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VALUE ADDED TAX RULES, 1991
THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH
THE NATIONAL BOARD OF REVENUE
[VALUE ADDED TAX]

NOTIFICATION

Dhaka, 12 June, 1991/28 JAISTHA, 1398

SRO No. 178-LAW/91/3-MUSAK.– In exercise of the powers conferred by section 72 of the Value Added Tax Act, 1991 (XXII of 1991), the National Board of Revenue is pleased to make the following rules, namely: -

1. **Short title:** These rules may be called the VALUE ADDED TAX RULES, 1991.
2. **Definitions:-** Unless there is anything repugnant in the subject, or context, in these rules,-
 - (a) "Act" means the Value Added Tax Act, 1991 (XXII of 1991);
 - (aa) "utilization permission and utilization declaration" means utilization permission and utilization declaration as defined in the Wholly Export Oriented Industry (Temporary Importation) Rules, 1993;
 - (b) "tax" means value added tax or, as the case may be, value added tax and supplementary duty payable on the goods supplied or service rendered and it shall in the cases mentioned in section 13 of the Act, include value added tax, supplementary duty, import duty, excise duty and all other types of duty and tax (except advance income tax), paid on inputs;
 - (bb) "Contract manufacturer" means manufacturer of goods on contract basis in exchange of consideration using his own input or input supplied by the proprietor of branded goods.
 - (bbb) "section" means a section of the Act;
 - (c) "registration certificate" means a certificate of registration issued by a divisional officer to a registered person under section 15 of the Act;
 - (d) "registered person" means a person registered under section 15;
 - (e) "established exporter" means an exporter who has been recognized by the Directorate of Duty Exemption and Drawback as an exporter on the basis of remarkable record of his export performance and the amount of duty drawback drawn by him during last twelve months;

- (ee) "backward linkage industry" means an industry which supplies goods or renders service in exchange of foreign currency against local back to back letter of credit or local letter of credit to a registered person who is bound under a contract to supply goods or render service to a bona fide exporter in exchange of foreign currency;
- (f) "Form" means form annexed to these rules;
- (ff) "Bonded warehouse" and "special bonded warehouse" means bonded warehouse and special bonded warehouse respectively specified in chapter XI of the Customs Act, 1969;
- (g) "Divisional Officer" means the Divisional officer defined in clause (zz) of section 2 of the Act;
- (h) "bill of entry" means, a bill of entry submitted under section 79 of the Customs Act 1969 (IV of 1969);
- (i) "bill of export" means a bill of export submitted under section 131 of the Customs Act, 1969 (IV of 1969);
- (ii) "Proprietor" means owner of the goods manufactured on contract basis;
- (j) "superintendent" means a superintendent appointed in-charge of a local Value Added tax office or a circle office or the Large Tax-payers Unit of value added tax.

3. Declaration of value for assessment of value added tax and supplementary duty.-

- (1) With a view to fulfilling the purposes of sections 5 and 7 of the Act, a registered person shall, before supply of taxable goods, submit a declaration related to base value including input and output co-efficient of the goods for the purpose of imposition of value added tax or, where applicable, value added tax and supplementary duty on the goods produced or ready for supply by him, to the Divisional Officer of the jurisdiction in Form "Musak-1" in duplicate and the registered person may supply goods on assessment and payment of payable tax on his suppliable goods from the date and on the basis of such declaration.
- (1A) In case of manufacture on contract, a manufacturer of goods shall, on the basis of consideration or price to be received for each unit of goods from the proprietor of the goods, submit price declaration to the Divisional Officer of the concerned area in the Form Musak-1.
- (1B) In case of manufacture on contract, a proprietor of the goods shall be treated to be manufacturer and shall submit price declaration as per sub-rule (1).

- (2) If any change in the base value declared under sub-rule (1) is required, the registered person shall submit a new declaration or amendment to the previous declaration, whatsoever is applicable, to the Divisional officer in the Form "Musak -1" seven days before the execution of such change and shall pay value added tax on the basis of new or amended base-value declared. The Divisional Officer shall instantly inform the computer cell of the Superintendent's office and the Commissioner's office regarding change in the base value.
- (3) If it is subsequently evident, regarding value declared under sub-rule (1) or (2) or rule 3B on the basis of information received from investigation or market survey conducted by the Divisional Officer or circle Superintendent or any other value added tax officer authorised by the Commissioner in this behalf, or from investigation or survey conducted, on the basis of information and data, relating to the quantity of value addition and division thereof, actual expenditure of the firm, declared value, approved value, or market value of identical or similar or congeneric goods, kept in the circle office, division office or office of the Commissioner that -
- (a) the declared base value is inconsistent with the provisions of section 5 of the Act; or
 - (b) the declared base value is less than the base value of the similar goods or goods of same nature and quality of same jurisdiction or of any other jurisdiction; or
 - (c) the extent of value addition as shown in Form "Musak-1" is significantly low; or
 - (d) because of any relationship existing between the supplier and the purchaser or for gaining reciprocal interest or for the benefit of either, the declared base value is significantly low, and if, for that reason, the value added tax or, where applicable, value added tax and supplementary duty has been paid or may be paid less, the Divisional Officer may, after giving the registered person reasonable opportunity of being heard, determine the appropriate base-value on the basis of information so received, or gathered and from the date of such declaration payable value added tax shall be assessable and payable for all relevant tax periods according to the said base value.
- Explanation.- The effectiveness of any provision relating to the punishment of any offence committed under the Act or of the rules shall not be

prejudiced because of the determination of base value and tax by the Divisional Office under this sub-rule:

Provided that if the Divisional Officer fails to complete the said process within fifteen working days from date of receipt of the value declaration, it shall be deemed that the Divisional Officer does not have any objection to the declared value.

[Sub-rules (4) and (5) have been omitted vide SRO No. 99-LAW/95/117-VAT dated 15 June 1995]

(6) In the case of giving business discount under subsection (5) of section 5, the registered person shall inform the concerned Divisional Officer or publish a notice in a national daily specifying the actual price and the price after trade discount at which goods shall be supplied and the duration for which the trade discount facilities shall be available and the trade discount given shall not exceed fifteen per cent. of the actual price and shall be given only for maximum thirty days during any twelve-month period.

