

CHAPTER IX

SURVEY, INSPECTION, ESTABLISHMENT OF CHECK POSTS AND TRANSPORTATION OF GOODS

39. Inspection, Search and Seizures

- (1) When any accounts, registers or documents are inspected or examined by any prescribed authority appointed under Section 4 of the Act, or any Officer empowered under Section 69, such authority shall affix his signature at one or more places thereon.
- (2) Where any authority appointed under Section 4 or any officer empowered under Section 69, conducts a search under Section 70, he shall, as far as applicable, follow the procedure prescribed in the Code of Criminal Procedure, 1973 (Act 2 of 1974).
- (3) When any Accounts, Registers or Documents of a dealer seized by any authority appointed under Section 4 or any officer empowered under Section 69, have to be returned to the dealer; such return may be made after taking such extracts therefrom as may be considered necessary. The authority making the return shall affix its signature on such Accounts, Registers or Documents and the dealer shall give a receipt, in acknowledgment, which shall mention the number and particulars of the places where the signatures have been affixed on the Accounts, Register or Documents returned to him.
- (4) The Commissioner, or any other officer authorized in this behalf may, by an order in writing, empower any officer, ordinarily not below the rank of an Assistant Commissioner, to authorise the conduct of any inspection, search or seizure. Such order shall also contain the manner in which such authorization is to be granted.

40. Information for Survey

For the purposes of Section 71-

- (a) The Prescribed authorities may direct, by notice in writing, any dealer to keep his books of accounts ready for verification. Such verification may be made either at his place of business of the dealer, may be directed to produce the same in the office, on the date and time as specified in the notice in this behalf;
- (b) The Prescribed authority may require such dealer to furnish information in respect of his business as regard to his purchases and sales thereof;
- (c) The Prescribed authority may, by notice, require a dealer or any public utility of any financial institutions including banking companies, to furnish such information as may be required by the notice.

Explanation: For the purposes of this rule the expression "public utility" shall include any institution, which provides public utility by way of any work or project useful to members of the public at large such as a Municipal Body, Gram Panchayat, District Board, Electricity Board, State Transport Corporation, etc.

41. Check Posts

- (1) Where the state Government decides to set up a check-post, under Section 72 at any place in this state, the location of such check-post shall be notified in the official Gazette. When a check-post is set up on a thoroughfare or road, barrier may be erected, across the road or thoroughfare, in the Form of a contrivance to enable traffic being intercepted, detained and searched.
- (2) No person shall transport across or beyond a check-post to any place outside the State of Jharkhand, any goods notified under Section 72 exceeding such quantity as may be specified in the notification, except after filing a Declaration in Form JVAT 502 or JVAT 504P or 504G or 504B as the case may be, in triplicate, before the Appropriate Authority or officer authorised by the state Government in this behalf.
- (3) The said authority or officer, on being satisfied about the particulars furnished, shall countersign the Declarations and seal them with his official seal; two copies of the Declaration shall be returned to the person filing it after endorsing on one of these copies the particulars of the authority or officer to whom it shall be surrendered.
- (4) The driver of the vehicle carrying the goods or the person in charge of the goods shall produce the countersigned Declarations, for inspection and checking at any other check post, which may fall in the route, and shall surrender one copy thereof to the authority or officer to whom he has directed under sub-rule (3) to surrender it.

Explanation: For the purposes of this rule expression 'Appropriate Authority or Officer' shall mean the authority or officer-in-charge of a check- post.

42. Restriction on Movement of Goods

No person shall transport any consignment of goods referred to under sub-section (2) of Section 72 exceeding such quantity, as maybe specified in the notification, except in accordance with the following conditions, namely: -

