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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. 1530-F.T.- the 20th October, 2008. – 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 rules,—

(1) after CHAPTER VIA, *insert* the following CHAPTER:—

“CHAPTER VIAA

Declarations and other evidences in support of a dealer’s claim for refund under clause (a), or clause (aa), or clause (ab), of section 61 and manner in which declaration forms to be issued and register to be maintained.

30Q. Declaration and evidence for claiming refund.— (1) Where a registered dealer makes sales of goods and intends to claim refund under clause (a), or clause (aa), or clause (ab), of section 61, such registered dealer shall, on demand, furnish before the refund sanctioning authority as referred to in sub-rule (2) of rule 76 or the appropriate assessing authority or the appropriate auditing authority, as the case may be, the evidence and relevant particulars of such sales and the purchases related to such sales and he shall also furnish a declaration in own stationery in Form 12B duly filled in and signed by the registered dealer from whom such goods have been purchased.

(2) The selling dealer shall, by way making a declaration in Form 12B, *inter alia*, certify that—

- (a) the goods particulars of which are furnished in the said declaration were sold to the purchasing dealer;
- (b) the said transaction of sale was entered in the books of account and was disclosed in the return; and

- (c) the amount of tax charged on the said transaction of sale was recorded in the output tax account and was paid by him in the manner laid down in rule 43 in the appropriate Government Treasury or that the amount of tax charged on the said transaction of sale was recorded in the output tax account and was adjusted by way of input tax credit referred to in clause (19) of section 2 and the net tax, if any, payable after such adjustment was paid in the manner laid down in rule 43:

Provided that a single declaration in Form 12B may cover all transactions of sale taken place in a quarter of a financial year between the same two dealers.

30R. Time limit for furnishing declarations before authorities under the Act.— The declaration in Form 12B shall be furnished by a dealer before the refund sanctioning authority as referred to in sub-rule (2) of rule 76 or the appropriate auditing authority or the appropriate assessing authority, as the case may be, at any time on or before the date of hearing in connection with refund under clause (a), or clause (aa) or clause (ab), of section 61 or for audit under section 43 or assessment under section 46, by such authority:

Provided that if the appellate or revisional authority is satisfied that the dealer concerned was prevented by sufficient cause from furnishing such declaration within the time as aforesaid before the appropriate assessing authority or the refund sanctioning authority as referred to in sub-rule (2) of rule 76, as the case may be, such appellate or revisional authority may, for reasons to be recorded in writing, allow the dealer to furnish such declaration within the time fixed for hearing of appeal or revision, as the case may be.

30S. Issue of declarations in Form 12B by the selling dealer. — Where a registered dealer purchasing the goods demands from the registered dealer selling the goods to him declaration in Form 12B for the purpose of seeking refund under rule 76, the registered dealer selling the goods shall issue in his own stationery the declaration in Form 12B duly filled in and signed by him to the purchasing dealer and retain the counterfoil of the said Form 12B.

30T. Register to be maintained with respect to declaration forms. — (1) A registered dealer issuing declaration in Form 12B under rule 30S shall maintain a register in such form as referred to in Form 17C.

(2) The register in Form 17C referred to in sub-rule (1) containing up-to-date account of declaration forms together with the counterfoils of the used declaration forms shall be kept at his place of business and be made available at all reasonable time for inspection by the Commissioner, or the Special Commissioner, or the Additional Commissioner, or any person, other than Patrolman, appointed under sub-section (1) of section 6 to assist the Commissioner.”;

(2) in CHAPTER IX, in PART V, in rule 76,—

(a) for sub-rule (1), *substitute* the following sub-rule:—

“(1) Where a registered dealer as referred to in section 61 has sought for—

- (a) the refund of the amount of tax realised or realisable from him by another registered dealer under clause (a) of section 61; or
- (b) the refund of the excess amount of net tax credit over output tax under clause (aa) of section 61; or
- (c) the refund of such *per centum* of input tax credit available during such return period as referred to as ‘A’ in sub-section (17) of section 22 after adjustment of reverse credit, if any, as corresponds to all sales of goods in the course of export out of India within the meaning of section 5 of the Central Sales Tax Act, 1956 (74 of 1956), to total sales in the return period under clause (ab) of section 61,

such refund of the amount of tax realised or realisable from him by another registered dealer or refund of excess amount of net tax credit over output tax or refund of such *per centum* of input tax credit available during such return period as referred to as ‘A’ in sub-section (17) of section 22 after adjustment of reverse credit, if any, as corresponds to all sales of goods in the course of export out of India within the meaning of section 5 of the Central Sales Tax Act, 1956 (74 of 1956), to total sales in the return period, shall be made to such dealer without making any prior assessment subject to the conditions and restrictions laid down in sub-rule (2) to sub-rule (7).”;

*Signature with date and status
(Proprietor/Partner/Karta, H.U.F./
Principal Officer/Trustee/President/General Secretary)*

(2B) Where the application for refund is sent by registered post, the date on which such application is received by the Commissioner, shall be treated as the date of making such application.

