

The Goa Tax On Luxuries Rules,1988

1. SHORT TITLE AND COMMENCEMENT.-

- (1) These rules may be called The Goa Tax on Luxuries Rules, 1988.
- (2) They shall come into force at once.

2. DEFINITIONS.

In these rules unless the context otherwise requires;

- (a) "Act" means the Goa Tax on Luxuries Act, 1988 (Act No. 17 of 1988).
- (b) "Appropriate Assessing Authority" means:
 - (i) in relation to any particular hotelier, the Luxury Tax Officer or the Assistant Luxury Tax Officer within whose jurisdiction the hotelier's place of business is situated;
 - (ii) in relation to a hotelier who has more than one place of business in the State, the Luxury Tax Officer or the Assistant Luxury Tax Officer within whose jurisdiction the head office of such business is situated;
 - (iii) in relation to any particular stockist, the Luxury Tax Officer or the Assistant Luxury Tax Officer within whose jurisdiction the place of business of the stockist is situated;
 - (iv) in relation to a stockist who has more than one place of business in the State, the Luxury Tax Officer or the Assistant Luxury Tax Officer within whose jurisdiction the head office of such business is situated.
- (c) "Appropriate Government Treasury" means any Taluka Treasury or Sub-Treasury in the State, the Reserve Bank of India or a branch of the State Bank of India or its subsidiary situated in the area in which the hotelier concerned has his place of business or the head office, if the business is carried on at more than one place in the State;
- (d) "Assistant Commissioner" means the person appointed under section 3 to assist the Commissioner;
- (e) "Assistant Luxury Tax Officer" means the person appointed by that designation by the Government under section 3 to assist the Commissioner;
- (f) "accounting year" means the year by reference to which the accounts of a hotelier are ordinarily maintained;
- (g) "agent" means a person authorized in writing under section 43 to appear on behalf of a hotelier or other person before any authority under the Act;
- (h) "Form" means a form appended to these rules;
- (i) "guest" means the person in whose name the accommodation in a hotel is booked;
- (j) "Government" or "the Government" when referred to as a hotelier shall mean any State Government or the Central Government, as the case may be;

- (k) "Inspector" means a Luxury Tax Inspector appointed under section 3 to assist the Commissioner for carrying out the purposes of the Act;
- (l) "Luxury Tax Officer" means the person appointed by that designation by the Government under section 3 to assist the Commissioner;
- (m) "month" means a calendar month;
- (n) "quarter" in relation to the year as defined in clause (q) of section 2 means:
 - (i) in relation to the financial year, the period of three months ending on 30th June, 30th September, 31st December or 31st March; and
 - (ii) in relation to the accounting year, each of the following period of such year:-
 - (1) the period, from the 1st day of such year to the last day of the 3rd month;
 - (2) three months ending on the last day of the sixth month thereof;
 - (3) three months ending on the last day of the ninth month thereof; and
 - (4) the remaining period ending on the last day of the year;

Provided that, when the accounting year, which is other than financial year, consists of an additional month whether known by the name Adhik Maas or by any other name, the particular quarter which is comprised of such additional month shall consist of four months.

- (o) "registering authority" means in respect to a hotelier, the Luxury Tax Officer having jurisdiction over the local area in which any place or places of business of the hotelier are situated;
- (p) "return period" means the period for which returns are to be furnished by a hotelier under these rules;
- (pp) "Schedule" means a Schedule appended to these rules;
- (q) "section" means a section of the Act;
- (r) "word and expression" used but not defined in these rules shall have the same meaning respectively assigned to them in the Act.

2A. SPECIAL PROVISION FOR STOCKIST.

Provisions of these rules as applicable to "hotelier" shall apply mutatis mutandis to the "stockist" with such modification as may be necessary in cases where no specific provision has been made.

3. MAINTENANCE OF ACCOUNTS.

- (1) Every hotelier shall maintain -
 - (a) information of residential accommodation and tariff therefor in respect of his hotel in Form 1;

- (b) daily account of occupation of residential accommodation in his hotel and collection of tax therefor, in Form 2; and
 - (c) monthly abstract of collection and remittance of tax in Form 3.
- (2) The hotelier shall maintain a separate bound register for each of the Forms and shall get each of the pages of such register serially numbered, sealed and certified by the Commissioner or any Officer duly authorized by him in this behalf.

3A. MAINTENANCE OF ACCOUNTS BY STOCKISTS.

- (1) Every registered stockist and every person liable to registration as a stockist under the Act, shall keep and maintain true and complete accounts of every receipt and delivery/removal of stock of luxuries together with supporting documents, such as, invoices, challans, advice or other documents of similar nature.
- (2) Each and every receipt and each and every delivery, removal, despatch of stock of luxuries shall be brought to account then and there.
- (3) In the case of manufacturers of luxuries, books of accounts and documents to be maintained shall be as specified under the Central Excise Rules, 1944.
- (4) In the case of importer of luxuries, the importer shall maintain day to day stock account in respect of each variety of luxury dealt in by him. The day to day account shall contain particulars in terms of quantity and value in respect of:-
- (i) opening balance of stock;
 - (ii) receipt, either by way of purchase or inward stock, transfers or any such nature;
 - (iii) deliveries, either by way of sales, removals, despatches or in such nature, and;
 - (iv) closing balance of stock.
- (5) In respect of books of accounts and documents specified under the Central Excise Rules, 1944, they shall be preserved as per the requirements of the said Rules. Other books of accounts and documents specified hereinabove shall be preserved for a period of 8 years from the year to which they relate or until the assessment of a year to which the books relates has become final, whichever is later.

- (6) Any loss of books of accounts shall be reported forthwith to the Appropriate Assessing Authority.

4. APPLICATION FOR REGISTRATION AND FURNISHING INFORMATION.

- (1) Every application for registration under section 9 shall be made in Form 4 by a hotelier within a period of thirty days from the date on which such hotelier first becomes liable to pay the tax. -
- (2) The hotelier who has more than one place of business within the jurisdiction of different registering authorities, shall make an application for registration under one registration form through his head office to the Authority in whose jurisdiction the head office is located.
- (2A) Every application for registration under section 9 by stockist/proprietor existing on the date of coming into force of these Rules shall be made in Form 4A within a period of seven months from the date of coming into force of the Goa Tax on Luxuries (Hotels and Lodging Houses) (Amendment) Act, 2001 (Goa Act 16 of 2001) or the Goa Tax on Luxuries (Second Amendment) Act, 2001 (Goa Act 22 of 2001), as the case may be.

The stockist/proprietor to whom the above provision does not apply shall make an application in the same Form 4A within 30 days on which he first becoming liable to pay tax.

- (3) Every application for registration shall be made, signed and verified in the case of business carried on by-
- (a) an individual, by the proprietor or by a person having due authority to act on behalf of such proprietor;
 - (b) a firm, by any partner thereof;
 - (c) a Hindu undivided family, by the Karta or an adult member thereof;
 - (d) a body corporate (including a company, a co-operative society, or a corporation or local authority), by a director, manager, secretary or the principal officer thereof, or by a person duly authorized to act on its behalf;
 - (e) an association of individuals to which clause (b), (c) or (d) does not apply, by the principal officer thereof, or person managing the business;
 - (f) the Government, by a person duly authorized to act on its behalf.
- (4) In the case of a firm, every partner thereof shall furnish the declaration as provided in Form 4, Such declaration if not furnished at the time of making an application for registration, shall be furnished not later than three months from the date of making such application for registration.

- (5) The person signing and verifying an application for registration shall specify the capacity in which he does so, and shall wherever possible give particulars of the authority vested in him for signing and verifying the application.
- (6) Every person signing and verifying an application for registration in the capacity specified in clause (a), (b) or c) of sub-rule (3) shall also furnish with the application, a copy of his recent photograph in passport size.
- (7)- The person so furnishing the photograph shall, when called upon to do so, attend before the registering authority and sign before him on the copy of the photograph furnished by him.
- (8) In the case of a business carried on by an individual, a firm, a Hindu undivided family or other unincorporated association of individuals, the name and permanent residential address of such individual, each of the partners of the firm, members of the family, or as the case may be, members of the managing committee of the association, and of persons having any interest in the business, shall be stated in the application for registration.

5. GRANT OF CERTIFICATE OF REGISTRATION.

- (1) Certificate of registration shall be issued in Form 5 in respect of hotel business.
- (2) Where a hotelier applying for registration is a firm, Hindu undivided family, body corporate or association of individuals or Government, the certificate of registration shall be issued in the name of such firm, family, body corporate, association or Government, as the case may be.
- (3) Where a certificate of registration is issued to a hotelier on an application made therefor, then-
 - (a) (i) if it was made within the period specified in sub-rule (1) of rule 4 it shall take effect from the date on which the hotelier becomes liable for registration under the Act;
 - (ii) if it was made within the time specified in sub-section (6) of section 8 it shall take effect from the date on which the hotelier becomes liable to pay tax under the said sub-section;
- (b) if such application was made after the expiry of the aforesaid periods, it shall take effect from the date on which the application was made.
- (4) Where the hotelier has two or more places of business within the jurisdiction of the same registering authority, the registering authority shall issue to the hotelier one copy of the certificate of registration for each additional place of business specified in the application for registration.

- (5) The information under section 11 shall be furnished in writing within thirty days from the date of occurrence of any of the events specified in the said section 11 to the registering authority,
- (6) Certificate of registration in respect of stockist /proprietor shall be issued in Form 5 A;
- (7) Where the certificate of registration is issued to a stockist / proprietor on an application made therefor,-
 - (a) within the period specified in sub-rule (2A) of rule 4, it shall take effect from the date on which the respective amendment Act has come into force or from the date on which the stockist/proprietor becomes liable for registration under the Act;
 - (b) after the expiry of the period referred to in sub-rule (2A) of rule 4, it shall take effect from the date on which the application was made.

6. EXHIBITION OF CERTIFICATE OF REGISTRATION.

Every registered hotelier shall display conspicuously at each place of his business the certificate of registration or a copy thereof.