(7) Notwithstanding anything contained in sub-rule (1), the Commissioner of value added tax may, *suo moto* or on application from a registered person, or on request from the Divisional Officer, for the reason of fluctuation of market price of goods, or for any other special reason in his opinion, fix the base value for assessment of tax of any goods or class of goods:

Provided that if the Divisional Officer fixes higher base value than the declared value, the concerned registered person may, within thirty working days of the order of the Divisional Officer submit a prayer to the Commissioner to reconsider the base value and if the Commissioner fails to give a decision on the prayer within fifteen working days from the date of the receipt of the prayer, it shall be deemed that he has granted the prayer:

Provided further that the Commissioner may, while fixing the base value for any goods either *suo moto* or on the request from the Divisional Officer, request the base value review committee constituted by the Board by an order, to offer its recommendation about the base value of any goods or a class of goods.

(8) Declared price list of the goods for supply shall be affixed in such a place of production or manufacture or place of business so that it can easily be sighted.

(9) The goods on which, Tariff value has been fixed by the Board under the subsection (7) of sec 5 of the Act, the registered person shall submit, a declaration of input-output co-efficient in Form "Musak-1A", to the Divisional Officer of the Jurisdiction and the Divisional Officer shall approve the said declaration after due

scrutiny and correction, if necessary. The registered person shall assess and pay payable value added tax, or where applicable, value added tax and supplementary duty, on the basis of so approved input-output co-efficient for the goods under the tariff value:

Provided that the registered person shall be given an opportunity of being heard, in case of any change or amendment in the declaration made by the registered person.

3A. Declaration of value for determination of value added tax on service.-

The Board may, by general or special order, direct the concerned registered person rendering taxable service to declare base value for assessing tax and determine the procedure for such declaration.

3B. The procedure for supply of goods by the manufacturer or importer at fixed price.-

In the case of supply of the goods by printing its price on the body of the goods or on its container or its packets at the production stage by the producer or at the supply stage by the importer the following procedures shall be followed, namely: -

- (a) the manufacturer or the importer shall, before supplying value added tax payable goods, declare the price according to the procedures specified in rule 3 for the purpose of imposition of value added tax or, where applicable, value added tax and supplementary duty:

Provided that the declaration in Form 'Musak-1' shall show the value at the manufacturing stage and all expenses of ultimate supply stage, profit and commissions separately in the Form 'Musak-1';

- (b) the manufacturer or the importer shall submit an undertaking to the Board to this effect that the declared fixed price shall be printed in indelible ink in a conspicuous place on the goods or on the container or on the packet and the goods shall be supplied in the same price throughout the country;
- (c) While submitting the undertaking to the Board as per clause (b), all necessary documents in support of the undertaking shall be submitted;
- (d) While submitting the documents as per provision of clause (c), a sample of goods shall, containing the words "মুসক পরিশোধিত" or as the case may be, "VAT Paid" beside, bellow or above the price printed on the goods or the container or the packet, be submitted;

- (e) on receipt of the approval of the Board, the divisional officer shall intimate it to the concerned producer or importer and supply of the goods may be made from the date fixed by him.
- (f) goods shall have to be supplied or sold by affixing, at the time of supply or sale of goods by own sale centre, distributor, dealer or agent, on the invoice in Form "Musak-11" the seal to the effect "the entire value added tax paid at source".

4. Payment of turnover tax.-

- (1) If the annual turn over of any supplier of taxable goods or any renderer of taxable service, is less than taka Twenty lacs, he shall pay "turn over" tax at the rate of four percent on the annual turnover.
- (2) A person required to pay turn over tax under sub rule (1) shall have to be enlisted with the superintendent for the purpose of paying turnover tax. For this purpose the concerned person shall have to apply to the superintendent in Form "Musak-6". If the superintendent is satisfied about the annual turnover of the applicant, he shall enlist the applicant within seven working days of the receipt of the application and shall issue him a certificate in this respect in Form "Musak-8".
- (2A) Within the first 30 days of each year after the enlistment under sub-rule (2), a declaration in Form "Musak 2(b)" (along with the first and the second copies) regarding the amount of estimated turnover of that year and the manner of payment of tax shall have to be submitted to the superintendent. If the information given on the declaration is considered to be acceptable to the superintendent, he shall after according approval to it, send a copy to enlisted person:

Provided that, if the turnover declared by a person is not, for a specified and reasonable ground considered to be acceptable by the superintendent, he may, after giving the person a reasonable opportunity of being heard, determine, on the basis of information received by him, the amount of reasonable turnover of the said person.
- (3) An enlisted person shall have to pay turnover tax from the date of enlistment.
- (4) An enlisted person may pay the turnover tax annually at a time. In the case of payment annually at a time, the turnover due shall have to be deposited in the Government treasury within 30 days after the enlistment, under the head,

1/1133/0000/0921; A person paying turn over tax annually at a time shall have to submit to the concerned Superintendent a return in Form "Musak-4" only once in a year, and the treasury challan in original shall have to be appended to the return as an evidence of the payment of turn over tax.

- (5) An enlisted person may also pay the turn over tax on monthly or quarterly basis, if he so, desires. In such a case, the enlisted person shall have to pay, within 30 days from the date of enlistment, on monthly or quarterly basis one-twelfth and one-fourth, respectively, of the turn over tax in the manner laid down in sub-rule (4). The remainder of the turn over tax shall have to be paid, in the case of payment on monthly basis, within 15 days of the next month and in the case of payment on quarterly basis, within 15 days of the expiry of every three months, in the manner laid down in sub-rule (4). In the case of payment of turn over tax on monthly and quarterly basis, a return in Form "Musak-4" shall have to be submitted to the superintendent for separate tax periods, commencing from the date of enlistment, within fifteen days of the expiry every month on every three months (English month); and the treasury challan in original shall have to be appended to the return as an evidence of the payment of turn over tax.