- (1) If any such consignment is to be so transported by or on behalf of any unregistered dealer or by any other person; he shall :
 - (a) Make an application in Form JVAT 502 in triplicate, to the prescribed authority of the circle or the sub-circle, as the case may be, for grant of a permit in Form JVAT 503 to enable him to transport the consignment. The said authority, on being satisfied about the particulars furnished and after making such enquiry as may be deemed fit, shall countersign all the three copies of the application and prepare a permit in triplicate in Form JVAT 503; two copies of permit, together with two copies of the countersigned application shall be made over to the applicant, the third copy of both shall be retained by the said authority;
 - (b) Produce, where the consignment is to be transport from any Railway Station, Steamer Station, Airport or Post Office, notified under the said Section, for counter-signature before the prescribed authority of the Circle or the sub-circle, as the case may be, the Railway Receipt or other document required for the purpose of obtaining delivery of the consignment together with the two copies of the countersigned application in Form JVAT 502 and the two copies of the permits in Form JVAT 503. The said authority shall thereupon countersign the railway receipt or other document, seal the same with its official seal and make endorsement, on both copies of the countersigned application and the permit of such particulars, as may be necessary including particulars of goods to be actually transported, and shall sign, seal and date of endorsement. One copy of the countersigned application and of the permit shall be retained by the said authority and the other copy shall be returned to the dealer, the consignment shall thereafter the transported accompanied with the other copy of permit without undue restriction except for normal checking and inspection en-route;

Provided further, if any person(s) transporting the goods, without the aforesaid Declarations as issued under this sub-rule, by the In-charge of the Circle or by any Officer authorized in this behalf, shall be treated to be being transporting the goods without Declaration, and shall be treated the violation of sub-section (4) of Section 72 of the Act and shall follow the provisions of the Section 72 of the Act thereof, for such violation. Such declarations of the forms shall remain valid for Forty five days from the date of issue.
 - (c) Produce, where the consignment is to be transported from across or beyond any place, notified under Section 72 of the Act, other than Railway Station, Steamer Station, Airport or Post Office, the two copies of the counter-signed application in Form JVAT 502 and the two copies of the permit in Form JVAT 503 before the authority or officer authorized by the State Government under sub-section (3) of Section 72 of the Act, and exercising jurisdiction at the said place. The said authority or office shall, after such inspection and checking as may be deemed necessary endorse, on both copies of the countersigned application and the permit, such particulars of the goods to be actually transported and shall sign, seal and date the endorsement; one copy of the countersigned application and of the permit shall be retained by the said authority or officer and the other copy shall be returned to the dealer, and the consignment shall thereafter be transported accompanied with other copy of the permit without undue restriction except for normal checking and inspection en-route.
- (2) Notwithstanding anything contained in sub-rule (1), a VAT dealer, who is in possession of a valid certificate of registration in Form JVAT 106 or 108 and, and where any such consignment is to be transported by or on behalf of such dealer, he shall fill in all the columns of Form JVAT 504P, 504G or 504B as the case may be, obtained by such VAT dealers and as authenticated by the Prescribed Authorities wherever necessary under sub-rule (4) of this rule, and
 - (a) If any such consignment is to be transported by or on behalf of a dealer, within the state, he shall carry a Tax Invoice or an invoice, or a cash memo, or a bill in the case of movement as a result of sale or a challan in case the movement is otherwise than as a result of sale, and supported by a Declaration in Form JVAT 504P, in respect of goods which is being transported or is otherwise in transit or in transit storage and produce such cash memo or bill and produce such invoice or cash memo or bill or challan, as the case may be with aforesaid Form of declaration on Demand before the prescribed authority.

- (b) In case of goods being imported from any other state into the State of Jharkhand, by or on behalf a dealer who is in possession of a valid certificate of registration, the person transporting the goods or the dealer, as the case may be, he shall carry a Tax Invoice or an invoice, or a cash memo, or a bill in the case of movement as a result of sale or a challan in case the movement is otherwise than as a result of sale, and supported by a Declaration Form JVAT 504G, in respect of goods which is being transported or is otherwise in transit or in transit storage and produce such cash memo or bill and produce such invoice or cash memo or bill or challan, as the case may be with aforesaid Form of Declaration on demand before the Prescribed Authority.
- (c) In case of goods being exported from the state to any other state, by or on behalf a dealer, the person transporting the goods or the dealer, as the case may be, he shall carry a Tax Invoice or an invoice, or a cash memo, or a bill in the case of movement as a result of sale or a challan in case the movement is otherwise than as a result of sale, and supported by a Declaration Form JVAT 504B, in respect of goods which is being transported or is otherwise in transit or in transit storage and produce such cash memo or bill and produce such invoice or cash memo or bill or challan, as the case may be with aforesaid Form of Declaration on demand before the Prescribed Authority.
- (3) Registered VAT dealers shall get the declaration(s): in Form JVAT 504P or 504G or 504B as the case may be; printed themselves in a "Security Press" or "Registered Printing Press" or "Self Printed through own Computer System", and such Forms shall bear printed serial number and name of the Printing Press or shall bear as "Self Printed" or "Computer Generated" in Bold letters, and shall issue such Forms in a bound book containing 25 leaves in triplicate, duly perforated.

