

URBAN DEVELOPMENT DEPARTMENT

Mantralaya, Mumbai 400 032, dated the 25th March 2010

NOTIFICATION

BOMBAY PROVINCIAL MUNICIPAL CORPORATION ACT, 1949.

No. LBT-0209/CR-65/09/UD-34.—In exercise of the powers conferred by sub-section (1) of section 152T of the Bombay Provincial Municipal Corporation Act, 1949 (Bom.LXI of 1949) and of all other powers enabling it in that behalf, the Government of Maharashtra, hereby makes the following rules, the same having been previously published as required by sub section (2) of the said section 152T, namely :—

1. *Short Title.*—These rules may be called the Bombay Provincial Municipal Corporations (local body tax) Rules, 2010.

2. *Definitions.*—(1) In these rules, unless the context otherwise requires,—

(a) “Act” means the Bombay Provincial Municipal Corporations Act, 1949 (Bom LIX of 1949) ;

(b) “Appointed day” means the day as notified by the Government, in the *Official Gazette*, to be the day from which the levy of local body tax is to commence in the area of a Corporation.

(c) “Designated Bank” means the bank authorized by the Corporation, to accept the payment of local body tax on its behalf.

(d) “Form” means a form appended to these rules.

(e) “Section” means a section of the Act.

(f) “Schedule A”, in relation to a Corporation, means a schedule as notified by the State Government in the *Official Gazette*, under the provisions of section 99B enumerating goods on which and the rates at which local body tax is leviable under the provisions of the Act, in the area of such Corporation.

(g) “Schedule B”, in relation to a Corporation, means a schedule as notified by the State Government in the *Official Gazette*, under the provisions of section 152Q enumerating goods on which no local body tax is leviable under the provisions of the Act, in the area of such Corporation.

(h) “Notified day” means the day on which the Government publishes a notification in the *Official Gazette*, directing a Corporation to levy in lieu of octroi, cess ro, as the case may be, local body tax, in its area.

(2) The words and expressions used in these rules but not defined herein, shall have the same meanings respectively as may be assigned to them in the Act.

3. *The limits of turnover for registration.*— (1) The limits of turnover for registration shall be,—

(a) in the case of a dealer, who is an importer and whose turnover of sales or the turnover of purchases of goods specified in Schedule A, during a year, is not less than Rs.5000/-, and the value of all the goods imported by him during such year is not less than Rs.5,000/-, and the turnover of all his sales or the turnover of all his purchases during such year, is not less than Rs. 1,00,000.

(b) in any other case, including the case where a dealer has not become liable to pay local body tax under clause (a), and the turnover of purchases of goods specified in schedule A, in a year, is not less than Rs. 5000, and the turnover of all his sales or the turnover of all his purchases during such year, is not less than Rs. 1,50,000.

(2) Notwithstanding anything contained in sub-rule (1), if a dealer or a person not carrying on a particular business in the City on a regular basis, carries on business in the City in any year on a temporary basis, then he shall be liable for temporary registration under the provisions of the Act and these rules, whether or not he is liable under sub-rule (1) of this rule.

4. *Calculating the limit of turnover for liability for registration.*—(1) For the purpose of calculating the limits of turnover for liability for registration,—

(a) except as otherwise expressly provided, the turnover of all sales or, as the case may be, the turnover of all purchases, shall be taken into account whether such sales or purchases are of goods taxable under the provisions of the Act and the rules or not ;

(b) the turnover shall include all sales and all purchases made by a dealer on his own account, and also on behalf of the principals mentioned in his accounts.

(c) in the case of an auctioneer, in addition to the turnover, if any, referred to in clauses (a) and (b), the turnover shall also include the price of the goods auctioned by him for his principal, whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of the principal if the price of such goods is received by him on behalf of the principal.

(2) a manager or agent of a non-residential dealer residing in the City or, as the case may be, non-residential dealers, shall be liable for registration under these rules whether or not the non-residential dealer or, as the case may be, non-residential dealers, are liable for registration under this rule, and a commission agent or any other agent by whatever name called, and an auctioneer shall be liable for registration under this rule, whether or not the principal is a dealer, and whether or not principal is liable for registration under this rule.

5. *Special provision regarding liability to pay local body tax in certain cases.*—(1) Where a dealer liable to pay local body tax under Chapter XIB of the Act, dies, then,—

(a) if the business carried on by the dealer is continued after his death, by his legal representative or any other person, such legal representative, or other person shall be liable to pay local body tax, including any interest, penalty and sum forfeited due from such dealer under these rules, in the like manner and to the same extent as the deceased dealer would have been liable to pay if he had not died, and

(b) if the business carried on by the dealer is discontinued, whether before or after his death, his legal representative shall be liable to pay, out of the estate of the deceased, in the like manner and to the same extent, as the deceased dealer would have been liable to pay if he had not died, the local body tax, including any interest, penalty and sum forfeited due from such dealer, under these rules, whether such local body tax, including any penalty and interest has been assessed or quantified before his death but has remained unpaid, or is assessed or quantified after his death.

(2) Where a person, liable to pay local body tax under these rules dies, then his legal representatives shall be liable to pay, out of estate of the deceased, in the like manner and to the same extent, as the deceased person would have been liable to pay, if he had not died, the local body tax, including any interest, penalty and sum forfeited due from such person under these rules, whether such local body tax, including any penalty and interest, has been assessed or quantified before his death but has remained unpaid, or is assessed or quantified after his death.

(3) Where a dealer, liable to pay local body tax under these rules is a Hindu undivided family, and the joint family property is partitioned amongst the various members or groups of members, then each member or group of members, shall be jointly and severally liable to pay the local body tax, including any interest, penalty and sum forfeited due from the dealer under these rules, upto the time of the partition, whether such local body tax, including any penalty or interest has been assessed or quantified before partition but has remained unpaid, or is assessed or quantified after partition.

(4) Where a dealer, liable to pay local body tax under these rules, is a firm, and the firm is dissolved, then, every person who was a partner therein, shall be jointly and severally liable to pay, to the extent to which he is liable under rule 6, the local body tax including any interest, penalty and sum forfeited, due from the firm under these rules, upto the time of dissolution, whether such local body tax, including any penalty of interest, has been assessed or quantified before such dissolution but has remained unpaid, or is assessed or quantified after such dissolution .

(5) Where a dealer, liable to pay local body tax under these rules, transfers or otherwise disposes of his business in whole or in part, by sale, lease, leave or licence, hire or in any other manner whatsoever, or effects any change in ownership thereof, in consequence of which he is succeeded in the business or part

thereof, by any other person, the dealer and the person to whom the business is transferred, or the person succeeding, as the case may be, shall jointly and severally be liable to pay local body tax, including any interest, penalty and sum forfeited, due from the dealer under these rules, upto the time of such transfer, disposal or change, whether such local body tax, including any penalty and interest has been assessed or quantified before such transfer, disposal or change but has remained unpaid or is assessed or quantified thereafter.

(6) Where the dealer or, as the case may be, dealers, liable to pay local body tax under these rules,—

(a) is the guardian of a ward on whose behalf the business is carried on by the guardian, or

(b) are trustees who carry on the business under a trust for a beneficiary, then, if the guardianship or trust is terminated, the ward or, as the case may be, the beneficiary, shall be liable to pay local body tax, including any interest, penalty or sum forfeited due from such dealer, upto the time of the termination of the guardianship or trust, whether such local body tax, including any penalty or interest has been assessed or quantified before the termination of the guardianship or trust but has remained unpaid, or is assessed or quantified thereafter.

(7) Where a dealer, liable to pay local body tax under these rules, is succeeded in the business by any person, in the manner described in clause (a) of sub-rule (1) or in sub-rule (5), then, such person shall, notwithstanding anything contained in rules 3 and 4, be liable to pay local body tax on and after the date of such succession or transfer and shall, unless he already holds a certificate of registration, within thirty days thereof, apply for registration.

6. *Liability of firm.*—Notwithstanding any contract to the contrary, where any firm is liable to pay local body tax under these rules, the firm and each of the partners of the firm, shall be jointly and severally liable for such payment :

Provided that, where any such partner retires from the firm, he shall intimate the date of his retirement within sixty days thereof, to the Commissioner, by a notice in that behalf, in writing and he shall be liable to pay the local body tax, including any interest, penalty and sum forfeited, if any, remaining unpaid at the time of his retirement, and also any local body tax due or interest or penalty payable or leviable in respect of any period prior to the date of retirement, though the assessment or quantification thereof is made after the date of his retirement :

Provided further that, if no such intimation is given within sixty days from the date of retirement, the retiring partner shall continue to be jointly and severally liable to pay local body tax, including any interest, penalty and sum forfeited, in respect of the period after the date of retirement, till the day such intimation is received by the Commissioner, as if the retiring partner had not retired till such day.