[Sub-rules (7), (8), (9), (10), (11) and (12) have been omitted vide SRO No. 30-law/2003/364-VAT dated 03/10/2003 and sub-rules (6) and (13) have been omitted by SRO No. 162/LAW/2003/370-VAT dated 12-06-2002]

- (13A) If the enlisted person fails to pay the turnover tax fixed by the superintendent, in the manner laid down in sub-rule (4) or (5), the superintendent may impose on him an additional tax at the rate of two percent per month on the unpaid amount, in addition to a fine not exceeding taka five thousand.
- (14) Any amount due to the Government relating to the Turn Over Tax shall be recovered in accordance with the procedure laid down in section 56.
- (15) In the case of refund of any money relating to turnover tax paid through inadvertence or in excess, action may be taken according to section 67.
- (16) The turnover tax payer shall, at the time of removal of his goods from the place of manufacture or production or rendering service, maintain the accounts of his transactions in Form "Musak-17A" and shall, at the time of removal of the goods, or rendering of service shall distinctly mention his enlistment number on the cash memo issued.

- (17) This rule shall not apply in the case of a person voluntarily enlisted in accordance with section 17 for payment of value added tax and in the case of a person supplying goods and rendering service mentioned in the order issued in accordance with sub-section (4) of section 8.
- (18) If the annual turnover of an enlisted person exceeds, after the expiry of one year from the date of enlistment, the amount mentioned in sub-rule (1), he shall have to submit an application in form "Musak-6" to the concerned local value added tax office for registration under section 15, along with an application for cancellation of enlistment number.
- (19) The superintendent shall send every month to the divisional officer the number of enlistment and a copy of the information relating to realization of turnover tax.
- (20) The divisional officer may at any time examine the information relating to the annual turnover tax of the enlisted person and may, by recording reasons, issue necessary directions to the superintendent about it.
5. **Delegation of power to the value added tax officer. –**
The Board may delegate to any value added tax officer the authority to exercise any power given by the Act or the Rules.
6. **Exercise by the commissioner of the powers of other officers.-**
The Commissioner may perform all or any functions or exercise all or any powers given to or conferred upon any officer under these rules.
7. **Inspection, search and seizure of vehicles.-**
(1) If there is any complaint as to the loading or carrying in a vehicle any goods in violation of any provision of the Act or of these rules or if it is considered that there is reasonable ground to believe that, any value added tax officer, being not below the rank of an Assistant Commissioner, or any other officer empowered by him in this behalf may intercept the vehicle or enter it and inspect and search the goods loaded or carried in it and direct the driver or the person in possession of the vehicle or the person supplying or receiving the goods or his representative to show invoices necessary for transportation of goods:
Provided that in the order to inspect, search or seizure of the vehicle on reasonable grounds the officer giving the order shall specifically mention the area of such operation and the goods or a class of goods for carrying out such activities and the name and designation of the person empowered while carrying

out the activities under this sub-rule the concerned empowered officer shall carry with him his identity card and, if necessary, show it to the concerned person.

- (2) If the said officer is satisfied, after inspection or search, that no goods without payment of tax on it was carried in the vehicle searched, he shall mention on the back of the invoice the time, date and place of search of the goods in the vehicle and put his signature and seal.
- (3) If at the time of inspection and search in accordance with sub-rule (1) it appears that the goods has been carried without valid invoice or evading payment of tax, the said officer shall, after giving the driver or person in possession of the vehicle carrying the goods or receiver of the goods supplied or his representatives an acknowledgement receipt in Form " Musak-6" and seize the goods along with the vehicle.
- (3A) Notwithstanding any thing contained is sub-rule (3), except in the case of realization of tax from brick-field under the Seasonal Brick-field Value Added Tax Rules 2004, if it appears that the owner of the goods and of the vehicle is the same and a registered person, the said officer shall after seizing the identity card of the driver of the vehicle or the person in its possession or the supplier or receiver of supply or his representative, hereinafter referred to as the supplier, the invoice of the goods (if any) and other documents, shall obtain signature of the supplier on two copies of Form Musak-5A and, pending adjudication of the goods, release the goods and the vehicle immediately along with a signed copy of Form Musak 5A.
- (3B) If the owner of the seized goods or the vehicle carrying the seized goods applies for interim release of the seized vehicle during the proceeding of the case and furnishes an undertaking in Form Musak 5(A) to the effect that the vehicle will be produced, in the interest of adjudication, at the place, time and in the manner specified by the adjudicating officer and if the owner fails so to produce, he shall be liable to punishment under section 37, the concerned adjudicating officer shall release the vehicle in favour of the applicant within twenty four hours of the receipt of the application.
- (4) The officer conducting every inspection, search or seizure under sub-rules (2) and (3) shall, within the next working day or if it is not possible to submit within the said period, within additional two work days, submit a report to the controlling officer or, as the case may be, the ordering officer, recording the reason for the delay, and on the basis of the report the controlling officer or, as the case may be, the ordering officer shall maintain in a register in his office

information relating to the number of transport, the name, quantity and price, of the goods, the names of the supplier and the receiver, etc.

8. Drawing of samples.-

The supplier of taxable goods shall be under obligation to supply to any value added tax officer the sample of the goods supplied by him or of the out put used in the manufacture or production of such goods and the officer shall, after the purpose for which it was drawn has been served, return the sample to its owner.

9. Procedure of registration -

- (1) If the annual turn over of the supplier of taxable goods or taxable service is not less than taka twenty lacs, he shall have to submit an application for registration in Form 'Musak-6' to a Divisional officer or to an officer, not being below the rank of Assistant Commissioner specified by an order by the Board in this behalf.
- (2) If the turn over of a person in respect of the taxable goods supplied or taxable service rendered becomes, at any time during twelve consecutive months after his being exempt from the requirement of registration under section 16, he shall within thirty days of the expiry of such period, submit an application for registration to the Divisional Officer or an officer, not below the rank of an Assistant Commissioner, specified by order by the Board in this behalf.
- (3) A person who intends to start the business of supplying taxable goods or rendering taxable service shall, before starting the business, apply to the divisional office or such officer, not below the rank of Assistant Commissioner, as the Board may, by order, empower in this behalf, for registration, if the annual turnover of the business is estimated to be at least taka twenty lakhs.
- (4) Where more than one taxable goods or service are supplied or rendered or import or exports are made from the same place of manufacture or production or rendering of service or import or export, only one registration shall be required.
- (5) A person required to be registered shall, along with the application for registration submitted in Form Musak-7 a declaration containing particulars of premises, plant, capital machineries and fittings and goods to be produced or purchased and sold or stocked and major inputs thereof.
- (6) A person who imports or exports any goods shall apply for registration under sub-rule (1) to the divisional office or to such officer of value added tax, not below the rank of Assistant Commissioner, as may be specified by order by the Board in this behalf.