7. CANCELLATION OF CERTIFICATE OF REGISTRATION.

- (1) An application for cancellation of registration under subsection (5) of section 9 shall be made to the registering authority in Form 6.
- (2) if the registering authority is satisfied that the application is in order, it shall by order in writing, cancel the registration with effect from a date fixed in accordance with sub-rule (3), and shall by a notice placed on the notice board of its office, publish the name, address and registration number of the hotelier and the date from which the cancellation takes effect. A copy of such order shall be served on the hotelier.
- (3) Where registration is to be cancelled on the ground referred to in sub-section (6) of section 9, the date on which the business has been discontinued or has been transferred or otherwise disposed of, shall be the date of effect of cancellation of registration;

Provided that, the Commissioner shall after giving the hotelier a reasonable opportunity of being heard, pass an order in writing cancelling the certificate of registration with effect from such date as the Commissioner may fix to be a date on which the business has been discontinued or transferred or disposed of, as the case may be.

- (4) If the registration of a hotelier is cancelled under sub-section (5) or sub-section (6) of section 9, the hotelier shall surrender the certificate of registration and the copies thereof, if any, granted to him by the registering authority, within fifteen days from the date of receipt by him of the order cancelling the registration.

8. DECLARATION OF NAME OF OWNER UNDER SECTION 28.

A declaration under section 28 shall be made in Form 7 and shall be sent to the registering authority, -

- (a) where such declaration is to be made for the first time, it shall be made within the period specified in rule 4, or in sub-section (6) of section 8, as the case may be;
- (b) where any such declaration is to be revised, the revised declaration shall be made to the registering authority, within thirty days from the date on which the change of ownership of the hotel has taken place.

9. ADDITIONAL COPIES OF CERTIFICATE OF REGISTRATION, ETC

- (1) When a registered hotelier opens a new place of business in addition to the place or places which were in existence at the time of his registration or at the time of issue to him of a certificate of registration, as the case may be, the registering authority shall issue free of charge an additional copy of the certificate of registration, on the receipt of application from the registered hotelier.
- (2) A fee of rupees five shall be payable on an application for a duplicate copy of a certificate of registration. Such fee shall be paid in Court fee stamps.

10. PRODUCTION OF CERTIFICATE OF REGISTRATION, ETC.

- (1) The registering authority may, by notice in writing, require a registered hotelier to produce before it, his certificate of registration for the purpose of carrying out any amendment therein under the Act.
- (2) Every such hotelier shall, within seven days from the date of service on him of a notice as aforesaid, produce the certificate of registration, to the registering authority, or, as the case may be, the Commissioner.

11. PAYMENT OF TAX AND FILING OF RETURNS OF TURNOVER.

- (1) Such hoteliers who are liable to pay tax and who are required to do so by the appropriate assessing authorities by notice in writing and every registered hotelier having monthly luxury tax liability exceeding Rs. 1 lakh shall pay the

tax payable under the Act for every month within 15 days from the expiry of each month.

- (1 A) In respect of every registered hotelier having monthly luxury tax liability not exceeding Rs. 1 lakh, the payment shall be made into appropriate Government Treasury in accordance with the time schedule specified in the Table below:-

TABLE

Categories of the hotelier to whom applicable	Time fixed for payment
(1) In respect of the registered hotelier having monthly luxury tax liability exceeding Rs. 10,000/- but not exceeding Rs. 1 lakh.	Within 30 days from the date of expiry of the month.
(2) In respect of the registered hotelier having monthly luxury tax liability not exceeding Rs. 10,000/-.	(i) Within 30 days from the date of expiry of the quarter in relation to the payments to be effected between April to December every year.
	(ii) Within 30 days from the expiry of each month in respect of the payments to be effected during the months of January to March every year.

Provided that the hoteliers/hotelier referred to above may, at their/his option pay for the first and second month of every quarter 1/3 rd of the amount payable for the previous quarter within the stipulated time and may adjust any deficiency or excess arising out of short payment or excess payment (if any) made in the first two months of the quarter in the third month of the same quarter

Explanation.- For the purposes of sub-rules (1) and (1A), months in respect of registered hotelier who has validly exercised his option and declared his accounting year to be different from the financial year, shall be the month of that year.

- (2) All returns of turnover shall be verified and signed by the registered hotelier or by a person authorized by him, and shall be furnished to the Appropriate Assessing Authority, together with the receipt for payments made in the appropriate Government Treasury of the tax due.
- (3) An unregistered hotelier on whom a notice has been served under sub-section (2) of section 13 shall furnish to the Appropriate Assessing Authority, within 30 days from the date of the notice, return of turnover in Form 8 giving the required particulars.

12. SPECIAL PROVISIONS FOR RETURNS IN CERTAIN CASES.

- (1) Where a hotelier or stockist or proprietor has become liable for registration under sub-section (2) of section 9 or under sub-section (6) of section 8 or under sub-section (2) of section 5 A or under section 5B, as the case may be, the first return to be furnished by him shall be for the period from the first day of April of the year, or as the case may be, from the date of the event which makes him liable for registration, to the end of the quarter in which he is granted the certificate of registration,
- (2) Where the business carried on by a registered hotelier is discontinued, then the last monthly, quarterly or, as the case may be, annual return shall be for the period beginning with the month, quarter or as the case may be, year and ending with the date of discontinuance of the business.
- (3) The returns to be furnished for different periods under provisions of this rule shall;
 - (i) where the period of the return ends with the end of the month, quarter or a year, be furnished on or before last day of the month immediately succeeding the month, quarter or year, as the case may be.

- (ii) where the period for which the return is furnished does not end with the end of any month, quarter or year, be furnished within thirty days from the end of the period of the return.

13. METHOD OF PAYMENT.

- (1) Every payment of tax or penalty and balance of tax payable according to return and penalty payable under section 17 shall be accompanied by return in Form 8 or Form 8 A or Form 8B and challan in Form 9.
- (2) Every payment of tax or penalty or interest not referred to in sub-rule (1) and every payment of amount forfeited, composition money, fine imposed under section 18 shall be accompanied by challan in Form 9.
- (3) The form accompanying the payment as aforesaid shall be duly filled in, signed and verified by the payer. The amount paid should be stated both in words and in figures in the space provided for that purpose in the respective Form.
- (4) Payment shall be made into Government Treasury. The challan in Form 9 shall be filled up in quadruplicate. One copy of the challan shall be retained by the Treasury, one copy shall be sent by the Treasury Officer to the Appropriate Assessing Authority and the other two copies shall be returned to the hotelier, duly signed in proof of payment.
- (5) Subject to the provisions of sections 20 and 21, no payment as aforesaid shall be made to any Officer or authority appointed by or under the Act.

14. SPECIAL PROVISION FOR FILING THE RETURNS FOR THE FIRST YEAR FROM OBTAINING REGISTRATION CERTIFICATE.

Notwithstanding anything contained in rule 11 and rule 12, every registered hotelier or stockist or proprietor to whom registration certificate is granted for the first time under the Act, shall, until the expiry of a period of twelve months from the date of the grant thereof, furnish monthly returns and each such return shall be furnished on or before the last day of the month immediately succeeding.

15. REDUCTION OF RECEIPT FOR LEVY OF TAX.

A registered hotelier may, in respect of any receipt on which luxury tax is payable by him, either, -

- (i) exclude the amount, if any, collected by him separately by way of tax from the receipt on which tax is leviable; or

- (ii) where the tax is not separately collected, deduct from the receipt as per tariff charged, a sum calculated in accordance with the formula given in the Table hereunder: -

The formula shall be as follows:

Receipt as per tariff charged multiplied by 'R' means the rate of tax.

$$R / 100 + R$$

16. NOTICE FOR PAYMENT OF TAX NOT PAID ACCORDING TO RETURN.

When a hotelier has furnished a return under sub-section (2) of section 13 or a revised return under sub-section (4) thereof, but has not first paid into a Government Treasury the whole of the amount of the tax or penalty or interest due, or the extra amount due according to such a return or, as the case may be, the revised return, as required under sub-section (3) or sub-section (4) of section 13, the concerned Luxury Tax Officer or the Assistant Commissioner of Luxury Tax, as the case may be, may by notice in Form 10 served on him, require him to pay the amount due from him according to the return, or, as the case may be, the revised return, but remaining unpaid, by a date specified in the notice.

17. ASSESSMENT OF TAX AND IMPOSITION OF PENALTY

- (1) The Appropriate Assessing Authority, when he thinks it necessary, may assess a registered hotelier in respect of a part of the year, if the business of the hotelier is closed on account of his death or for any other reason, or when there is a change, in the status of the business. The Appropriate Assessing Authority may also assess a registered hotelier for a part of the; year for any other good and sufficient reason.

The circumstances which necessitate the assessment of a registered hotelier for a part of the year shall be recorded in writing, either before or at the time of proceeding to such assessment.

- (2) The Appropriate Assessing Authority, when he thinks necessary to make an assessment of tax of a registered hotelier under any of the sub-sections (2), (3) and (4) or under sub-section (6) of section 14, he shall cause to serve upon the hotelier a notice in Form 11,
- (3) The Appropriate Assessing Authority, when he thinks necessary to make an assessment of tax of a hotelier under the provisions of sub-section (7) of section 14, he shall cause to serve upon the hotelier notice in Form 11.
- (4) A hotelier who has been served with a notice referred to in sub-rules (2) and (3) may prefer an objection in writing personally or through his authorized agent against any contemplated levy of tax or imposition of penalty. No fee

shall be payable in respect of any such objection.