7. *Commission agent etc., liable to pay local body tax on account of principal.*—(1) Where a commission agent or any other agent, by whatever name called, or an auctioneer imports any goods on behalf of his principal, into the limits of the City for consumption, use or sale therein, such commission agent, other agent, or, as the case may be, the auctioneer and the principal shall, both jointly and severally, be liable to pay local body tax in respect of such goods.

(2) If the principal, on whose behalf the commission agent, any other agent or auctioneer has imported any goods into the limits of the City for consumption, use or sale therein, shows to the satisfaction of the Commissioner that the local body tax has been paid by his commission agent, other agent or auctioneer, on such goods, under sub-rule (1), the principal shall not be liable to pay local body tax again in respect of same goods.

(3) Where a manager or agent of a non-resident dealer imports any goods into the limits of the City for consumption, use or sale therein, then the non-resident dealer, and the manager of such agent residing in the City, shall be jointly and severally liable to pay local body tax in respect of such goods.

(4) If the non-resident dealer shows to the Commissioner, that the local body tax has been paid by the manager or agent residing in the City, then the non-resident dealer shall not be liable to pay local body tax again in respect of the same goods.

8. *Applicability of the provisions of rules to persons liable to pay local body tax under rule 5.*—Where, in respect of any local body tax, including any penalty or interest or both, due from a dealer or a person under these rules, any other person is liable for the payment thereof under rule 5, all the relevant provisions of these rules, shall, in respect of such liability, apply to such person also, as if he was the dealer or the first mentioned person himself.

9. *Registration.*—(1) No dealer shall, while being liable for registration under rule 3 or under sub-rule (7) of rule 5, carry on business as a dealer, unless he possesses a valid certificate of registration as provided by these rules :

Provided that, the provisions of this sub-rule shall not be deemed to have been contravened, if the dealer having applied in the prescribed manner and time, or, as the case may be, within the period prescribed for such registration, carries on such business pending disposal of his application for grant of registration.

(2) Every dealer required by sub-clause (1), to possess a certificate of registration, shall apply for registration,—

(a) on or before the day immediately preceding the appointed day or within a period of thirty days from the notified day whichever is later, if the turnover of all his sales or the turnover of all his purchases, first exceeds the relevant limit specified in rule 3 of these rules during,—

(i) the year immediately preceding the year in which the notified day falls, or

(ii) the period commencing on the 1st April and ending on the day immediately preceding the notified day in the subsequent year, or,

(b) within thirty days from the date on which the turnover of all his sales or the turnover of all his purchases first exceeds the relevant limit specified in rule 3 of these rules during the period commencing on the notified day and ending on the appointed day, or on or before the day immediately preceding the appointed day, whichever is later.

(c) fifteen days prior to the commencement of temporary business by a dealer or a person covered under the provisions of sub-rule (2) of rule 3 of these rules.

(d) in any other case, within thirty days from the day on which the turnover of all his sales or the turnover of all his purchases during the year commencing on the 1st April or, as the case may be, during any subsequent year, first exceeds the relevant limit specified in rule 3 of these rules.

(3) Every dealer who is registered under the provisions of the Maharashtra Value Added Tax Act, 2002 on the appointed day, shall be deemed to be a registered dealer under these rules, from such day.

(4) Application for registration shall be made in Form A, to the Commissioner along with the registration fee of rupees one hundred.

(5) Every application for registration shall be made, signed and verified in the case of business carried on by—

(a) an individual, by the proprietor or by a person having due authority to act on behalf of such proprietor ;

(b) a firm, by a partner thereof ;

(c) a Hindu undivided family, by a *karta* or an adult member thereof ;

(d) a body corporate, including a company, a co-operative society or a corporation or a local authority, by a director, manager, secretary or the principal officer thereof, or by a person duly authorized to act on its behalf.

(6) In the case of a firm, every partner thereof shall furnish a declaration as provided in Form A. Such declaration, if not furnished with the application for registration, shall be furnished not later than three months from the date of making such application in Form A.

(7) Every person signing and verifying an application for registration in the capacity specified in clause (a), (b) or (c) of sub-rule (5), shall also furnish with the application, two passport size copies of his recent photograph.

(8) The person so furnishing the photograph, shall, when called upon to do so, attend before the Commissioner and sign before him on the copies of the photograph furnished by him.

(9) In the case of business carried by an individual, a firm, a Hindu undivided family or other unincorporated association of individuals, the name and permanent residential address of such individuals, each of the partners of the firm, members of the family, or as the case may be, member of the managing committee of the association, and of persons having any interest in the businesses, shall be stated in the application for registration.

(10) Every application for registration shall state in general terms, the classes of goods in which the applicant deals.

(11) If, after such inquiry as he may deem fit, the Commissioner is satisfied that an application for registration is in order, he shall register the applicant and shall issue to him a certificate of registration in the form prescribed for this purpose, under these rules.

(12) The Commissioner may, after considering any information furnished under any of the provisions of the rules or otherwise received, amend from time to time, any certificate of registration.

10. *Grant of Certificate of Registration.*—(1) A certificate of registration shall be issued in Form 'B'.

(2) Where a dealer applying for registration is a firm, Hindu undivided family, body corporate or an association of individuals or Government, the certificate of registration shall be issued in the name of such firm, family, body corporate, association or Government, as the case may be.

(3) Where a certificate of registration is issued to a dealer on an application made therefor, then,—

(a) if it was made within the period specified in sub-clause (i) or (ii) of clause (a) or clause (b) of sub-rule (2) of rule 9, it shall take effect from the appointed day.

(b) if it was made within the period specified in clause (c) of sub-rule (2) of rule 9 of these rules, it shall take effect from the time on which the dealer's turnover first exceeded the relevant limit specified in rule 3 of these rules.

(c) if it was made within the time specified in sub-rule (7) of rule 5 of these rules, it shall take effect from the date on which the dealer becomes liable to pay the local body tax under the said sub-rule, and

(d) if such application is made under clause (c) of sub-rule (2) of rule 9 of these rules or after the expiry of the aforesaid period, it shall take effect from the date on which the application is made.

(e) the Certificate issued on an application submitted by a dealer or a person under clause (c) of sub-rule (2) of rule 9 of these rules, shall be in force till such date as the Commissioner may specify in the Certificate of Registration issued under the rules :

Provided that, the Commissioner may require a dealer or a person who is liable for registration under sub-rule (2) of rule 3 of these rules, to deposit with him, such sum, by such date as he may determine for this purpose. This deposit shall be adjustable against the amount of local body tax, interest or, as the case may be, penalty payable by such dealer or person, under the rules.

(4) Where a dealer is deemed to be registered under sub-rule (3) of rule 9 of these rules, the Commissioner shall issue to him a certificate of registration which shall take effect from the appointed day, notwithstanding the fact that he has not applied for registration under the rules.

(5) Where, the dealer has two or more places of business, within the City, the Commissioner shall issue to the dealer, one copy of the certificate of registration for each additional place of business (not being merely a warehouse) specified in the application for registration.

11. *Additional copies of Certificate of Registration, etc.*—(1) When a registered dealer opens a new place of business in addition to the place or places which was or were in existence at the time of his registration, the Commissioner shall issue an additional copy of the certificate of registration to the dealer on his applying for the same. For every additional copy supplied, a fee of rupees twenty five shall be charged.

(2) A registered dealer may obtain from the Commissioner, a duplicate copy of a certificate of registration or of an additional copy thereof, by making an application in this behalf, in case a certificate of registration or of an additional copy thereof, issued to him, is lost, destroyed or defaced.

(3) A fee of rupees twenty five shall be payable on an application for a duplicate copy of a certificate of registration or of an additional copy thereof.

12. *Non-transferability of certificate of registration.*—Save as otherwise provided in rule 14, a certificate of registration shall be personal to the dealer to whom it is granted and shall not be transferable.

13. *Exhibition of Certificate of Registration.*—Every registered dealer shall display conspicuously, at each place of his business (not being a merely a warehouse), the certificate of registration or a copy thereof.

14. *Information to be furnished regarding changes in business, etc.*—(1) If any dealer, liable to pay local body tax under these rules—

(a) transfers his business, in whole or in part, by sale, lease, leave or licence, hire or in any other manner whatsoever, or otherwise disposes of his business or any part thereof, or effects or knows of any other change in the ownership of business, or

(b) discontinues his business, or changes the place thereof, or opens a new place of business, or

(c) changes the name or nature of his business, or

(d) effects any change in the classes of goods imported by him into the limits of the City for consumption, use or sale therein, or

(e) enters into a partnership or other association in regard to his business,

he shall, within sixty days from the date of occurrence of any of the events mentioned above, inform the Commissioner, in writing accordingly, and where any such dealer dies, his executor, administrator or other legal representative or where any such dealer is a firm and there is a change in the constitution of the firm or the firm is dissolved, every person who was a partner thereof, shall, in like manner, inform the Commissioner, of such death, change in constitution or, as the case may be, dissolution.