10. Voluntary registration.-

If a person exempt from being registered under section 16 of the Act intends to be registered voluntarily, shall submit an application to the local value added tax office thirty days before the commencement of the tax period in which he intends to be registered. The voluntarily registered person shall be required to pay value added tax or, where applicable, supplementary duty from the first day of the tax period subsequent to the date of registration.

11. Issuance of registration certificate.-

- (1) If the application for registration is considered to be acceptable by the Divisional Officer or an officer of value added tax, not below the rank of an Assistant Commissioner, specified by order by the Board, in this behalf, he shall issue a registration certificate to the applicant in Form "Musak-8" within two working days of the receipt of the application.
- (1A) After the issuance of the registration certificate under sub-rule (1), if the officer issuing the certificate, on investigation or in any other manner, becomes satisfied that the information furnished in the application for registration is untrue, he may cancel the registration under the provision of section 19 of the Act after giving the person reasonable opportunity of being heard.
- (2) If any person fails to mention the Import Registration No in column 6 of Form "Musak-6", the Divisional Officer, shall issue him registration certificate subject to the condition of submission of the Import Registration No. within such specified time as he deems fit.

12. Change of place or situation of business.-

- (1) If the place or situation of the business of a registered person is changed, he shall have to submit a declaration in Form "Musak-9" to the local value added tax office or, as the case may, offices at least fourteen days before such change, subject to payment in full of value added tax or, as the case may be, supplementary duty or turnover tax.
- (2) If a registered person intends to refrain from the conduct of the business of supply of taxable goods or rendering of taxable service or import of taxable goods or export of any goods or service, he shall inform it to the local value added tax office at least 24 (twenty-four) hours before such refraining.

13. Exhibition of certificate of registration, etc.-

A registered person shall -

- (a) Exhibit in the premises from which goods are supplied or service are rendered or goods are imported or exported, in bound condition or, as the case may be, by affixing them on the wall, his registration certificate and such other order, notification, poster or such other paper as the Board may direct in this behalf so that they become easily visible;
- (b) write the number of his registration on the signboard or bill board expressing the identification of his place of production or rendering of service or carrying business in such letters as it becomes easily visible.

14. Change or amendment of registration certificate.-

The Commissioner may, for the purpose of making any change or amendment in the registration of a registered person, direct the concerned registered person at anytime to submit the registration certificate to him.

15. Cancellation of registration.-

- (1) A registered person may, under any of the circumstances following below, submit to the local value added tax office an application in Form "Musak-10" for cancellation of his registration, namely: -
 - (a) refraining from manufacturing or producing or selling taxable goods or supplying taxable service or importing or exporting any goods;
 - (b) taxable goods or service being declared as exempted from tax;
 - (c) failure, after being registered, to start the business of manufacturing or producing or supplying of taxable goods or rendering taxable service;
 - (d) the annual turnover of a registered person voluntarily registered under section 17 of the Act being less than taka twenty lakhs during the period of twelve months next following his registration;
 - (e) the annual turnover of a registered person being less than taka twenty lakhs.
- (2) The Divisional Officer of value added tax, if satisfied, on the recommendation of the superintendent given after necessary investigation, that the applicant is no more required under the law to remain registered and that he has no undisposed of liability, he may cancel the registration of such person.

16. Issue of invoice in the case of supply and export of taxable goods.-

- (1) A registered person shall have to issue in the case of every supply of taxable goods supplied by him, in Form "Musak-11" or in any other form approved in this behalf by the Board by notification in the official Gazette, by using double faced carbon; the original copy of it shall accompany the goods up to the final destination mentioned in the invoice and if the purchaser is a registered person, he shall maintain the said copy in the premises of his business for not less than four years and this second copy shall have to reach the local value added tax office within 5(five) working days of the supply of the goods and the third copy have to be maintained for not less than four years in the place of manufacture or production or business as appended to the invoice register:

Provided that in case of supply of mechanical naval vessel or motor vehicle, the original copy of the invoice shall have to be submitted to the registration authority at the time of registration of the said vessel or vehicle:

Provided further that in the case of every supply of them to an unregistered person by a business man, he shall issue an invoice in form "Musak-11A" by using a double faced carbon and the second copy of the invoice shall be maintained for not less than four year in the place of business as appended to the invoice register.

- (2) If the registered supplier, supplies the goods manufactured by him or stored in his registered premise, for his own consumption, he shall issue in the form as described in sub-rule –1, a consolidated challan in his favour at the end of a day and shall preserve the original and third copy in challan book which shall be preserved and shall submit the second copy to the local VAT office within seventy two hours from the time when the supply was effected.
- (3) The procedure, as laid down in sub-rule (1), shall be followed in the case of issue of challan against export consignment.
- (3A) Notwithstanding anything contained in sub-rule (1), (2), or (3), the Commissioner may, by special order, allow specified class of goods, organization or person to issue of computerized challanpatra for each transaction of any goods.
- (3B) Notwithstanding anything contained in sub-rule (1) and sub-rule (2), a registered person may, if he intends to issue invoice (Challanpatra) in his own format, prepare and issue invoice (Challanpatra) Musak-11 alongwith his own additional information without changing the information required for Form Musak-11.

- (3C) Under contract manufacture, the proprietor shall, at the time of supply of input to the manufacturer, give an invoice in the Form Musak-11C using double-faced carbon paper and shall preserve the second copy of the invoice in the invoice book at the place of his business for four years.
- (3D) The contract manufacturer may supply the goods manufactured on contract basis only to the proprietor in favor of his registered address and shall follow the provisions of sub-rule (1) in the event of supply of goods.
- (4) The Superintendent of the concerned value added tax office or any officer above him may verify through Form Musak (11B) the correctness of Challanpatra in Musak-11 given by the registered person according to the procedure mentioned in sub rule (1), (2), (3), (3A), (3B), (3C) and (3D) and input tax credit received against it.

