act shall be made in accordance with the provisions of the rules 50 and 51.

(9) Aggregate of amounts of tax payable under the Act and the Central Sales Tax Act, 1956, shall be debited from the amount mentioned in the certificate of entitlement.

(10) Payment of tax, for which facility of deferment is available, for any assessment year, shall be deferred for a period of five years and such period of five years shall commence on the date immediately following the last date prescribed for submission of tax return of the last tax period of such assessment year.

(11) The dealer availing the facility of deferment or refund of net tax payable under the Act shall file statement of computation of net tax payable, total amount of eligibility, amount availed up to last month, amount availed in the month and balance at the end of the month, along with the return of the tax period in form XLVIII.

of Section 33 of the Act and penalty, if any, in accordance with the provisions of Section 54 of the Act.

- (8) The amount of refund or interest if any, under Section 42 of the Act shall be made in accordance with the provisions of the rules 50 and 51.
- (9) Aggregate of amounts of tax payable under the Act/the Central Sales Tax Act, 1956 and amount of earned input tax credit on the purchase shall be debited from the amount mentioned in the Certificate of Entitlement.

- (10) Payment of tax, for which facility of deferment is available, for any assessment year, shall be deferred for a period of five years and such period of five years shall commence on the date immediately following the last date prescribed for submission of tax return of the last tax period of such assessment year.
- (11) The dealer availing the facility of deferment or refund of net tax payable under the Act or under the Central Sales Tax Act or earned input tax credit, shall file statement of computation of earned input tax credit, net tax payable under the Act or under the Central Sales Tax Act, total amount of entitlement, amount availed up to last tax period, amount availed in the tax period and balance at the end of the tax period, along with the return of the tax period in Form XLVIII.]

**71. Transfer of cases.** (1) The Commissioner or subject to general control of the Commissioner a Special Commissioner or an Additional Commissioner posted in the office of the Commissioner, may transfer any case or class of cases at any stage from one assessing authority to another assessing authority or to any officer subordinate to him.

- (2) The Additional Commissioner or Joint Commissioner (Executive) may, subject to the general control of the Commissioner, also transfer any case or class of cases at any stage from one assessing authority to another assessing authority within his zone or, as the case may be, within his region.
- (3) (a) The Commissioner may, before the commencement of the hearing of an appeal, either *suo moto* or on the application of the appellant, transfer any case or class of cases from one Additional Commissioner (Appeals) to another Additional Commissioner (Appeals) or from one Joint Commissioner (Appeals) to another Joint Commissioner (Appeals) or an Additional Commissioner (Appeals).
- (b) The President of the Tribunal may, at any stage after the commencement of the hearing of an appeal, on an application made by the appellant or the Commissioner, transfer any case or class of cases from one Additional Commissioner (Appeals) to another Additional Commissioner (Appeals) and from one Joint Commissioner (Appeals) to another Joint Commissioner (Appeals) or to an Additional Commissioner (Appeals)

**Explanation 1:** Unless otherwise directed, the officer, to whom a case is transferred under sub-rule (1) or sub-rule (2), shall have such powers as the officer from whom the case was transferred had, and he may proceed from the stage at which the case was so transferred.

**Explanation 2:** For the purposes of this rule, hearing shall be deemed to have commenced on the issue of notice referred to in sub-rule (2) of rule 63.

- (4) The Commissioner may transfer any case or class of cases at any stage of proceeding from an officer authorized under section 56 to any other such officer.

**72. Mode of service.** The service of any notice, summons or order under the Act or the Rules may be affected by any of the following methods, namely:

- (a) Service to be on dealer or person concerned in person when practicable, or on his agent-

Wherever it is practicable service shall be made on the dealer or person concerned in person, unless he has an agent empowered to accept service, in which case service on such agent shall be sufficient.

- (b) Service on agent by whom dealer or person concerned carries on business-

In a case relating to any business or work against a person who does not reside within the local limits of the jurisdiction of the authority from which the notice, summons or order is issued, service on any manager or agent, who, at the time of service, personally carries on such business or work for such person within such limits, shall be deemed good service.

- (c) Service on an adult member of dealer or concerned person's family-

Where in any case the dealer or person concerned is absent from his residence at the time when the service of notice, summons or order is sought to be effected at his residence and there is no likelihood of his being found at the residence within a reasonable time and he has no agent empowered to accept service of the notice, summons or order on his behalf, service may be made on any adult member of the family, whether male or female, who is residing with him.