Explanation- (I) The Declaration(s) Form JVAT 504P or 504G or 504B, as mentioned in sub-rule (2)(a), (2)(b) and (2)(c) shall be the Form of Declaration for transport of goods, within the State of Jharkhand in Pink colour, from outside the State of Jharkhand into the State of Jharkhand in Green colour and to outside the State of Jharkhand from the State of Jharkhand in Blue colour.

(II) Notwithstanding anything contained in the Explanation (I) of this sub-rule, when the Declaration(s) in Form 504P or 504G or 504B are "Self Printed through own Computer System", the respective colours, as prescribed in the preceding explanation, shall not apply. Provided when such Declaration(s) are "Self Printed through own Computer System" the provisions of sub-section (9) of Section 60 shall apply.

(III) Registered Printing Press means a 'Press' registered permanently under the Industry Department and Commercial Taxes Department.

- (4) Before issue of declaration in Form JVAT 504G, the volume shall be authenticated by the In-charge of the circle or any other officer of the circle authorised in this behalf, where such dealer is registered.

Provided, if any Registered VAT Dealer issues the aforesaid Declarations and uses the same, without the authentication by the In-charge of the circle or by any officer authorized in this behalf, shall be treated to be being transporting the goods without Declaration, and shall be treated the violation of sub-section (4) of Section 72 of the Act and shall follow the provisions of the Section 72 of the Act thereof, for such violation. Such authentication of the forms shall remain valid for six months from the date of validation.

Provided further that the Prescribed Authority may refuse to authenticate such Declarations in Form JVAT 504G, in the circumstances when there are any dues of admitted VAT payable or assessed VAT payable or Interest payable or Penalty payable or if the Prescribed Authority, is of the opinion that the registered VAT dealer is not complying the provisions of the Act and the rules.

- (5) Before furnishing the declaration in Form JVAT 503 or JVAT 504 series, the dealer or any person authorized by him in his behalf, shall fill in all required particulars in the Form and shall also affix his signature in the space provided in the Form for this purpose. Thereafter, the counterfoil of the Form shall be retained by the dealer, and the other two portions marked 'Original' and 'Duplicate' shall be made over by him to the person transporting goods.
- (6) The selling dealer shall also maintain, serially and chronologically, a complete account in a Register in respect of all Forms of Declarations printed and issued by him in Form JVAT 509 and also file a statement of Forms along with the Annual Return.

- (7) The purchasing dealer shall also maintain serially and chronologically a complete account in separate Register in respect of the Forms of Declaration, received by him from the selling dealer in Form JVAT 510.
- (8) Every Declaration authenticated by the Prescribed Authority, shall be kept by him in safe custody and he shall be responsible for the loss, destruction, or theft of any such form and loss of Government revenue, if any, caused thereby.
- (9) If any such authenticated Declaration, before it is issued, is signed and dispatched by the consignor, is lost, destroyed or stolen from his custody, the dealer shall report the fact to the Prescribed Authority within seven days from the date of such loss, destruction or theft, make appropriate entry in the "Remarks" column of the register and take such other steps to issue public notice of loss, destruction, theft and in respect of each such declaration, shall furnish to the Prescribed Authority, an indemnity bond in Form JVAT 122 against any possible loss to Government.
- (10) The Declaration Form(s) as prescribed in this rule shall not be Transferable.