17. Issue of challan for rendering or export of services.-

- (1) In the case of rendering or exporting service under sub-section (1) of section 16 of the Act a registered person shall prepare a challan in triplicate in form mentioned in sub-rule (1) of rule 16 by using double-faced carbon and of the challans (invoices) so prepared -
- (a) the original one to the recipient or buyer of such service and if the recipient or buyer of the service is registered, he shall preserve the copy at his business for premises at least four years.
- (b) the second copy shall be submitted to the local value added tax office within 5 (five) working days from the time when the service was rendered.
- (c) the third copy shall be preserved in the premises of rendering service for at least four years as attached to the invoice (challan) book.
- (2) At the time of registration of land developed by the land developer or apartment or shop built by the builders or land sold by the seller of land, the invoice (challanpatra) (in Form Musak 11) and the original or certified copy of the related treasury challan shall have to be submitted to registration authority.

- (2A) Notwithstanding anything contained in sub-rules (1) and (2) the Commissioner may, by a special order allow in each case, a specified class of service, organization or person to issue challan prepared through computer.
- (2B) Notwithstanding anything in sub-rules (1) and (2), a registered person may, if he intends to issue invoice (Challanpatra) in his own format, prepare and issue invoice (Challanpatra) Musak-11, along with his own additional information without changing the information required for Form Musak-11.
- (3) The Superintendent of the concerned value added tax office or any officer above him may, if necessary, verify through Form "Musak-(11B)" the correctness of challanpatra in Musak-11 given by the registered person according to the procedure mentioned in sub-rules (1), (2A) and (2B).

17B. Credit note and debit note.-

- (1) Where in the case of a registered person, after filling up or issuance of a challan or after adjusting the payable tax in the Account Current Register, a necessity arises to cancel it; or after the supply of goods or rendering service the whole or part of it is returned; or the nature of supply of goods or service rendered is basically changed; or the tax shown in the challan is in excess of the tax payable, in that case he shall, after canceling the challan for the purpose of adjustment in the Account current and, where applicable, in subsequent return, issue a credit note in Form "Musak -12" in favour of the buyer for the amount of VAT or tax paid against goods or service returned or tax shown in excess in the invoice (challanpartra), and shall, within next working day submit a copy of it to the concerned circle Superintendent:

Provide that -

- (a) in the case of receipt back in full or in part of the goods or service after its supply or rendering, if it is received back within ninety days of supply or rendering;
- (b) if the goods supplied or service rendered is withdrawn because of deterioration of quality standard, this rule shall not apply to the said registered person.
- (2) where, after filling an invoice or giving it or after adjusting the payable tax in the account current or supply of goods or rendering of service, it appears that a less amount of tax than the actual amount of tax payable against the suppliable or supplied goods or service rendered or to be rendered has been mentioned in the invoice, he shall cancel the invoice and shall issue a debit note in Form "Musak-12" in favour of recipient of the goods or service after mentioning the actual

amount of the tax payable and shall submit, within the next working day, a copy of it to the concerned local circle superintendent and at the sametime adjust the matter in the account current and, where applicable, in the subsequent return.

18. Issue of challan (invoice) in the case of imported goods.-

- (1) If the registered supplier is a direct importer of the input, the relevant bill of entry, wherein the amount of value added tax paid is recorded, shall be taken to be the challan for the purpose of taking credit.
- (2) At the time of supply of imported goods by a commercial importer, three copies of the challan (invoice) shall be prepared, out of which
 - (a) the original copy shall be furnished to the buyer;
 - (b) the second copy shall have to be submitted to the local value added tax office within 5 (five) working days of the supply of the goods; and
 - (c) the third copy shall be preserved in attached form in the challan book for at least four years.
- (3) Notwithstanding anything contained in sub-rule (2), the Commissioner may, in each case, by a special order, allow specified class of goods or organization or person to issue computerized challan in each case for goods.

19. Procedure for input tax credit.-

- (1) A registered person may take credit of value added tax under section 9 of the Act or, where applicable, of other taxes and duties, including value added tax, under section 13 in a tax period against that put tax payable by him in that tax period in respect of supply of taxable goods or rendering of taxable service.
 - (1A) Notwithstanding anything contained in sub-rule (1), credit may be taken for the following payments in respect of a place, establishment or premises connected with the production or supply of goods or rendering of taxable service, namely: -
 - (a) eighty per cent. of the value added tax paid on the use of insurance, and supply of gas and electricity; and
 - (b) sixty per cent. of the value added tax paid on the use of telephone, teleprinter, fax, internet, freight forwarders, clearing and forwarding

agent, WASA, audit and accounting firm, purveyor, security service, legal advisor, transport contractor and letter of credit.

- (2) In the case of supply of taxable goods, the registered person shall, after all the inputs, along with the bill of entry containing his registration number or the invoice having entered the place of production or supply of goods or place of business, record, in writing, in the column "credit" shown in the account current in Form "Musak-18" the input tax paid on inputs purchased by him;
- (2A) The input tax mentioned in sub-rule (2) may be adjusted against output tax in the tax period in which the goods of the taxpayer enters the place of manufacture or production or business, by recording in writing in the account current and in any tax period, if the output tax is more than the input tax, the excess amount of the output tax shall have to be deposited in the Government treasury in cash, and if the input tax is more than the output tax, the excess amount of the input tax have to be shown in column "carried forward" in the account current in the subsequent month, which may be adjusted in successive order against output tax.
- (3) A registered person who supplies both taxable and tax-exempted goods may, after the inputs purchased by him have entered the place of manufacture or production, take credit of input tax against output tax by recording in column "credit" in the account current the amount of input tax paid on them and, after the concerned tax period, he shall have to make adjustment of the amount of value added tax paid on the inputs used in the manufacture or production of tax-free goods sold during the said tax period, by recording in writing the amount in column "payable" in the account current and it shall have to be shown in the returns of that tax period.
- (4) A registered person who supplies taxable goods and exports any goods in the manufacture or production of which value added tax and other duty and tax-paid inputs are used may, after the inputs purchased by him has entered the place of manufacture or production, take credit against the output tax payable on the supply of taxable goods by recording in writing in column "credit" in the account current the amount of input tax paid on the inputs purchased, and may, after the expiration of the relevant tax period, take credit of the amount of supplementary duty, import duty, excise duty and all other duties and tax (except advance income tax) paid on the inputs used in the manufacture or production of the goods exported during the said tax period, by recording in writing in column

"credit" in the account current and he shall show it in the returns of the said tax period.