(2C) Where under any of the clauses other than clause (e) of sub-section (1) of section 46 in respect of such return period assessment proceedings have been initiated under section 46 of the Act, the registered dealer shall not be entitled to refund as referred to in clause (a), or clause (aa), or clause (ab), of section 61 of the Act in respect of such return period.

(2D) The amount which is, *prima facie*, found admissible for refund in accordance with the provision of sub-rule (3)(c) or the amount which is determined to be refundable under sub-rule (3B) in respect of the application of refund made by the registered dealer, shall not be refunded to him unless such dealer furnishes by the date specified in the notice in Form 37B, served upon him under sub-rule (3)(c), an indemnity bond for such sum as has been claimed in the application for refund in the Form appended to this sub-rule to the authority making the refund under sub-rule (3A):—

INDEMNITY BOND

KNOW ALL MEN by these presents that—

I/weson of, registered dealer under the West Bengal Value Added Tax Act, 2003 and holding the Certificate of Registration No....., dated....., or

We/M/s.....a firm/a company registered under the laws of India and having its registered office at....., registered dealers under the West Bengal Value Added Tax Act, 2003 and holding the Certificate of Registration No....., dated.....,

is /are held and firmly bound unto the Governor of West Bengal (hereinafter referred to as the Governor) in sum of (rupees.....) well and truly to be paid to the Government on demand and without demur for which to be well and truly made and for that purpose, I/we, the undersigned, bind myself/ourselves and my/our heirs, executors, administrators, legal representatives, my/our successors and assigns and the person for the time being having the control over my/our assets and affairs.

Signed this.....day of.....Two Thousand.....

WHEREAS sub-rule (2D) of rule 76 of the West Bengal Value Added Tax Rules, 2005, requires that in the event of refund in accordance with the provision of sub-rule (3)(b) or sub-rule (3B) in respect of the application of refund made by the undersigned to the Government of West Bengal of Rs.....(rupees.....) shall be secured by a bond in terms hereinafter contained;

Now the condition of this above-written bond or obligation is such that if the undersigned or his/their heirs, executors, administrators, legal representatives, successors and assigns or the person for the time being having the control over his/their assets and affairs shall repay or cause to be repaid the sum of Rs.....(rupees.....) in the event of loss suffered by the Government as a result of false or incorrect statements, declarations and documents furnished or produced by the undersigned and in such event the bond or obligation shall be void and stand automatically cancelled, otherwise the same shall remain in full force and virtue.

Signed by the above named registered dealer

In the presence of

1.

2.

(Signature of registered dealer)

Accepted for an behalf of the Governor of West Bengal

In presence of:

1.

2.

(Name and designation of the Officer)";

(c) for sub-rule (3), *substitute* the following sub-rules:—

“(3) (a) The refund sanctioning authority shall, after receiving the application for refund in Form 31A, send one copy of such application along with all the documents furnished in accordance with the provisions of sub-rule (2) and sub-rule (2A) to the appropriate assessing authority and the appropriate assessing authority shall, on receipt of such copy of application, cause an enquiry to ascertain as to whether the applicant for refund is in possession of documents connected with the refund and shall return those documents with his report containing any fact pertaining to refund and a fact whether the applicant for refund is in possession of documents connected with the refund.

(b) The appropriate assessing authority shall send a copy of the return, certified by him to be the true copy of the return which has been furnished by the dealer and in respect of which the application for refund is made by such dealer and also report as to whether the dealer has paid full tax, interest and late fee payable according to the return in respect of the return period for which the instant application for refund in Form 31A has been made by the dealer and whether the dealer has in the meantime defaulted in making payment of tax, interest, late fee and penalty payable by him or due from him or whether any assessments proceedings under any of the clauses other than clause (e) of sub-section (1) of section 46 in respect of the return period for which the instant application for refund has already been initiated.

(c) If the application for refund in Form 31A made by the dealer together with the statements and declarations referred to in sub-rule (2) and sub-rule (2A) are properly filled in and the refund sanctioning authority, upon preliminary examination of those statements and declarations, application for refund, copy of the return certified by the appropriate assessing authority to be the true copy of the return and the reports under rule (3)(a) and rule (3)(b) furnished by the appropriate assessing authority, is *prima facie* satisfied that the claim of refund of the amount of tax realised or realisable from him by another registered dealer or the claim of refund of excess amount of net tax credit over output tax or the claim of refund of such *per centum* of input tax credit available during such return period as referred to as ‘A’ in sub-section (17) of section 22 after adjustment of reverse credit, if any, as corresponds to all sales of goods in the course of export out of India within the meaning of section 5 of the Central Sales Tax Act, 1956 (74 of 1956), to total sales in the return period, is admissible, he shall serve a notice in Form 37B upon the applicant informing him that fifty *per centum* of the amount of refund claimed by him in the application for refund to be refundable to him or fifty *per centum* of such amount less than the amount claimed by him in the application for refund to be refundable to him, shall be refunded to him forthwith by Refund Adjustment Order or by Refund Payment Order (Cash) or by cheques, upon furnishing by him, in accordance with the provision of sub-rule (2D), an indemnity bond by the date specified in the said notice or by the date as extended by an order, in writing, by the refund sanctioning authority upon prayer by the applicant for refund for extension of time for furnishing the said indemnity bond and the refund so to be made under this sub-rule shall be subject to the provisions of sub-rule (3B), sub-rule (3C) and sub-rule (3D):

