

CHAPTER – VI

INSPECTION OF BUSINESS PLACES AND ACCOUNTS AND ESTABLISHMENT OF CHECK POSTS

58. **Maintenance and preservation of accounts:** - (1) Every person registered under the Act, every dealer liable to get himself registered under the Act and every other dealer who is so required by an assessing authority, shall keep and maintain the following books of accounts disclosing true and complete accounts of his daily transactions in Malayalam or in English together with the vouchers and bills: -

- (i) a daily cash book, that is to say, a record of all cash receipts and payments, kept and maintained from day to day indicating the cash balance in hand at the end of each day;
- (ii) a journal, if the accounts are maintained according to mercantile system of accounting;
- (iii) a ledger;
- (iv) a purchase register showing date wise details of the person from whom goods are purchased indicating the registration number, if the purchase is from a registered dealer, details of goods, quantity and value of goods purchased, freight, delivery charges or cost of installation which are separately charged, other charges, if any, paid, and input tax for such purchases.
- (v) a sales register showing date wise details of sales effected to registered dealers indicating the registration number of the purchasing dealer, quantity and value of each class of goods sold, freight, delivery charges or cost of installation separately charged, other charges, if any, received and output tax for such sales.
- (vi) a stock register showing date wise details of in-out-balance position of goods indicating opening stock, goods purchased, goods received otherwise than by way of purchase, goods received on stock transfer, goods sold or used for manufacturing, goods disposed of otherwise than

by way of sale or manufacturing, consignment or stock transfer, goods bought or sold in the course of inter state trade or commerce or in the course of export out of or import into the territory of India, and the closing stock. Where goods are disposed of in different ways, local sales, interstate sale, export, use in manufacture etc, the quantitative details of goods disposed of under each category shall be separately furnished in the register.

- (vii) a dealer who is a whole saler-cum-retailer, shall maintain a day-to-day stock register as specified under clause (vi) only in respect of the wholesale transactions which shall show clearly the quantitative details of goods taken from the wholesale section to the retail section each day. In respect of the retail section the dealer shall maintain a closing stock inventory for the year.;
- (viii) a dealer who is having only retail business and is paying tax under sub-section (5) of section 6 need maintain only the records mentioned in clause (i), (ii), (iii) and (iv) and a closing stock inventory for the year.
- (ix) where any dealer sends any goods to any place within the state or outside the state for processing repairs, maintenance, testing or any other similar purposes and return, he shall maintain separate accounts showing the particulars of the goods, documents accompanying the consignment, name and address of the person to whom sent, purpose for which the goods are sent, the date on which the goods are received back, the quantity and nature of goods received back and document accompanying the consignment.;
- (x) where a dealer is undertaking job works in relation to any goods received from any other person, he shall keep accounts showing the particulars of the goods received from such other person nature of job works undertaken, the quantity and nature of the goods returned and the date of return.

(2) Every dealer shall keep separate purchase and sales accounts for different goods liable to tax at different rates of tax. Separate accounts shall be kept for the purchases in respect of which the dealer is eligible to claim input tax credit showing the purchase price and the tax paid on such purchase separately. Purchase price shall not include the tax collection on such purchase.

(3) Every registered dealer, every dealer liable to get himself registered under the Act and every other dealer who is required so to do by the assessing authority shall keep the books of accounts, in the case of a registered dealer, at the place or places of business entered in the certificate of registration and in the case of others at the place where the dealer carries on his business. Every purchase and every sale shall be brought to account as soon as the purchase or sale, as the case may be, is effected. Every contractor, including a contractor who has opted for payments of tax at compounded rate, shall keep the books of accounts relating to each contract at the work site.

(4) Every dealer shall keep separate accounts in respect of sales or purchases in the course of export or import and in respect of inter-State sales or purchases.

(5) Every commission agent, broker, *del credere* agent, auctioneer or any other mercantile agent shall maintain accounts showing:-

- (a) particulars of authorization received by him to purchase or sell goods on behalf of each principal separately and the date on which a copy of such authorization in each case was sent to the assessing authority.
- (b) particulars of goods purchased, or of goods received for sale on behalf of each principal each day;
- (c) details of purchases or sales effected on behalf of each principal each day,
- (d) details of account furnished to each principal each day;

(e) the tax paid on purchases or on sales effected on behalf of each principal and the Chelan No. and date of remittance of the tax into Treasury.

(6) Every dealer who sells goods to a purchasing agent shall keep particulars of the name and address of the purchasing principal on whose behalf the agent buys.

(7) Every purchasing agent shall keep particulars of the names and addresses of dealers or persons from whom he purchases the goods and the selling agent shall keep particulars of the names and addresses of the dealers or persons to whom he sells the goods.

(8) Every wholesale dealer, importer and manufacturer shall maintain day-to-day stock accounts of each class of goods dealt in by him. The stock account shall contain particulars of purchases or receipts, sales or deliveries and balance stock.

(9) Every dealer liable to pay tax under the Act, other than a dealer paying presumptive tax under sub-section (5) of S.6 or compounded tax under section 8, shall maintain, shall maintain a register showing month wise details of input tax, output tax, purchase tax, Central Sales Tax, Entry Tax, reverse tax, tax due, tax paid and input tax, if any, carried forward to the subsequent return period together with credit and debit notes issued.

