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PART I—Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury, etc.

GOVERNMENT OF WEST BENGAL

FINANCE DEPARTMENT

Revenue

NOTIFICATION

No. 1383–F.T.–the 3rd September, 2009.— In exercise of the power conferred by section 114 of the West Bengal Value Added Tax Act, 2003 (West Ben. Act XXXVII of 2003), the Governor is pleased hereby to make the following amendments in the West Bengal Value Added Tax Rules, 2005, as subsequently amended (hereinafter referred to as the said rules):—

Amendments

In the said the rules, —

(1) in CHAPTER IX, —

(a) in PART II, in rule 59, —

(i) in sub-rule (1), —

(A) for the words and figures “a notice in Form No.27”, *substitute* the words and figures “, subject to the proviso to this sub-rule, a notice in Form No.27”;

(B) for the proviso, *substitute* the following proviso:—

“Provided that if the dealer, in accordance with the provisions of clause (b), clause (a) or clause (c) of sub-section (1) of section 118, is eligible for exemption, or deferment, or remission of payment of tax due after assessment, the appropriate assessing authority shall serve, after an order of assessment is passed under section 46, a notice in Form No. 27A on such dealer directing him to make payment of the amount of tax and penalty, if any, due from such dealer by such date as may be specified in such notice and shall specify in such notice the amount of tax payable which is exempt or eligible for deferment or remission under clause (b), clause (a) or clause (c) of sub-section (1) of section 118, as the case may be, and the date on

which the amount of such deferred tax shall be paid by such dealer in accordance with the provisions of clause (a) of sub-section (1) of section 116 or clause (a) of sub-section (1) of section 118, as the case may be.";

- (ii) in sub-rule (2), in the proviso, for the words and figures "Form No.27", *substitute* the words, figures and letter "Form No.27 or Form No.27A";
- (iii) in sub-rule (4), –
 - (A) for the words and figures "Form No.27", *substitute* the words, figures and letter "Form No.27 or Form No.27A";
 - (B) for the words "for the amount still remaining refundable or to adjust such excess payment against any amount due under the Act on the date of order of such assessment.", *substitute* the words "by the dealer:";
 - (C) for the proviso, *substitute* the following provisos:–

"Provided that where any amount of tax, penalty, interest or late fee due from such dealer in respect of any other period remains unpaid by such dealer till the date of assessment, the appropriate assessing authority shall adjust the amount assessed to have been paid in excess towards the tax, penalty, interest or late fee, and thereupon, if any amount still remains refundable he shall specify such adjustment in the said notice in Form No.27 or Form No.27A and send to the dealer a Refund Adjustment Order for the amount still remaining refundable along with such notice:

Provided further that if the amount of refund exceeds twenty thousand rupees, the appropriate authority shall obtain prior approval of the Senior Joint Commissioner concerned who shall make his observation within fifteen days of the receipt of the relevant proposal.";

- (b) in PART III,–
 - (i) in rule 67,–
 - (A) in sub-rule (1), in clause (b), for the words and figures "Form No.27", *substitute* the words, figures and letter "Form No.27 or Form No.27A";
 - (B) in sub-rule (2),–
 - (I) for the words and figures "Form No.27", *substitute* the words, letter and figures "Form No.27 or Form No.27A";
 - (II) in the proviso, for the words and figures "Form No.27", *substitute* the words, figures and letter "Form No.27 or Form No.27A";
 - (ii) in rule 68, in sub-rule (1), for the words and figures "or Form No. 27", *substitute* the words, figures and letter "or Form No.27 or Form No.27A";
 - (iii) in rule 68C, –
 - (A) in sub-rule (1), in clause (b), for the words and figures "Form No.27", *substitute* the words, figures and letter "Form No.27 or Form No.27A";
 - (B) in sub-rule (2), –
 - (I) for the words and figures "Form No.27", *substitute* the words, figures and letter "Form No.27 or Form No.27A";
 - (II) in the proviso, for the words and figures "Form No.27", *substitute* the words, figures and letter "Form No.27 or Form No.27A";

(2) for FORM 25, *substitute* the following form:—

"THE WEST BENGAL VALUE ADDED TAX RULES, 2005

FORM 25

Notice under section 46 read with section 66 of the West Bengal Value Added Tax Act, 2003

[See sub-rule (1) of rule 56]

To

..... (Name of the dealer)

..... (Trade Name)

..... (Address)

.....