(2) While giving any information under sub-rule (1), the certificate of registration held by the dealer and all copies thereof, shall be delivered to the Commissioner.

(3) Where, after the issue of certificate of registration and copies thereof, if any, obtained by him from the Commissioner, there have been any changes, either by way of an amendment in the relevant form or substitution thereof by a new form, then, within sixty days from such change, the dealer shall deliver the certificate of registration and all copies thereof, to the Commissioner.

(4) The Commissioner shall, unless the certificate of registration so delivered is not cancelled by him, return the certificate of registration, to the dealer after making therein such amendments, as may be necessary in view of the information, or the changes in the relevant Form, or issue a new certificate of registration.

15. *Production of Certificate of Registration, etc.*—The Commissioner may, by a notice in writing, require a registered dealer, to produce before him, a certificate of registration for the purpose of carrying out any amendment therein, under these rules.

16. *Certificate of Registration to continue in certain circumstances.*—Where a registered dealer,—

(a) effects change in the name of his business, or

(b) is a firm, and there is a change in the constitution of the firm, without dissolution thereof, or

(c) is a trustee of a trust, and there is a change in the trustees thereof, or

(d) is a guardian of ward, and there is a change in the guardian,

then, merely by reason of any of the circumstances aforesaid, it shall not be necessary for the dealer, or the firm with the changed constitution, or the new trustees, or new guardian to apply for a fresh certificate of registration and on information being furnished in the manner required by rule 14, the certificate of registration shall be amended accordingly.

17. *Cancellation of Certificate of Registration.*—(1) Where,—

(a) any business, including that of a dealer who is deemed to be registered under sub-rule (3) of rule 9 of these rules, in respect of which a certificate of registration has been issued under these rules, has been discontinued, or has been transferred or otherwise disposed of, or

(b) neither the turnover of sales nor the turnover of purchases of a registered dealer, including a dealer who is deemed to be registered under sub-rule (3) of rule 9, has, during any year exceeded the relevant limit prescribed by these rules, then, the dealer shall apply in the prescribed manner, for cancellation of his certificate of registration and the Commissioner shall, after holding such inquiry as he deems fit, cancel the certificate of registration with effect from such date as he may fix in accordance with these rules :

Provided that, where the Commissioner is satisfied that any business in respect of which a certificate of registration has been issued under these rules, has been discontinued or transferred or disposed of and the dealer has failed to apply as aforesaid, for cancellation of his certificate of registration, the Commissioner may, after giving such dealer a reasonable opportunity of being heard, cancel the certificate of registration with effect from such date as he may fix to be the date from which the business has been discontinued or transferred or disposed of, as the case may be :

Provided further that, the cancellation of a certificate of registration on an application of the dealer or otherwise, shall not affect the liability of the dealer to pay the local body tax, including any penalty, interest and sum forfeited due for any period prior to the date of cancellation of the certificate of registration, whether such local body tax, including any penalty, interest and sum forfeited, is assessed or quantified before or the date of cancellation but has remained unpaid, or is assessed or quantified thereafter :

Provided also that, for the purpose of this rule, such dealer shall be deemed not to have been a registered dealer from the date of cancellation of the certificate of registration as fixed by the Commissioner under the preceding provisions of this sub-rule.

(2) Any application for cancellation of certificate of registration shall be made to the Commissioner in Form 'C' of these rules.

(3) If the Commissioner is satisfied that the application is in order, he shall, by an order in writing, cancel the certificate of registration with effect from a date fixed in accordance with sub-rule (4) and shall, by a notice placed on the notice board of the Corporation, publish the name, address and registration number of such dealer and the date from which such cancellation takes effect. A copy of such order shall be served on the dealer.

(4) Where a certificate of registration is to be cancelled,—

(a) on the ground referred to in clause (a) of sub-rule (1), the date on which the business has been discontinued or has been transferred or otherwise disposed of, shall be the date of cancellation of registration,

(b) on the ground referred to in clause (b) of sub-rule (1) of this rule, the date of cancellation of the certificate of registration, shall not be later than the first day of the month next following the date on which the notice is published under sub-rule (3).

(5) Where the certificate of registration of a dealer is to be cancelled under the first proviso to sub-clause (1) the Commissioner shall, after giving such dealer an opportunity of being heard, cancel the certificate of registration, by an order in writing, with effect from such date as the Commissioner may fix to be the date from which the business has been discontinued or transferred or disposed of, as the case may be, and shall, by a notice placed on the notice board of the Corporation, publish the name, address and registration number of such dealer and the date from which such cancellation takes effect. A copy of such order shall be served on the dealer.

(6) If the certificate of registration of a dealer is cancelled, either on his application or under the first proviso to clause (b) of sub-rule (1) of this rule, the dealer shall surrender the certificate of registration and the copies thereof, if any, granted to him, to the Commissioner, within fifteen days from the date of receipt by him, of the order of cancellation of his certificate of registration.

(7) If a registered dealer who is required to furnish security deposit fails to do so, the Commissioner shall, after giving such dealer an opportunity of being heard, cancel, by an order in writing, the certificate of registration of such dealer and shall bring this order to the notice of the general public by way of publishing the name, address and the registration number of such dealer in the newspaper.

18. *Dealer to declare the name of manager of business.*—Every registered dealer, who is a Hindu undivided family, or an association or club or society or firm or company or who carries on business as a guardian or trustee or otherwise, on behalf of another person, shall, within one month, send to the Commissioner, a declaration in the Form F stating the name of the person or persons who shall be deemed to be the manager or managers of such dealer's business, for the purpose of these rules. Such declaration may be revised from time to time.

19. *Dealers to maintain certain registers.*—Every dealer shall maintain a register of purchases and receipt of goods on transfer basis, in Form D.

20. *Presumption and burden of proof.*—(1) If a registered dealer in the area of the City has purchased any goods specified in Schedule A, from any other registered dealer in the area of the City, then for the

purpose of proving that he is not liable to pay local body tax in respect of such goods, he may furnish to the Commissioner, as and when required by him, a certificate issued by the selling dealer as provided in rule 21. If the Commissioner is satisfied, after making such enquiry as he deems necessary, that the certificate furnished is true and correct, he may, at the time of, or at any time before the assessment of local body tax payable by the dealer under these rules, make an order to that effect and thereupon it shall be deemed, for the purpose of these rules, that the first mentioned registered dealer is not liable to pay local body tax in respect of the aforesaid goods.

(2) Until the contrary is proved, where any goods specified in Schedule A are imported by a dealer or person, into the limits of the City, it shall be presumed that the goods have been imported into the City for consumption, use or sale therein or are for trans-shipment thereof, to any other place outside the area of the City, as the case may be.

21. *Certificate to be issued by the selling dealer in certain cases.*—Where a dealer who holds any goods in the area of the City, sells the goods to any other dealer in the area of the City, then the selling dealer shall issue to the purchasing dealer a bill, invoice or cash memorandum containing a certificate in such manner and specifying such details as provided by rule 22.

22. *Particulars to be specified in bill, invoice or cash memorandum.*—Every dealer who is required to issue bill, invoice or cash memorandum in respect of the goods sold or supplied by him, shall specify in the bill or cash memorandum issued by him, the full name and style of his business, the address of his place of business and number of his certificate of registration and the particulars of the goods sold and the sale price thereof. and—

(a) where the bill, invoice or cash memorandum is issued by a registered dealer, then the bill, invoice or cash memorandum shall contain a certificate as follows, namely:—

“I/we hereby certify that my/our registration certificate under these rules is in force on the date on which the sale of the goods specified in this bill/invoice/cash memorandum, is made by me/us and that the transaction of sale covered by this bill/invoice/cash memorandum, has been effected by me/us in the course of my/our business.”

(b) where the sale price is not less than Rs. 500, the dealer shall also enter in the bill, invoice or cash memorandum the full name and style of business of the buyer(if any), and his address and the number of any certificate of registration held by him under these rules.

23. *Notification of Schedule A and determination of rates of local body tax in respect of the commodities enumerated therein.*—The Commissioner of a Corporation in the area of which local body tax is in force shall, on or before the 1st day of January of the year immediately preceding, submit a list of commodities on which he intends to levy local body tax in the year next following and the rates, with justification therefore, at which he intends to levy the said tax, to the Government and thereupon the Government shall determine the rates of local body tax in respect of each commodity and shall notify the same in the *Official Gazette*, on or before the 20th of February of such year, as ‘Schedule A’, and the Commissioner shall, then levy local body tax in respect of such commodities at the rates determined by the Government in respect of each commodity enumerated in Schedule A, in the year next following. In the subsequent years, the Government may notify in the *Official Gazette*, only the changes, if any, in the commodities enumerated in Schedule A, or the rates of local body tax applicable thereto and till such changes are notified by the Government in the *Official Gazette*, the rates determined by the Government for the last of the preceding years, shall continue to be applicable to the respective commodities enumerated in ‘Schedule A’, for a Corporation.