**Explanation:** A servant is not a member of the family within the meaning of this rule.

- (d) Person served to sign acknowledgement-

Where the process server delivers or tenders a copy of the notice, order or summons to the dealer or person concerned personally, or to an agent or other person on his behalf, he shall require the signature of the person to whom the copy is so delivered or tendered to an acknowledgement of service endorsed on the original notice, order or summons.

- (e) Procedure when dealer or person concerned refuses to accept or cannot be found-

Where dealer or concerned person or his agent or such other person as aforesaid refuses to sign the acknowledgement, or where the process server, after using all due and reasonable diligence, cannot find the dealer or person concerned who is absent from his place of business or residence at the time when service is sought to be effected on him and there is no likelihood of his being found within a reasonable time and there is no agent empowered to accept



service of the notice or order or summons on his behalf, nor any other person on whom service can be made, the process server shall affix a copy of the notice, order or summons on the outer door or some other conspicuous place in the house in which the dealer or person concerned ordinarily resides or carries on business or personally works for gain, and shall then return the original to the authority from which it was issued, with a report endorsed thereon or annexed thereto stating that he has so affixed the copy, the circumstances under which he did so, and the name and address of the person (if any) by whom the house was identified and in whose presence the copy was affixed.

(f) Endorsement of time and manner of service-

The process server shall, in all cases in which the notice, order or summons has been served under clause (d), endorse or annex, or cause to be endorsed or annexed, on or to the original notice, order or summons, a return stating the time when and the manner in which the notice, order or summons was served, and the name and address of the person (if any) identifying the person served and witnessing the delivery or tender of the notice, order or summons.

(g) Examination of the process server-

Where a notice, order or summons is returned under clause (e), the authority shall, if the return under that rule has not been verified by the affidavit of the process server, and may, if it has been so verified, examine the process server on oath, or cause him to be so examined by another authority, touching his proceedings, and may make such further enquiry in the manner as it thinks fit: and shall either declare that the notice, order or summons has been duly served or order such service as it thinks fit.

(h) Simultaneous issue of notice or order or summon for service by post in addition to personal service-

- (i) The authority shall, in addition to, and simultaneously with, the issue of notice, order or summons for service in the manner provided under this rule, also direct the notice, order or summons to be served by registered post, acknowledgement due, addressed to the dealer or person concerned, or his agent empowered to accept the service, at the place where the dealer or person concerned, or his agent, actually and voluntarily resided or carries on business or personally works for gain.

**Provided** that nothing in this sub-clause shall require the authority to issue a notice, order or summons for service by registered post, where, in the circumstances of the case, the authority considers it unnecessary.

- (ii) when an acknowledgement purporting to be signed by the dealer or person concerned or his agent is received by the authority or the postal article containing the notice, order or summons is

received back by the authority with an endorsement purporting to have been made by a postal employee to the effect that the dealer or person concerned or his agent had refused to take delivery of the postal article containing the notice, order or summons, when tendered to him, the authority issuing the notice, order or summons shall declare that the notice, order or summons had been duly served on the dealer or person concerned.

**Provided** that where the notice, order or summon was properly addressed, prepaid and duly sent by registered post, acknowledgement due, the declaration referred to this sub-rule shall be made notwithstanding the fact that the acknowledgement having lost or mislaid, or for other reasons, has not been received by the authority within thirty days from the date of issue of the notice, order or summon

- (i) Substituted service-
- (i) Where the authority is satisfied that there is reason to believe that the dealer or person concerned is keeping out of the way for the purpose of avoiding service, or that for any other reason the notice, order or summons cannot be served in the ordinary way, the authority shall order the notice, order or summons to be served by affixing a copy thereof in some conspicuous place in the office premises, and also upon some conspicuous part of the house (if any) in which the dealer or person concerned is known to have last resided or carried on business or personally worked for gain, or in such other manner as the authority thinks fit.
- (ii) Where the authority acting under sub clause (i) orders service by an advertisement in a newspaper, the newspaper shall be a daily newspaper circulating in the locality in which the dealer or person concerned is last known to have actually and voluntarily resided, carried on business or personally worked for gain.
- (iii) Effect of substituted service;-  
Service substituted by the order of authority shall be as effectual as if it had been made on the dealer or concerned person.
- (iv) Time for appearance to be fixed;-  
Where service is substituted by the order of authority, the authority shall fix such time for the appearance of the dealer or the concerned person as the case may require.
- (j) Service of notice, order or summon where the dealer or person concerned resides within the jurisdiction of another authority-
- A notice, order or summons may be sent by the authority by which it is issued, whether within or without the State, either by one of its

process server or by post to any authority having jurisdiction in the place where the dealer or person concerned resides.

