



Chapter-IV

SALES TAX TRIBUNAL REGULATIONS, 1988

In exercise of the powers conferred by sub-section (11) of Section 10 of the U.P. Sales Tax Act, 1948, as amended from time to time, the Tribunal is pleased to adopt the following Regulations with effect from the first day of January 1989.

1. Short Title and Commencement :

- (i) These regulations may be called 'U. P. Sales Tax Tribunal Regulations, 1988.'
- (ii) They shall apply to all appeals, applications, proceedings and matters pending on or subsequent to 1st January 1989.

2. Definition : In these Regulations, unless there is anything repugnant in the subject or context—

- (i) "Act" means the U. P. Sales Tax Act, 1948 :
- (ii) "Bench of the Member" means a Bench of the Tribunal constituted under sub-rule (3) of Rule 69 of U. P. Sales Tax Rules and includes Bench of the President.
- (iii) "Division Bench" means a Bench consisting of at least one H. J. S. Member as far as practicable and one other Member.
- (iv) "Full Bench" means a Bench of three Members consisting of at least one H. J. S. member or President and two other Members.
- (v) "Larger Bench" means a Bench of more than three Members of the Tribunal consisting of at least half number of H. J. S. Members including the President and half other Members, constituted from time to time by the President by general or specific order under sub-section (9) of section 10 of the Act for disposal of such appeals, as may involve a question of law of substantial importance.
- (vi) "Member" means a Member of the Tribunal and includes President.
- (vii) "Munsarim" means the Head Clerk of a Bench of the Tribunal and includes such other official/officer as may be authorised by the President.
- (viii) "Prescribed form" means the form prescribed by the Rules framed under the U. P. Sales Tax Act and Central Sales Tax Act :
- (ix) "Registrar" means an officer of the Tribunal discharging the functions of the Registrar assigned to him by the President from time to time and includes Deputy Registrar and Assistant Registrar.
- (x) "Rules" means the rules framed under the Act ;

(xi) "Section" means a Section of the Act.

(xii) Words and phrases defined under the Act and Rules shall have the same meaning for the purposes of these regulations.

3. Place of Sitting of Bench : A Bench of one Member shall hold its sitting at its Head-quarters mentioned in Sub-rule (2) of Rule 69 or at such other place as the President may direct.

A Bench of two Members shall ordinarily hold its sitting at the head-quarter of the Bench where such appeals were instituted or transferred. The President may in his discretion direct that a particular appeal or appeals may be heard by a Bench at such place as he may consider necessary.

4. Working Hours : The hours of working in the office of the Tribunal or its Bench shall ordinarily be from 10.00 a.m. to 5.00 p.m. with a recess from 1.30 p.m. to 2.00 p.m.; provided that the President/Member may fix different hours for the recess for an officer/official in order to avoid dislocation of work. In summer if the normal working hours in other Government offices are changed by the Collector of the district, the same working hours may be adopted ;

Provided further that the offices of the lower authorities of Sales Tax Department have also accordingly changed the working hours of their offices.

5. Sitting Hours of Benches : The sitting hours of Benches for hearing of appeals and applications shall ordinarily be from 10.30 a.m. to 1.30 p.m., provided that a Bench, under special circumstances, with the prior approval of the President, may fix up other timings for the hearing of appeals and applications after general notice to the Bar Association concerned.

6. Procedure of Presentation of Appeals & Applications :

- (1) All appeals or applications alongwith affidavit shall be presented with the form of receipt in duplicate duly filled in vide Annexure-I to the Munsarim or sent by registered post at the head quarter of the Bench having jurisdiction.
- (2) The appeal or application shall be presented also in accordance with Rule 66 and 67.
- (3) All appeals or applications shall at the time of presentation, bear the name, status and also full signature or thumb mark of the person actually presenting the same together with the date of presentation.
- (4) In appeals listed for hearing, application, if any, may be presented personally by either of the parties to the Reader of the Bench after giving a copy thereof to the other party.

7. **Endorsement on Presentation of Appeals and Applications :** The Munsarim or in the absence of the Munsarim, the Reader or in the absence of both, any other official authorised by the Bench shall endorse on every memorandum of appeal and the application, the date on which it is received by post or is presented and the name and status of the person presenting the same and shall also sign the endorsement.

8. **Filing of Documents :**

- (a) No additional evidence shall be taken on record for consideration unless permission for the same has been granted by the Bench on the application of the party concerned.
- (b) Where a party wants to file document (s) in support of any contention in appeal under Section 12-B, it shall file a proper application with court-fee stamp and the certified attested copy of the said document (s) for orders of the Bench alongwith an affidavit showing sufficient cause as to why the document (s) was/were not filed before assessing/appellate authority concerned.
- (c) Every application, affidavit or any other document which is filed subsequent to the presentation of appeal, shall bear the appeal number, names of parties and also the name and full signature of the person filing the same together with the date of filing.

9. **Disposal of Appeals :**

- (1) The appeal shall be disposed of in accordance with Rule 68.
- (2) (a) The appellant shall, on the date of hearing of appeal, submit a 'Paper Book' containing the following :
 - (i) Name of the dealer.
 - (ii) Assessment year.
 - (iii) Name of the Statute under which appeal is filed.
 - (iv) Nature of business and commodities dealt in.
 - (v) Gross and net turnover disclosed by the assessee; assessed by the assessing officer and fixed by the Assistant Commissioner (Judicial) or the Deputy Commissioner (Appeals) as the case may be.
 - (vi) Points of law and facts sought to be raised in the Second Appeal together with the supporting case law.
 - (vii) Copies of documents relied upon or challenged, duly attested by lawyer engaged in the case or a Notary or a Gazetted officer.
- (b) The number of copies of 'Paper Book' shall be the same as the number of the Member of the Bench with an extra copy for the State Representative.
- (c) Paper Book regarding appeal under Section 35 shall contain essential information and documents as may be considered necessary.