24. *Tariff value to be fixed in certain cases.*—If the Commissioner is satisfied that to prevent evasion of local body tax payable in respect of import of any goods specified in Schedule A, it is necessary or expedient so to do, then notwithstanding anything contained in these rules, he may, having regard to the trend of the value of such or like goods, by displaying such tariff on the notice board of the Corporation, fix, from time to time, tariff values for any such goods, and where any such tariff values are fixed, the levy of local body tax under these rules shall be with reference to such tariff values and not with reference to the value shown in any documents in relation to such goods.

25. *Determination of fair market price.*—(1) Where, in the case of any goods imported in the limits of the City for consumption, use or sale therein, the Commissioner is, for any reason, of the opinion that the sales price or, as the case may be, purchase price of such goods shown by a dealer, or by a person, in respect of any transaction of sale, or as the case may be, a transaction of purchase between related persons, is less

than the fair market price, then for the purpose of passing any order in any proceedings under these rules, the Commissioner may, after giving such dealer or such person, a reasonable opportunity of being heard, determine the fair market price of such goods.

(2) Where any goods have been imported by any dealer or by any person, into the limits of the City for consumption, use or sale therein, and the sale price or, as the case may be, the purchase price is not ascertainable or where the goods have not been obtained by way of sale or purchase, then for the purpose of passing any order in any proceedings under these rule, the Commissioner may, after giving such dealer or, as the case may be, such person, a reasonable opportunity of being heard, determine the fair market price of such goods.

26. *Inspection of goods in transit, etc.*—(1) Any vehicle in the area of the City, when so ordered by the Commissioner with a view to preventing evasion of local body tax, shall be stopped and kept stationary so long as it may be necessary, by the driver or any other person in charge of any vehicle (including transport vehicle) and such person shall allow the Commissioner to examine the contents in such vehicle and inspect all records relating to the goods carried in such vehicle which are in possession of such driver or other person in charge, who shall, if so required, give his name and address and the names and addresses of the owner of such vehicle, as well as of the consignor and consignee of such goods

(2) If the transporter of any goods, in the City fails to furnish documents relating to the title of such goods, he is so transporting then, unless proved to the contrary, he shall be deemed to be the owner of such goods and shall, notwithstanding, other provisions of the Act or these rules but subject to the provisions of this rule, be liable to pay local body tax, interest, or as the case maybe, penalty payable in respect of such goods, under the provisions of these rules.

(3) The powers under this rule shall be exercised by the commissioner or, with the previous sanction of the Commissioner, by any Officer not below the rank of Deputy Municipal Commissioner.

27. *Lump sum Payment of Local Body Tax.*—(1) Subject to the provisions of this rule, if a registered dealer whose turnover of all purchases during a year, is less than rupees five lakhs opts for the payment of a lump sum amount of local body tax as specified in the table below he shall furnish a declaration in Form R prescribed under this rule. On a declaration in form R being furnished by him, the Commissioner shall, on being satisfied that the slab from the table specified below, as opted for by the applicant dealer is correct, grant him permission to pay a lump sum amount of local body tax in accordance with the table specified below, for such period and by such date, as he may specify in his order granting such permission and the dealer shall pay such lump sum amount of local body tax within fifteen days from the date of receipt by him, of such an order:

Provided that, if a dealer to whom permission for payment of lump sum amount of local body tax is granted under this rule, fails to pay such amount within time stipulated in this rule, the permission granted by the Commissioner for this purpose, shall be deemed to be withdrawn immediately on expiry of such time:

Provided further that, the Commissioner may treat the payment of such amount to be in accordance with the permission granted under this rule earlier, if such payment is made together with the interest chargeable thereon, under the provisions of clause (a) of sub-rule (3) of rule 48 within a further period of three months from the time stipulated for this purpose in this rule, or before the end of the year in which such permission was granted, whichever is earlier.

(2) If, during the year in which permission is granted by the Commissioner to a dealer, to pay a lump sum amount of local body tax under the provisions of sub-rule (1), or as the case may be, during any subsequent year in which such permission is in force, the turnover of all purchases of such dealer exceeds the limit of such slab, he shall pay such differential amount of local body tax as to equal the amount of local body tax payable by him in such year, in accordance with the slab of the table specified below, applicable to him due to such turnover exceeding such limit or in the event of his turnover of all purchases during such year exceeding rupees five lakhs, such differential amount of local body tax as is necessary to insure that the local body tax paid by him is not less than the amount that would be payable by him otherwise than under this rule.

(3) If the Commissioner has reason to believe that the turnover of purchases of a dealer to whom permission to pay lump sum amount of local body tax has been granted under the provisions of this rule, exceeds the limit of turnover declared by him in Form R submitted for the purpose of this rule, and that such dealer has failed to comply with the provisions of sub rule (2) of this rule, he may, after giving such dealer a reasonable opportunity of being heard, by an order in writing, cancel such permission from the time such turnover has so exceeded the limit specified in the table below and may proceed to recover from him, the amount of interest chargeable and penalty leviable, if any, in addition to the amount of local body tax payable by such dealer otherwise than under this rule, in a manner prescribed under the other provisions of these rules. A copy of such order shall be served on the dealer.

Slab No	Turnover of all purchases during a year	Local body tax payable per year Rs.
1	Up to Rs. 1,00,000/-	Nil
2	Exceeding Rs. 1,00,000/- but not exceeding Rs. 2,00,000/-	2,000/-
3	Exceeding Rs. 2,00,000/- but not exceeding Rs. 3,00,000/-	3,000/-
4	Exceeding Rs. 3,00,000/- but not exceeding Rs. 4,00,000/-	4,000/-
5	Exceeding Rs. 4,00,000/- but not exceeding Rs. 5,00,000/-	5,000/-

28. *Exemption in certain cases.*—(1) No local body tax shall be levied on the goods imported into the City by State or Central Government, on production of a certificate from an officer empowered by the Government concerned in this behalf, certifying that the goods so imported belong to the Government and are imported for public purpose and are not used or intended to be used for the purpose of earning profit.

(2) No local body tax shall be levied on the goods imported into the limits of the City on behalf of, or on account of State or Central Government, on production of a certificate from an officer empowered by the Government concerned in this behalf, within a period of six months from the date of importation, certifying that the goods so imported belong to the Government and are imported for public purpose and are not used or intended to be used for the purposes of earning profit.

(3) If any goods held by a dealer or a person in the City are moved outside the City for carrying out the processes enumerated in the Explanation to this rule, and are re-imported without effecting any change in condition or appearance, as also the ownership of the goods, the value of the goods moved out, shall be allowed to be deducted from the total value of processed goods reimported and local body tax shall be leviable only on the value added i.e. processing charges, transfer charges, etc :

Provided that, the goods are reimported within a period of six months from the date of export outside the City and the dealer furnishes the information of such export in the returns for the relevant periods.

(4) If any dealer in the City imports any goods from any place outside the city for carrying out any of the processes enumerated in the explanation under this rule, on job work basis and proves to the satisfaction of the Commissioner that the goods processed have been exported within a period of six months from their importation, to the same person outside the City and there had been no change in the ownership and in the form of the goods at the time of export, no local body tax shall be levied subject to the following conditions, namely:—

(i) that dealer shows the value of such goods in the return of the relevant period;

(ii) the dealer pays security deposit, as a guarantee, as may be determined by the Commissioner in this behalf. However, a dealer importing the goods for processing on regular basis, may make a deposit as standing deposit as may be fixed by the Commissioner from time to time.

Explanation.—For the purpose of sub-rules (3) and (4) processing shall include-

(i) grinding, dyeing, bleaching, painting, printing, finishing, stentering, embroidering, doubling, twisting, metallising and electroplating;

(ii) building and mounting of bodies over chassis of vehicles of all kinds and shall also include such other processes as may be approved by the Commissioner, from time to time.

The decision of the Commissioner in this respect, shall be final.

(5) When any goods held in the City are sold and exported outside the City are received back due to rejection of goods by the purchaser, no local body tax shall be levied on such goods, provided that the goods are received back in the City within a period of six months from the date of their export and the dealer proves to the satisfaction of the Commissioner that the sale of such goods was disclosed in the return of the relevant period.

(6) The register dealer who is exporting the goods outside the territory of India, shall be exempt from the levy of the Local body Tax in respect of the value of the goods used for the purpose of such export.