(10) Every dealer shall compulsorily issue a bill or an invoice or cash memorandum in respect of every sale. Where the sale is subject to approval by the purchaser, such dealer shall issue bill or invoice or cash memorandum specifying therein that the sale is subject to approval within a stated period of time. Every such bill, invoice or cash memorandum of a dealer shall, in the case of-

- (i) a manufacturer, and a trader who effects sale to a person other than an end customer be in Form No. 8;

- (ii) a trader effecting sale to an end customer be in Form No. 8B;
- (iii) every works contractor paying tax under clause (f) of sub section (1) of section 6 be in Form No.8 C;
- (iv) every works contractor paying tax under clause (a) of section 8 be in Form No.8 CA;
- (v) every dealer paying presumptive tax under sub section (5) of section 6 issue be in Form No. 8 D;
- (vi) every dealer liable to tax under sub-section (2) of section 6 a purchase invoice in Form No. 8 E;
- (vii) every dealer in medicines or drugs paying tax under clause (e) of section 8 be in Form No. 8 H;
- (viii) every dealer in jewellery be in Form No. 8 J.

Where any central legislation requires any dealer to issue bills with any specific information, such dealer may issue bills as required by such legislation incorporating the details prescribed by the relevant forms under this rule. Where a dealer who is paying tax under sub-section (1) of section 6 has opted for paying tax under section 8 for a part of his transactions he shall issue separate invoice for sales of goods covered by the said sub-section and also for goods in respect of which he is eligible for payment of tax under section 8. Where any particular column or details prescribed in any of the forms is not applicable to any dealer, such dealer will be at liberty to omit those columns or details from the bill, invoice or cash memorandum maintained by him, provided that where the column in respect of discount is omitted, the dealer shall not claim any deduction in respect of discount thereafter. Every dealer may also re-arrange the columns in the form prescribed, provided the bill, invoice or cash memorandum, as the case may be, contains the particulars prescribed by these rules.

(11) Every such bill or invoice or cash memorandum, shall be prepared in duplicate unless a different procedure is

prescribed by the Central Excise Law or any other Central legislation, as applicable to such dealer, and shall be serially machine numbered. Where the goods sold are transported in a vehicle or vessel or where the goods are transported through any check post, such bills, invoice or cash memorandum shall be issued in quadruplicate. Where the bill is issued in duplicate original shall be issued to the purchaser in the case of sale bill, and to the seller in the case of purchase bill, and the other copy shall be retained by the dealer. In the case of quadruplicate bills, the duplicate shall be used as transport copy, triplicate shall be filed at the check post, in the case of transport of goods across the check post and the quadruplicate shall be retained by the seller. The serial numbers assigned to the bills, invoice or cash memoranda shall run consecutively for the whole year. The dealers may use the same or different series of bills, invoice or cash memoranda for goods subject to different rates of tax, provided that the dealer shall use a separate series for the bills issued for sales under a permit under sub-section (1) of section 19. The dealer shall intimate the series and the opening numbers of bills or invoices or cash memoranda intended to be used by him in a year to the assessing authority during the month of April and the number of the first and last bills or invoices or cash memoranda issued during the month, quarter or year, under different series shall be noted in the monthly, quarterly or annual return, as the case may be, filed by the dealer. If a new series of bill, invoice or cash memoranda is started after having furnished the details to the assessing authority in April, the dealer shall intimate the details thereof within fifteen days from the date on which such new series is started.

(11A) Where different series of bills, invoices or cash memoranda are maintained it shall be in 'alpha numerals' only and the alphabets shall precede the numerals. The maximum alphabets and numerals that can be used in a series shall be limited to 'three' and 'seven' respectively. The invoice number shall not contain any special characters like 'coma, star, slash, full stop, hyphen or any symbols' and shall be written continuously without blank spaces.

(12) Every manufacturer of goods shall, in addition to the daily stock register in respect of raw materials and finished goods prescribed under sub-rule (8), maintain a monthly manufacturing account in Form No. 14. Separate account shall be maintained for goods of different grades or quality.

(13) Every manufacturer in jewellery of gold, silver and platinum group of metals, shall maintain a manufacturing account in Form No. 14A

(14) Every dealer who is required to maintain stock accounts shall maintain subsidiary accounts for each godown if there is more than one godown for keeping his stock. However no separate stock register will be required if such godown is situated in the same premises where the principal place of business is also situated.

(15) Where the accounts or records are maintained by means of computer or any other electronic device, the dealer shall intimate the assessing authority in advance. Such dealer shall also keep a printout of the monthly summary of the purchases, sales, the stock position as on the last day of the month, in respect of each class of goods.