Holding Registration Certificate No.																			
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Assessment Period:..... to

WHEREAS –

- *(a) You, a registered dealer have not furnished return(s) for the aforesaid period;
- *(b) You, a registered dealer have furnished return(s), for the aforesaid period, without paying net tax or interest or late fee within the prescribed date or within such date as extended by the Commissioner;
- *(c) You, a registered dealer have failed to make payment of the amount of net tax or interest or late fee in deficit by the date specified in the notice issued under sub-section (2) of section 41;
- *(d) Upon verification of return under sub-section (1) of section 42, or upon enquiry, or upon information received under section 43, or otherwise, I am not satisfied that the return(s) filed by you for the aforesaid period is/are correct and complete;
- *(e) Upon search or seizure of the account, registers or documents, or of goods of yours, I have reasons to believe that you have not accounted for some turnover of sales or turnover of purchases in the return(s) furnished by you for the aforesaid period or in the accounts, registers or documents referred to in section 63;
- *(f) Refund has been made to you under section 61 or under sub-section (8A) of section 22;
- *(g) I have reasons to believe that an assessment is required to be made for the aforesaid period under sub-section (2) of section 9 of the Central Sales Tax Act, 1956;
- *(h) You have brought to my notice that due to error in fact or in law, payment has been made by you in excess of what was payable by you as net tax or interest or late fee for the aforesaid period, and I am satisfied on the grounds adduced for the same;
- *(i) You have brought to my notice that excess amount of input tax credit amounting to Rs..... (in figure) (Rupees.....) (in words) which has accumulated during the year has not been carried forward to the following year i.e. and you want refund of the same;
- *(j) You have closed your business;
- *(k) I find it fit and proper for the following reason:-

.....

AND WHEREAS it appears to me to be necessary to make an assessment under section 46 of the West Bengal Value Added Tax Act, 2003, in respect of the aforesaid period;

You are hereby directed to attend in person or by an agent at the place, date and time mentioned below and there to furnish, or there cause to be furnished and to explain, at the said date, time and place the accounts, registers and documents including those in the form of electronic records, specified below for the purpose of such assessment together with any objection which you may wish to prefer and any evidence you may wish to adduce in support thereof to show cause on that date and at that time in addition to the amount of tax to be assessed on you for the aforesaid period a penalty not exceeding fifty *per centum* of the amount should not be imposed on you under sub-section (2) of section 46.

In the event of your failure to comply with this notice, I shall assess you under sub-section (1) of section 46 of the West Bengal Value Added Tax Act, 2003, to the best of my judgement, without further reference to you.

Date:

Signature

Designation

Place:		Date:		Time:	
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Particulars of accounts, registers and documents including those in the form of electronic records required for the aforesaid period:-

1. Cash Book. 2. Bank Pass Book. 3. General Ledger, Personal Ledger, Journals. 4. Trial Balance, Trading Account, Profit and Loss Account and Balance Sheet. 5. Original tax invoices, invoices, bills or cash memos received on purchases. 6. Counterfoil or copies of tax invoices, invoices, bills or cash memos issued. 7. Registers in support of sales and purchases made within and outside West Bengal, if any. 8. Transport documents as proof of inter-state sales/stock transfer or branch transfer outside West Bengal/Export. 9. All export documents. 10. Any other documents necessary to prove correctness of turnover of sale, purchase and claim for input tax credit and refund.

* Strike out whichever is not applicable.";

(3) for FORM 27, *substitute* the following form:-

"THE WEST BENGAL VALUE ADDED TAX RULES, 2005

FORM 27

Notice of demand of tax assessed under *section 46/section 48, penalty imposed under sub-section (2) of section 46, late fee determined under section 53A and interest determined/re-determined under *section 50/51 of the West Bengal Value Added Tax Act, 2003.

[See sub-rule (1) of rule 59 and clause (b) of sub-section (1) of section 67]

To

..... (Name of Dealer)

..... (Trade Name)

..... (Address)

.....