- (5) A registered person who renders taxable service may, in the same tax period, take credit for the input tax paid on the inputs used in the service rendered by him during the tax period and after taking credit, if the tax payable is more than the input tax paid, the excess payable tax shall be deposited in the government treasury; and if the input tax paid is more than the tax payable, the excess amount of the input tax shall be shown in the subsequent tax period in column "carried forward" in the account current and shall be adjustable successively against payable tax.
- (5A) Where a registered person renders both taxable and exempted service, the said person may take credit only for the input tax paid on the inputs used in the rendering of taxable service.
- (5B) Where a registered person renders both taxable service and Tax-exempted service in which value added tax and other duties and tax paid inputs have been used, he may, after the expiry of the relevant tax period, take credit against the tax payable on the rendering of service during the said tax period of the amount of money which has been paid, in accordance with the provisions of section 13, as supplementary duty, excise duty and all other duties and taxes (except advance income tax) on the inputs used in the service exported and in the case of so taking, he shall show it in the returns of concerned tax period.
- (6) A person who is a beneficiary under cottage industry, turnover taxpayer and producer of exempted goods shall not take credit on value added tax paid on inputs used in the production of his goods.
- (7) A contract manufacturer of goods may take credit of value added tax paid on inputs, used for production of the goods other than the inputs supplied by the proprietor, on fulfilling the provisions of section 9 provided the input is shown in the value declaration.

20. Input-tax credit on capital machinery.-

- (1) A registered person engaged in the manufacture or production of taxable goods or rendering or export of taxable service may, in the case of imported capital machinery, get release of the machinery from customs station without paying value added tax, by furnishing an undertaking in Form "Musak-14".
- (2) If the Divisional Officer certifies to the effect that the machinery has been properly installed in the place of manufacture or production of the goods or

rendering of service of the registered person within six months from the date of the release of the machinery on furnishing undertaking, the Commissioner of the customs station shall order cancellation of the undertaking, and if the taxpayer fails to install the imported machinery wholly within six months, he may, on an application to the Commissioner, get the time limit extended for further three months.

- (3) A supplier of capital machinery manufactured or produced in Bangladesh may supply, by furnishing an undertaking in form "Musak-14", capital machinery manufactured or produced by him, without payment of value added tax, to any other registered person engaged in manufacture or production of taxable goods or rendering of taxable service or engaged in export, for installation in his place of manufacture or production of taxable goods or rendering of taxable service or in place of manufacture or production of exportable goods. If the concerned Divisional Officer is satisfied, after necessary investigation, to the effect that the machinery has been properly installed in the purchaser's place of manufacture or production of goods or rendering of service, within six months from the date of the supply of the machinery, the Divisional Officer shall order cancellation of the undertaking, and if it has not been possible to install the capital machineries within six months the Commissioner may extend the time-limit for further three months.
- (4) If the registered person sells the capital machinery mentioned in sub-rules (1) and (3), to any other registered person, before the expiry of the subsequent four years, the seller shall have to refund to the Government exchequer the credit taken or adjust it in the account-current or in the return according to the following Schedule, namely:-
- In the first year : one hundred per cent. of the value added tax credit taken;
 - In the second year : sixty-five per cent. of the value added tax credit taken;
 - In the third year : thirty-five per cent. of the value added tax credit taken;
 - In the fourth year : fifteen per cent. of the value added tax credit taken.
- (5) If a registered person purchases the capital machinery mentioned in sub-rules (1) and (3), he shall be entitled to take value added tax credit according to the following Schedule, namely:-
- In the first year : one hundred per cent. of the value added tax credit taken;
 - In the second year : sixty-five per cent. of the value added tax credit taken;
 - In the third year : thirty-five per cent. of the value added tax credit taken;
 - In the fourth year : fifteen per cent. of the value added tax credit taken.

21. Tax credit on stock of inputs available at the time of commencement of the Act.-

- (1) If, at the time of commencement of the Value Added Tax Act, there has been a stock of excise duty or sales tax-paid inputs or, if, on any date after the date of commencement of the Value Added Tax Act, there has been a stock of inputs usable in the production of any goods newly brought within the network of the Value Added Tax Act, available to a registered person, he may take input tax credit of an amount equal to ten per cent. of the price of stock-average for two months or the price of the actual stock, whichever is less.

Explanation.- The price of stock-average for two months shall be determined in the manner, whichever is applicable, following below, namely: -

- (a) on the basis of the monthly average of the price of sales tax or excise duty-paid inputs used during three months immediately prior to the 1st July, 1991; or
- (b) if, during the period mentioned in clause (a), the registered person was not engaged in the production or manufacture of goods, on the basis of monthly average of the price of sales tax or exercise duty-paid input used during the last three full months; or
- (c) if the registered person was engaged in the production or manufacture of goods for a period of less than three months, on the basis of the price of sales tax or excise duty-paid inputs used during the last two full months; or
- (d) if the actual stock is less than the two month-average stock determined in any of the manner mentioned above, on the basis of the price of sales tax or excise duty-paid actual stock of inputs; and
- (e) the price of input stock shall be, in the case of sales tax-paid goods, the price on the basis of which sales tax has been paid, and in the case of excise duty-paid inputs, the price on the basis of which excise duty has been paid.
- (2) In the case of stocked inputs, a registered person entitled to tax credit shall have to submit to the local value added tax office two copies of the declaration in Form "Musak-15" in respect of stocked inputs on the date of commencement of the Act or in respect of the goods newly brought within the purview of value added tax, on any date after the date of commencement of the Act, within seven days of such date and the Superintendent shall, after making necessary investigation, make recommendation to the Divisional Officer, on verification, about the correctness of the stocked goods mentioned in the declaration and shall supply a copy of the declaration to the registered person and the registered

person may, in the first instance, take against input tax credit of the amount of money due for taking credit.

- (3) The Divisional Officer shall, after such verification and examination as he may deem fit, determine, on the basis of the superintendent's recommendation mentioned in sub-rule (2), the final amount of the credit and shall, if there is any difference between the amount finally determined and the amount recommended under sub-rule (2), give direction for necessary adjustment in the account current and the return.