- (5) After considering any objections raised by the hotelier or his authorized agent and any evidence produced in support thereof, the Appropriate Assessing Authority, shall, after giving the hotelier or his authorized agent, as the case may be, an opportunity of being heard, assess the amount of tax which he thinks is payable by the hotelier, and impose upon him under the provisions of the Act, a penalty to the extent to which it appears to him to be reasonable for contravention of any of the provisions of the Act.
- (6) Every order of assessment shall be recorded in writing and shall be in Form 12 and, where the Appropriate Assessing Authority determines the turnover of receipts of a hotelier at a figure different from that shown in the returns of receipts submitted by the hotelier under the provisions of the Act and the Rules made thereunder, the order shall state briefly the reasons therefor, but a failure to state the reasons shall not affect the validity of the assessment order.
- (7) An order imposing a penalty under the provisions of the Act in respect of any period, may be incorporated in the order of assessment made under sub-rule (6), relating to that period.

18. JOINT AND SEVERAL RESPONSIBILITY FOR PAYMENT OF TAX.

- (1) Where a hotelier is a firm or other association of persons, the partners or members thereof shall be jointly and severally responsible for payment of the tax, penalty or any amount due under the Act or these rules.
- (2) In case of dissolution of a firm, every partner thereof, and in case of discontinuance of an association or of partition of undivided families, every member thereof, shall be jointly and severally responsible for payment of tax due under the Act or these rules in respect of the business of the firm or the association, as the case may be, conducted before its dissolution or discontinuance.

19. WHERE AND HOW THE PAYMENT SHOULD BE MADE

- (1) Any amount payable by a hotelier in respect of tax, penalty, composition money, registration fee, cost awarded by the Tribunal or any other dues, shall be paid in the appropriate Government Treasury, No cash payment of any such amount shall be accepted at any Luxury Tax Offices.
- (2) Every such payment shall be accompanied by a challan in Form 9. Challan forms shall be obtainable free of charge at the Luxury Tax Offices.

- (3) Challan shall be filled up in quadruplicate. One copy of challan shall be retained by the Treasury, one copy shall be sent by the Treasury Officer to the Appropriate Assessing Authority and the other two copies shall be returned to the hotelier, duly signed in proof of payment.

20. ESCAPED ASSESSMENT, REASSESSMENT OF TAX, ETC.

If the Appropriate Assessing Authority has reason to believe that any turnover of receipts chargeable to tax under the Act, has, in respect of any year, escaped assessment, or has been under assessed, or assessed at a lower rate or that deduction has been wrongly made in an order of assessment made under section 14, the Appropriate Assessing Authority shall cause to serve upon the concerned hotelier within the time specified in sub-section (1) of section 16, a notice in Form 13 and after giving him reasonable opportunity of being heard and making such inquiries as it considers necessary, may proceed to assess or reassess the amount of tax due from such hotelier.

- (2) The order of assessment or reassessment referred to in sub-rule (1) shall be made in writing in Form 12.
- (3) Along with the order of assessment or reassessment referred, to in sub-rule (2), a notice in Form 14 as referred to in rule 21 for demand of tax levied and penalty imposed if any, arising out of the said order, shall be served upon the hotelier.

21. PAYMENT OF TAX/PENALTY ON ASSESSMENT/ RE-ASSESSMENT, ETC.

- (1) The notice for payment, referred to in sub-section (6) of section 13 shall be in Form 14 if the demand is arising from the assessment of tax made under section 14 and in Form 14 if the demand is arising from assessment or reassessment of tax made under section 16.
- (2) The notice referred to in sub-rule (1) shall specify the date on or before which the payment of demanded amount should be made in the Appropriate Government Treasury, and the date on or before which the receipted challan should be furnished to the Appropriate Assessing Authority, in proof of payment of the demanded amount.
- (3) In cases wherein any amount is demanded by the Appropriate Assessing Authority by issue of an order, other than order of assessment or of reassessment, such order shall specify the date on or before which the payment should be made and the date on or before which receipted challan should be furnished to the Appropriate Assessing Authority, in proof of the demanded amount.

- (4) When the challan is furnished by the hotelier or person from whom any amount is demanded, either by issue of a notice or an order, the Appropriate Assessing Authority shall cause to make the necessary entries in the office record wherever necessary and shall place the said challan in the assessment case record or other office record as the case may be.

22. FORM OF NOTICE UNDER SECTION 18(2).

The notice under sub-section (2) of section 18 shall be in Form 15 and the date fixed for compliance therewith shall not be earlier than fifteen days from the date of service thereof.

23. NOTICE UNDER SECTION 18(1)(B).

Where an order of forfeiture is made, the Commissioner shall by a notice placed on the notice board of his office publish the following details for the information of the persons concerned, namely >

- (i) the name, address and the Registration Certificate number of the hotelier in whose case the order is passed;
- (ii) number and date of the order;
- (iii) the amount forfeited;
- (iv) the period for which the order is passed; and
- (v) reasons for forfeiture.

24. ASSESSMENT CASE RECORD.

- (1) All papers relevant to the making of an assessment in respect of a hotelier shall be kept together and shall form an assessment case record.
- (2) Assessment case record shall be preserved for twelve years next following the period to which the assessment relates or for three years next following the completion of last proceeding under the Act relating to the said period whichever is later.

25. RECOVERY OF ARREARS.

- (1) When a hotelier or a person, from whom any amount of tax or penalty has been demanded by issue of a notice or order, fails to pay the demanded amount, within the time specified in the notice or order, and in case of extension of time granted for making such payment, the concerned hotelier or person fails to pay the amount due within the extended date of payment, and in case of grant of facility to pay the demanded amount in installments, the concerned hotelier or person fails to pay any of the installments on due date, the Appropriate Assessing Authority shall proceed to issue, for the purpose of recovery of the arrears from the defaulter or other person responsible for the

payment, a certificate of the amount due containing the following particulars, namely: -

- (a) full name and address of the defaulter;
 - (b) the name of the person or persons, if any, responsible for the payment of amount due,
 - (c) the sum to be recovered;
 - (d) period to which the sum relates;
 - (e) the provision of law under which the sum is recoverable as an arrear of land revenue;
 - (f) the process by which the sum may be recovered;
 - (g) the property against which the process may be executed;
 - (h) the head of account to which the amount should be credited; and
 - (i) any other information relevant for the purpose of recovery of the arrears.
- (2) The certificate referred to in sub-rule (1) shall be the basis to proceed to recover the amount due as arrears of land revenue, in case such recovery is to be effected by the Officer authorized by the Government under provision of sub-section (8) of section 13, and for the same purpose of recovery the relevant provisions contained in the Goa, Daman and Diu Land Revenue Code, 1968 (Act 9 of 1969) and Rules made thereunder shall be applicable.
- (3) The certificate referred to in sub-rule (1) shall serve as requisition for the authority competent to make the recovery of the amount due as arrears of land revenue under the provisions contained in the Goa, Daman and Diu Land Revenue Code, 1968 (Act 9 of 1969) and rules made thereunder, in all cases wherein no officer is authorized by the Government to exercise the powers of a Collector under the said Goa, Daman and Diu Land Revenue Code, 1968, for the purpose of recovering the dues as arrears of land revenue.
- (4) In all cases wherein the defaulter or other person responsible for the payment of the amount due is residing or is having property outside the District, the Appropriate Assessing Authority shall send the certificate referred to in sub-rule (1) to the officer authorized by the Government under subsection (8) of section 13, or to the Collector of the District if no officer is authorized under the said sub-section (8) of section 13, soliciting that the same may be sent to the Collector of the other District wherein the defaulter or person responsible for the payment of the dues is residing or is having property. Such certificate shall be sent by the Appropriate Assessing Authority himself, if he is the officer authorized by the Government under the said sub-section (8) of section 13.

Whenever the amount of arrears recovered by the Collector of other District are remitted to the Appropriate Assessing Authority, the same Authority shall take immediate steps to enter the same amount into the Government Treasury.

- (5) Certificate referred to in sub-rule (1) shall be issued in respect of each defaulter or person responsible for payment of arrears.
- (6) The officer referred to in sub-rule (2) and the Authorities referred to in sub-rules (3) and (4), as the case may be, shall keep informed the Appropriate Assessing Authority about the steps taken in the matter of recovery of the arrears when such information is called for by the same Appropriate Assessing Authority, and shall report to him, as soon as the recovery is made, the amount recovered giving the particulars of the same recovery, namely, the date on which the recovery is made, the name of the Treasury wherein the amount is entered, and the date of challan under which the amount is paid into the Treasury.
- (7) On the basis of the report of payment referred to in sub-rule(6) received from the concerned Authorities, the Appropriate Assessing Authority shall cause to make the necessary entries in the assessment case record of the hotelier and other office records maintained.

25A. REFERENCE TO LUXURY TAX OFFICER.

Notwithstanding anything contained in rule 25, the Appropriate Assessing Authority may refer any case of recovery to the Luxury Tax Officer, authorized for the purpose by the Commissioner and in the event of so referring the case, the authorized Luxury Tax Officer shall proceed to recover the amount referred to him by following the procedure specified in Schedule I

26. REFUND

- (1) When any refund arises from an order of assessment made under section 14, or from an order passed in appeal revision, or review under section 33, and the amount to be refunded does not exceed five hundred rupees, the Appropriate Assessing Authority shall forthwith proceed to refund such amount by cash to the person concerned by issue of refund voucher in Form 16. However, before proceeding to refund any amount to such person, the Appropriate Assessing Authority shall, firstly, verify if any amount due by the hotelier is left unpaid by him and, in such case, shall adjust, by issue of an order, the amount to be refunded towards the amount due from the hotelier on the date of adjustment, and thereafter shall refund the balance, if any.
- (2) When the amount of refund arising from any of the contingencies referred to in sub-rule (1) exceeds five hundred rupees, the Appropriate Assessing Authority shall obtain the sanction of the Assistant Commissioner of Luxury Tax before proceeding to refund such amount. For the same purpose, he shall submit the case record of the hotelier stating full facts which have originated the refund. He will also inform if any adjustment is necessary towards the

recovery of any amount due from the hotelier. On receipt of the sanction order from the Assistant Commissioner of Luxury Tax, the Appropriate Assessing Authority shall refund forthwith to the hotelier the amount as sanctioned by the order of the Assistant Commissioner of Luxury Tax and the same refund shall be made in the same manner as is provided in sub-rule (1) in respect of refunds of amounts not exceeding five hundred rupees.