Holding Registration Certificate Number
(if any)

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Assessment Period : to

*In continuation of notice in *Form 25/Form 26 under section *46/48 of the West Bengal Value Added Tax Act, 2003, issued to you on, you are hereby informed that upon assessment and/or determination for the aforesaid period turnover of sales, taxable turnover of purchase, etc., as mentioned in col. (2) against serial Nos. I to XIV in col. (1) of the Table below have been determined for the amounts as specified in col. (3) and / or col. (4) of the said Table:—

Table

Sl. No.	Particulars		Amount	Output Tax
			Rs	Rs.
(1)	(2)		(3)	(4)
I	Turnover of sales on which tax is payable and output tax thereon			
II	Taxable turnover of purchase and output tax thereon			
III	Taxable contractual transfer price and output tax thereon			
IV	Total Output Tax Payable by you [I + II + III]			
				Amount (Rs.)
V	(A)	Net Tax Credit allowed u/s 22(17)		
	(B)	Amount adjusted with tax payable under the C.S.T. Act, 1956		
	(C)	Amount of input tax credit already refunded u/s 61/22(8A)		
	(D)	Amount to be adjusted with output tax for this period [V (A) - V (B) - V(C)]		
VI	*Net Tax Payable / Further unadjusted Net Tax Credit [IV - V (D)]			
VII	Add: Penalty payable, if any, under section 46(2)			
VIII	Add: Late fee payable, if any, under section 32(2)			
IX	Add: Interest payable (if any):			
	(a)	Interest under section 33		
	(b)	Interest under section 34/34A		
	Total IX (a + b)			
X	TOTAL AMOUNT PAYABLE [VI + VII + VIII + IX]			
XI	Less: Tax deducted at source as evident from Form 18 furnished			
XII	Less: Tax, interest and late fee paid as evident from the challan(s) furnished			
XIII	Add: Net tax credit carried forward to next period in excess of amount found admissible			
XIV	*Amount yet to be paid / Paid in excess [X - XI - XII + XIII]			

*You are hereby informed that out of the excess payment as shown in serial no. XIV above, the amount as shown below has been adjusted against arrears of net tax, penalty, late fee or interest for the periods as mentioned below:-

Sl. No.	Period of assessment of tax/imposition of penalty / determination of interest / determination of late fee	Case No., if any	Amount adjusted against arrears (Rs.)
1.			
2.			
		Total	

*You are hereby informed that an amount of Rs..... (in figures) Rupees (in words) is refundable to you for which a refund adjustment order is enclosed.

*Amount of demand yet to be paid —	Rs.	(in figures)
Rupees		(in words)
Payment is to be made on or before:-		into Government Treasury at

*Now, you are hereby directed to pay the sum as shown above into the appropriate Government Treasury on or before the date specified above and to produce the receipted challan in proof of the payment before the undersigned not later than 15 days from the due date of payment as specified above failing which the said sum shall be recoverable from you in accordance with the provisions of section 55, and where on account of delay in service of this notice you do not get the minimum number of thirty days for compliance of the notice, you may make an application in terms of rule 59 / rule 67 / rule 68C.

Date

Signature

Designation

*Charge/Section.....

*Strike out whichever is not applicable.";

(4) after FORM 27, insert the following form:-

"THE WEST BENGAL VALUE ADDED TAX RULES, 2005

FORM 27A

Notice of demand of tax assessed under *section 46/section 48, penalty imposed under sub-section (2) of section 46, late fee determined under section 53A and interest determined/re-determined under *section 50/51 of the West Bengal Value Added Tax Act, 2003.

[See sub-rule (1) of rule 59 and clause (b) of sub-section (1) of section 67]

To

..... (Dealer)

..... (Trade Name)

..... (Address)

Holding Registration Certificate Number (if any) and holding Certificate of eligibility No. in *Form No.77/Form No.79

Assessment Period: to.....

* In continuation of notice in *Form 25/Form 26 under section *46/48 of the West Bengal Value Added Tax Act, 2003, issued to you on, you are hereby informed that upon assessment and/or determination for the aforesaid period turnover of sales, taxable turnover of purchase, etc., as mentioned in col. (2) against serial Nos. I to XV in col. (1) of the Table below have been determined for the amounts as specified in col. (3) and/or col. (4) of the said Table: -

