

CHAPTER XI

Value Added Tax Authorities and Appellate Tribunal

66 Value Added Tax Authorities

(1) For carrying out the purposes of this Act, the Government shall appoint a person to be the Commissioner of Value Added Tax.

(2) To assist the Commissioner in the administration of this Act –

(a) the Government may appoint as many ¹[Special] Commissioners of Value Added Tax, Value Added Tax Officers and such other persons with such designations as the Government thinks necessary; and

(b) the Commissioner may, with the previous sanction of the Government, engage and procure the engagement of other persons to assist him in the performance of his duties;

in this Act referred to as “Value Added Tax Authorities”.

(3) The Commissioner and the Value Added Tax authorities shall exercise such powers as may be conferred, and perform such duties as may be required, by or under this Act.

(4) The powers exercised by the Value Added Tax authorities for the making of assessments of tax, the computation and imposition of penalties, the computation of interest due or owed, the computation of the entitlement and the amount of any refund, the determination of specific questions under section 84, the making of general rulings under section 85, and the conduct of audit or investigations shall, for the purposes of this Act, be the administrative functions.

67 Powers and responsibilities of the Commissioner

(1) The Commissioner shall have responsibility for the due and proper administration of this Act and shall have jurisdiction over the whole of Delhi.

(2) Subject to sub-section (3) of this section, the Commissioner may, from time to time, issue such orders, instructions and directions to any Value Added Tax authorities as he thinks fit for the due and proper administration of this Act and all such persons engaged in the administration of this Act shall observe and follow such orders, instructions and directions of the Commissioner.

(3) No order, instruction or direction may be issued by the Commissioner to a person exercising the power to determine –

(a) a particular objection made or to be made under section 74 of this Act; or

(b) a particular question under section 84 of this Act;

so as to require the person to determine the objection or answer the question of a particular person in a particular manner.

(4) Nothing in sub-section (3) shall prevent the Commissioner from issuing general orders, instructions and directions to any person who determines objections under section 74 or answers questions under section 84 of this Act about the manner of determining classes of objections or answering classes of questions.

¹ Substituted for the word “Additional” vide DVAT (Second Amendment) Act, 2012; No.F.14(6)/LA-2012/cons2law/61, dated 15.06.2012 read with No.F.3(6)/Fin.(Rev.-1)/2012-13/SSF/92 dated 16.06.12 w.e.f. 18.06.2012.

68 Delegation of Commissioner's powers

(1) Subject to such restrictions and conditions as may be prescribed, the Commissioner may delegate any of his powers under this Act to any Value Added Tax authorities.

(2) Where the Commissioner delegates his powers under Chapter X, the delegate shall carry and produce on demand evidence in the prescribed form of the delegation of these powers when exercising the powers.

(3) Where the Commissioner has delegated a power to a Value Added Tax Authority, the Commissioner may supervise, review and rectify any decision made or action taken by that Authority.

Explanation.- The exercise of this power of supervision, review or rectification will not lead to the issue of an assessment or re-assessment after the expiry of the time referred to in section 34 of this Act.

(4) Notwithstanding any law or doctrine to the contrary, the power delegated by the Commissioner to a person to determine an objection under section 74 of this Act may be exercised by that person, even though the person determining the objection is equal in rank to the person whose decision is under objection.

69 Change of an incumbent of an office

Whenever in respect of any proceeding under this Act the Commissioner or any Value Added Tax authority is succeeded by another person-

(a) no delegation of power made by the former incumbent shall be revoked by virtue of the succession; and

(b) the person so succeeding may continue the proceeding from the stage at which the proceeding was left by his predecessor.

70 Power of Commissioner to make notifications

(1) The Commissioner may notify and publish any forms which may be necessary for the reporting of information to the Value Added Tax authorities.