(16) Every wholesale dealer while delivering goods to retail dealer in pursuance of sale where no sale bill is issued or every person who consigns goods by any vehicle or vessel or any other means in pursuance of a sale, where a sale bill is not issued, or consigns goods through the said means from one godown to another or from one of his shops to another for the purpose of storage or sale, shall issue a delivery note in Form No. 15 Delivery Note shall also be used for the transport of such goods as may be notified by Government from time to time even where such goods are accompanied by sale bill, invoice or cash memorandum, as the case may be. Where goods are transported from a dealer's business place to any parcel agency or transporting agency for onward transport in a different vehicle or vessel, the time of commencement of the

journey from the business place of the dealer and the particulars of the vehicle vessel and the driver at that time shall be noted in the delivery note and the fact that the goods are being sent through a parcel agency or transporting agency shall be noted in column 8, along with the name of such agency. The parcel agency or transport agency shall note the number and date of the delivery note in the R.R/L.R or similar documents. Where goods are transported using a delivery note to any dealer for sale and the consignee rejects the goods, the goods may be re-transported back to the consignor using the same delivery note with an endorsement thereon to that effect under the name and seal of the consignee who rejects the goods. In such cases the duplicate copy of the delivery note used for the transport shall be filed along with the return. Where goods are sent to a dealer under instruction from another dealer, the name of the former shall be shown in the delivery note as the consignee on account of such another dealer. Where a dealer sends any goods to any place within the state or outside the state for processing, repairs, maintenance, testing or any other similar purposes and return, the consignment shall be accompanied by delivery note in Form No. 15. Where the goods are returned after processing, the goods shall be accompanied by the invoice or bill of the processor and also the delivery note of the dealer. A blank book of Delivery Note of Form No. 15 shall be obtained from the assessing authority, on payment of a fee at the rate of seventy-five rupees per book of fifty forms.

(17) Every such delivery note shall be prepared in triplicate, the duplicate and triplicate being carbon copies of the original. Where the details of the goods covered by the delivery note cannot be incorporated in the column provided there for, a separate statement (which shall be prepared in triplicate as in the case of delivery note) incorporating such details may be attached to the delivery note. Where a dealer uses such separate statement it shall be assigned separate serial numbers, which shall run consecutively for the whole year. The opening number shall be intimated to the assessing authority in advance and the copies of the statements used

during a month shall be submitted in the same manner as in the case of delivery note. The number of the statement used along with a delivery note shall be noted in the column of the delivery note provided for noting the details of goods. The delivery notes shall be serially machine numbered, shall be kept in book form and shall be duly signed and dated by the consigning dealer or his manager or authorized agent. The original of it shall be furnished to the concerned Assessing Authority along with the annual return in Form No. 10 and the duplicate shall be retained by the purchasing dealer or the person to whom the goods are delivered for transporting and the triplicate shall be retained by the consigning dealer.

(18) Every person, other than a registered dealer, who consigns goods by any vehicle or vessel, where the transport is not in pursuance of a sale, shall issue a certificate of ownership in Form No. 16

(18A) Where a dealer is transporting goods in small quantities from one of his shops or godown to another shop or godown in any vehicle other than a heavy vehicle within a distance of less than 25 K.M within the state and transport is not in pursuance of any sale, the dealer may, instead of using a delivery note in Form No. 15, use a delivery chalan which shall be serially machine numbered and shall contain the name, address, Tax Pays Identification Number (TIN) or registration number of the dealer, the particulars of the commodity under transport, its quantity and value, place from which goods are consigned and place to which they are consigned and the vehicle number and name of the driver with his driving licence number. It shall be prepared in triplicate in the same manner as delivery note in form No. 15 and the copies shall be used in the same manner as a delivery note in form No. 15. Such delivery chalan shall not be used where the goods are transported across a boarder check post. A dealer intending to use the delivery chalan shall intimate the assessing authority in advance the serial numbers which are proposed to be assigned to the delivery chalan and shall file

photocopies of such delivery chalan along with the return filed under rule 22.

(19) Where a dealer allows trade discount in terms of quantity, he shall show it separately in the tax invoice or sale bill, as the case may be, issued by him. The sale value of the goods shown in the tax invoice or sale bill shall be deemed to include the sale value of the quantity allowed as discount. The purchasing dealer who receives such discount shall show it in his account as purchase and pay tax, as applicable, on the sales of such goods.

(20) Accounts and other records maintained by a dealer shall be preserved by him for a period of five years from the expiry of the year to which the assessment relates or two year from the date of disposal of the appeal or revision arising out of such assessment or from the date of completion of any other proceeding under the Act connected with such assessment or appeal or revision, whichever is later, and shall be kept at the place of business mentioned in the certificate of registration. Every dealer who maintains accounts by electronic means shall intimate the concerned assessing authority in advance along with the password. Such dealer shall also retain them in the electronically readable format for the retention period specified in this sub-rule.

(21) In the case of dealers in ornaments or wares or articles of gold, silver or platinum group metals who had not exercised option under clause (f) of section 8, the Commissioner may, if found necessary, for reasons recorded in writing post officers not below the rank of an assessing authority in the business premises of such dealers to watch compliance of section 40 and on such posting the dealer shall provide such facilities to the officers for the discharge of their duties.

(22) When an officer is posted in the business premises of a dealer in accordance with sub rule (21), the officer shall ensure that the dealer is complying with the provisions of the

Act and shall furnish a daily report to the Deputy Commissioners concerned.