- (3) (a) The refund referred to in sub-section (2) of section 22, shall not be made, unless the claim for refund is made by the hotelier, within 12 months from the date of assessment under the Act, which has motivated the refund, or within 6 months from the date of any final order passed on an appeal or revision or review under section 33. The application for refund shall be addressed to the Assistant Commissioner of Luxury Tax who will be competent to pass the necessary order, either granting the refund in whole or in part, or rejecting the same.
- (b) On receipt of the application for refund referred to in the preceding clause (a), the Assistant Commissioner of Luxury Tax may call the record of the hotelier from the Appropriate Assessing Authority, and require the, said Authority to state the matter, and inform him if any adjustment of the amount to be refunded is necessary towards the recovery of any amount due from the hotelier.
- (c) On receipt of the order from the Assistant Commissioner of Luxury Tax granting the refund in whole or in part, the Appropriate Assessing Authority shall refund to the hotelier the amount so granted by the order of the Assistant Commissioner of Luxury Tax, in the manner as provided in sub-rule (1) in respect of refunds referred to therein.
- (4) When an order is passed by the Commissioner of Luxury Tax determining that any amount of tax or penalty is unduly paid by a hotelier, the Appropriate Assessing Authority, on receipt of the said order, shall forthwith refund to the hotelier the amount as determined in the said order of the Commissioner of Luxury Tax, in the same manner as is provided in sub-rule (1), for refund referred to therein.

27. PRODUCTION OF ACCOUNTS, REGISTERS, ETC.

When the Commissioner require any hotelier to produce any accounts or documents or to furnish any information under section 27, he shall issue a notice therefor in Form 17.

28. INSPECTION OF ACCOUNTS, REGISTERS, ETC.

Unless the Commissioner deems it necessary to make a surprise visit, he shall give reasonable notice in writing to the hotelier of his intention to inspect the

accounts, registers, documents or bills of such hotelier or any cash kept by him at his hotel and in fixing the date, time and place for the purposes, shall as far as possible, have due regard to the convenience of the hotelier.

29. RETENTION OF BOOKS OF ACCOUNTS, REGISTERS AND DOCUMENTS SEIZED.

If the Commissioner seizes any books of accounts, registers or documents of any hotelier under section 27 he shall not retain them for more than thirty days without recording his reasons in writing for doing so;

Provided that, where an officer below the rank of Assistant Commissioner of Luxury Tax seizes any books, registers or documents, by virtue of powers of the Commissioner under section 27 delegated to him, he shall not retain them, or cause them to be retained, for a period exceeding fifteen days unless an officer not below the rank of Assistant Commissioner of Luxury Tax having jurisdiction over the local area in which the place of business of the hotelier is situated, for reasons to be recorded in writing has authorized the retention of the books, registers or documents so seized for a longer period upto thirty days;

Provided further that, such longer period shall not be more than thirty days at a time.

30. TO WHOM APPEAL SHALL BE MADE.

An appeal against an order of assessment or reassessment passed by an Appropriate Assessing Authority shall lie to the Assistant Commissioner (hereinafter referred to as Appellate Authority), and a second appeal against an order in appeal shall lie to the Tribunal.

31. HOW THE MEMORANDUM OF APPEAL SHALL BE PRESENTED.

The memorandum of appeal shall be drawn up in duplicate in form 18 and after being signed either by the hotelier or a person duly authorized by him in that behalf filed before or sent by registered post to the Appellate Authority or Tribunal as the case may be.

32. WHAT SHALL ACCOMPANY THE MEMORANDUM OF APPEAL.

- (1) The memorandum of appeal when presented to the Appellate Authority shall bear court-fee stamps of the amount prescribed in rule 43 and shall be accompanied by a certified copy of the order appealed against. It shall further be endorsed by the appellant or his agent duly authorized as follows:-

- (a) that the amount of tax assessed or reassessed and the penalty (if any) imposed, or the tax and penalty admitted to be due has been paid; and
 - (b) that to the best of his knowledge and belief the facts set out in the memorandum are true.
- (2) The memorandum of appeal when presented to the Tribunal shall bear the court-fee stamps of the amount prescribed in rule 43 and shall be accompanied by a certified copy of the order appealed against and also by necessary document in proof of payment of tax or penalty or both that may be due as per appeal order passed by the Appellate Authority and it shall further be endorsed by the appellant or his agent duly authorized as follows: -
"that to the best of his knowledge and belief the facts set one in the memorandum are true."

33. STAY OF RECOVERY OF TAX ASSESSED/ REASSESSED OR PENALTY BY APPELLATE AUTHORITY.

Pending the final decision of an appeal filed under sub- section (1) of section 33, the recovery of any tax assessed or reassessed or penalty imposed under the Act and not admitted by the assessee to be due from him, shall be stayed, if so directed by the Appellate Authority, and not otherwise, on such terms or conditions as may be specified in the direction.

34. SUMMARY REJECTION OF APPEALS, ETC.

The appeal may be summarily rejected if the appellant after being given an opportunity to comply with any of the requirements of rules 31 and 32 or being directed to furnish security, under proviso to sub-section (4) of section 33, fails to comply with the requirements of rules 31 and 32 or furnish security, or for any other sufficient reasons;

Provided that when an order of summary rejection is made on any ground other than non-compliance of provisions of rules 31 or 32 or non-furnishing of security demanded under sub-section (4) of section 33 the reasons for such summary rejection should be stated in the order.

35. FIXING THE DATE FOR HEARING OF APPEAL.

If the Appellate Authority does not reject the appeal summarily, he shall fix a date for hearing and notify the same to the parties.

36. HEARING AND RECORDING OF EVIDENCE.

If the Appellate Authority or Revising Authority so desires, it may depute an Officer or Inspector to hear and record the evidence produced by or on behalf of the

hotelier or to make such inquiries as it may direct. The Officer or Inspector so deputed will have the authority to conduct inquiries on the spot as he may consider necessary for the case.

37. APPLICATION FOR REVISION OR REVIEW.

- (1) The provisions of rules 31 and 32 shall apply mutatis mutandis to every application for revision;

Provided that the provisions of clause (a) of sub-rule (1) of rule 32 shall not apply to an application for revision of any order other than an order of assessment or re-assessment, made under section 14 or section 16 and the appellate order made under section 33, as the case may be.

- (2) No application for review of an order shall be entertained, unless it is presented within 30 days from the date of such order and no application for revision of an order shall be entertained unless it is presented within 60 days from the date of such order;

Provided that an application for review or revision may, after the period so specified be entertained if the applicant satisfies the authority to which such application is made that he had sufficient cause for not presenting the application within such period.

Explanation: In computing the period of limitation prescribed in this rule for revision of an order, the time requisite for obtaining a copy of the order sought to be revised shall be excluded.

38. NOTICE FOR HEARING THE APPLICATION FOR REVISION OR REVIEW.

- (1) Notice of the date fixed for hearing an application for revision or review shall be given to the petitioner and the Appropriate Assessing Authority.
- (2) Where any person appointed under section 3 proposes to revise or review any order of his own motion, he shall give the hotelier as well as the Appropriate Assessing Authority, an opportunity of being heard.

39. ORDER OF HIGHER AUTHORITIES SHALL BINDING ON SUBORDINATE AUTHORITIES.

- (1) The orders passed by the Appellate or Revising Authorities shall supersede the orders of any subordinate authorities and shall be binding on them. Similarly, the reviewing or rectification order passed by an Authority shall supersede or modify, as the case may be, the initial order passed by the same authority.

(2) A copy of any order passed upon any appeal or application for revision shall be sent to the officer whose order forms the subject matter of the appeal or revision proceedings.

40. REVIEW OF ORDERS.

- (1) When any person appointed under section 3 or the Tribunal constituted under section 4 reviews any order under sub-section (4) of section 33 such person or the Tribunal, as the case may be, shall record reasons therefor.
- (2) When any Appropriate Assessing Authority reviews any order he shall send a copy of the order and of the statement of reasons to the Assistant Commissioner.

41. NOTICE FOR RECTIFICATION OF MISTAKE UNDER SECTION 36.

The notice required to be given under section 36 shall be in Form 19.

42. SERVICE OF ORDERS AND NOTICES.

- (1) The orders and notices under the Act or under these rules shall be served by one of the following methods, namely:
 - (a) by delivery by hand of a copy of the order or notice to the addressee or to a person declared by him in Form 7 or to his agent duly authorized in this behalf by him or to a person regularly employed by him in connection with the business in respect of which he is registered as a hotelier, or to any adult male member of his family residing with the hotelier ;
 - (b) by post;

Provided that if upon an attempt having been made to serve any such notice by either of the above said methods, the luxury tax authority concerned has reasonable grounds to believe that the addressee is evading the service of notice or that, for any other reason which in the opinion of such authority is sufficient, the notice cannot be served by any of the above mentioned methods, the said authority after recording the reason therefor shall -

- (A) in the case of an addressee on whom an attempt has been made to serve the notice by post but the notice is returned undelivered by the postal authority for want of proper address or on the ground that the addressee could not be found, cause the notice to be published in a local newspaper.
- (B) in other cases, cause the notice to be served by fixing a copy thereof,

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- (i) if the addressee is a hotelier, on some conspicuous part of the hotelier's office or the building in which the hotelier's office is located or upon conspicuous part of the place of the hotelier's business last intimated to the said authority by the hotelier or of the place where the hotelier is known to have last carried on business, or
- (ii) if the addressee is not a hotelier, on some conspicuous part of his residence or office or the building in which his residence or office is located, and such service or publication shall be deemed to be as effectual as if notice has been served on the addressee personally;

Provided further that where the officer at whose instance the notice is to be served is on inquiry satisfied that the said office, building, place or residence is known not to exist or is not traceable, such officer may by order in writing dispense with the requirement of service of the notice under clause (B) of the last preceding proviso.