Provided that the date to be specified for furnishing the indemnity bond by the applicant in the notice referred to in this sub-rule shall not be less than seven days from the date of service of the notice:

Provided further that where the refund sanctioning authority is an Additional Commissioner or a Deputy Commissioner, such Additional Commissioner or Deputy Commissioner shall, before serving a notice in Form 37B upon the applicant for refund, send all records which have been examined by him under this sub-rule and also his observation of the amount which is *prima facie* found admissible by him to be refundable to the dealer under this sub-rule to the Commissioner for obtaining his approval for the refund and where the Commissioner accords his approval for the said refund, the refund sanctioning authority shall, thereafter, proceed to serve the notice in Form 37B upon the applicant:

Provided also that where the Commissioner has returned those records with the direction to make examination or re-examination of certain documents in the manner as laid down in this sub-rule, the refund sanctioning authority shall act according to such direction and re-determine the amount which is to be refunded to the dealer and thereafter, obtain the approval of the Commissioner in the manner laid down in the second proviso before proceeding to serve the notice in Form 37B upon the applicant.

(3A) Where the dealer who has been served with a notice in Form 37B, issued under sub-rule (3)(c), furnishes the indemnity bond pursuant to the said notice on or before the date as specified in the said notice or such date as extended by the refund sanctioning authority under sub-rule (3)(c), the refund sanctioning authority shall, within thirty working days from the date of receipt of the application for refund, pass an order for making refund to such dealer fifty *per centum* of the amount of refund claimed by him in his application for refund to be refundable to him or fifty *per centum* of such amount less than the amount claimed by him in the application for refund to be refundable to him and issue Form 37C enclosing therewith the Refund Adjustment Order or Refund Payment Order (Cash) or the cheques and one copy of the Form 37C shall be sent to the appropriate assessing authority:

Provided that where, as declared in the application for refund in Form 31A, any amount of tax, interest, late fee or penalty is payable by, or due from, such dealer in accordance with the declaration made in the application for refund in Form 31A, the refund sanctioning authority shall first issue Refund Adjustment Order in favour of the dealer authorising such dealer to adjust the amount shown to have been paid in excess in the Refund Adjustment Order against the amount or amounts of tax, interest, late fee and penalty payable by, or due from, him and thereupon, if any amount still remains refundable, the refund sanctioning authority shall issue Refund Payment Order (Cash) or cheque in favour of the dealer:

Provided further that where no amount of tax, interest, late fee or penalty is payable by or due from the dealer, the said authority shall issue Refund Payment Order (Cash) or cheque for the full amount to be refunded as per the order of refund made under this sub-rule:

Provided also that where such dealer makes an application any time within thirty days from the date of receipt of the Refund Adjustment Order for payment of the refundable amount otherwise than by way of such Refund Adjustment Order on the ground that there is or are no amount of tax, interest, late fee or penalty payable by, or due from, him against which the refundable amount may be adjusted and if the refund sanctioning authority is satisfied to that effect, the said authority may refund the said amount or amounts to the dealer by issuing Refund Payment Order (Cash) or cheque:

Provided also that where the applicant to whom a notice has been served in Form 37B, does not furnish the indemnity bond within the date specified in the said notice or such further time but not exceeding thirty days from the date specified in the said notice, as may be allowed by the refund sanctioning authority, his application for refund shall be rejected with the reason recorded in writing and he shall be informed of such rejection by issuing a notice in Form 37C within ten days from the expiry of the date specified in the notice in Form 37B.

(3B) The refund sanctioning authority shall, immediately after making the refund to the dealer under sub-rule (3A), serve a notice in Form 37A upon the dealer directing him to appear before him and to furnish and explain the document in support of his claim for refund and also the accounts, registers and documents, as specified in the said notice, on a date not less than ten days from the service of the said notice or any date fixed thereafter and after examination of the documents with him and also the documents produced by the dealer at the time of hearing in terms of the notice in Form 37A, determine the amount, if any, refundable to the dealer with respect to the application for refund under sub-rule (2):

Provided that where the refund sanctioning authority is an Additional Commissioner or a Deputy Commissioner, such Additional Commissioner or Deputy Commissioner shall, before making refund in accordance with the provisions of sub-rule (3C), send all records including the determination of the amount to be refunded to the dealer to the Commissioner for obtaining his approval for the refund and where the Commissioner accords his approval, for the said refund, the said refund sanctioning authority shall proceed to make refund in accordance with the provision of sub-rule (3C):

Provided also that where the Commissioner returns those records with the direction to examine or reexamine certain accounts, registers or documents, the refund sanctioning authority shall act according to such direction and again determine the amount which is to be refunded to the dealer and obtain the approval of the Commissioner in the manner laid down in the first proviso before making refund in accordance with the provisions of sub-rule (3C).