22. **Accounts Keeping.-**

- (1) A registered person shall maintain in his place of manufacture or production or business or in the place of rendering service the following books, whichever is applicable, namely: -

- (a) Purchase Accounts Register.-

In this register, information relating to purchase of taxable and tax-exempted goods or purchase of service shall be recorded in writing in Form "Musak-16";

- (b) Sales Accounts Register.-

In this register, information relating to supply of taxable and tax-exempted goods or rendering of service or export of such goods or service shall be recorded in writing in Form "Musak-17";

- (c) Invoice Register.-

Invoices printed according to Form "Musak-11" and, where applicable, in Form "Musak-11A" shall have to be so maintained the bound book form that any page of it cannot be removed without tearing and in the invoices numbers shall have to be printed serially; and

- (d) Account current Register.-

In this register, the description of transactions, the amount of payable output tax, output tax deposited in the treasury and output tax on which credit may be taken and information relating thereto shall be recorded in writing in accordance with Form "Musak-18" and such amount of money shall have to be deposited, from time to time, through treasury challan, in the case of value added tax, under heading "1/1133/0000/0311 and, in the case of supplementary duty on goods, under heading 1/1133/0000/0711 and, in the case of supplementary duty on service, under heading " 1/1133/0000/0721 so that the payable output tax may be paid at any time

by the aggregate of the money so deposited and the credit taken in respect of output tax.

The registered person shall send to the office of the concerned Superintendent the original copy of the treasury challan received against such deposit within three working days after its receipt.

- (1A) The Commissioner may, on the basis of the application of a registered person, allow, subject of the condition of maintaining computer print copy and any other condition as the Commissioner may specify, the maintenance in his place of manufacture or production or business or rendering service, of the registers relating to maintenance of accounts mentioned in sub-rule (1) notwithstanding the provisions of the said sub-rule, by keeping its accounts through computer.
- (1B) A contract manufacturer shall, if he manufactures any other goods subjected to value added tax in the same premises, maintain separate accounts, as per provisions of Act, for goods manufactured under contract and for his own goods.
- (2) A registered person shall, so maintain the accounts of the raw material used by him in the manufacture or production of goods or rendering of service, service, machinery or spare parts or the accounts of any bill paid, or money deposited in the treasury, by him or the accounts of goods manufactured or produced as they may be easily audited.

23. **Payment of tax.**—

- (1) A registered person shall, in the case of supply of goods or rendering of service by him, pay the tax payable under section 3 or, where applicable, sections 3 and 7 of the Act or any other Government dues, after deducting the allowable input tax from the output tax or any other Government dues payable before adjustment in the account current mentioned in rule 22 and submission of the return mentioned in sub-rule (3) of rule 24 respectively, pay, by depositing the net amount in the treasury, in the case of value added tax, under the heading "1/1133/0000/0311 and, in the case of supplementary duty on goods, under the heading "1/1133/0000/0711 and, in the case of supplementary duty on service, under the head "1/1133/0000/0721.
- (2) The registered person shall, before the removal of any consignment of goods from the place of manufacture or production or business, determine the payable tax on it and at the time of removal of the goods pay the tax through necessary adjustment in account current and for this purpose, there shall have to be sufficient balance in his account:

Provided that in the case of a supply to which Form "Musak-11" is applicable, payable tax shall have to be determined by multiplying the price inclusive of tax by 3/23 and at the end of the supply of whole day, adjustment shall have to be made once in the account current "Musak-18".

- (3) Where the amount of value added tax is shown separately in the invoice given by the supplier of the goods or the renderer of the service against the supply of goods or rendering of service, the price mentioned in sub-section (2) or sub-section (4) of section 5 shall be considered as the basis for determining the value added tax.
- (4) Where the amount of value added tax is not shown separately in the invoice given by the supplier of goods or the renderer of service, the amount of the value added tax payable shall be determined by multiplying by 15/115 the gross sale price, inclusive of the amount of value added tax due or received.

24. Submission of return.-

- (1) Every manufacturer or producer or businessman of taxable goods or renderer of taxable service shall have to deposit in the local value added tax office two copies of a return in Form "Musak-19" for each tax period within 10 (ten) working days of the month next after the tax period:

Provided that in the case of an Insurance company, for each tax period two copies of the return shall have to be submitted to the local value added tax office within 20 (twenty) working days of the month next after the tax period.

- (2) A person, who supplies or exports goods after preparing or manufacturing, shall have to attach, alongwith the return, the following documents, namely: -
 - (a) original copy of the account current (where applicable); and
 - (b) any other document demanded by the Commissioner.
- (3) A person, who renders or exports taxable service, shall submit, alongwith the return, the following documents, namely: -
 - (a) original and duplicate copy of the treasury challan as a proof of payment of the tax payable during the tax period (where applicable), and
 - (b) any other document demanded by the Commissioner.

25. Examination of returns.-

- (1) If the information mentioned in, and the documents appended to, the return submitted by a registered person under rule 24, on examination by the inspector in-charge of the concerned revenue area and the Superintendent of the local value added tax office, are considered to be proper, both of them shall certify to that effect by putting their signature and affixing their seals separately and the concerned Superintendent shall return to the registered person a copy of the return so certified within not more than 60 (sixty) days and shall send the original copy to the Commissioner.
- (2) The Commissioner shall, on the basis of the return mentioned in sub-rule (1), take necessary step to ascertain as to whether the person who submitted the return has, during the relevant tax period, properly paid the output tax and taken input credit.
- (3) If a manufacturer or producer of taxable goods or renderer of taxable service exports 100 per cent. of the goods manufactured or produced or service rendered by him or suppliers or renders it partly, but the amount of tax eligible for credit on input paid by him in every tax period is more than the amount of output tax payable, the Commissioner shall, within not more than 30 (thirty) days, send the original copy of the return submitted by the said manufacturer or producer or renderer to the Directorate of Duty Exemption and Drawback office, hereinafter referred to as the Directorate, for taking necessary action.
- (4) If a registered person required to submit return according rule 24 does not submit to the local value added tax office, on time, the return for any tax period, the inspector in-charge of the concerned revenue area shall, within seven days of the expiry of the tax period, inform the Divisional Officer, through the concerned Superintendent, for taking necessary action against the said registered person.

26. Submission of final return -

If a registered person applies under rule 15 for cancellation of his registration, the Divisional Officer shall, after determining his liabilities, if any, relating to value added tax or supplementary duty, direct the applicant to submit within fourteen days a final return.