- (k) Duty of authority to which notice, order or summon is sent-

The authority to which a notice, order or summons is sent under clause (j) shall, upon receipt thereof, proceed as if it has been issued by such authority and shall then return the notice, order or summons to the issuing authority, together with the record (if any) of its proceedings with regard thereto.

- (l) Service on dealer or person concerned in prison-

Where the dealer or person concerned is confined in a prison, the notice, order or summons shall be delivered or sent by post or otherwise to the officer in charge of the prison for service on the dealer or person concerned.

- (m) Service on civil public officer or on servant of railway or local authority-

Where person concerned is a public officer (not belonging to the Indian military, naval or air forces), or is a servant of a railway or local authority, the authority may, if it appears to it that the notice, order or summons may be most conveniently so served, send it for service on the person concerned to the head of the officer in which he is employed together with a copy to be retained by the person concerned.

- (n) Duty of a person to whom notice, order or summon is delivered or sent for service-

- (i) Where a notice, order or summons is delivered or sent to any person for service under clause (l) or (m) above, such person shall be bound to serve it if possible, and to return it under his signature, with the written acknowledgement of the dealer or person concerned, and such signature shall be deemed to be evidence of service.

- (ii) Where for any reason service is impossible, the notice, order or summons shall be returned to the authority with a full statement of such reason and of the steps taken to procure service, and such statement shall be deemed to be evidence of non-service.

- (o) Substitution of letter for notice, order or summon-

- (i) The authority may, notwithstanding anything hereinbefore contained, substitute for a notice, order or summons a letter signed by the authority where the dealer or person concerned is, in the opinion of the authority, of a rank entitling him to such mark of consideration.

- (ii) A letter substituted under sub clause (i) shall contain all the particulars required to be stated in a notice, order or summons, and, subject to the provisions of sub clause (iii), shall be treated in all respects as a notice, order or summons.
- (iii) A letter so substituted may be sent to the dealer or person concerned by post or by a special messenger selected by the authority, or in any other manner which the authority thinks fit; and, where the dealer or the concerned person has an agent empowered to accept service, the letter may be delivered or sent to such agent.

**73. Representation before the authorities under the Act.** Unless otherwise provided in the Act or these Rules, anything which is by the Act or the rules required or permitted to be done by a dealer, except when he is required to attend personally for examination or affirmation on oath, may be done by a lawyer, an accountant or an authorized agent appointed by the dealer in writing in this behalf.

**74. Proceedings in case of misconduct.** (1) Where a representative of a dealer, a munshi or clerk of a lawyer or, owner or person in-charge of a vehicle, representative of a transporter, driver of a vehicle and person representing a driver is found guilty of misconduct in connection with any proceedings under the Act or these rules by the Commissioner or any other officer authorized by him in this behalf, the Commissioner or such other officer may direct that he shall not be entitled to represent a dealer or such other person under these rules:

**Provided** that –

- (a) no such direction shall be made in respect of any person unless he is given a reasonable opportunity of being heard;
  - (b) any person against whom such direction is made may, within thirty days of the making of the direction, appeal to the Commissioner, to have the direction cancelled; and
  - (c) no such direction shall take effect until the expiry of thirty days from the making thereof, or where an appeal is preferred, until the disposal of the appeal.
- (2) Where the Commissioner is satisfied that a lawyer or accountant is guilty of misconduct in connection with any proceeding under the Act or these rules, he shall forward the relevant papers and document for necessary action to the authority empowered to take disciplinary action against the members of the profession to which he belongs.

**75. Inspection of records and fee payable there.** (1) An assessing authority, before whom any proceeding against a dealer or other person under the Act or these rules is pending, may, in his discretion, allow for such dealer to inspect the whole or any part of the record of such proceeding, if an application to this effect is made by 2.30 p.m. on any working day, the

application shall bear a court fee stamp of twenty rupees and if the application is allowed, an inspection fee at the rate of ten rupees for each hour or part of an hour shall be charged:

**Provided** that inspection in the same manner and on payment of the same charges, may also be allowed of the record of any proceedings before the Assistant Commissioner, which have been closed.