(3C) Where the amount of refund determined by the refund sanctioning authority under sub-rule (3B) is more than the amount which has already been refunded to the dealer under sub-rule (3A), the said authority shall, within six months from the receipt of the application for refund, pass order for making refund of such excess amount and issue Form 37D enclosing therewith the Refund Adjustment Order or Refund Payment Order (Cash) or cheque and the copy of the order passed under this sub-rule and one copy of the Form 37D and the order passed under this sub-rule shall be sent to the appropriate assessing authority:

Provided that the provisions of the first, second and third provisos to sub-rule (3A) shall, *mutatis mutandis*, apply in making refund under this sub-rule.

(3D) Where no amount is determined to be refundable under sub-rule (3B) or where the amount of refund determined to be refundable under sub-rule (3B) is less than the amount which has already been refunded to the dealer under sub-rule (3A), the refund sanctioning authority shall pass an order directing the dealer to deposit the entire amount which has already been refunded to him under sub-rule (3A) or to deposit the amount which has been refunded to him under sub-rule (3A) in excess of the amount which is determined to be refundable under sub-rule (3B), as the case may be, into the appropriate Government Treasury in the manner laid down in rule 43 within seven days from the receipt of the notice in Form 37D issued in this regard by the said authority and the copy of the order passed under this sub-rule and one copy each of the Form 37D and the order passed under this sub-rule shall be sent to the appropriate assessing authority.”;

- (d) in sub-rule (4), for the words “Where it is subsequently found”, *substitute* the words, letters, figures and brackets “Where the dealer does not deposit the amount referred to in sub-rule (3D) within the time specified in the notice in Form 37D or where it is subsequently found”;
- (e) for sub-rule (5), *substitute* the following sub-rule:—

“(5) Where the claim for refund upon preliminary examination under sub-rule (3)(c) is found inadmissible, the refund sanctioning authority shall issue a notice to the applicant asking him to show cause as to why the application for refund shall not be rejected and if the refund sanctioning authority is not satisfied with the reasons adduced by the applicant, he shall, within thirty working days from the receipt of the application for refund, reject the application for refund made under sub-rule (2) and inform the applicant of such rejection.”;

- (f) in sub-rule (7), after the words “net tax credit over output tax”, *insert* the words, letter, figures and brackets “or the claim of refund of such *per centum* of input tax credit available during such return period as referred to as ‘A’ in sub-section (17) of section 22 after adjustment of reverse credit, if any, as corresponds to all sales of goods in the course of export out of India within the meaning of section 5 of the Central Sales Tax Act, 1956 (74 of 1956), to total sales” retrospectively with effect from the 1st day of April, 2007;
- (g) for sub-rule (8), *substitute* the following sub-rule:—
- “(8) The refund thus made under clause (a) or clause (aa) or clause (ab), of section 61 shall be entered into a refund register in Form 38A.”;
- (3) in rule 79A, —
- (a) for sub-rule (2), *substitute* the following sub-rule:—
- “(2) The dealer referred to in sub-rule (1), shall, after submission of return along with receipted challan or challans evidencing full payment of net tax, interest and late fee according to such return for any return period comprising the quarter of any year under the Act and under the Central Sales Tax Act, 1956 (74 of 1956), make an application in Form 33 along with the computation of the amount, claimed to be refundable to him, to the Commissioner within one month from the date of submission of such return, or subject to the satisfaction of the Commissioner, or the Additional Commissioner or the Deputy Commissioner, as may be authorized by the Commissioner (hereinafter referred to as the “refund sanctioning authority” for the purpose of this rule) within such further time not exceeding four months from the date of submission of such return as may be allowed by such authority, for refund of seventy five *per centum* of the accumulated input tax credit or input tax rebate arising during such return period comprising the quarter of any year:
- Provided that where such dealer referred to above also makes sales in the course of export out of the territory of India within the meaning of sub-section (1) of section 5 of the Central Sales Tax Act, 1956 (74 of 1956), he shall furnish along with Form 33 the various Forms as described in sub-rule (2) of rule 76 and the applicant shall also furnish the document and statement as referred to in sub-rule (2A) of rule 76.”;
- (b) for sub-rule (3), *substitute* the following sub-rule:—
- “(3) The provisions of sub-rule (2), sub-rule (2A), sub-rule (2B), sub-rule (2C), sub-rule (2D), sub-rule (3)(a), sub-rule (3)(b), sub-rule (3)(c), sub-rule (3A), sub-rule (3B), sub-rule (3C), sub-rule (3D), sub-rule (4), sub-rule (5), sub-rule (6) and sub-rule (7), of rule 76 shall, *mutatis mutandis*, apply to the dealers seeking refund of input tax credit or input tax rebate under sub-section (8A) of section 22.”;
- (c) after sub-rule (3), *insert* the following sub-rule:—
- “(4) The refund made under sub-section (8A) of section 22 shall be entered into a refund register in Form 38A.”;
- (4) after Form 12A, *insert* the following form :—

**“THE WEST BENGAL VALUE ADDED TAX RULES, 2005
FORM 12B**

Form of Declaration

Confirmation to be issued by the selling dealer in respect of sales of goods and payment of tax charged on sales in the appropriate Government Treasury or adjustment by way of input tax credit, etc.

[See rule 30Q]

Serial No.

To _____ (Purchasing dealer)

.....

.....