29. *Submission of Returns.*—(1) Every registered dealer shall, subject to the provisions of this rule, furnish his half yearly return in form E-I and an annual return in form E-II, duly signed by him or by a person nominated by him in form F, to the Commissioner.

(2) Subject to the provisions of this rule,—

(a) every registered dealer who has opted for payment of lump sum amount of local body tax under the provisions of rule 27 of these rules, shall furnish an annual return in form E-II for a period commencing from the 1st day of April or from the first day of the month from which the order granting him permission to pay such lump sum amount of local body tax becomes operative and ending on 31st March of the year to which such return relates. Such dealer shall file such return for any subsequent year during which such permission is in force. The annual return shall be furnished within fifteen days from the end of the year to which such return relates.

(b) every registered dealer who is not covered by clause (a) of this sub rule, shall furnish, a half yearly return for the first six months of a year in form E-I, within fifteen days of the end of the such period and an annual return in form E-II within fifteen days of the end of the year to which such return relates.

(3) Notwithstanding anything contained in sub-rule (1) of this rule, but subject to the provisions of this sub-rule, the Commissioner may, by an order in Form G, from time to time, specify different periods and dates for different dealers or classes of registered dealers, unregistered dealers and persons, for the purpose of furnishing of returns:

Provided that the Commissioner may exempt any such dealers or class of dealers from furnishing returns, or, permit any such dealer or class of dealers—

(a) to furnish returns for such different periods ; or

(b) to furnish a consolidated return relating to all or any of his places of business in the City, for the such period, or for such different periods, to such authority and in such form as he may direct.

(4) If any registered dealer, unregistered dealer or a person having furnished returns under sub-rule (1), (2) or (3) of this rule, discovers any omission or an incorrect statement therein, he may furnish a revised return in respect of that period before the expiry of one month next, following the last date prescribed for the filing the original return.

(5) Every registered dealer or a person who is liable for registration under sub-rule (2) of rule 3 of these rules, shall furnish to the local body tax authority of the Corporation, in-charge of such area of the City, a return in form E1, within ten days from the last day of each month or a part thereof, in case the business is discontinued before the end of any calendar month, during which such business is carried on where such business is carried on by him.

30. *Dealers to furnish security in certain cases.*—(1) If a registered dealer fails in three or more instances during the period when his certificate of registration is in force, to pay local body tax within the time he is required to pay it by or under the provisions of these rules, then, if it appears necessary to the Commissioner so to do for the proper realization of the local body tax, interest or penalty payable by the dealer, he may, at any time while such certificate is in force, by an order in writing, and for reasons to be recorded therein, require the dealer, from time to time, to furnish, within such time as may be specified in the order, such security, or, if the dealer has already furnished any security in pursuance of an order under this sub-rule, such additional security, as may be specified in the order for the aforesaid purpose.

(2) No dealer shall be required to furnish any security, or as the case may be, additional security under sub-clause (1), unless he has been given an opportunity of being heard.

(3) The amount of security or additional security, which a dealer may be required to furnish under sub-rule (1), shall not exceed a sum equal to the amount of local body tax leviable under these rules, in accordance with the estimates of the Commissioner, in the year in which such security or, as the case may be, additional security is required to be furnished.

(4) The Commissioner may, by an order and for good and sufficient cause, forfeit the whole or any part of security or, as the case may be, the additional security, furnished by the dealer for realizing any amount of local body tax, interest or penalty payable by the dealer which has remained unpaid after the time so specified therefor, in such order :

Provided that, no order shall be passed without giving the dealer an opportunity of being heard.

(5) Where, by reason of an order passed under sub-rule (4), the security furnished by any dealer is rendered insufficient, he shall make up the deficiency in such manner and within such time, as may be directed by the Commissioner, by an order.

(6) The Commissioner may, on an application by the dealer, order the refund of any amount or part thereof, deposited by the dealer by way of security or, as the case may be, additional security, under this rule, if it is not required for the purpose of these provisions.

31. *Determination of disputed questions.*—(1) If any question arises, otherwise than in any proceedings before a Court, or before the Commissioner has commenced assessment or reassessment of a dealer or a person, under rule 33 or 34, whether for the purpose of these rules, any local body tax is payable in respect of any import of particular goods into the City, or, if local body tax is payable, the rate thereof, the Commissioner may, on an application made to him by a dealer or a person in this behalf, make an order determining such question.

Explanation.—For the purposes of this sub-rule,—(1) The Commissioner shall be deemed to have commenced assessment or re-assessment of the dealer under rule 33 or 34, when the dealer is served with any notice by the Commissioner, under any of the said rules.

(2) The Commissioner may direct that the determination shall not affect the liability of any person under these rules in respect of any goods imported by him into the City for consumption, use or sale therein, prior to the determination.

(3) If any such question arises from any order already passed under the Act and these rules, no such question shall be entertained for determination under this rule.

32. *Refund of local body tax in case of export.*—Where, any goods which are imported in the City and on the import of which due local body tax has been paid, are exported outside the City by the person importing such goods otherwise than under a contract of sale, or, where that person has sold such goods, and the sale occasions the export of the goods outside the City, then ninety percent of such amount of local body tax so paid, shall be refunded to that person, by an order in Form M, if he satisfies the following conditions, namely :—

(a) the details of goods imported are given in the relevant return, showing that goods are imported for export, and the return is furnished.

(b) The local body tax on the import is paid with the relevant return.

(c) The goods are exported out of the City within a period of six months of their importation.

(d) The person furnishes the relevant return after export, claiming the refund.

(e) The person, when asked, proves to the satisfaction of the Commissioner, that the goods imported have been exported within the period specified, without making any change in the goods :

Provided that, the Commissioner may allow any dealer who is importing and exporting the goods listed in Schedule A, on a regular basis, to pay only ten per cent of the local body tax chargeable, after obtaining from such dealer a declaration that the goods are to be exported within the specified period.

33. *Assessment of local body tax.*—(1) The amount of local body tax due from a registered dealer liable to pay it, shall be assessed separately for each period.

(2) If the Commissioner is satisfied that the returns furnished by a registered dealer in respect of any period are correct and complete, he shall assess the amount of local body tax due from such dealer, on the basis of such returns.

(3) The Commissioner may assess a registered dealer who,—

(i) has failed to furnish returns for any period, or,

(ii) has furnished all the returns in respect of all the periods on or before the date prescribed for furnishing the last return pertaining to that period, if he is not satisfied that the returns furnished by the registered dealer in respect of that period, are correct and complete, and if he thinks it necessary to require the presence of the dealer or the production of further evidence in respect thereof, or,

(iii) has furnished returns in respect of any period and has claimed refund in the returns furnished by him, or,

(iv) has applied for cancellation of his certificate of registration.

(4) The Commissioner may assess a dealer or a person who,—

(i) is liable to pay local body tax but has failed to apply for registration or has failed to apply for registration within the time prescribed therefor under these rules, or,

(ii) has been directed by him by an order in Form G to furnish returns.

(5) if a registered dealer fails to comply with the terms of any notice issued under sub-rule (3) or (4) of this rule, the Commissioner may assess him to the best of his judgment, the amount of local body tax due from him.

(6) Notwithstanding the foregoing provisions of this rule, where the Commissioner is not satisfied about the correctness or the completeness of the accounts of a dealer, or where no method of accounting has regularly been employed by a dealer, the Commissioner may, after giving such dealer a reasonable opportunity of being heard, assess, to the best of his judgment, the amount of local body tax, if any, due from him.

(7) For the purpose of sub-rule (3), (4), (5) and (6) of this rule, the Commissioner may proceed to assess the dealer within five years from the end of the year to which such assessment relates, by serving on the dealer, a notice in Form H and fix a date which shall not be earlier than fifteen days from the due date of service thereof.

(8) Any assessment made under this rule, shall be without prejudice to any penalty or interest or prosecution for an offence under the Act.

(9) The order of assessment shall be in Form I.

(10) An order imposing a penalty or interest under rule 48 or an order of forfeiture with or without penalty or interest or both in respect of any period, may be incorporated in the order of assessment relating to that period, made under this rule.

(11) A certified copy of an assessment shall be furnished to the assessee, free of charge, along with a notice of demand in Form J.

(12) An assessee who requires an additional copy or copies of an order of assessment, shall be supplied with the same on his making an application in this behalf, on payment of copying charges of Rs. 25 per order of assessment.

(13) All papers relevant to the making of an assessment in respect of a dealer, shall be kept together and shall form an assessment case record.

(14) Assessment case records shall be preserved for ten years next following the period to which the assessment relates or for three years, next following the completion of the proceedings under the Act, relating to the said period, whichever is later.