(d) Every memorandum of appeal when filed by a party shall be accompanied by a statement giving the address of the party; and indicating the Sales Tax Sector/Sub-Sector; such address may from time to time, be changed by lodging a form, duly filled up and stating the new address of the party, duly verified by the appellant. The address given as above shall, until duly changed as aforesaid, be deemed to be the address of the party for the purposes of service and shall hold good till the appeal and all proceedings connected therewith are fully determined.

(e) If the appellant has appointed a lawyer, name and address of such lawyer shall also be mentioned at the foot of the grounds of appeal. Service on such lawyer of any notice shall be deemed to be sufficient service on the appellant, in case personal service on the appellant is for some reason, not practicable and the lawyer is also willing to accept the notice on behalf of the appellant.

10. Intimation to Other Party : Intimation regarding filing of second appeal shall be sent to the Opposite Party by the Bench Within a fortnight of the date of filing of appeal in the prescribed proforma (Annexure-2)

11. Filing and Disposal of Stay & Waiver Applications :

- (i) Every application for waiver and Stay of proceedings or stay of recovery of tax, interest, penalty, fee or any other sum shall be presented in duplicate by the applicant in person or by his duly authorised agent or sent by registered post at the headquarter of a bench having jurisdiction to hear the appeals in respect of the waiver or stay applications.
- (ii) Every application shall be neatly typed on one side of the paper and and set forth concisely the following :-
 - (a) Short facts regarding the demand of the tax, interest, penalty, fee or any other sum recovery of which is sought to be stayed.
 - (b) The result of appeal filed before the Asstt. Commissioner (Judicial) Sales Tax/the Deputy Commissioner (Appeals) Sale Tax, if any.
 - (c) The amount of tax, interest, penalty, fee or any other sum admitted and disputed.
 - (d) The date of filling of appeal before the Tribunal and its number, if any.
 - (e) Whether any application for stay or waiver was moved earlier, and if so, the result thereof.
 - (f) Financial condition and reasons in brief for seeking stay or waiver.
 - (g) Prayers to be mentioned clearly and concisely (stating exact amount sought to be stayed).

- (iii) (a) The contents of application shall be supported by an affidavit sworn by the applicant or his duly authorised agent.
- (b) An application which does not conform to the above requirements, is liable to be rejected summarily.
- (c) Every application shall be presented by 12.00 noon and may also be presented thereafter on the specific permission of the Member for the special reason.
- (d) Every application for adjournment shall be submitted well in time or latest by 10.30 a. m. before the commencement of hearing of regular cases, after supplying a copy thereof to the Opposite Party. Such adjournment application may be disposed of then and there on such terms and conditions as may be deemed fit.
- (iv) Every such application shall be disposed of the same day at 2.00 p. m. unless on the request of the applicant, or his authorised agent, it may be taken up for hearing and disposal on the date fixed by the Member.
- (v) In case of applications sent by registered post intimation about the date fixed shall be given only if the assessee encloses a self-addressed envelop for intimation about the date fixed.

12. Judgment/Order to be Communicated to the Parties :

The Tribunal shall, after the judgment/order is signed cause a copy thereof to be served on the assessee or his lawyer; on the assessing authority, appellate authority and the State Representative, who will receive it on behalf of the Commissioner, Sales Tax and in the case of appeal against order under Section 10-B, an extra copy to the Deputy Commissioner (Executive) concerned.

13. Inspection of Records : Inspection of the records and registers shall be made in the presence of the Munsarim at his table between the hours fixed by the Bench concerned.

14. Clerks of Legal Practitioners : No clerk of any lawyer, shall be allowed to do any work in any Bench unless his name has been registered in the office of the Tribunal under these rules.

- (1) An application for the registration of a clerk shall be made by the Advocate to the Member in the following style :—

"I, request that S/o aged years, R/o may be registered as my clerk.

- (2) I have made the inquiries with regard to his character and certify that in my opinion he is a fit and proper person to be registered as a Legal Practitioner's Clerk."

The application shall be considered by the Member and suitable orders shall be passed regarding registration. In case the applicant is registered, Registration number will be given to him. The Clerk shall give his registration number, on petitions and other papers which he files before the Tribunal and shall always keep with him his identity card authenticated by the member of the Bench.

- (3) A registered clerk shall not make any motion or advance an argument before the Bench. He may act in matters of routine nature which do not require personal attendance of his master and may do the following :
- (a) Receiving notice on behalf of his master ;
 - (b) Presenting application or appeal before the Munsarim of the Tribunal ;
 - (c) Taking back the appeal or application found to be defective or returned for presentation to the proper Bench ;
 - (d) Presenting application signed by his master for copy of documents, in respect of record, return of document, or any other application of a routine nature ;
 - (e) taking delivery of copy;
 - (f) depositing court fee;
 - (g) taking notes from the cause list;
 - (h) signing the order-sheet in the absence of his Master, by way of informatlon.
- (4) (i) The Member may cancel the registration of any clerk for any sufficient reasons. The orders passed by the Member under these rules shall be final and endorsed on the identity card of the clerk.
- (ii) The registration shall automatically be cancelled on receipt of the information from the Advocate concerned, about the termination of the service of the clerk by him.

15. **Functions of the Registrar :** The Registrar shall discharge such duties amongst others as may be assigned to him by the President from time to time.

16. The President may issue directions from time to time as required under the Act and the Rules on such matters on which no provision has been expressly made in these regulations.

(K. L. Sharma)
President
Sales Tax Tribunal, U. P.
Lucknow