59. **Credit notes and debit notes.** - The credit note and debit note specified in section 41 shall be in Form No. 9, bear separate consecutive serial numbers and shall contain the following details-

- (1) Nature of the document t(whether debit note/credit note)
- (2) Date of issue:
- (3) Name and address of the selling dealer (With registration number)
- (4) Name and address of the buying dealer (With registration number if any)
- (5) Number and date of the invoice in relation to which the credit note or debit note is issued
- (6) Amount credited or debited
- (7) Tax due on the amount credited or debited

The dealer issuing the credit note shall claim deduction in respect of turnover and output tax relating to such credit note in the month in which such credit note is issued, provided it is within the time limit prescribed and the deduction is in the same year in which the related sale was made. Where the sales return is after the expiry of the year in which the sale was made, the dealer shall claim such deduction in the last month of the year in which the sale, in relation to which such credit note is issued, was effected. Deduction under section 41 will be allowed only in respect of credit notes, which contain the above details.

Provided further that in the case of sales return by a purchaser other than a dealer, the credit note of the dealer shall be accepted on the basis of filing an acknowledgement given by the purchaser.

60. **Procedure for Audit of accounts and certification.** The certificate referred to in section 42 shall be in *Form No. 13*

and shall be furnished to the assessing authority, in the case of a company on or before the 31st day of December and in other cases on or before the 31st day of October of the year succeeding the year to which it relates. The certificate shall be accompanied by audited statement of accounts for the year and a statement in Form No. 13A.

Provided that a dealer registered under the Act having the head office situated outside the State shall file statement of accounts in respect of the activities in the State separately along with the consolidated Balance Sheet and Profit and Loss Account, if not drawn up separately in the Audit report.

Provided further that the date of filing of the certificate for the year 2005-06 shall be 30th June, 2007.

61. **Name boards etc. in front of godowns.**- Every dealer possessing godown or godowns shall put up in front of such godown or godowns, name board(s) showing the building number allotted by the Local Authority, name of the dealer, his Registration Certificate number and the number as well as the total number of the godown or godowns. The number of godown should be shown as the numerator and the total number of godowns as the denominator in the board exhibited. The board shall either be in Malayalam or in English and the letters and figures shall be not less than 2.5 c. m. in size.

62. **Safe custody and procedure on loss etc., of statutory forms or declarations.** - (1) The statutory forms or declarations obtained from the assessing authority by a dealer shall be kept in safe custody and shall maintain separate registers in Form No. 26 for such declarations and he shall be personally responsible for the loss, destruction or theft of any such forms or declarations or the loss of revenue to government, if any, resulting directly or indirectly from such theft, loss or destruction.

(2) Every dealer who has obtained any form or declaration from the assessing authority shall maintain, in appropriate registers, a true and complete account of every such form or declaration. If any such form or declaration is lost, destroyed or stolen, the dealer shall report the fact to the assessing authority immediately, make appropriate entries in the remarks column of the said registers, and take such other steps to issue public notice of the loss, destruction or theft and indemnify the Government from the loss, as the assessing authority may direct. The dealer shall also execute an indemnity bond in Form No. 6B

(3) Where the assessing authority has reasons to believe that the forms or declarations issued to a dealer has been misused, the assessing authority shall, after recording the reasons in writing and affording an opportunity to the dealer of being heard , order the dealer to surrender all the unused forms or declarations issued to him and the dealer shall, on receipt of such an order, surrender the unused forms or declarations.

(4) Any unused forms or declarations remaining in stock with a dealer shall be surrendered to the assessing authority on discontinuance of the business by the dealer or suspension or cancellation of his certificate of registration or on his ceasing to be an assessee.

(5) No dealer to whom any form or declaration is issued by the assessing authority shall, either directly or through any other person, transfer the same to another person except as specifically provided in these rules.

(6) A form or declaration in respect of which a report has been received by the assessing authority under sub-rule (2) shall not be valid for the purposes for which it is intended.

(7) The Deputy Commissioner shall, from time to time, publish in the Gazette, the particulars of the forms or

declarations in respect of which a report has been received under sub-rule (2).

(8) The Commissioner may by notification in the Gazette, declare that forms or declarations of a particular description shall be deemed to be obsolete and invalid with effect from such date as may be specified in the notification.

(9) On the publication of the notification referred to in sub-rule (8), all dealers shall, on or before the date, with effect from which the forms or declarations are so declared to be obsolete and invalid, surrender to the assessing authority, all unused forms or declarations of the said description, as may be in their possession and obtain in exchange such new forms or declarations as may be substituted for the forms or declarations declared obsolete and invalid:

Provided that new forms or declarations shall not be issued to a dealer until he has rendered account of the old forms or declarations notes already issued to him and returned the balance, if any, in his hand to the assessing authority.

63. **Search and seizure of documents.** - (1) The authorization under the proviso to section 43 or under the proviso to sub-section (3) or under clause (b) of sub-section (7) of Section 44 shall be in Form No. 19. Every such authorization shall be in writing under the signature of the authority issuing it and shall bear the seal of such authority.