- (2) The dealer shall inspect record in the presence of such official and between such hours as may be appointed for such purpose by the assessing authority. He shall not be allowed to remove the record or any part thereof from the place of inspection, or to make any mark on the record, or in any manner mutilate it. He shall also not be allowed to take a copy of any part of the record beyond taking down brief notes for reference.
- (3) Any dealer desiring to ascertain any particular of a record, which he can legitimately inspect shall, on presentation to the assessing authority of an application containing a full description of the record so far as is known to him, be entitled, if the application is sanctioned, to have a search made and to have the information, if obtainable, given to him in writing, signed by the record keeper, within ten days from the date of the application. All applications, whether sanctioned or refused, shall at once be entered in a register and the serial numbers of the register given on them by the record keeper. A fee of twenty rupee on each application shall be leviable by means of a court fee stamps as soon as the order sanctioning the application is passed and the record keeper shall affix the stamp in relevant column of the register and note on the application that he has done so. He shall also cancel the stamp by punching it at its head, and also by writing or rubber stamping the word "Cancelled" on it:

**Provided** that no such fee shall be leviable in those cases where the applicant has given full and correct particulars in his application moved under sub-rule (1).

- (4) The provisions of sub-rule (1) to (3) shall mutatis mutandis apply to the State Representative, President and members of the Tribunal, the Additional Commissioner (Appeals) and the Joint Commissioner (Appeals),

**1[75-A. Fee for copy of any order.** Ist copy of any order issued by the assessing authority shall be supplied to the dealer free of cost and next copy of any order shall be supplied to the dealer on furnishing copying folio of value of twenty rupees. If order is more than 4 pages the fee shall be five rupees per page. The amount of fee may be changed by the State Government from time to time.]

**76. Certain authorities appointed under the Uttar Pradesh Trade Tax Act, 1948 to be deemed authorities appointed under the Act. (1)**

Authorities mentioned in column (2) and appointed and posted by the State Government, appointed by the State Government and posted by the Trade Tax Commissioner or appointed and posted by the Trade Tax Commissioner, as the case may be, shall, for the purpose of the Act and these rules, shall be deemed to be authorities, similarly appointed and posted, mentioned in column (3) of the table below:

<b>Sl. No.</b>	<b>Authority Under the Uttar Pradesh Trade Tax Act, 1948 (2)</b>	<b>Authority Under The Uttar Pradesh Value Added Tax Act, 2008 (3)</b>
1.	Commissioner	Commissioner
2.	President Tribunal	President Tribunal
3.	Member Tribunal	Member Tribunal
4.	Special Commissioner	Special Commissioner
5.	Additional Commissioner in any capacity	Additional Commissioner in the same capacity
6.	Joint Commissioner in any capacity	Joint Commissioner in the same capacity
7.	Deputy Commissioner in any capacity	Deputy Commissioner in the same capacity
8.	Assistant Commissioner in any capacity	Assistant Commissioner in the same capacity
9.	Trade Tax Officer in any capacity	Commercial Taxes Officer in the same capacity

(2) Authorities specified under column (3) of the table in sub-rule (1) shall continue to hold their office till they are transferred, removed or retired or otherwise quit such office or their successor is posted whichever is earlier.

1. Rule 75-A inserted by Notification No. Ka.Ni.-2-241/XI-9(295)/07-U.P.Act-5-2008-VAT-Rules-08-Order-(55)-2010 dated 04-02-2010 w.e.f. 04-02-2010.

**77. Forms prescribed under the rules.** Notwithstanding anything to the contrary contained in these rules Form prescribed under the Uttar Pradesh Trade Tax Rules, 1948 and mentioned in column (2) of the table, with suitable amendments on them, may be used in place of form prescribed under these rules and mentioned against each of them in column (3) of the table below till new form is substituted:

<b>Form under the Uttar Pradesh Trade Tax Rules,</b>	<b>Form under the Uttar Pradesh Value Added</b>	<b>Description of forms (3)</b>
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<b>1948. (1)</b>	<b>Tax Act,2008 (2)</b>	
Form I	Form I	Treasury Challan
Form VI	Form XXVIII	Notice of Demand
Form XIII	Form III	Treasury Verification Statement
Form XLIX	Form XXI	Transport Memo
Form XVI	Form XXXVII	Summon to appear in person and for documents
Form of declaration for import	Form XXXVIII	Form of declaration for import for registered dealers
Form XXXII	Form XXXIX	Declaration for import for other than registered dealers
Form XXXIII	Form XLIV	Application for declaration for import for other than registered dealers
Form XXXIV	Form XLIII	Application for transit authorization

**78. Use of printout of forms available on the web site.** (1) Dealers may, for use by them, take print outs of forms specified from time to time by the Commissioner from the Website of the Commercial Tax Department of the Government of Uttar Pradesh:

- (2) For taking print outs, A4 size paper will be used.
- (3) Expression “Web Site of the Commercial Tax Department of Government of Uttar Pradesh” refers the World Wide Web having domain “up.nic.in” and with address <http://comtax.up.nic.in>.

**Govindan Nair  
(Pramukh Sachiv)**