(2) Where the Commissioner has notified a form for a particular purpose, all persons shall be required to report the information ¹[using the form, in such manner as may be notified by him]

(3) Where in his opinion it is necessary or convenient to do so, the Commissioner may issue notifications for carrying out the purposes of this Act:

PROVIDED that any notification shall not be inconsistent with this Act or any rules or regulations made pursuant to it.

(4) In particular and without prejudice to the generality of the foregoing power, a notification issued by the Commissioner may stipulate all or any of the matters which in the opinion of the Commissioner are necessary or convenient for the proper administration of this Act.

(5) Failure to comply with a requirement in a notification may be punishable with fine provided that the amount of the fine does not exceed ²[ten thousand] rupees or such other amount

¹ Substituted for the words "using the form" vide DVAT (Second Amendment), Act, 2012; No.F.14(6)/LA-2012/cons2law/61, dated 15.06.2012 read with No.F.3(6)/Fin.(Rev.-1)/2012-13/SSF/92 dated 16.06.12 w.e.f. 18.06.2012.

² Substituted for the words "five hundred" vide DVAT (Second Amendment), Act, 2012; No.F.14(6)/LA-2012/cons2law/61, dated 15.06.2012 read with No.F.3(6)/Fin.(Rev.-1)/2012-13/SSF/92 dated 16.06.12 w.e.f. 18.06.2012.

as may be prescribed.

(6) Every notification issued by the Commissioner under this Act shall be published in the official Gazette, and shall not have any effect prior to such publication.

71 Persons to be public servants

The Commissioner, all Value Added Tax authorities and all members of the Appellate Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (45 of 1860).

72 Immunity from civil suit

No suit shall be brought in any civil court against the Government, the Commissioner, any Value Added Tax authorities, or member of the Appellate Tribunal for anything done or intended to be done in good faith under this Act or the rules made thereunder.

73 Appellate Tribunal

(1) The Government shall, as soon as may be after the commencement of this Act, constitute an Appellate Tribunal consisting of one or more members, as it thinks fit, to exercise the powers and discharge the functions conferred on the Appellate Tribunal by or under this Act:

PROVIDED that where the Appellate Tribunal consists of one member, that member shall be a person who has held a civil judicial post for at least ten years or who has been a member of the Indian Legal Service (not below Grade III) for at least three years or who has been in practice as an advocate for at least ten years, and where the Appellate Tribunal consists of more than one member, one such member shall be a person qualified as aforesaid.

(2) Where the number of members of the Appellate Tribunal is more than one, the Government shall appoint one of those members to be the Chairperson of the Appellate Tribunal.

(3) Subject to the provisions of sub-section (1) of this section, the qualifications and other conditions of service of the member or members constituting the Appellate Tribunal and the period for which such member or members shall hold office, shall be such as may be determined by the Government.

(4) Any vacancy in the membership of the Appellate Tribunal shall be filled up by the Government as soon as practicable.

(5) Where the number of members of the Appellate Tribunal is more than one and if the members differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the members are equally divided, the decision of the Chairperson of the Appellate Tribunal thereon shall be final.

(6) Subject to the previous sanction of the Government, the Appellate Tribunal shall, for the purpose of regulating its procedure and disposal of its business, make regulations consistent with the provisions of this Act and the rules made there-under.

(7) The regulations made under sub-section (6) shall be published in the official Gazette.

(8) The Appellate Tribunal shall, for the purpose of discharging its functions, have all the powers which are vested in the Commissioner under section 75 of this Act and any proceeding before the Appellate Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196 of the Indian Penal Code, 1860 (45 of 1860) and the Appellate Tribunal shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

¹[(9) Notwithstanding anything contained to the contrary in this section, the Government, may, by a notification in the official Gazette, constitute benches comprising on one or more members, subject to such conditions and regulations as may be laid down in the notification.]

¹ Inserted vide DVAT (Second Amendment), Act, 2012; No.F.14(6)/LA-2012/cons2law/61, dated 15.06.2012 read with No.F.3(6)/Fin.(Rev.-1)/2012-13/SSF/92 dated 16.06.12 w.e.f. 18.06.2012.