.....(Address)

holding Certificate of Registration No. _____ dated _____ under the West Bengal Value Added Tax Act, 2003

* I/We, the selling dealer mentioned below do certify that I/we * am/are registered under the West Bengal Value Added Tax Act, 2003 and *am/are holding the Certificate of Registration No. _____ dated _____.

*I/We also certify that the goods particulars of which are given below were * ordered for in your purchase order No. _____ dated _____/*sold to you as per *my/our tax invoice stated below/ *supplied to you under our challan No. _____ dated _____.

* I/We further certify that —

- (a) the said transaction of sale was entered in the books of account and was disclosed in the return and
- (b) the amount of tax of Rs. _____ (in figures) Rupees _____ (in words) charged on the said transaction of sale was recorded in the output tax account and was paid by *me/us in the manner laid down in rule 43 in the appropriate Government Treasury at _____ on _____ (date) under Challan No. _____ dated _____ for Rs. _____ (in figures) Rupees _____ (in words) or that the amount of tax charged on the said transaction of sale was recorded in the output tax account and was adjusted by way of input tax credit referred to in clause (19) of section 2 and the net tax, if any, payable after such adjustment was paid in the manner laid down in rule 43 in the appropriate Government Treasury at _____ on _____ (date) under Challan No. _____ dated _____ for Rs. _____ (in figures) Rupees _____ (in words):

Details of sales

Description of the goods sold	Serial No. of the tax invoice	Date of issue of the tax invoice	Value of goods as per the tax invoice excluding the amount of tax charged)	Amount of tax charged
(1)	(2)	(3)	(4)	(5)

Note – Sign against last entry.

*Signature with date
Name and status of the person signing the declaration.*

COUNTERFOIL

THE WEST BENGAL VALUE ADDED TAX RULES, 2005
FORM 12B
Form of Declaration

Confirmation to be issued by the selling dealer in respect of sales of goods and payment of tax charged on sales in the appropriate Government Treasury or adjustment by way of input tax credit, etc.

[See rule 30Q]

Serial No.

To _____(Purchasing dealer)

.....

.....

.....(Address)

holding Certificate of Registration No. _____ dated _____ under the West Bengal Value Added Tax Act,2003

* I/We, the selling dealer mentioned below do certify that I/we * am/are registered under the West Bengal Value Added Tax Act,2003 and *am/are holding the Certificate of Registration No. _____ dated _____.

*I/We also certify that the goods particulars of which are given below were * ordered for in your purchase order No. _____ dated _____/*sold to you as per *my/our tax invoice stated below/ *supplied to you under our challan No. _____ dated _____.

* I/We further certify that —

- (a) the said transaction of sale was entered in the books of account and was disclosed in the return and
- (b) the amount of tax of Rs. _____(in figures) Rupees _____(in words) charged on the said transaction of sale was recorded in the output tax account and was paid by *me/us in the manner laid down in rule 43 in the appropriate Government Treasury at _____ on _____(date) under Challan No _____ dated _____ for Rs. _____(in figures) Rupees _____(in words) or that the amount of tax charged on the said transaction of sale was recorded in the output tax account and was adjusted by way of input tax credit referred to in clause (19) of section 2 and the net tax, if any, payable after such adjustment was paid in the manner laid down in rule 43 in the appropriate Government Treasury at _____ on _____(date) under Challan No. _____ dated _____ for Rs. _____(in figures) Rupees _____(in words):

Details of sales

Description of the goods sold	Serial No. of the tax invoice	Date of issue of the tax invoice	Value of goods as per the tax invoice (excluding the amount of tax charged)	Amount of tax charged
(1)	(2)	(3)	(4)	(5)

Note – Sign against last entry.

Signature with date
Name and status of the person signing the declaration.

(5) after Form 17B, insert the following form:–

“THE WEST BENGAL VALUE ADDED TAX RULES, 2005**FORM 17C****Register of issue of declaration in FORM 12B***[See rule 30T]*

Serial No. of the declaration in FORM 12B	Date of issue of FORM 12B	Purchaser to whom issued with his address & Registration Certificate No.	Seller's Tax Invoice No.	Date of Tax Invoice	Description of the goods sold	Quantity/ weight of goods	Value of the goods as per Tax Invoice (excluding the amount of tax charged)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

(6) after Form 31, *insert* the following form:—

**“THE WEST BENGAL VALUE ADDED TAX RULES, 2005
FORM 31A**

Application for refund under clause (a) or clause (aa) or clause (ab), of section 61 of the West Bengal Value Added Tax Act, 2003

[See sub-rule (2) of rule 76]

To
The Commissioner of Sales Tax,
West Bengal,
14, Beliaghata Road,
Kolkata-700 015.

Sir,

I, _____ (name), _____ (status of the applicant) carrying on business under the trade name of _____ from _____ (the principal place of business) and holding certificate of registration no. _____ under the West Bengal Value Added Tax Act, 2003 and also holding certificate of Registration No. _____ under the Central Sales Tax Act, 1956, do hereby apply for refund of the sum of Rs. _____ (in figure) Rupees _____ (in words) under clause (a) of section 61/ under clause(aa) of section 61/under clause (ab) of section 61 of the Act in respect of the return period _____. The statements and declarations as referred to in sub-rule (2) and sub-rule (2A) of rule 76, the computation of the amount of refund claimed and also the copy of the return, authenticated by me, as referred to in sub-rule (2) of rule 76 are enclosed with this application.