(2) Any person in charge of any building, place, godown, vessel or vehicle or box or receptacle shall, on demand by an authority not below the rank of an assessing authority, and any person in charge of any residential accommodation shall, on demand by the authority authorized under sub-section (3) of Section 44 and on production of authorization, allow such authority free ingress thereto and access to the contents of any box or receptacle and afford all reasonable facilities for a search therein.

(3) If ingress to such building, place, godown, vehicle, vessel or residential accommodation or access to the contents of any box or receptacle cannot be so obtained it shall be lawful for such authority with such assistance of the police or other officers of the State Government as may be required, to enter such building, place, godown, vehicle or residential accommodation or to have access to the contents of any box or receptacle or any outer or inner door or window or any building, place, vehicle or vessel or residential accommodation, whether that of the person to be searched or of any other person if, after notification of his authority and purpose and demand of admittance duly made, he cannot otherwise obtain admittance or access:

Provided that if any such vehicle, vessel, building, place or residential accommodation is occupied by a woman, who according to custom does not appear in public, the Officer or authorized officer, as the case may be, shall, before entering such vehicle, vessel, building, place or residential accommodation, give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing.

(4) The Officer or the authorized officer as the case may be, may, if the owner or any other person in occupation or in immediate possession or control of any box, or receptacle, godown, building or residential accommodation in which any goods, accounts, registers, records or other documents are or reasonably believed to be kept leaves the premises or refuses to open the box or receptacle, godown, building, or residential accommodation or is not available and such officer considers it not practicable to exercise the power of breaking open immediately, seal such box, receptacle, godown, building or residential accommodation and serve an order on the owner or the person who is in the immediate possession or control thereof that he shall not open, remove, part with or otherwise deal with such box, receptacle, godown, building or residential accommodation.

(5) Where any person has got out of or is about to get into or is in, any place referred to in clause (a) or clause (b) of sub-section (3) of Section 44 or, any vehicle of any dealer and the officer has reason to suspect that such person has secreted about his person any goods, accounts, registers, records or other documents, such person may be searched by such officer with such assistance as he may consider necessary. If such person is a woman the search shall be made by another woman with strict regard to decency.

(6) Where any officer or authorized officer conducts a search of any person, office, shop, place of business, residential accommodation, godown, vessel, receptacle, vehicle or any premises or place where any books of accounts of a dealer may be, or are reasonably suspected to be kept, he shall as far as may be, follow the procedure prescribed in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

(7) If on search, such officer finds any accounts, registers or other documents which he has reasons to suspect that the dealer is maintaining with a view to evading the payment of any tax or fee due from him under the Act, he shall, for reasons to be recorded in writing, seize such accounts, registers and documents of the dealer as may be necessary and shall give the dealer a receipt for the same. The records seized shall be signed by the offices seizing them and a note to that effect shall be made in the receipt given to the dealer. The accounts and registers so seized shall be returned to the dealer within 30 days and, in cases where permission of the next higher authority under sub-section (6) of section 44 has been obtained, within 60 days from the date of seizure, unless they are required for a prosecution.

(8) When any accounts, registers or documents of a dealer seized by any officer empowered in this behalf have to be returned to the dealer, such return may be made after taking such extracts there from as may be considered necessary. The authority making the return shall affix its

signature or official seal or both on such accounts, registers or documents and the dealer shall give a receipt in acknowledgement, which shall mention the details of the records returned and the number and particulars of the places where the signature or the seal, or both, have been affixed on the accounts, registers or documents returned to him.

(9) When any accounts, registers or documents are inspected or examined by any authority empowered in this behalf, such authority shall affix his signature or official seal or both, at one or more places therein.

(10) If any officer or authorized officer while inspecting or searching any place finds therein any goods not accounted for by the dealer in his accounts and other records such officer shall prepare a list of all such goods and get it signed by two respectable witnesses. One copy of such list shall be given or tendered to the dealer or the person in charge of the place.

(11) The officer directing payment of penalty under sub-section (8) of section 44 shall issue a notice of demand on the dealer in Form No. 12 On receipt of the notice, the dealer shall remit the amount of penalty specified in the notice into a Government Treasury or pay the same by means of crossed cheque or crossed demand draft in favour of the assessing authority concerned and intimate the fact to the officer directing payment of penalty.

64. **Mode of disposal of seized properties.** - (1) An Officer seizing the goods under sub-section (9) of Section 44 or under sub section (16) of section 47 shall cause to be published in the notice board of his office, a notice under his signature specifying the details of goods seized and intended for sale, the place and the day and hour at which the seized goods will be sold and shall display copies of such list and notice in more than one public place in or around the place in which the goods were found.

(2) No sale shall take place before the expiry of a period of fifteen days from the date on which the notice is affixed.

(3) The Officer who seized the goods or any other Officer authorized in this behalf by the Deputy Commissioner shall conduct the auction in person and the goods shall be made available at the place of sale.

(4) At the appointed time the goods shall be put in one or more lots as the officer conducting the sale may consider advisable and shall be knocked down in favour of the highest bidder subject to confirmation of sale by the Deputy Commissioner.