- (2) When the officer serving an order or notice, delivers or tenders copy of the order or notice to the hotelier or addressee personally or to any of the persons referred to in paragraph(a) of sub-rule (1), he shall require the signature of the person to whom the copy is so delivered or tendered or an acknowledgment of service endorsed on the original order or notice.

When the notice is served by affixing a copy thereof in accordance with the first proviso to sub-rule (1), the officer serving it shall return the original to the Luxury Tax Authority which issued the notice with a report endorsed thereon or annexed thereto stating that he so affixed the copy, the circumstances under which he did so and the name and address of the person, if any, by whom the addressee's office or residence is located or his place of business was identified, and in whose presence the copy was affixed. The said officer shall also obtain the signature or thumb impression of the person identifying addressee's residence or office or building or place of business, on his report,.

- (3) When service is made by post, the service shall be deemed to be effected by properly addressing or preparing the order or notice and posting it by registered post with acknowledgment due, and unless the contrary is proved, the service shall be deemed to have been effected at the time at which the order or notice would be delivered in the ordinary course of post.

43. PAYMENT OF FEES.

The following fees shall be payable in court-fee stamps:-
On memorandum of appeal

- (i) against an order of assessment with or without Rs.

penalty or of penalty or of forfeiture.....	25.00
(ii) On an application for revision to the Commissioner	Rs.30.00
(iii) On any application for revision to the Government	Rs. 40.00
(iv) On any other application or petition for relief to any authority under the Act or the Rules.....	Rs. 5.00
(v) On application for grant of copies vide sub-rules (2) of rule 48	Re. 1.00
(vi) On a memorandum of appeal to the Tribunal.....	Rs. 60.00

44. PARTICULARS TO BE SPECIFIED IN BILL OR CASH MEMORANDUM.

Every hotelier who is required by section 25 to issue a bill or cash memorandum shall specify, in the bill or cash memorandum issued by him, the full name and style of his business, the address of his place of business and the number of his certificate of registration and the particulars of the receipts.

45. PRESERVATION OF BOOKS OF ACCOUNTS, REGISTERS, ETC.

Every registered hotelier and every hotelier on whom a notice has been served under sub-section (1) of section 26, shall preserve all books of accounts, registers and other documents including the cash memorandum, invoices, vouchers and other documents relating to the receipts, for a period of not less than 5 years from the expiry of the year to which they relate.

46. FORM OF AUTHORITY UNDER SECTION 43.

The authority to attend before any Luxury Tax Authority in connection with any proceeding under the Act shall be in Form 20.

47. AUTHORITY OF AGENT TO CONTINUE.

An authority given to an agent shall continue to be valid for the purpose of appearance in proceedings in an appeal or revision in respect of an order passed in the proceeding in respect of which such authority was given;

Provided that, a separate authority shall be furnished for appearance in proceedings relating to each period for which a separate order of assessment is required to be made or has been made under section 14 or 16.

48. COPIES OF DOCUMENTS AND ORDERS.

- (1) Any person who is a party to a proceeding under the Act or under these rules may apply to the appropriate authority having jurisdiction in respect of such proceeding or having the custody of the records pertaining thereto, for a certified copy of a document produced or filed in such proceeding or of an order passed by such authority.
- (2) An application made under sub-rule (1) shall be accompanied by a fee of one rupee in Court-fee stamp and a deposit of an amount to cover the cost of preparing certified copies at the rate of Re. 1/- for every 100 words or part thereof. The amount calculated according to the above said scale of fees shall be retained by the authority as copying fees and the amount, if any, by which the amount deposited exceeds the amount of copying fees so retained shall be refunded to the applicant at the time of delivering the copy;

Provided that, the applicant shall, if the amount deposited by him is not found to be sufficient to cover the amount of copying fees, pay the deficit before taking delivery of the copy.

49. NOMINATION OF HEAD OFFICE IN THE CASE OF A HOTELIER HAVING MORE THAN ONE PLACE OF BUSINESS.

- (1) Where a hotelier has within the State more than one place of business (hereinafter referred to as "branches"), he shall nominate one of such branches as the head of office of the business for the purpose of this rule
- (2) The hotelier shall intimate the nomination under sub-rule (1) to all the Appropriate Assessing Authorities, within whose jurisdiction such branches are situated, together with the situation thereof, before the close of any year in which business is done in one or more of such branches.
- (3) In a case falling under this rule, if the hotelier fails to nominate one of the branches to be the head office the Commissioner may nominate one of such branches to be the head office for the purpose of this rule.
- (4) All applications, returns or statements prescribed under the Act or these rules shall be submitted in respect of all the branches jointly by the head office to the Appropriate Assessing Authority.
- (5) The turnover for the whole business shall be the aggregate of the turnover of receipts of all the branches.
- (6) The person in charge of each branch shall at all reasonable time, on demand by the Appropriate Assessing Authority, furnish the name and the address of the head office, and intimate whether or not his branch returns of turnover of receipts have been despatched to such head office.

50. SPECIAL PROVISIONS IN THE CASE OF HOTELIERS HAVING MORE THAN ONE PLACE OF BUSINESS.

In the case of the hotelier having more than one place of business in the

State,-

- (a) all applications, including applications for the grant or renewal of certificates, shall be made;
 - (b) all returns of turnover of receipts, which shall include the turnover of receipts of all such places of business shall be submitted; and
 - (c) all notices and orders, required or permitted by the Act or these rules to be served on any hotelier, shall be issue to and served on the person in charge of the head office referred to in rule 49.
- (2) A notice or order issued to or served on the person in charge of such head office, shall be deemed to have been issued to and served on all branches of the hotelier concerned.

51. SUPERINTENDENCE AND CONTROL OF THE ADMINISTRATION UNDER THE ACT.

- (1) (a) The Government shall superintend the administration and the collection of tax leviable under the Act.
 - (b) Subject to the general control and superintendence of the Government, the Commissioner shall control all officers empowered under the Act.
 - (c) Save as aforesaid and subject to the control of the Commissioner, the Assistant Commissioner shall control all other officers empowered under the Act.
- (2) The Luxury Tax Officer or Assistant Luxury Tax Officer in charge of an area shall be charged with the duty of carrying out the provisions of the Act, subject to the control of and direction of the Government, Commissioner and Assistant Commissioner.

52. JURISDICTION

- (1) For implementing the provisions of the Act and these rules the State shall be divided into the following seven wards comprised of the areas noted against each:-
 - (i) Panaji Ward- Taluka of Tiswadi;
 - (ii) Mapusa Ward - Talukas of Bardez and Pernem;..
 - (ii) Margao Ward- Talukas of Salcete and Canacona;
 - (iv) Vasco da Gama Ward- Taluka of Mormugoa;
 - (v) Ponda Ward- Taluka of Ponda;
 - (vi) Curchorem Ward - Talukas of Quepem and Sanguem;
 - (vii) Bicholim Ward- Talukas of Bicholim and Satari.

53. COMPOUNDING OF OFFENCES,

- (1) Subject to the limitations contained in the Act, the Commissioner may decide to accept, on application from any person a sum by way of composition of an offence committed by him under the Act or these rules, either before or after the commencement of the proceedings in respect of such offence.
- (2) On taking a decision under sub-rule (1), the Commissioner, shall, if there are no reasons to the contrary, make an order in writing specifying therein-
 - (a) the sum determined by way of composition;
 - (b) the date on or before which the sum shall be paid into the Government Treasury;
 - (c) the authority before whom and the date on or before which a receipted challan shall be produced in proof of such payment; and
 - (d) the date on or before which the person shall report the fact to the Commissioner.
- (3) The Commissioner shall send a copy of such order to the person concerned and also the authority referred to in clause (c) of sub-rule (2).

54. PENALTY.

A breach of any of these rules shall be punishable with fine which may extend to one thousand rupees and when the offence is a continuing one, with a daily fine not exceeding fifty rupees during the continuance of the offence.

SCHEDULE I

(See rule 25A)

PROCEDURE FOR RECOVERY OF TAX

(If recovery proceeding is conducted Tax Officer authorized for the purpose).

General Provisions

1. Definitions.

In this Schedule, unless the context otherwise requires,-

- (a) "certificate" means a certificate received under paragraph 2 of this Schedule by the Luxury Tax Officer authorized by the Commissioner of Luxury Tax for the purpose;

- (b) "defaulter" means the assessee or hotelier or any other person mentioned in the certificate;
- (c) "execution" in relation to a certificate, means recovery of arrears in pursuance of the certificate;
- (d) "movable property" includes growing crops;
- (e) "share in a corporation" includes stock, debentures or both and
- (f) "Tax Recovery Officer" means the Luxury Tax Officer or any other officer authorized by the Commissioner for the purpose.

2. Issue of Certificate.

- (1) Where an assessee or hotelier or any other person is in default or is deemed to be in default in making a payment of tax or any other amount due under the Act, the Assessing Authority may forward to the Tax Recovery Officer a certificate containing such particulars as may be laid down under his signature specifying the amount of tax and any other amount due from the assessee or hotelier or any other person and the Tax Recovery Officer on receipt of such certificate, shall proceed to recover from such assessee, hotelier or other person the amount specified therein in accordance with the provisions of this Schedule.
- (2) The Assessing Authority may issue a certificate under sub-paragraph (1), notwithstanding that proceedings for recovery of the amount by any other mode has been taken.