43. Transit Movement

- (1) In order to obtain a transit pass under sub-section (11) of Section 72, the driver or the person-in-charge of a goods and vehicle shall submit an application in Form JVAT 117 to the officer-in-charge of the first check post or barrier, after his entry into the State and shall also furnish if so required, any other information that may be relevant and necessary.
- (2) The officer-in-charge of the first check post shall, after examining the documents and after making such enquiries as he deems necessary, shall make out a transit pass in Form JVAT 508 in triplicate and issue the original and duplicate thereof duly signed by him to the driver or the person-in-charge of the goods and vehicle.
- (3) The driver or the person-in-charge of the goods and vehicle shall carry the original and duplicate copies of the transit pass and shall surrender the original copy to the officer-in-charge of the last check post or barrier before his exit from the State.
- (4) The driver or the person-in-charge of the goods and vehicle shall stop the vehicle and allow the officer-in-charge of the last check post or barrier to inspect the documents, transit pass and the goods in order to ensure that the goods being taken out of the State are the same goods for which transit pass had been obtained.
- (5) If on such inspection, the officer-in-charge of the last check post or barrier is satisfied that the goods being transported are the same goods both in quantity and description noted in the transit pass, he shall affix the seal of the check post on the duplicate copy of the transit pass under his signature and allow the vehicle to pass into the other State.
- (6) If on such inspection, it appears that the quantity of goods under transport is less than the quantity noted in the transit pass or the description of the goods is different from the description noted in the transit pass, such officer-in-charge of the last check post or barrier shall presume that the goods to that extent have been sold within the State by the owner or other person-in-charge of the goods and vehicle and shall accordingly proceed to impose penalty to the owner of the goods and vehicle under sub-section (4) and (5) of Section 72. The said officer shall have the power to detain the vehicle so long as he may reasonably be deem it necessary.
- (7) Powers of the nature referred to in sub-rule (6) may also be exercised by an officer of the Department not below the rank of a Commercial Taxes Officer. He may, inform the officer-in-charge of the first check post within seven days of such inspection, in case, he proposes to proceed to impose penalty to the owner of the goods and vehicle under sub-section (4) and (5) of Section 72.
- (8) The original copy of the transit pass, so received by the officer-in-charge of last check post or barrier shall be sent by him by Registered Post, to the officer-in-charge of the first check post or barrier within ten days from the date of receipt from the driver or the other person-in-charge of the goods and vehicle. Action taken under sub-rule (6) shall also informed within the said time.
- (9) The officer-in-charge of the first check post or barrier, if he is not in receipt of the original copy of the transit pass within thirty days of issue by him, shall send a report to the Commercial Tax Officer, having jurisdiction over the first check post or barrier, who shall proceed to impose penalty to the owner of the goods and vehicle under sub-section (4) and (5) of Section 72, to the owner of the goods and vehicle.

44. Intra-state Stock Transfer or Movement of Goods otherwise than by way of Sale

- (1) Where any dealer claims that he is not liable to pay tax under the Act, in respect of any goods, on the ground that the movement of such goods from one place to another within the State of Jharkhand was occasioned by the reason of transfer of such goods to other branches, or otherwise than by way of sale under Section 66 of the Act, the burden of proving the claim shall be on that dealer, and for this purpose he shall furnish to the Prescribed Authority along with the Statement / Challans / Transfer Memos / Invoices, required to be furnished by him, under sub-rule (2)(h) of Rule 38.
- (a) a true and complete Declaration in Form JVAT 505, as obtained from the consignee in the case of transfer by Principal to his Agent for sale on commission basis in Form JVAT 505, and in the case of branch transfer from one branch to another in the State in Form JVAT 506 to be issued by the transferee branch.
 - (b) Where any Principal dealer transfers any goods within the state to his Commission Agent or to his branch / units for sale therein, he shall issue a Declaration in Form JVAT 507 in respect of such goods, duly filled in and signed by him to his Commission agent/branches/units bearing Printed Serial Nos. and shall retain a copy thereof for a record.
 - (c) Correct and complete record of the name, address, Taxpayer Identification Number. if any, of the person to whom the goods were transferred incorporating therein the quantity of the goods and the value thereof,
 - (d) Copy of accounts rendered by the Agent or the office to the whom the goods were transferred, and
 - (e) Copy of the Railway or the Lorry receipts relating to such transfer.
- (2) The transferor shall issue to the transferee a Challan or Transfer Memo to this effect.