34. *Reassessment.*—(1) If, after a dealer or a person has been assessed under rule 33, for any period or a part thereof and if, for any reason, the local body tax payable in respect of any goods imported in the City has escaped assessment and the Commissioner has documentary evidence to that effect on record or if the assessment is made at a lower rate or any deduction has been wrongly made or a claim has been wrongly allowed or refund has been wrongly granted in respect thereof, then the Commissioner may, at any time within three years from the date of communication of such assessment order, after recording the reasons in writing therefor, proceed, by a notice in Form K, to assess or reassess, the amount, of local body tax due from such dealer or person.

Provided that, the amount of local body tax shall be assessed at the rates at which it would have been assessed had there been no underassessment or escapement but after making due deduction, if any, permitted, from time to time, by or under the rules.

(2) Nothing in sub-rule (1), shall apply to any proceedings including any notice issued under rule 49.

(3) Nothing in rule 52 shall affect the proceedings under the rules.

35. *Rectification of mistakes.*—(1) The Commissioner may, at any time within two years from the date of any order passed by him, on his own motion, rectify any mistake apparent on the face of record, and shall within a like period, rectify any such mistake which has been brought to his notice by any person affected by such order :

Provided that, no such rectification shall be made if it has the effect of enhancing the local body tax or reducing the amount of a refund, unless the Commissioner has given notice in Form P, to such person, of his intention to do so and has allowed such person a reasonable opportunity of being heard.

(2) Where any such rectification has the effect of reducing the amount of the local body tax or penalty or interest or the amount of forfeiture, the Commissioner shall refund any amount due, to such person.

(3) Where any such rectification has the effect of enhancing the amount of the local body tax or penalty or interest or the amount of forfeiture, or reducing the amount of the refund, and if any of the above amount remains unpaid after the dates specified in the notice for fragment or after the extended date of payment, shall be recoverable as arrears of property tax.

36. *Appeals.*—(1) Every appeal filed under sub-section (6) of section 406 of the Act, shall,

(a) be in form S appended to these rules.

(b) specify the name and address of the appellant,

(c) specify the date of the order against which it is made,

(d) contain a clear statement of fact,

(e) state precisely and in brief the relief prayed for, and

(f) be accompanied by a challan for proof of having deposited the disputed amount of local body tax as required under clause (e) of sub-section (1) of section 406 of the Act.

(g) state the quantum of relief sought,

(h) be signed and verified by the appellant or by an agent duly authorized by him in writing in that behalf, in the following form, namely :—

“ I.....,agent appoint by the appellant named in the above memorandum of appeal, do hereby, declare that what stated herein, is true to my knowledge and belief.

(2) The memorandum of appeal shall be accompanied by either the certified copy of the order supplied to the dealer or duly authenticated copy thereof, unless the omission to produce such order or copy is explained at the time of presentation of the appeal to the satisfaction of the appellate authority.

(3) The memorandum of appeal shall either be presented by the appellant or his agent to the appellate authority or be sent to the said authority by registered post.

37. *Hearing.*—(1) If the appellate authority does not summarily reject the appeal, it shall fix a date for hearing of the appeal. The date so fixed shall not be earlier than ten days from the date on which the intimation thereof is given to the appellant or to his agent. Provided that, a date earlier than aforesaid may be fixed for hearing, if the appellant or his agent agrees thereto in writing.

(2) If on the date and the time fixed for hearing or on any other date or at any other time to which the hearing may be adjourned, the appellant does not appear before the said authority either in person or through an agent, the said authority may dismiss the appeal or may decide it ex-parte, as it may think fit.

Provided that, if within thirty days from the date on which the appeal was dismissed or decided ex-parte, under this rule, the appellant makes an application to the appellate authority for setting aside the order and satisfies it that the intimation of the date of hearing was not duly served on him or that he was prevented by sufficient cause from appearing when the appeal was called for hearing, the said authority shall make an order setting aside the dismissal or ex-parte decision upon such terms as it thinks fit, and shall appoint a day for proceeding with the appeal.

(3) (a) Every appellate authority shall maintain registers showing the particulars regarding the chronological order of filing of appeals and also the quantum of relief sought.

(b) For the purpose of these rules, the expression “quantum of relief sought” means :—

(i) the aggregate of the amount of local body tax or penalty or interest, if any, or sum forfeited or demanded and the amount claimed by the appellant as refundable, or

(ii) the difference between the amount of refund claimed by the appellant and the refund granted in the order against which the appeal is filed, or

(iii) the difference of the amount of local body tax or interest, if any, or sum forfeited, demanded and the amount accepted by the appellant to be payable.

38. *Supply of copy of order to the appellant and to the officer concerned.*—A certified copy of any order passed in appeal shall be supplied free of cost to the appellant or person concerned and another copy shall be sent to the officer against whose order the appeal is filed.

39. *Rounding off the local body tax.*—The amount of local body tax, penalty, interest, composition money, sum forfeited, fine or any other sum payable, and the amount of refund due under the provisions of these rules, shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise, then if such part is fifty paise or more, it shall be increased to one rupee, and if such part is less than fifty paise, it shall be ignored.

40. *Payment of local body tax.*—(1) Every registered dealer, unregistered dealer or person other than a dealer, liable to pay local body tax or penalty or interest or any sum forfeited or the amount of fine, if any, imposed by the Commissioner under these rules, shall pay to the Commissioner, local body tax, penalty, interest, sum forfeited or fine,—

(a) due and payable according to the return, on or before the 10th day of the month next following the month to which such payment relates;

(b) in such manner, by such dates, and at such intervals or on such occasions and to such authorities as may be directed by the Commissioner and such different manners, dates, intervals, occasions, and authorities may be specified for different classes of dealers and different classes of persons by an order by the Commissioner.

(2) Notwithstanding anything contained in clause (a) of sub-rule (1) but subject to the provisions of this rule, every registered dealer who is required to furnish half yearly return in Form E-1 for the first six months of a year and annual return in form E-II for the year, under the provisions of clause (b) of sub-rule (2) of rule (2) of Rule 29 shall pay the amount of local body tax payable by him each month of the year, on or before the 10th day of next month following the month to which such payment relates.

(3) Any local body tax, penalty, interest, sum forfeited or fine which remains unpaid after the time mentioned in the order made by the Commissioner for payment thereof, shall be recoverable as an arrears of property tax, by service of notice in Form L.

41. *Continuation of certain recovery proceedings.*—(1) Where any notice of demand in respect of any local body tax, penalty, interest, sum forfeited or fine (hereinafter in this rule referred to as "Corporation dues"), is served upon a dealer or a person liable therefor and any appeal or other proceeding is filed or taken in respect of such Corporation dues, then,—

(a) where such Corporation dues are enhanced in such appeal or proceeding, the Commissioner shall serve upon such dealer or person, as the case may be, another notice only in respect of the amount by which such Corporation dues are enhanced ;

(b) where such corporation dues are reduced in such appeal or proceeding, the Commissioner shall give intimation of the fact of such reduction to him ;

(c) where the Corporation dues are reduced in such appeal or proceeding and the dealer or person is entitled to any refund thereof, such refund shall be made in accordance with the provisions of Rule 44.

42. *Special mode of recovery.*—(1) Notwithstanding anything contained in any law for the time being in force or contract to the contrary, the Commissioner may, at any time or, from time to time, by notice in writing, a copy of which shall be forwarded to the dealer or person liable to pay local body tax at his last address known to the Commissioner, require,—

(a) any person from whom any amount of money is due, or may become due, to a dealer or person from whom any amount has become due under these rules and has remained unpaid; or

(b) any person who holds or may subsequently hold money for or on account of such dealer or person, to pay to the Commissioner, either forthwith upon the money becoming due or being held or at or within the time specified in the notice (but not before the money becomes due or is held as aforesaid), so much of the money as is sufficient to pay the amount due by such dealer or person in respect of the arrears of local body tax, penalty, interest, sum forfeited, fine or the whole of the money when it is equal to or less than that amount.

Explanation .—for the purposes of this rule, the amount of money due to a dealer or person from or money held for or on account of a dealer or person by any person, shall be calculated after deducting therefrom such claims, if any, lawfully subsisting, as may have fallen due for payment by such dealer or person, to such person.

(2) The Commissioner may, at any time or, from time to time, amend or revoke any such notice, or extend the time for making any payment in pursuance of the notice.

(3) Any person making any payment in compliance with a notice under this rule, shall be deemed to have made the payment under the authority of such dealer or person and the receipt of the Commissioner shall constitute a good and sufficient discharge of the liability of such first mentioned person, to the extent of the amount referred to in the receipt.

(4) Any person, discharging any liability to such dealer or person after receipt of the notice referred to in this rule, shall be personally liable to the Commissioner to the extent of the liability discharged, or to the extent of the liability of such dealer or person in respect of such arrears, whichever is less.