3. Issue of notice.

When a certificate has been received by the Tax Recovery Officer from the Assessing Authority for the recovery of arrears, the Tax Recovery Officer shall cause to be served upon the defaulter a notice requiring the defaulter to pay the amount specified in the certificate within fifteen days from the date of service of the notice and intimating that in default, steps would be taken to realize the amount under this Schedule,

4. When certificate may be executed.

No step in execution of a certificate shall be taken until the period of fifteen days has elapsed since the date of the service of the notice required by the preceding paragraph;

Provided that if the Tax Recovery Officer is satisfied that the defaulter is likely to conceal, remove or dispose of the whole or any part of such of his movable properties as would be liable to attachment or distraint in execution of a decree of a Civil Court and that the realization of the amount of the certificate would in consequence be delayed or obstructed, he may at any time

for reasons to be recorded in writing, attach or distrain the whole or any part of such property;

Provided further that, if that defaulter whose property has been so attached or distrained, furnishes security to the satisfaction of the Tax Recovery Officer, such attachment or distraint shall be cancelled from the date on which such security is accepted by the Tax Recover Officer.

5. *Mode of recovery,*

If the amount mentioned in the notice is not paid within the time specified therein or within such further time as the Tax Recovery Officer may grant in his discretion, the Tax Recovery Officer shall proceed to realize the amount by one or more of the following modes,-

- (a) by attachment or distraint and sale of the defaulter's movable property,
- (b) by attachment and sale of the defaulter's immovable property.

6. *Interest, costs and charges recoverable.*

There shall be recoverable in the proceedings in execution of every certificate,-

- (a) Interest at the rate of twenty four percent per annum from the day commencing after the end of the period specified in paragraphs.
- (b) all charges incurred in respect of-
 - (i) the service of notice upon the defaulter to pay the arrears and of warrants and other processes; and
 - (ii) all other proceedings taken for realizing the arrears.

7. *Purchaser's title.*

- (1) Where the property is sold in execution of a certificate, there shall vest in the purchaser merely the right, title and interest of the defaulter at the time of the sale, even though the property itself be specified.
- (2) Where immovable property is sold in execution of a certificate, and such sale has become absolute, the purchaser's right, title and interest, shall be deemed to have vested in him from the time when the property is sold, and not from the time when the sale becomes absolute.

8. *Suit against purchaser not maintainable on ground of purchase being made on behalf of plaintiff.*

- (1) No suit shall be maintained against any person claiming title under a

purchase certified by the Tax Recovery Officer in the manner laid down in this Schedule on the ground that the purchase was made on behalf of the plaintiff or on behalf of some one through whom the plaintiff claims.

- (2) Nothing in this paragraph shall bar a suit to obtain a declaration that the name of any purchaser certified as aforesaid was inserted in the certificate fraudulently or without the consent of the real purchaser, or interferes with the right of a third person to proceed against that property, though ostensibly sold to the certified purchaser, on the ground that it is liable to satisfy a claim of such third person against the real owner.

9. *Disposal of proceeds of executions.*

- (1) Whenever assets are realized, by sale or otherwise in execution of a certificate, they shall be disposed of in the following manner,-
 - (a) there shall first be paid to the Assessing Authority the costs incurred by him;
 - (b) there shall, in the next place, be paid to the Assessing Authority the amount due under the certificate in execution of which the assets were realized;
 - (c) if there remains a balance after these sums have been paid, there shall be paid to the Assessing Authority therefrom any other amount recoverable under the procedure provided by the Act and these paragraphs which may be due upon the date upon which the assets were realized; and
 - (d) the balance if any, remaining after the payment of the amount (if any) referred to in clause (c), shall be paid to the defaulter.
- (2) If the defaulter disputes any claim made by the Assessing Authority to receive any amount referred to in clause (c), the Tax Recovery Officer shall determine the dispute.

10. *General bar to jurisdiction of Civil Court, save where fraud alleged.*

Except as otherwise expressly provided in the Act and these paragraphs, every question arising between the Assessing Authority and the defaulter or their representatives, relating to the execution, discharge or satisfaction of a certificate or relating to the confirmation or setting aside of a sale held in execution of such certificates shall be determined, not by suit, but by the order of Tax Recovery Officer before whom such question arises;

Provided that, a suit may be brought in a Civil Court in respect of any such question upon the ground of fraud.

11. *Property exempt from attachment*

- (1) All such property as is by the Code of Civil Procedure, 1908, (Central Act 5 of 1908) exempted from attachment and sale in execution of a decree of Civil Court, shall be exempt from attachment or distraint and sale under this Schedule.
- (2) The Tax Recovery Officer's decision as to what property is so entitled to exemption shall be conclusive.

12. *Investigation by Tax Recovery Officer.*

- (1) Where any claim is preferred to or any objection is made to the attachment, distraint or sale of, any property in execution of a certificate, on the ground that such property is not liable to such attachment, distraint or sale, the Tax Recovery Officer shall proceed to investigate the claim or objection;

Provided that no such investigation shall be made where the Tax Recovery Officer considers that the claim or objection was designedly or unnecessarily delayed.

- (2) Where the property to which the claim or objection applied has been advertised for sale, the Tax Recovery Officer ordering the sale may postpone it pending the investigation of the claim or objection, upon such terms as to security or otherwise, as the Tax Recovery Officer shall deem fit.
- (3) The claimant or objector must adduce evidence to show that,-
 - (a) in the case of immovable property, at the date of the service of the notice issued under this Schedule to pay the arrears; or
 - (b) in the case of movable property, at the date of the distraint or attachment,

he had some interest in, or was possessed of, the property in question.

- (4) Where, upon the said investigation, the Tax Recovery Officer is satisfied that, for the reason stated in the claim or objection such property was not, at the said date, in the possession of the defaulter or of some person in trust for him or that, being in the possession of the defaulter at the said date, it was so in his possession, not on his own account or as his own property, but on account of or in trust for some other person, or partly on his own account and partly on account of some other person, the Tax Recovery Officer shall make an order releasing the property, wholly or to such extent as he thinks fit, from distraint or attachment or sale.
- (5) Where the Tax Recovery Officer is satisfied that the property was, at the said date, in the possession of the defaulter as his own property and not on account of any other person, or was in the possession of some other person in trust for him or in the occupancy of a tenant or other person paying rent to

him, the Tax Recovery Officer shall disallow the claim.

- (6) Where a claim or an objection is preferred, the party against whom an order is made may institute a suit in a Civil Court to establish the right which he claims to the property in dispute, but subject to the result of such suit (if any), the order of the Tax Recovery Officer shall be conclusive.

13. *Removal of attachment or distraint on satisfaction or cancellation of certificate.*

Where,-

- (a) the amount due, with costs and all charges and expenses resulting from the attachment or distraint of any property or incurred in order to hold a sale, are paid to the Tax Recovery Officer, or
- (b) the certificate is cancelled,

the attachment or distraint shall be deemed to be withdrawn and in the case of immovable property, the withdrawn shall, if the defaulter so desires, be proclaimed at his expense and a copy of the proclamation shall be affixed in the manner provided by this Schedule for a proclamation of sale of immovable property.

14. *Officer entitled to attach , distraint and sale.*

The attachment or distraint and sale of movable property and the attachment and sale of immovable property shall be made by the Tax Recovery Officer.

15. *Defaulting purchaser answerable for loss on resale.*

Any deficiency of price which may happen on a resale by reason of the purchaser's default , and all expenses attending such resale, shall be certified by the Tax Recovery Officer and shall, at the instance of either the Assessing Authority or the defaulter , be recoverable from the defaulting purchaser under the procedure provided by this Schedule.

Provided that no such application shall be entertained unless filed within fifteen days from the date of resale.

16. *Adjournment or stoppage of sale.*

- (1) The Tax Recovery Officer may, in his discretion, adjourn any sale hereunder to a specified day and hour.
- (2) Where a sale of immovable property is adjourned under sub- paragraph (1) for a longer period than one calendar month, a fresh proclamation of the sale under this Schedule shall be made unless the defaulter consents to waive it.
- (3) Every sale shall be stopped if , before the lot is knocked down , the arrears and cost (including the costs of the sale) , are tendered to the Tax Recovery

Officer.

17. *Private alienation to be void in certain cases.*

- (1) Where a notice has been served on a defaulter under paragraph 3, the defaulter or his representative in interest shall not be competent to mortgage, charge, lease or otherwise deal with any property belonging to him except with the permission of the Tax Recovery Officer, nor shall any civil Court issue any process against such property in execution of a decree for the payment of money.
- (2) Where an attachment has been made under this Schedule any private transfer or delivery of the property attached or of any interest therein and any payment of the defaulter of any debt, dividend or other moneys contrary to such attachment, shall be void as against all claims enforceable under the attachment.

18. *Prohibition against bidding or purchase by Officer.*

No Officer or other person having any duty to perform in connection with any sale under this Schedule shall, either directly or indirectly, bid for, acquire or attempt to acquire any interest in the property sold.

19. *Prohibition against sale on holidays.*

No sale under this Schedule shall take place on a Sunday or other general holidays recognized by the Government to be a local holiday for the area in which the sale is to take place.

20. *Assistance by police.*

The Tax Recovery Officer may apply to the Officer-in-charge of the nearest police station for such assistance as may be necessary in the discharge of his duties and the authority to whom such application is made shall depute sufficient number of police officers for furnishing such assistance.

21. *Warrant.*

When any movable property is to be attached or distrained, the Tax Recovery Officer shall prepare a warrant under his signature specifying the name of the defaulter and the amount to be realized and cause a copy of the warrant to be served on the defaulter.

22. *Attachment.*

If, after service of the copy of the warrant, the amount is not paid forthwith, the Tax Recovery Officer shall proceed to attach or distrain the movable property of the defaulter.

23. *Property in defaulter's possession.*

Where the property proceeded against is movable property (other than agricultural produce), in the possession of the defaulter, it shall be distrained by actual seizure, and the officer shall keep the property in his own custody or the custody of one of his subordinates and shall be responsible for due custody thereof;

Provided that when the property seized is subject to speedy and natural decay or when the expense of keeping it in custody is likely to exceed in value, the officers may sell it at once.