I hereby declare the following: —

1. I have submitted return for the period mentioned above making full payment of tax, interest and late fee payable according to such return under the Act and also under the Central Sales Tax Act, 1956.
2. The following return /returns under the Act and the Central Sales Tax Act, 1956 has/have not been furnished by me and the amount/amounts of tax, interest and late fee admitted by me to be payable according to such overdue return/returns has /have not been paid by me:—

(a) Overdue return/returns under the Act and the amount admitted to be payable according to such return/returns			(b) Overdue return/returns under the Central Sales Tax Act, 1956 and the amount admitted to be payable according to such return/returns		
Sl. No.	Return period	Amount admitted to be payable according to the return	Sl. No.	Return period	Amount admitted to be payable according to the return

3. The following amount/amounts of tax, interest, late fee and penalty arising out of provision/provisions under the Act and the Central Sales Tax Act, 1956 is /are admitted to be due from me under the Act and the Central Sales Tax Act, 1956:—

Under the Act				Under the Central Sales Tax Act, 1956			
Provision under which such due arises (mention the section)	Amount admitted to be due under the provision Rs.	Date of the order creating the due	Period to which the due relates	Provision under which such due arises (mention the section)	Amount admitted to be due under the provision Rs.	Date of the order creating the due	Period to which the due relates

I further declare that no amount of tax, interest, late fee and penalty, other than what was declared by me in paragraph 2 and paragraph 3 hereinabove as admitted to be payable by me or due from me, is payable by me or due from me and that what is stated hereinabove is true to the best of my knowledge and belief.

I now request you to kindly refund under clause (a)/ clause (aa)/ clause (ab) of section 61 of the Act the sum of Rs. _____ (in figure) Rupees _____ (in words). The Refund Payment Order (Cash) or cheque may please be issued in favour of _____ (trade name of the business) payable in the Savings/Current Account No. _____ of the _____ Branch of the _____ (Bank).

The following documents are furnished by me along with this application:—

- 1).....
- 2).....
- 3).....
- 4).....
- 5).....
- 6).....

Signature with the date and status
(Proprietor/Partner/Karta, H.U.F./Principal Officer/Trustee/President/General Secretary);

(7) in Form 33, –

(a) for the lines “*I/We..... (*Proprietor/Partner/.....) *carrying on business under the trade name...../on behalf of.....(Company/HUF/.....)”, *substitute* the following:–

“* I/We,..... (*Proprietor/Partner/.....) *carrying on business under the trade nameand/on behalf of (Company/HUF/.....) holding certificate of registration No.....under the West Bengal Value Added Tax Act, 2003 and the certificate of eligibility No.....”;

(b) after the paragraph “*I/We declare that –

- (A) no input.....;
- (B) all the goods;
- (C) accounts arerule 187.”, *insert* the following:–

“* I/We hereby declare also the following: -

1. I have submitted return for the period mentioned above making full payment of tax, interest and late fee payable according to such return under the Act and also under the Central Sales Tax Act, 1956.
2. The following return /returns under the Act and the Central Sales Tax Act, 1956 has/have not been furnished by me and the amount/amounts of tax, interest and late fee admitted by me to be payable according to such overdue return/returns has /have not been paid by me:—

(a) Overdue return/returns under the Act and the amount admitted to be payable according to such return/returns			(b) Overdue return/returns under the Central Sales Tax Act, 1956 and the amount admitted to be payable according to such return/returns		
Sl. No.	Return period	Amount admitted to be payable according to the return	Sl. No.	Return period	Amount admitted to be payable according to the return

3. The following amount/amounts of tax, interest, late fee and penalty arising out of provision/provisions under the Act and the Central Sales Tax Act, 1956 is /are admitted to be due from me under the Act and the Central Sales Tax Act, 1956:—

Under the Act				Under the Central Sales Tax Act, 1956			
Provision under which such due arises (mention the section)	Amount admitted to be due under the provision Rs.	Date of the order creating the due	Period to which the due relates	Provision under which such due arises (mention the section)	Amount admitted to be due under the provision Rs.	Date of the order creating the due	Period to which the due relates

I further declare that no amount of tax, interest, late fee and penalty, other than what was declared by me in paragraph 2 and paragraph 3 hereinabove as admitted to be payable by me or due from me, is payable by me or due from me and that what is stated hereinabove is true to the best of my knowledge and belief.

I now request you to kindly refund under clause (a)/ clause (aa)/ clause (ab) of section 61 of the Act the sum of Rs. (in figure) Rupees (in words). The Refund Payment Order (Cash) or cheque may please be issued in favour of (trade name of the business) payable in the Savings/ Current Account No. of the Branch of the (Bank).