(5) Where, a person to whom a notice under this rule is sent, proves to the satisfaction of the Commissioner, that the sum demanded or any part thereof, is not due to such dealer or person, or that he does not hold any money for or on account of such dealer or person, then, nothing contained in this rule shall be deemed to require such person to pay any such sum or part thereof to the Commissioner.

(6) Any amount of money which a person is required to pay to the Commissioner, or for which he is personally liable to the Commissioner under this rule shall, if it remains unpaid, be recoverable as arrears of property tax.

43. *Provisional attachment to protect revenue.*—(1) If, during the course of inquiry in any proceedings of assessment or revision or of recovery of any local body tax or for recovery of any other sums recoverable under these rules from any person or dealer or during any inspection or search in relation to the business of any person or dealer under these rules, the Commissioner is of the opinion that for the purpose of protecting the interest of the revenue it is necessary to do so, then he may, notwithstanding anything contained in any law for the time being in force, or any contract to the contrary, after giving such person or dealer a reasonable opportunity of being heard, attach provisionally, by notice in writing, any property belonging to the dealer or person in respect of whom the proceedings are pending or in relation to whose business the inspection or search is undertaken and may, by like notice in writing, attach provisionally, any money due or which may become due to such person or dealer from any other person or any money which any person holds or may subsequently hold for or on account of such person or dealer.

(2) Every such provisional attachment shall cease to have effect after the expiry of a period of six months from the date of notice issued under sub-rule (1) ;

Provided that, the Commissioner may, for reasons to be recorded in writing, extend the aforesaid period by such further periods as he thinks fit so however, that the total period of extension shall not exceed two years.

(3) The Commissioner may, at any time or, from time to time, amend or revoke any such notice, and any notice amended as aforesaid shall not be considered to be a fresh notice for the purpose of limitation prescribed in sub-rule(2).

(4) The powers under this rule shall be exercised by the Commissioner or, with the previous sanction of the Commissioner, by any officer not below the rank of Deputy Municipal Commissioner.

44. *Refund of excess local body tax payment.*—Subject to the provisions of rule 40, the Commissioner shall refund to a dealer or person, the amount of local body tax, penalty or interest, if any, paid by such dealer or person in excess of the amount due from him by an order in Form M. The refund may be, either by cash payment or, at the option of the dealer or person, by deduction of such excess from, the amount of local body tax, penalty or interest due in respect of any other period :

Provided that, the Commissioner shall first apply such excess towards the recovery of any local body tax, penalty or interest due from such dealer or a person which has remained unpaid and shall then refund the balance, if any.

45. *Power to withhold refund in certain cases.*—Where an order giving rise to a refund is the subject matter of appeal or where any other proceedings under these rules is pending and the authority competent to grant such refund is of the opinion that the grant of the refund is likely to adversely affect the revenue, such authority may, with the previous approval of the Commissioner, withhold the refund till such time as the Commissioner may determine.

46. *Payment of composition money in lieu of local body tax.*—The Commissioner may, in such circumstances and subject to such conditions as may be determined by him, permit any dealer or a person to pay in lieu of the amount of local body tax payable by him under the provisions of these rules in respect of any period, in lump sum determined by way of composition in accordance with Section 152N.

47. *Notice for production of documents, etc.*—When the Commissioner requires any dealer or any person to produce any accounts or documents or to furnish any information under section 152J, he shall issue a notice therefore in Form N.

48. *Imposition of penalty and interest in certain cases.*—(1) If the selling dealer referred to in section 152G, fails to issue to the purchasing dealer a bill, invoice or cash memo, as required, the Commissioner may, after giving the selling dealer a reasonable opportunity of being heard, impose upon him by way of penalty, a sum not exceeding double the amount of that would have been payable if the goods sold had been imported by the selling dealer in the City, for consumption, use or sale therein.

(2) If, while assessing or re-assessing the amount of local body tax due from a dealer or person under any provisions of the Act and the rules or while passing any order in any appeal or revision or rectification proceedings, it appears to the Commissioner that such dealer or, as the case may be, a person,—

(a) has failed to apply for registration as required and has carried on business as a dealer without being registered in contravention of provisions of the Act and the rules;

(b) has failed to comply with any notice in respect of the proceedings in respect of assessment, re-assessment, production and inspection of accounts and documents and search of premises and revision;

(c) has failed to disclose any entry of goods on which local body tax is leviable in the City for consumption, use or sale therein or has failed to show in the return the appropriate liability to pay local body tax or has claimed inaccurate deduction, refund or has failed to disclose fully and truly all material facts necessary for the proper and correct quantification of the local body tax liability, the Commissioner may, after giving the dealer or person a reasonable opportunity of being heard, by an order in writing, impose upon the dealer or, as the case may be, a person by way of penalty in addition to any local body tax assessed or re-assessed or found due in the appeal or revision or rectification proceedings, as the case may be,—

(i) in the case covered by clause (a), a sum not exceeding ten times of the amount of the local body tax payable by the dealer for the period during which he carried on business as a dealer, without being registered in contravention of the provisions of the Act and the rules;

(ii) in the case covered by clause (b), a sum not exceeding Rs.10,000;

(iii) in the case covered by clause (c) a sum not exceeding five times the amount of the local body tax found payable under the said clause.

(3) (a) If a dealer or a person does not pay the local body tax within the time he is required by or under the provisions of these rules to pay it, then he shall, without prejudice to any other action taken or proposed to be taken under other provisions of the Act and these rules for the recovery of local body tax due, be liable to pay by way of simple interest, in addition to the amount of such local body tax, a sum equal to,—

(i) two per cent per month of such local body tax for first twelve months after the last date by which he should have paid such local body tax; and

(ii) three per cent per month of such local body tax or each month thereafter, during the time the dealer or person continues to make default in the payment of local body tax.

(b) If any local body tax, other than the local body tax on which interest is leviable under clause (a) is found due from a dealer or a person in respect of any period as a result of an order of assessment passed under the provisions of the Act and the rules in his case, then such dealer or person shall be liable to pay, by way of simple interest, a sum equal to two per cent of such local body tax for each month from the first date after the end of the period for which the dealer or the person has been so assessed, till the date of such order of assessment. If, as result of any order passed under the provisions of the Act or the rules, the amount of local body tax found due is enhanced or reduced, as the case may be, the interest shall be enhanced or reduced accordingly :

Provided that the total amount of interest so payable under this sub-rule shall not exceed the total amount of local body tax on which interest under this sub-rule is so charged.

Explanation.—For the purpose of this sub-rule, a part of a month shall be counted as one complete month.

(4) Where any dealer knowingly issues or produces a bill, cash memorandum, voucher, declaration certificate or any other documents which is not true by reason of which any goods imported in the City for consumption, use or sale therein, are not liable for payment of local body tax or are liable for payment of local body tax at a lower rate, then the Commissioner may, after giving the dealer or a person a reasonable opportunity of being heard, by order in writing, impose upon him, in addition to any local body tax payable,—

(a) in the case of the first occasion of such issue or production, a sum by way of penalty not exceeding twice the amount of local body tax due in respect of such goods; and

(b) in the case of the second or any subsequent such occasion, a sum by way of penalty, not exceeding five times of the amount of local body tax due in respect of such goods.

(5) Where under the provisions of the Act and the rules, a dealer or a person furnishes a declaration or certificate by reason of which any local body tax is not leviable or is leviable at a lower rate on any goods imported in the City for consumption, use or sale therein, and where such dealer or a person knew or had reason to believe that such declaration or certificate was false, or such dealer or person fails to abide by, or acts in contravention of, the recitals or terms of such declaration or certificate, the Commissioner may, after giving such dealer or person a reasonable opportunity of being heard, direct him to pay, by way of penalty, a sum not exceeding five times the amount of local body tax which, in the opinion of the Commissioner, would have been leviable on such goods had such declaration or certificate not been furnished.

(6) If a dealer or a person fails, without sufficient cause to furnish within the prescribed time, a return for any period, the Commissioner may, after giving the dealer or the person a reasonable opportunity of being heard, impose upon him by way of penalty, a sum not exceeding five thousand rupees. Such penalty shall be without prejudice to any penalty leviable under clause (c) of sub-rule (2):

Provided that, this sub rule shall not apply to such class or classes of dealers of a person as the Commissioner may, from time to time, or order specify.

(7) If any dealer or a person contravenes the provisions of section 152G, the Commissioner may, after giving the dealer a reasonable opportunity of being heard, direct him to pay, by way of penalty, a sum not exceeding double the amount of such bill or cash memorandum which should have been issued in respect of the transaction regarding which such contravention has occurred, or one hundred rupees, whichever is more.