(5) The auction purchaser shall pay the sale value of the goods including sales tax applicable, in cash immediately after the sale and he shall not be permitted to carry away the goods unless the amounts are paid in full.

(6) Where the purchaser fails to pay the sale value of the goods in cash, the goods shall be resold at once and the defaulting purchaser shall be liable for any loss arising there from as well as the expenses incurred on the resale.

(7) Notwithstanding anything contained in the foregoing sub-rules, if the goods seized are of a perishable nature or subject to speedy and natural decay or when the expenses of keeping them in custody are likely to exceed their value, the goods shall be sold by the Officer seizing them immediately after such seizure.

(8) Where the appellate or revisional authority orders any refund of the sale proceeds of the goods seized and sold in auction, the same shall be made after deducting any tax to be collected and remitted to Government in accordance with section 30 and any charges incurred in connection with the auction sale.

65. **Procedure for the purchase of goods to prevent under valuation.** - No order under section 45 shall be passed without giving the person from whom such goods are purchased or the owner or driver or other agent or representative a reasonable opportunity of being heard.

66. **Establishment of Check Posts and documents to be carried with the goods.** - (1) When a check post is set up on a thoroughfare or road under sub section (1) or under subsection (2) of section 46, barriers may be erected, across the road or thoroughfare, in the form of a contrivance to enable vehicle or vessel being intercepted, detained and searched.

(2) No person shall transport within the State, across or beyond the notified area any consignment of goods if the value thereof exceeds five thousand rupees by any vehicle or vessel unless he is in possession of the records specified in subsection (3) of section 46.

(3) No person shall transport within the State across or beyond the notified area or within two kilometers from the border area the following goods exceeding the weight as given against it, by head load or animal load, unless he is in possession of the records and documents prescribed in sub-rule (2)

| Sl.No. | Description of goods | Quantity |
|--------|----------------------|----------|
| 1 | Arecanut | 20 Kg. |
| 2 | Raw Cashew nut | 20 Kg. |
| 3 | Rubber | 20 Kg. |
| 4 | Pepper | 15 Kg. |
| 5 | Cardamom | 2 Kg. |
| 6 | Coffee | 15 Kg. |
| 7 | Iron & steel | 50 Kg |

(4) At any place within the area notified by Government under Sub-section (1) of section 46, the driver or any other person in charge of any vehicle or vessel specified in sub-section (3) of section 46, shall keep the vehicle or vessel stationary and any person referred to in sub-section (4) of Section 46 shall remain stationary or as the case may be keep the animal stationary as long as may be required by the Officer in charge of the notified area or any other Officer of the Commercial Taxes Department not lower in rank than an assessing authority and allow and enable the officer to inspect the goods under transport and to examine the records specified in sub-rule (2).

(5) When the officer in charge of the Check Post or barrier within the notified area is not at the Check Post or barrier, the driver or any other person in charge of any vehicle or vessel specified in sub-section (3) of section 46 shall keep the vehicle or vessel stationary and any person referred to in sub-section (4) of Section 46 shall remain stationary or as the case may be keep the animal stationary at the Check Post or barrier when required by the Peon on duty at the Check Post or barrier for a period not exceeding fifteen minutes in order to enable the Officer in charge of the Check Post or the barrier or the other Officer specified in sub-rule (4) to come and examine the goods and the records connected with the goods under transport.

(6) (a) The declaration referred in clause (d) of sub-section (3) of section 46 shall be in Form No 8F.

(b) The delivery note and the certificate of ownership referred to in sub-section (3) of section 46 shall be in Form No. 15 and Form No. 16 respectively:

Provided that when rubber is transported across the State's border, a declaration in Form No.1 or Form No.2 or Form No.3 or Form No.4 as prescribed under rule 43B of the Rubber Rules, 1955 shall also accompany the transport.

(c) Where goods are transported interstate either by vehicle or vessel under the cover of certificate of ownership by agriculturists, as owners of such goods produced by them, such certificate shall be got countersigned by the Commercial Tax Officer/Agricultural Income Tax Officer, as the case may be.

(d) The permit for notified goods referred to under sub-section (3) of section 46 shall be in Form No. 7 C. The permit shall be issued, in the case of outgoing goods, by the assessing authority with whom the dealer is registered, and in the case of incoming goods, by the Commercial Tax Officer or Commercial Tax Inspector in charge of the Check post through which the goods enter the state. In cases where it is not practicable to obtain the permit, in the former case, from the assessing authority concerned, the permit may be issued by the Commercial Tax Officer or Commercial Tax Inspector in charge of the first check post through which the notified goods passes or by such other officer authorised by the Commissioner. The permit shall be prepared in triplicate and the copies shall bear the superscription original, duplicate and triplicate, as the case may be. Where the assessing authority issues the permit, the original and duplicate shall be issued to the dealer and the assessing authority shall retain the triplicate. The dealer shall surrender duplicate at the last check post. Where the officer in charge of the check post issues the permit, such officer shall forward the duplicate to the assessing authority concerned. The original of the permit shall accompany the consignment.

(7) Any person referred to in sub section (3) or sub section (4) of section 46 shall file a copy each of the document

mentioned therein along with the declaration before the officer in charge of the check post or barrier.