Table

Sl. No.	Particulars		Amount	Output Tax
			Rs	Rs.
(1)	(2)		(3)	(4)
I	Turnover of sales on which tax is payable and output tax thereon			
II	Taxable turnover of purchase and output tax thereon			
III	Taxable contractual transfer price and output tax thereon			
IV	Total Output Tax Payable by you [I + II + III]			
				Amount (Rs.)
V	(A)	Net Tax Credit allowed u/s 22(17)		
	(B)	Amount adjusted with tax payable under the C.S.T. Act, 1956		
	(C)	Amount of input tax credit already refunded u/s 61/22(8A)		
	(D)	Amount to be adjusted with output tax for this period [V (A) - V (B) - V(C)]		
VI	*Net Tax Payable / Further unadjusted Net Tax Credit [IV - V (D)]			
VII	Add: Penalty payable, if any, under section 46(2)			
VIII	Add: Late fee payable, if any, under section 32(2)			
IX	Add: Interest payable (if any):			
	(a)	Interest under section 33		
	(b)	Interest under section 34/34A		
	Total IX (a + b)			
X	TOTAL AMOUNT PAYABLE [VI + VII + VIII + IX]			
XI	Less: Tax deferred/tax remitted during the period			
XII	Less: Tax deducted at source as evident from Form 18 furnished			
XIII	Less: Tax, interest and late fee paid as evident from the challan(s) furnished			
XIV	Add: Net tax credit carried forward to next period in excess of amount found admissible			
XV	*Amount yet to be paid / Paid in excess [X - XI - XII - XIII + XIV]			

*You are hereby informed that out of the excess payment as shown in serial No. XV above, an amount of Rs..... (in figures) Rupees.....(in words) has been adjusted against arrears of net tax, penalty, late fee or interest for the periods as mentioned below:-

Sl. No.	Period of assessment of tax/imposition of penalty / determination of interest / determination of late fee	Case No., if any	Amount adjusted against arrears (Rs.)
1.			
2.			
3.			
		Total	

*You are hereby informed that an amount of Rs..... (in figures) Rupees (in words) is refundable to you for which a Refund Adjustment Order is enclosed.

* You are hereby informed that the amount of tax *deferred/ exempted/ remitted in respect of the unit holding Eligibility Certificate (i.e. EC unit) having validity upto(date) and amount input tax credit accumulated, after adjustment, if any, during the period are as follows:-

	Deferment under section 118(1)(a)	Exemption under section 118(1)(b)	Remission under section 118(1)(c)
(a) Turnover of sales of EC unit(s)			
(b) Net tax i.e. output tax relating to the EC unit(s) during the period			
(c) Tax as shown in (b) payable during the period under the 2nd proviso to section 22(8)			
(d) Input tax credit relating to the EC unit(s) during the period			
(e) Input tax credit as shown in (d) adjustable with (c)			
(f) Input tax credit as shown in (d) claimed as refund u/s 22(8A)			
(g) Input tax credit accumulated during the period [(d) - (e) - (f)]			
Net tax i.e. output tax to be *deferred/ remitted/ exempted during the period [(b) - (c)]			

*You are directed to pay the deferred amount of tax in terms of the provisions of the deferment scheme as granted to you failing which the said sum of Rs..... (in figures) Rupees..... (in words) shall be recoverable from you in accordance with the provisions of section 55.

*Amount of demand yet to be paid —	Rs.	(in figures)
Rupees		(in words)
Payment is to be made on or before:-		into Government Treasury at

*Now, you are hereby directed to pay the sum as shown above into the appropriate Government Treasury on or before the date specified above and to produce the receipted challan in proof of the payment before the undersigned not later than 15 days from the due date of payment as specified above failing which the said sum shall be recoverable from you in accordance with the provisions of section 55, and where on account of delay in service of this notice you do not get the minimum number of thirty days for compliance of the notice, you may make an application in terms of rule 59/ rule 67/ rule 68C.

Date

Signature

Designation

*Charge/Section.....

*Strike out whichever is not applicable.";

(5) in FORM 68, in serial No.7, in the heading "(A) Your applicant has been assessed under *section 45/section 46/section 48(1)/section 48(2)", for the word, figures and brackets "section 48(2)", *substitute* the words, figures and brackets "section 48(2) in case No.....".

2. In this notification, in paragraph 1, –

- (a) sub-item (B), and sub-item (C), of item (iii) of sub-clause (a) of clause (1), shall be deemed to have come into force with effect from the 1st day of April, 2005; and
- (b) remaining provisions shall be deemed to have come into force with effect from the 1st day of September, 2009.

By order of the Governor,

N. C. BASAK,
Dy. Secy. to the Govt. of West Bengal.