(8) If any person being a dealer liable to pay local body tax under the provisions of the Act or these rules or being a dealer who was required to do so by the Commissioner by notice served on him, fails to maintain accounts in the manner prescribed or fails when directed to do so to keep any accounts or records in accordance with the direction, he shall be liable to pay, in addition to any local body tax for which he may be liable, the penalty of the amount not exceeding five thousand rupees or double the amount local body tax whichever is less, which would have been payable had there been no such contravention.

49. *Imposition of penalty for contravention of certain provisions.*—(1) If any person collects local body tax in excess of the amount of tax payable by him under the provisions of the Act, or collects local body tax in respect of the goods specified in Schedule B, he shall be liable to pay, in addition to amount of local body tax payable by him, if any, a penalty of an amount, as follows, namely :—

(i) Where there has been a contravention referred to in sub-rule (1) above, a penalty of an amount not exceeding two thousand rupees or double the sum collected by way of local body tax, whichever is less, and in addition to any sum collected by the dealer or person in contravention of sub-rule (1) above, shall be forfeited to the Corporation.

(ii) When any order of forfeiture is made, the Commissioner shall publish or cause to be published a notice thereof for the information of the persons concerned giving such details and in such manner as may be decided by the Commissioner.

(2) If the Commissioner, in the course of any proceedings under the provisions of the Act or these rules or otherwise, has reason to believe that any person or dealer has become liable to a penalty or forfeiture or both, of any sum under sub-rule (1), he shall serve on such person a notice in Form O, requiring him on a date and at a place specified in the notice to attend and show cause as to why a penalty or forfeiture or both penalty and forfeiture of any sum as provided in sub-rule (1) should not be imposed on him.

(3) The Commissioner shall thereupon hold an enquiry and shall make such order as he thinks fit.

50. *Power to collect statistics.*—(1) If the Commissioner considers that for the purpose of the better administration of these rules, it is necessary so to do, he may direct that statistics be collected relating to any matter dealt with under these rules.

(2) Upon such direction being made, the Commissioner, by a notice in any newspaper or in such other manner as in his opinion is best suited to bring the notice to the attention of dealers, call upon all dealers or any class of dealers to furnish such information or returns as may be stated therein, relating to any matter in respect of statistics to be collected. The form in which, returns should be furnished, the particulars which they should contain, and the intervals at which such information or returns should be furnished, shall be such as may be specified by the Commissioner.

51. Provisions of sub-sections (1) and (2) of section 152M not applicable to certain disclosures.— Provisions of sub-sections (1) and (2) of section 152M shall not apply to the disclosure of any such,—

(a) particulars in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition for the purpose of any prosecution under the Indian Penal Code (45 of 1860) or the Prevention of Corruption Act, 1988 (49 of 1988), or any other law for the time being in force ; or

(b) particulars when such disclosure is occasioned by the lawful employment under these rules, of any process for the service of any notice or the recovery of any demand ; or

(c) particulars to a Civil Court in any suit, to which the Government is a party, which relates to any matter arising out of any proceeding under these rules; or

(d) particulars to any officer appointed to audit receipts or refunds of the local body tax imposed by these rules; or

(e) particulars where such particulars are relevant to any enquiry into the conduct of an official of the Corporation to any person or persons appointed as Commissioners under the Public Servants (Inquiries) Act, 1860 (37 of 1850), or to any officer otherwise appointed to hold such inquiry or to a Public Service Commission established under the Constitution of India when exercising its functions in relation to any matter arising out of such inquiry; or

(f) facts to an officer of the Central Government or a State Government as may be necessary for the purpose of enabling that Government to levy or realize, any tax or duty imposed by it; or

(g) particulars when such disclosure is occasioned by the lawful exercise by a public servant of his powers under the Bombay Stamp Act, 1958 (Bom. LX of 1958) or the Indian Stamp Act, 1899 (2 of 1899), to impound an insufficiently stamped document; or

(h) particulars where such particulars are relevant to any inquiry into a charge of misconduct in connection with local body tax proceedings against a legal practitioner, local body tax practitioner, Chartered Accountant or Cost Accountant to the authority empowered to take disciplinary action against members practicing the profession of a legal practitioner, local body tax practitioner, Chartered Accountant or Cost Accountant, as the case may be; or

(i) particulars to the Director, Economics and Statistics or any officer serving under him or to any person or persons authorized under rule 50, as may be necessary for enabling the Director or such person or persons to work out the incidence of local body tax on any commodity; or

(j) particulars to an officer of the Central Government or a State Government for the purpose of investigation or prosecution under any law for the time being in force, as the State Government may direct in any specific case.

52. *Disclosure of information required under rule 50 and failure to furnish information or return under that rule.*—(1) No information of any individual return and no part of any individual return, with respect to any matter given for the purpose of rule 51, shall, without the previous consent in writing, of the owner or for the time being of his authorized agent, be published in such matter as to enable any particulars to be identified as referring to a particular dealer and no such information shall be used for the purpose of any proceedings under the provisions of these rules,

(2) Except for the purposes of prosecution under the Act, or under the Indian Penal Code (45 of 1860), no person who is not engaged in the collection of statistics under rule 50 or in the administration of the Act shall be permitted to see or have access to any information, or any individual return, referred to in that rule.

(3) If any person required to furnish any information or return under rule 50,—

(a) willfully refuses or without lawful excuse neglects to furnish such information or return as may be required by that rule, or

(b) willfully furnishes or causes to be furnished any information or return which he knows to be false; then the Commissioner may, after giving him a reasonable opportunity of being heard, by an order in writing, impose upon him a fine which may extend to one hundred rupees, and when the default is a

continuing one, impose a daily fine not exceeding ten rupees for the period of the continuance of the default.

(4) If any person engaged in connection with the collection of statistics under rule 50, is found willfully disclosing any information or the contents of any return given or made under that rule otherwise than in execution of his duties under the rule or for the purpose of the prosecution of an offence under the Act and these rules or under the Indian Penal Code (45 of 1860), the Commissioner may, after giving him a reasonable opportunity of being heard, by an order in writing, impose upon him a fine which may extend upto one thousand rupees.

53. *Publication and disclosure of information respecting dealers and other persons in public interest .—*

(1) Notwithstanding anything contained in rule 52, if the Commissioner is of the opinion that it is necessary or expedient in the public interest to publish or disclose the names of any dealers or other persons and any other particulars relating to any proceeding under these rules in respect of such dealers and persons, it may publish or disclose or cause to be published or disclosed such names and particulars in such manner as he thinks fit.

Explanation.— In the case of firm, company or other association of persons, the names of the partners of the firm, the directors, managing agents, secretaries, treasurers or managers of the company, or the members of the association, as the case may be, may also be, published or disclosed, if, in the opinion of the Commissioner, the circumstances of the case justify it.

(2) No publication or disclosure under this rule shall be made in relation to any local body tax levied or penalty imposed or any conviction for any offence connected with the proceeding under the Act and these rules, until the time for presenting an appeal to the appropriate appellate authority, has expired with an appeal having been presented or the appeal, if presented, has been disposed of.

54. *Appearances before any authority in proceedings.—*(1) Any person, who is entitled or required to attend before any authority in connection with any proceeding under these rules, may attend,—

(a) by a relative or a person regularly employed by him, or

(b) by a Legal Practitioner, Chartered Accountant or Cost Accountant, who is not disqualified by or under sub-rule (2), or

(c) by a local body tax Practitioner who possesses the qualifications specified by the Commissioner by general orders made by him in this behalf, from time to time, and is entered in the list which the Commissioner shall maintain in that behalf, and, who is not disqualified by or under sub-rule (2), if such relative, person employed, Legal Practitioner, Chartered Accountant, Cost Accountant or local body tax Practitioner is authorized by such person in Form Q. Such authorization may include the authority to act on behalf of such person in such proceedings.

(2) The Commissioner may, by order in writing and for reasons to be recorded therein, disqualify for such period as is stated in the order from attending before any such authority, any such person, Legal Practitioner, Chartered Accountant, Cost Accountant or local body tax Practitioner,—

(a) who has been removed or dismissed from service, or

(b) who being a Legal Practitioner, Chartered Accountant or Cost Accountant is found guilty of misconduct in connection with any proceedings under these rules by an authority empowered to take disciplinary action against the member of the profession to which he belongs, or

(c) who, being of local body tax Practitioner is found guilty of misconduct by the Commissioner.

(3) No order of disqualification shall be made in respect of any person unless he is given a reasonable opportunity of being heard.

(4) Any person against whom any order of disqualification is made under this rule may, within one month of the date of communication of such order, apply to have the order cancelled.

(5) The order of the Commissioner shall not take effect until one month of the making thereof or when an application is preferred, until the application is decided.

(6) The Commissioner may at any time *suo-motu* or on an application made to him in this behalf, revoke or cancel any order made against any person under sub-rule (2) and thereupon such person shall cease to be disqualified.