24. *Agricultural produce.*

Where the property proceeded against is agricultural produce, it shall be attached by affixing a copy of the warrant,-

- (a) where such produce is growing crop, on the land on which such crop has grown, or
- (b) where such produce has been cut or gathered on the threshing floor or place for threading out grain or the like, or fodder-stall, on or in which it is deposited, and another copy on the outer door or on some other conspicuous part of the house in which the defaulter ordinarily resides, or on the outer door or on some other conspicuous part of the house in which he, carries on business or personally works for gain, or in which he is known to have last resided or carried on business or personally worked for gain. The produce shall, there upon, be deemed to have passed into the possession of the Tax Recovery Officer.

25. *Provisions as to agricultural produce under attachment.*

- (1) Where agricultural produce is distrained, the Tax Recovery Officer shall make such arrangements for the custody, watching, tending, cutting and gathering thereof as he may deem sufficient.
- (2) Subject to such conditions as may be imposed by the Tax Recovery Officer in this behalf, either in the order of attachment or in any subsequent order, the defaulter may tend, cut, gather and store the produce and do any other act necessary for maturing or preserving it and, if the defaulter fails to do all or any of such acts any person appointed by the Tax Recovery Officer in this behalf may, subject to the like conditions, do all or any of such acts, and the costs incurred by such person shall be recoverable from the defaulter as if they were included in the certificate.
- (3) Agricultural produce attached as a growing crop shall not be deemed to have ceased to be under attachment or to require re-attachment merely because it

has been severed from the soil.

- (4) Where an order for the attachment of a growing crop has been made at a considerable time before the crop is likely to be fit to be cut or gathered, the Tax Recovery Officer may, suspend the execution of the order for such time as he thinks fit, and may, in his discretion, make a further order prohibiting the removal of the crop pending execution of the order of attachment.
- (5) A growing crop which from its nature does not admit of being stored, shall not be attached under this paragraph at any time less than twenty days before the time at which it is likely to be fit to be cut or gathered.

26. *Debts and shares, etc.*

- (1) In the case of, -
 - (a) a debt not secured by a negotiable instrument,
 - (b) a share in a corporation, or
 - (c) other movable property not in the possession of the defaulter except property deposited in or in the custody of any Court,

it shall be attached and the attachment shall be made by a written order of prohibiting,-

 - (i) in the case of debt, the creditor from recovering the debt, and the debtor from making payment thereof until the further order of the Tax Recovery Officer;
 - (ii) in the case of a share, the person in whose name the share may be standing, from transferring the same or receiving any dividend thereon;
 - (iii) in the case of any other movable property (except as aforesaid), the person in possession of the same from giving it over to the defaulter.
- (2) A copy of such order shall be affixed at some conspicuous part of the office of the Tax Recovery Officer, and another copy shall be sent in the case of the debt to the debtor or in the case of the share, to the proper officer of the corporation and in the case of the other movable property (except as aforesaid), to the person in possession of the same.
- (3) A debtor prohibited under clause (1) of sub-paragraph (1) may pay the amount of his debt to the Tax Recovery Officer and such payment shall discharge him as effectually as payment to the party entitled to receive the same.

27. *Attachment of decrees.*

- (1) Where the property proceeded against is a decree of a Civil Court for the payment of money or for sale in enforcement of a mortgage or charge, it shall be attached and attachment shall be made by the issue to the Civil Court of a notice requesting the Civil Court to stay the execution of the decree unless and until -
 - (i) the Tax Recovery Officer cancels the notice, or
 - (ii) the Assessing Authority or the defaulter applies to the court receiving such notice to execute the decree.
- (2) Where a Civil Court receives an application under clause (ii) of subparagraph (1), it shall on the application of the Assessing Authority or the defaulter and subject to the provisions of the Code of Civil Procedure, 1908 (Central Act 5 of 1908), proceed to execute the attached decree, and apply the net proceeds in satisfaction of the certificate.
- (3) The Assessing Authority shall be deemed to be the representative of the holder of the attached decree and to be entitled to execute such attached decree in any manner lawful for the holder thereof.

28. *Share in movable property.*

Where the property proceeded against consists of the share or interest of the defaulter in movable property belonging to him and another as co-owner, it shall be attached and the attachment shall be made by a notice to the defaulter prohibiting him from transferring the share or interest or charging it in any way.

29. *Attachment of negotiable instrument,*

Where the property is negotiable instrument not deposited in a court nor in the custody of a public officer, it shall be distrained by the Tax Recovery Officer.

30. *Attachment of property in custody of Courts or Public Officer.*

Where the property proceeded against is in the custody of any court or public officer, it shall be attached and the attachment shall be made by a notice to such Court or Officer, requesting that such property, and any interest or dividend becoming payable thereon, may be held subject to the further orders of the Tax Recovery Officer by whom the notice is issued; Provided that, where such property is in the custody of a Court, any question of title or priority arising between the Assessing Authority and any other person, not being the defaulter, claiming to be interested in such property by virtue of assignment, attachment or otherwise, shall be determined by such order.

31. *Attachment of partnership property.*

- (1) Where the property proceeded against consists of an interest of the defaulter being a partner, in the partnership property, the Tax Recovery Officer may make an order charging the share of such partner in the partnership property and profits with payment of the amount due under the certificate; and may by the same or subsequent order, appoint a receiver of the share of such partner in the profits, whether already declared or accruing and of any other money which may become due to him in respect of the partnership, and direct that any audit account or inquiries, if any, be effected and make an order for the sale of such interest or such other order as the circumstances of the case may require.

32. *Value of property.*

In the case of distraint, the seizure shall not be excessive, that is to say, the property seized shall be as nearly as possible proportionate to the amount specified in the warrant.

33. *Inventory,*

In the case of distraint of movable property by actual seizure, of the Tax Recovery Officer shall, after seizure of the property, prepare an inventory of all the property attached, specifying in it the place where it is lodged or kept, and a copy of the inventory shall be delivered to the defaulter.

34. *Seizure between sun-rise and sun-set*

Attachment by seizure shall be made after sun-rise and before sun-set and not otherwise.

35. *Power to break open door, etc.*

The Tax Recovery Officer may break open any inner or outdoor of any building and enter any building in order to seize any movable property if he has reasonable grounds to believe that such building contains movable property liable to seizure under the warrant and he has notified his authority and intention of breaking open if admission is not given. He shall, however give all reasonable opportunity to women to withdraw.

36. *Sale.*

The Tax Recovery Officer may direct that any movable property attached or distrained under this Schedule or such portion thereof as may be necessary to satisfy the certificate, shall be sold

37. *Issue of proclamation.*

When any sale of movable property is ordered by the Tax Recovery Officer, the Tax Recovery Officer shall issue a proclamation in the language of the District, of the intended sale, specifying the time and place of sale and whether the sale is subject to confirmation or not.

38. *Proclamation how made*

- (1) . Such proclamation shall be made by beat of drum or other customary mode,-
 - (a) in the case of property distrained. -
 - (i) in the village in which the property was seized or if the property was seized in a town or city, then in the locality in which it was seized; and
 - (ii) at such other places as the Tax Recovery Officer may direct; in the case of property attached otherwise, then by distrain, in such places, if any, as the Tax Recovery Officer may direct.
 - (b) in the case of property attached otherwise , then by distrain , in such places , if any , as the Tax Recovery Officer may direct.
- (2) A copy of the proclamation shall also be affixed in a conspicuous part of the office of the Tax Recovery Officer.

39. *Sale after fifteen days.*

Except where the property is subject to speedy and natural decay or when the expenses of keeping it in custody is likely to exceed its value, no sale of movable property under this Schedule shall, without the consent in writing of the defaulter, take place until after the expiry of at least fifteen days calculated from the date on which a copy of the sale proclamation was affixed in the office of the Tax Recovery Officer.

40. *Sale of agricultural produce.*

- (1) Where the property to be sold is agricultural produce, the sale shall be held,-
 - (a) if such produce is a growing crop, on or near the land on which such crop has grown, or
 - (b) if such produce has been cut or gathered at or near the threshing floor or place of threading out grain or the like, or fodder stock, on or in which

it is deposited;

Provided that the Tax Recovery Officer may direct that the sale to be held at the nearest place of public resort, if he is of the opinion that the produce is thereby likely to sell to, greater advantage.

- (2) Where, on the produce being put up for sale,-
 - (a) a fair price, in the estimation of the Tax Recovery Officer is not offered for it, and
 - (b) the owner of the produce, or a person authorized to act on his behalf, applies to have the sale postponed till the next day or, if the market is held at the place of sale, the next market day, the sale shall be postponed accordingly , and shall be then completed, at whatever price may be offered for the produce.

41. *Special provisions relating to growing crops.*

- (1) Where the property to be sold is a growing crop and the crop from its nature admits of being stored but has not yet been stored, the day of the sale shall be so fixed as to admit of the crops being made ready for storing before the arrival of such day, and the sale shall not be held until the crop has been cut or gathered and is ready for storing.
- (2) Where the crop from its nature does not admit of being stored or can be sold to a greater advantage in an unripe stage (e.g.as green wheat), it may be sold before it is cut and gathered ,and the purchaser shall be entitled to enter on the land, and to do all that is necessary for the purpose of tending or cutting or gathering the crop.

42. *Sale to be by auction.*

The property shall be sold by public auction in one or more lots as the Tax Recovery Officer may consider advisable and if the amount to be realized by sale is satisfied by the sale of a portion of the property, the sale shall be immediately stopped with respect to the remainder of the lots.

43. *Sale by public auction.*

- (1) Where movable property is sold by public auction, the price of each lot shall be paid at the time of sale or as soon after as the Tax Recovery Officer directs and in default of payment, the property shall forthwith be resold.

- (2) On payment of the purchase money, the Tax Recovery Officer shall grant certificate specifying the property purchased, the price paid and the name of the purchaser and the sale shall become absolute.
- (3) Where the movable property to be sold is a share in goods belonging to the defaulter and a co-owner, and two or more persons, of whom one is such co-owner, respectively bid the same for such property or for any lot, the bidding shall be deemed to be the bidding of the co-owner.