The following documents are furnished by me along with this application:—

- (1).....
- (2).....
- (3).....
- (4).....
- (5).....
- (6)..... ”;

(8) after Form 37, insert the following forms:-

‘THE WEST BENGAL VALUE ADDED TAX RULES, 2005

FORM 37A

Notice for production of documents by the dealer in support of claim for refund under clause (a) or clause (aa) or clause (ab), section 61 of the West Bengal Value Added Tax Act, 2003

[See sub-rule (3B) of rule 76]

To

.....(Name of the dealer)

.....(Address)

--	--	--	--	--	--	--	--	--	--	--

(Registration Certificate No.)

Whereas you have made an application in FORM 31A on(date) for refund under clause (a) or clause (aa) or clause (ab), of section 61 of the West Bengal Value Added Tax Act, 2003 in respect of the return period

And whereas it is necessary to determine whether any amount is refundable to you with respect to the said application for refund;

You are hereby directed to attend in person or by an agent at(place) on (date) at(time) and thereto furnish, or there cause to be furnished and to explain at the said time and place the documents in support of your claim for refund and also the accounts, registers and documents specified below, for the purpose of such determination by me.

You are directed also to furnish on the aforesaid date a statement of purchases and sales, duly supported by original tax invoices, invoices, bills and cash memo., made during the said return period.

In the event of your failure to comply with this notice, the matter will be decided to the best of my judgement without further reference to you.

Date.....

Signature

Designation

SEAL

Particulars of accounts, registers and documents required for the return period.....

1. Cash Book.
2. Bank Pass Book.
3. General Ledger, Personal Ledger and Journals.
4. Original Tax invoices, invoices, bills or cash memo. received on purchase.
5. Counterfoils or copies of tax invoices/invoices issued.
6. Registers in support of sales and purchases made within and outside West Bengal.
7. Transport documents as proof of inter-state sales within the meaning of section 3 of the Central Sales Tax Act, 1956 and export sales within the meaning of section 5 of the Central Sales Tax Act, 1956.
8. All export documents connected with the claim for refund under item (C) of sub-clause (ii) of clause (aa) of section 61.
9. Declarations in FORM 12B.
10. Input tax account, output tax account and input tax credit account.
11. Declaration in Form C under the Central Sales Tax Act, 1956 received from the registered dealer for sale to him in course of inter-state trade and commerce and for the sale of which refund has been claimed under item (B) of sub-clause (ii) of clause (aa) of section 61.
12. List or purchases connected with the claim for refund under clause (a) of section 61 of the Act.
13. List of sales in the course of export out of the territory of India within the meaning of section 5 of the Central Sales Tax Act, 1956 connected with the claim for refund under clause (ab) of section 61 of the Act.
14. Any other documents necessary to prove correctness of turnover of sale, purchase and claim for refund.

THE WEST BENGAL VALUE ADDED TAX RULES, 2005**FORM 37B**

Notice for furnishing of indemnity bond by the dealer for refund, by the appropriate assessing authority, of fifty per centum of the amount claimed in the application for refund in FORM 31A to be refundable or of fifty per centum of such amount, less than the amount claimed in Form 31A to be refundable, as found prima facie admissible

[See sub-rule (2D) AND sub-rule (3)(b) of rule 76]

To

.....(Name of the dealer)

.....(Address)

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

(Registration Certificate No.)

*Whereas upon preliminary examination of the returns and also the statements and declarations, I am *prima facie* satisfied that the amount of refund of Rs.....(in figures) Rupees.....(in words) claimed by you in the application in FORM 31A is admissible;

*Whereas upon preliminary examination of the returns and also the statements and declarations, I am *prima facie* satisfied that the amount of refund of Rs.....(in figure) Rupees.....(in words) being the amount less than the amount claimed by you in the application in Form 31A, is admissible;

And whereas fifty per centum of the said amount, *claimed by you in the application to be refundable to you/being the amount less than the amount claimed by you in the application in Form 31A, i.e., Rs.....(in figures) Rupees.....(in words) will be refunded to you by Refund Adjustment Order/ Refund Adjustment Orders, as mentioned below, authorising you to adjust the amount/amounts shown in the Refund Adjustment Order or Refund Adjustment Orders against the amount/amounts of tax, interest and late fee admitted by you to be payable under the Act according to the return or returns which have not been furnished by you or the amount/amounts of tax, interest, late fee and penalty arising out of the provision/provisions under the Act, admitted to be due from you under the Act and also by Refund Payment Order (Cash) or cheque for the sum of Rs.....(in figure) Rupees.....(in words) upon furnishing by you, in accordance with the provision of sub-rule (2D) of rule 76, an indemnity bond for the sum of Rs.....(in figures) Rupees.....(in words) as has been claimed by you in the application for refund.

You are, therefore, requested to furnish within seven days from the date of service of this notice an indemnity bond to the authority making the refund under sub-rule (3A) of rule 76 for the sum of Rs.....(in figures) Rupees.....(in words).

Serial No.	Amount for which Refund Adjustment Order will be issued.	Amount of tax, interest, late fee and penalty against which the Refund Order adjustment order is to be adjusted	Return period of the overdue return or the provision of the Act including period, order, date of order, nature of imposition, etc., to which the amount shown in the preceding column relates.
1.			
2.			
3.			
4.			
5.			
6.			

Date

Signature

Designation



*Strike out whichever is not applicable.