67. **Procedure for inspection of goods in transit:** - (1) If on examination of goods and the records connected therewith, the officer in charge of the notified area or the officer empowered by the Government under sub-section (1) of section 47 finds that any consignment of goods, the value of which exceeds rupees one thousand or the entire goods are not covered by proper documents or that the documents carried by the driver or any other person in charge of the vehicle or vessel are defective or suspects that the documents are bogus or false, or that the person transporting the goods is attempting to evade payment of the tax due under the Act, the said officer shall immediately issue a notice to the said person to show cause why further steps should not be taken against him under section 47. If the officer inspecting the goods is satisfied as to the reason or reasons for the omission or the defects, as the case may be, he may, after recording his findings there for, allow the goods to be transported. Where a dealer holding electronic identity card owns the goods either in person or through the e-mail ID Furnished by the dealer or the one allotted to the dealer along with the Electronic Identity Card and requests that the further proceedings be conducted at the place where his principal place of business is situated, the officer in charge of the notified area or the officer empowered by the Government under sub-section (1) of Section 47 may transfer the records of the case to the officer of the area where the principal place of business of the dealer is situated who is empowered under sub-section (1) of section 47, for proceeding further in accordance with the provisions of section 47 and this rule. If he is not satisfied with the reasons, he may pass an order for the unloading and detention of the goods and thereupon the owner of the goods or his representative or the driver or other person in charge of the vehicle or vessel shall unload the goods Before issuing the order for such unloading and detention the officer shall issue a notice in Form No. 17 A

(2) Where on the basis of a mobile alert received by a dealer holding an Electronic Identity Card issued under sub-section (14) of section 16 or on the basis of a telephonic information received from the officer in charge of the notified area, a dealer intimates such officer using the e-mail I.D. furnished by the dealer or the one allotted to the dealer along with the Electronic Identity Card issued under sub-section (14) of section 16, that the consignment in respect of which such information is received by him is bogus or that it does not relate to him or that the name of the consignor or consignee, as the case may be, shown in the documents accompanying the consignment is not genuine, such officer shall treat the goods as not covered by the documents prescribed, or the consignment as bogus and proceed accordingly under these rules.

(3) The Officer recording the statement under sub-section (5) of section 47 shall obtain, from the person in charge of the goods or vehicle or vessel, the name and address of the owner of the vehicle or vessel and the name and address of the owner of the goods if he is not present in the vehicle or vessel. Such Officer shall also record the details of the consignor as well as the consignee as ascertained from the person in charge of the goods or vehicle or vessel. For this purpose such officer may direct the driver or the person in charge of the vehicle or vessel to produce the registration certificate of the vehicle or vessel, driving license of the driver or permits, as may be required.

(4) (a) The security referred to in sub-section (2) of section 47, other than that referred to in the first proviso to the said sub section, shall be furnished in any of the ways specified in clauses (a) to (c) and (f) of sub-rule (2) of Rule 19 or by depositing the amount with the officer referred to in sub-rule (1).

(b) The security referred to in the first proviso to sub section (2) of section 47 shall be in Form No.6. Where such bond is required to be furnished with sureties, the sureties shall be identifiable and solvent enough for the amount assured.

(5) The Officer accepting the security shall, after giving proper cash receipt where security is furnished by deposit of cash or an acknowledgement where security is furnished in any other form and pass an order in writing releasing the goods and allowing the same to be transported.

(6) In cases where the consignor or consignee, as the case may be, in the state is a registered dealer, the officer authorised under sub-section (5) of section 47 shall be one having jurisdiction over the area where the principal place of business of such dealer is situated.

(7)(a) If the officer to whom proceedings are submitted under sub-section (5) of section 47 is satisfied after inquiry that there has been no attempt to evade the tax due under the Act on the transaction in pursuance of which the goods are transported, he shall, for reasons to be recorded in writing;

- (i) Order the release of the goods detained or seized, on the owner of the goods paying the expenses, if any, incurred by the officer concerned for the safe custody of the goods and incidental charges including charges for the service and publication, of the notice under sub-sections (6) and (10) of section 47 and the order under clause (d) of this sub-rule (which shall be specified in the order).
- (ii) Release the security (including any bond) furnished by the owner of the goods or any other person.

(b) If, after conducting the enquiry, the officer, finds that there has been an attempt to evade payment of tax due under the Act on the transaction, in pursuance of which the goods are transported, he shall pass an order in writing imposing on the owner of the goods a penalty not exceeding twice the amount of tax attempted to be evaded as estimated by him.

- (c) In an order under clause (b), the officer shall also specify, in cases where goods have been seized, that the goods are liable to be sold in public auction as provided in sub-sections (8) and (11) of section 47 without any further notice, in case the penalty is not paid within thirty days from the date of the order.
- (d) an order under clause (a) or clause (b) shall be communicated to the owner of the goods in the same manner as a notice under sub-section (6) of section 47 is to be served, and also on the person who was in charge of the vehicle or vessel at the time of detaining the goods.