Provided the transferee / consignee dealer / person shall issue one Declaration, for any such transfer made during a year.

45. Information to be furnished and records to be maintained by persons engaged in the Business of Transporting Goods, C&F Agents, etc.

(1) Every person required by sub-section (1) of Section 73 to furnish information shall, within one month of the appointed date, furnish the following certificate to the concerned circle in-charge of every circle within whose jurisdiction his place of business is located:

Certificate

To

Circle In-charge _____ Circle

Certified that the business operations of M/s _____ (*Name and style of the person/firm furnishing the certificate*) are conducted at the following places:

Sl No	Complete address of the place of business	Name and address of the owner of the premises mentioned in column (2)
(1)	(2)	(3)

Further certified that the above information are true and correct to the best of my knowledge and belief and that no place has been omitted from the above list and that I am authorised to sign this certificate.

Place

Signature

Date

Designation of the person signing the certificate

(2) If any change takes place in any of the particulars mentioned in the certificate furnished under sub-rule (1), a fresh certificate, incorporating such changes, shall

be furnished to the authority specified in sub-rule (1) within seven days of such change.

(3) For the purpose of sub-section (2) of Section 73, any clearing, forwarding or booking agent or a person engaged in the business of transporting goods shall maintain a register in Form JVAT 511.

(4) For the purpose of Section 62, any clearing, forwarding or booking Agent, or any Agent, or Principal thereof in relation to such Agent, or a Person engaged in the business of Transporting goods, shall provide such information, accounts and documents as may be required by the Prescribed Authority to carry out the purposes of this Section.

46. Auction of Seized Goods and Release of Security

- (1) Goods which are seized under sub-section (5) of Section 70 of the Act and which are not released owing to failure to furnish security or to pay the penalty imposed under clause (b) of sub-section (5) of Section 70 within the time allowed shall be sold in public auction after following the procedure as indicated below: -
- (2) (a) The step for public auction shall be taken by the circle in-charge, who shall cause to be published on 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 where, and the day and time at which, the seized goods are to be sold and display copies of such lists and notices at more than one public place near the place where the goods were seized. Normally a notice of not less than ten days shall be given before the auction is conducted; but this condition may be waived in case of goods of perishable nature.
- (b) Intending bidders shall deposit as earnest money a sum equal to ten per centum of the estimated value of goods;
- (c) At the appointed day and time, the goods shall be put up in one or more lots, as the officer conducting the auction sale may consider desirable, and shall be knocked down in favour of the highest bidder subject to confirmation of the sale by the circle in-charge conducting auction or an officer subordinate to the said circle in-charge;
- (d) The auction purchaser shall pay the sale value of the goods in cash immediately after the sale and he will not be permitted to carry away any part of the goods until the sale has been confirmed by the authority specified in clause (a) and full value has been paid by him. If the successful bidder fails to deposit the purchase money in full, the earnest money deposited by him shall stand forfeited to the State Government. The earnest money deposited by the unsuccessful bidders shall be refunded to them after the auction is over;
- (e) If the order-imposing penalty is either stayed or reversed in appeal or revision, the goods seized shall be released forthwith. If the goods are sold before such an order and any sum received as sale proceeds on account of auction sale of such seized goods has been appropriated towards penalty imposed, the sum so appropriated shall be refunded to the owner of the goods in the manner specified in Rule 19;
- (f) Any amount of sale proceeds in excess of the amount appropriated towards penalty shall be refunded to the owner of the goods in the manner specified in Rule 19; the release of security deposited under clause (c) of sub-section (5) of Section 70 and refund thereof shall also be in the manner specified in Rule 19.