44. *Irregularity not to vitiate sale but any person injured may sue.*

No irregularity in publishing or conducting the sale of movable property shall vitiate the sale, but any person sustaining substantial injury by reason of such irregularity at the hand of any other person may institute a suit in a Civil Court against him for compensation, or (if such other person is the purchaser), for the recovery of the specific property and for compensation in default, of such recovery.

45. *Negotiable instruments and shares in corporation.*

Notwithstanding anything contained in this Schedule, where the property to be is a negotiable instrument or a share in a corporation, the Tax Recovery Officer may, instead of selling it by public auction, sell such instrument or share through a broker.

46. *Order for payment of coin or currency notes to the Tax Recovery Officer,*

Where the property attached or distrained is current coin or currency notes, the Tax Recovery Officer may, at any time, during the continuance of the attachment or distraint, direct that such coin or currency notes, as may be sufficient to satisfy the certificate, be paid over to the Assessing Authority.

Attachment and sale of Immovable Property.

47. *Attachment*

Attachment of the immovable property of the defaulter shall be made by an order prohibiting the defaulter from transferring or charging the property in any way and prohibiting all persons from taking any benefit under transfer or charge.

48. *Service of notice of attachment*

A copy of the order of attachment shall be served on the defaulter.

49. *Proclamation of attachment*

The order of attachment shall be proclaimed at some place on or adjacent to the property attached by beat of drum or other customary mode and a copy of the order shall be affixed at a conspicuous part of the property and on the notice board of the office of the Tax Recovery Officer.

50. *Attachment to relate back from the date of service of notice.*

Where any immovable property is attached under this Schedule, the attachment shall relate back to and take effect from the date on which the notice to pay the arrears, issued under this Schedule, was served upon the defaulter.

51. *Sale and proclamation of sale.*

- (1) The Tax Recovery Officer may direct that any immovable property which has been attached or such portion thereof as may be deemed necessary to satisfy the certificate, shall be sold.
- (2) Where any immovable property is ordered to be sold, the Tax Recovery Officer shall cause a proclamation of the intended sales to be made in the language of the district.

52. *Contents of proclamation.*

A proclamation of sale of immovable property shall be drawn after notice to the defaulter, and shall state the time and place of sale and shall specify as accurately as possible,-

- (a) the property to be sold;
- (b) the revenue, if any, assessed upon the property or any part thereof;
- (c) the amount for the recovery of which the sale is ordered, and
- (d) any other thing which the Tax Recovery Officer considers it material for a purchaser to know, in order to judge the nature and value of property.

53. *Mode of making proclamation.*

- (1) Every proclamation for the sale of immovable property shall be made at some place on or near such property by beat of drum or other customary mode and a copy of the proclamation shall be affixed at a conspicuous part of the property

and also upon a conspicuous part of the office of the Tax Recovery Officer.

- (2) Where the Tax Recovery Officer so directs, such proclamation shall also be published in the Official Gazette or a local newspaper, or in both; and the cost of such publication shall be deemed to be costs of the sale.
- (3) Where the property is divided into lots for the purpose of being sold separately, it shall not be necessary to make a separate proclamation for each lot, unless proper notice of the sale cannot, in the opinion of the Tax Recovery Officer, otherwise be given.

54. *Time of sale.*

No sale of immovable property under this Schedule shall, without the consent in writing of the defaulter, take place until after the expiration of at least thirty days calculated from the date on which a copy of the proclamation of the sale has been affixed on the property or in the office of the Tax Recovery Officer, whichever is later.

55. *Sale to be by auction.*

The sale shall be by public auction to the highest bidder and shall be subject to confirmation by the Tax Recovery Officer.

56. *Deposit by purchaser and resale in default*

- (1) On every sale of immovable property, the person declared to be the purchaser shall pay, immediately after such declaration, a deposit of twenty five per cent of the amount of his purchase money, to the Tax Recovery Officer and in default of such deposit, the property shall forthwith be resold.
- (2) The full amount of purchase money payable shall be paid by the purchaser to the Tax Recovery Officer on or before the fifteenth day from the date of the sale of property.

57. *Procedure in default of payment.*

In default of payment within the period mentioned in the preceding paragraph, the deposit may, if the Tax Recovery Officer thinks fit, after defraying expenses of the sale, be forfeited to the Government and the property shall be resold and the defaulting purchaser shall forfeit all claims to the property or to any part of the sum for which it may subsequently be sold.

58. *Authority to bid.*

All persons bidding at the sale shall be required to declare whether they are bidding on their own behalf or on behalf of their principals. In the latter case, they shall be required to deposit their authority, and in default, their bids shall be rejected.

59. *Application to set aside sale of immovable property on deposit.*

(1) Where immovable property has been sold in execution of a certificate, the defaulter, or any person whose interests are affected by the sale, may at any time within thirty days from the date of the sale, apply to the Tax Recovery Officer to set aside the sale, on his depositing ,-

(a) for payment to the Assessing Authority, the amount specified in the proclamation of sale for the recovery of which the sale was ordered, with interest thereon at the rate of eighteen per cent per annum calculated from the date of the proclamation of sale to the date when the deposit is made ;and

(b) for payment to the purchaser, as penalty, a sum equal to five per cent, of the purchase money but not less than one rupee.

(2) Where a person makes an application under paragraph 60 for setting aside the sale of his immovable property, he shall not, unless he withdraws the application, be entitled to make or prosecute an application under this paragraph.

60. *Application to set aside sale of immovable property on ground of non-service of notice of irregularity.*

Where immovable property has been sold in execution of a certificate, the Assessing Authority, the defaulter, or any person whose interests are affected by the sale, may, at any time within thirty days from the date of the sale, apply to the Tax Recovery Officer, to set aside the sale of the immovable property on the ground that notice was not served on the defaulter to pay the arrears as required by this Schedule or on the ground of a material irregularity in publishing or conducting the sale:

Provided that,-

(a) no sale shall be set aside on any such ground unless the Tax Recovery Officer is satisfied that the applicant has sustained substantial injury by reason of the non-service or irregularity ;and

- (b) an application made by a defaulter under this paragraph shall be disallowed unless the applicant deposits the amount recoverable from him in execution of the certificate.

61. *Setting aside sale where defaulter has no saleable interest.*

At any time within thirty days of the sale, the purchaser may apply to the Tax Recovery Officer to set aside the sale on the ground that the defaulter had no saleable interest in the property sold.

62. *Confirmation of sale.*

- (1) Where no application is made for setting aside the sale under the foregoing paragraphs or where such an application is made and disallowed by the Tax Recovery Officer, the Tax Recovery Officer shall (if the full amount of the purchase money has been paid), make an order confirming the sale; and thereupon the sale shall become absolute.
- (2) Where such application is made and allowed and where in the case of an application made to set aside the sale on deposit of the amount and penalty and charges, the deposit is made within thirty days from the date of the sale, the Tax Recovery Officer shall make an order setting aside the sale;

Provided that no order shall be made unless notice of the application has been given to the persons affected thereby.

63. *Return of purchase money in certain cases.*

When a sale of immovable property is set aside, any money paid or deposited by the purchaser on account of the purchase, together with the penalty, if any, deposited for payment to the purchaser, and such interest as the Tax Recovery Officer may allow shall be paid to the purchaser.

64. *Sale Certificate.*

- (1) Where a sale of immovable property has become absolute, the Tax Recovery Officer shall grant a certificate specifying the property sold, and the name of the person who at the time of sale is declared to be the purchaser.
- (2) Such certificates shall state the date on which the sale become absolute.

65. *Postponement of sale to enable defaulter to raise amount due under certificate,*

- (1) Where an order for the sale of immovable property has been made, if the

defaulter can satisfy the Tax Recovery Officer that there is reason to believe that the amount of the certificate may be raised by the mortgage or lease or private sale of such property, or some part thereof, or of any other immovable property of the defaulter, the Tax Recovery Officer may, on his application, postpone the sale of the property' comprised in the order for sale, on such terms and for such period as he thinks proper, to enable him to raise the amount.

- (2) In such case, the Tax Recovery Officer shall grant a certificate to the defaulter, authorizing him, within a period to be mentioned therein, and notwithstanding anything contained in this Schedule, to make the proposed mortgage, lease or sale;

Provided that all moneys payable under such mortgage, lease or sale, shall be paid, not to the defaulter, but to the Tax Recovery Officer;

Provided also that no mortgage, lease or sale under this paragraph shall become as absolute until it has been confirmed by the Tax Recovery Officer.

66. *Fresh proclamation before resale.*

Every resale of immovable property, in default of payment of the purchase money within the period allowed for such payment, shall be made after the issue of fresh proclamation in the manner and for the period hereinbefore provided for the sale.

67. *Bid of co-sharer to have preference.*

When the property sold is a share of undivided immovable property, and two or more persons, of whom one is a co-sharer, respectively, bid the same sum for such property or for any lot, the bid shall be deemed to be the bid of the co-sharer.

68. *Power to take evidence,*

Every Tax Recovery Officer or other Officer acting under this Schedule shall have the powers of a Civil Court while trying a suit for the purpose of receiving evidence, administering oaths, enforcing the attendance of witness and compelling the production of documents.

69. *Appeals*

- (1) An appeal from any original order passed by the Tax Recovery Officer under this Schedule not being an order which is conclusive, shall be with the Assistant/ Dy. Commissioner of Luxury Tax.
- (2) Every appeal under this paragraph shall be presented within thirty days from the date of the order appealed against.
- (3) Pending the decisions of any appeal, execution of the certificate may be

stayed if the Appellate Authority so directs, but not otherwise.

70. *Review.*

Any order passed under this Schedule after notice to any persons interested, be reviewed by the Officer who made the order, or by his successor-in-office, on account of any mistake apparent from the record.

71. *Recovery from surety.*

Where any person has under this Schedule become surety for the amount due by the defaulter, he may be proceeded against under this Schedule as if he were the defaulter.

72. *Saving regarding charge.*

Nothing in this Schedule shall affect any provision of the Act hereunder the tax being a first charge upon any asset.