(8) Where an order imposing penalty has been passed and the owner of the goods or his representative or the driver or other person in charge of the vehicle or vessel has paid the amount of penalty together with the expenses and other incidental charges for keeping the goods seized in custody and for the service and publication of the notice under sub-sections (6) and (10) of Section 47 and the order under clause (d) of sub-rule (7) of this rule to the Officer imposing the penalty, such officer shall pass an order directing the release of the goods seized or of the security or bond furnished, as the case may be.

(9) Where the penalty is not paid within the time specified in sub-section (8) of section 47 -

- (a) if cash security has been furnished or when the goods seized have been sold under sub-section (12) of Section 47 and the amount deposited in Government Treasury, the officer authorized under sub-section (5) of Section 47 shall adjust the amount towards the penalty imposed and the expenses and incidental charges to be recovered and refund the excess if any;
- (b) if any other security or a bond has been furnished, the officer shall take steps to realize the amount of penalty imposed from the security and adjust the same towards the penalty and expenses and incidental charges.

(10)(a) when the goods seized are to be sold in public auction as provided in sub-sections (8) and (11) of section 47 the officer who imposed the penalty shall cause to be published in the notice board of his office, a list of the goods seized and intended for sale with a notice under his signature specifying the place and the day and hour at which the seized goods will be sold and shall display copies of such list and notice in more than one public place in the notified area or in or around the place in which the goods were detained as the officer may consider necessary to give wide publicity to the sale.

(b) If the value of the goods exceeds rupees one thousand, copies of the list and notice shall be published in the office of the concerned Deputy Commissioner also.

(c) No sale shall take place until after the expiration of a period of fifteen days from the date on which the notice is affixed.

(d) The officer who imposed the penalty or any other officer authorized in this behalf by the Deputy Commissioner shall conduct the sale in person and the goods seized shall be made available at the place of sale:

(e) At the appointed time, the goods shall be put up in one or more lots as the officer conducting the sale may consider advisable and shall be knocked down in favour of the highest bidder subject to the confirmation of the sale by the Deputy Commissioner.

(f) Where the amount fetched in auction is more than the amount of the penalty due from the owner of the goods, the surplus after realizing the penalty imposed, the charges for the service and publication, if any, of the notice under sub-sections (6) and (10) of Section 47 and the order under clause (d) of sub-rule (7) of this rule, the expenses for the conduct of the sale and the expenses

and other incidental charges referred to in sub-section (14) of section 47, shall be refunded.

- (g) The auction purchaser shall pay the sale value of the goods, in ready cash immediately after the sale and he will not be permitted to carry away any part of the goods until he has paid for the same in full.
- (h) Where the purchaser fails to pay the sale value of the goods in ready cash the goods shall be re-sold at once and the defaulting purchaser shall be liable for any loss arising there from as well as the expenses incurred on the re-sale.
- (i) Where on re-sale, the property is sold at a higher price than at the first sale, the excess amount remaining available after adjusting the penalty and other expenses as provided in clause (f) shall be returned to the owner of goods as provided in sub-section (15) of section 47

(11) The provisions of clauses (a), (b) and (d) to (h) (both inclusive) of sub-rule (10) shall, so far as may be, apply to a sale falling under sub-section (12) of section 47.

67A. Collection of Advance Tax:- (1) The Commissioner may for the purpose of sub-section (16A) of Section 47 of the Kerala Value Added Tax Act, 2003 from time to time identify evasion-prone commodities for which advance tax shall be collected while importing such goods into the state.

(2) The advance tax as per sub-rule (1) may be collected at the Check Posts at the time of import into the State at rates applicable under the Act.

(3) The advance tax so collected shall be treated on par with the tax paid on purchase of such goods for the purpose of giving credit to such payments, and shall be eligible for input tax credit which may be adjusted against the output tax due for the respective return period.

68. **Issue of transit pass:** - Every transit pass issued under Section 48 shall be in Form No. 7 B

69. **Procedure for confiscation of goods and vehicles:** - (1) The officer authorized under sub-section (2) of Section 49 shall issue a notice as required by sub-section (3) of the said section not later than 5 days from the date of production of the goods and/or vehicle before him by the officer seizing them.

(2) The officer authorized to release the goods and the vehicle or the vessel under the proviso to sub-section (2) of section 49 may estimate the value of the goods on the basis of the market value of the goods on the day of confiscation and the value of the vehicle or vessel on the basis of a valuation certificate issued by an engineer of any department of Government not below the rank of an Assistant Executive Engineer qualified to assess the value of vehicle or vessel. For this purpose the authorized officer may give a request in writing to such Engineer who shall issue the valuation certificate not later than five days from the date of receipt of such request.

70. **Procedure for disposal of goods and vehicles confiscated.** - (1) Where an order of confiscation under Section 49 has become final, the authorized officer, shall sell the goods and/or the vehicle confiscated in public auction and the procedure prescribed in sub-rule (10) of rule 67 shall, so far as may be, apply to such sale.

(2) The sale under this rule shall be subject to confirmation by the Deputy Commissioner.

71. **Safe custody of vehicle detained:** - The officer detaining any vehicle or vessel under any of the provisions of the Act shall keep the same in safe custody at the nearest police station or check post or office of the Commercial Taxes Department.