WEST BENGAL VALUE ADDED TAX RULES, 2005

FORM 37C

Notice informing the dealer of issue of Refund Adjustment Order/Refund Adjustment Orders or Refund Payment Order (Cash) or cheque in connection with the application in Form 31A for refund.

[See sub-rule (3A) of rule 76]

To

.....(Name of the dealer)

.....(Address)

--	--	--	--	--	--	--	--	--	--	--	--

 (Registration Certificate No.)

Whereas, in the notice in FORM 37B issued to you on, you were requested to furnish, in accordance with the provision of sub-rule (2D) of rule 76, an indemnity bond for the sum of Rs.....(in figures) Rupees.....(in words) within seven days from service of the said notice for making refund to you the sum of Rs..... (in figures) Rupees.....(in words) under sub-rule (3A) of rule 76 in respect of the return period.....for which an application for refund in FORM 31A has been made by you;

*And whereas, pursuant to the said notice inFORM 37B, you have furnished indemnity bond for the sum of Rs.....(in figures) Rupees.....(in words);

* And whereas you have not complied with the notice in FORM 37B;

* The Refund Adjustment Order/Refund Adjustment Orders for the amount/amounts of Rs..... (Rupees.....,Rs.....(Rupees.....),Rs.....(Rupees.....),Rs.....(Rupees.....), s mentioned below and the Refund Payment Order (Cash) bearing serial No..... dated..... or cheque bearing serial No..... dated..... for the amount of Rs.....(Rupees.....) is/are issued in your favour and are enclosed herewith. You are requested to acknowledge the receipt of the same.

Serial. No.	Serial No. and date of issue of the Refund Adjustment Order.	Amount for which the Refund Adjustment Order is issued.	Amount of tax, interest, late fee and penalty against which the said Refund Adjustment Order is to be adjusted.	Return period of the overdue return or the provision of the Act including period, order, date of order, nature of imposition, etc.,to which the amount shown in preceding column relates.
1.				
2.				
3.				
4.				
5.				

Your application in FORM 31A for refund is rejected under fourth proviso to sub-rule (3A) of rule 76.

Date.....

Signature

Designation



* Strike out whichever is not applicable.

Memo No.

Dated.....

The copy of the FORM 37C is forwarded to(designation) of.....(Charge/ Section/Division), the appropriate assessing authority.

Signature

Memo No.....

Dated:.....

The copy of the order and the copy of the FORM 37D are forwarded to(designation) of(Charge/Section/Division), the appropriate assessing authority.

Signature

Designation

(9) in Form 38, omit the words, figures and brackets “sub-rule (6) of rule 76,”;

(10) after Form 38, insert the following form:-

“THE WEST BENGAL VALUE ADDED TAX RULES, 2005

FORM 38A

Register of refund made under clause (a) or clause (aa) or clause (ab), of section 61, or under sub-section (8A) of section 22, of the West Bengal Value Added Tax Act, 2003

[See sub-rule (8) of rule 76 and sub-rule (4) of rule 79A]

Sl. No.	Name, address and registration certificate No. of the applicant in FORM 31A/ FORM 33 for refund	Clause, sub-section and section under which the application for refund is made	Date of receipt of the application for refund by the refund sanctioning authority	Return period in respect of which the refund is claimed	Amount of refund claimed in Form 31A/Form 33 (Rs.)	Details of the indemnity bond furnished by the dealer in terms of the notice in FORM 37B		
						(7)		
						No. of the indemnity bond if any	Date of issue of the indemnity bond	Amount for which the indemnity bond has been furnished (Rs.)
(1)	(2)	(3)	(4)	(5)	(6)			

Amount refunded to the dealer under sub-rule (3A) (Rs.)	Details of the R.A.O. issued under sub-rule (3A)		Details of the Refund Payment Order (Cash) issued under sub-rule (3A)		Details of the cheque issued under sub-rule (3A)			Amount determined to be refundable under sub-rule (3B) (Rs.)	Date of issue of FORM 37D	The amount refunded under sub-rule (3C) (Rs.)	Details of the R.A.O. issued under sub-rule (3C)			Details of the Refund Payment Order (Cash) issued under sub-rule (3C)			Details of the cheque issued under sub-rule (3C)			Amount deposited by the dealer under sub-rule (3D) (Rs.)	REMARKS	
	(10)		(11)		(12)						(16)			(17)			(18)					
	No. of the R.A.O.	Date of issue of the R.A.O.	No. of the R.P.O.	Date of issue of the R.P.O.	No. of the cheque	Date of issue of the cheque	Amount for which the cheque is issued				Bank A/c No. of the dealer and the name of the bank and the branch	No. of the R.A.O.	Date of issue of the R.A.O.	Amount for which the R.P.O. is issued	Date of issue of the R.P.O.	No. of the R.P.O.	Date of issue of the R.P.O.	Amount for which the R.P.O. is issued	Date of issue of the cheque			Amount for which the cheque is issued
(8)	(9)								(13)	(14)	(15)									(19)	(20)	(21)

2. Save as otherwise provided, this notification shall be deemed to have come into force with effect from the 1st day of October, 2008.

By order of the Governor,

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