27. Export procedure

- (1) On the package of exportable goods, a serial number chronologically maintained on yearly basis shall be printed in indelible ink. The name of exporter along with

any other mark shall also be conspicuously printed on every package or packet and that shall be sealed, by a seal containing the words "For Export".

- (2) If any registered exporter intends that the examination of the goods to be exported by him should be done at the place of manufacture or production of the goods or in any other approved place, he shall submit an application to the local value added tax office at least twenty four hours before the removal of the exportable goods from the place of manufacture or production or from any other approved place, for sending it to the port of export. He shall submit four copies of the application in Form "Musak-20" alongwith original and second copy of 'Challanpatra' (invoice). Under the direction of the Superintendent any officer subordinate to him, not below the rank of Inspector, shall, within twelve hours, be present at the place of manufacture or production or any other approved place and examine the exportable goods. If, after examination, the goods presented for examination are found as per declaration, he shall seal every packet with a seal containing the words "Examined by the Value Added Tax Department" and shall write " Examination Completed" on all the four copies of the application and on the original and second copy of the "Challanpatra" (invoice) and, after putting his signature and seal on them, return the original, second & third copy of the application and original copy of the challanpatra to exporter and send the fourth copy of the application and the second copy of the 'challanpatra' to the local value added tax office and allow the goods to be transported to the port of export.
- (3) When the consignment of the goods to be exported arrives at the port according to the provisions of sub-rule (2), if the customs officer finds, after necessary inspection of the goods, that the packets are intact, he shall allow the export and certify the original, second and third copy of the application & original copy of the challanpatra mentioning "export completed".
- (4) An Assistant Commissioner and an officer of the rank higher to it, may, if considered necessary, order re-examination, at the port of export, of the goods examined under sub-rule (2).
- (5) If any exporter intends to get the export consignment examined at the port of export, he shall prepare the export consignment as per provisions of sub-rule (1) and according to the provisions of sub-rule (2) submit four copies of application and the original and second copy of the 'Challanpatra' to the local value added tax office. Thereafter any officer subordinate to the Superintendent shall, under the direction of the superintendent, write on all the four copies of application and on the original and second copy of the 'Challanpatra' the words "Examination

shall be made in the port of export" and put his seal and signature on them. He shall return the original, second and third copy of the application and the original copy of the 'Challanpatra' to the exporter. Then the shall submit the fourth copy of the application and the second copy of the 'Challanpatra' to the local value added tax office and allow the export consignment to be transported to the port of export.

- (6) When the export consignment mentioned in sub-rule (5) reaches the port of export, the exporter shall submit the original, second and third copy of the application and the original copy of the 'Challanpatra' to the customs officer who shall allow export and shall, if he finds the consignment all right after due examination, certify on the original, second and third copy of the application and on the original of the Challanpatra "export has been completed".
- (7) After completion of export under sub-rule (3) and (6) the second copy of the application shall be deposited to the customs station of the port of export. The original and third copy and the original copy of 'Challanpatra' shall be returned to the exporter and the exporter shall, within seven working days from the receipt of the copies, submit the third copy of application to the concerned local value added tax office.
- (8) In the cases of export by post, the chief of the foreign post office shall, after the export has been completed, give a certificate in this respect by writing the words " Export has been completed" on the first, second and third copy of the application and on the original 'Challanpatra'. Thereafter, he shall hand over the second copy of the application to the custom officer posted in the foreign post office. The original and third copy alongwith the original 'Challanpatra' shall be handed over to the exporter who, shall submit the third copy to the local value added tax office within seven working days of receipt of the same.
- (9) The provisions of sub-rule (1) to (8) shall not be applicable in the case of exports made by an absolutely export-oriented organization, industry exempted from paying value added tax and commercial exporter and export of goods and service exempt from paying value added tax.

28. Duty draw back for export.-

- (1) Any registered exporter who, not being able to take credit for the amount of input tax on goods used for the manufacture or production of goods or rendering service exported, through adjustment in the Account Current, wants to take duty

drawback, shall open a bank account according to the procedure laid down by the Directorate of Duty Exemption and Drawback.

- (2) If an exporter wants to avail of the benefits of an 'established exporter', he shall have to apply to the Directorate of Duty Exemption and Drawback office in Form "Musak-21" through the local value added tax office. The Directorate of Duty Exemption and Drawback shall register him as an "Established Exporter" if it is satisfied with the export performance of the exporter for the preceding twelve months from the date of the application.

29. Draw back on the basis of returns.-

- (1) Any registered exporter who is engaged in manufacturing or producing goods or rendering of service on which value added tax is payable and payment of output tax is obligatory but the input tax for each tax period is higher than the output tax and the exporter who exports one hundred per cent. of taxable goods produced or manufactured by him but he would be obliged to pay output tax if he would supply or render such goods or service within the country, may take duty-drawback on the basis of return.
- (2) If the Commissioner sends a return to the Directorate for giving export drawback, the Directorate shall treat the return as an application for drawback.
- (3) An officer authorized by the Director General of the Directorate, hereinafter referred to as the Director General, shall duly examine the return, and the said officer shall, in the case of exported goods or, where applicable, service, after considering the normal input-output relation or priory determined co-efficient, if any, and, after examining the amount of credit taken against output tax to be paid during the tax period in which the goods have been supplied or service rendered and the bill of export and the bill of lading, recommend, subject to his satisfaction, to the Director General the amount of drawback determined by him, and the Director general shall, on the basis of such recommendation, take step to deposit through cheque in the bank account of the concerned exporter the amount of money recommended and shall, by registered post, send the concerned exporter a letter of information to this effect. The Director General may, on his own, or on the application of the concerned exporter, direct that the return be re-examined.
- (4) In the case of an exporter enlisted as an "established exporter", the Director General shall, within seven days of the receipt of the return from the Commissioner, deposit in the account of the exporter the amount of the drawback payable on the basis of the preliminary audit and, in this case, the

amount of drawback to be paid in any tax period shall not exceed the total of the amount of payable drawback determined on the basis of the monthly average of the preceding twelve months and twenty per cent. of such amount taken together. If any discrepancy is found in the amount of drawback payable on the basis of the preliminary audit, it shall be adjusted through subsequent return.

- (5) In the case of an exporter not enlisted as an "established exporter", the Directorate shall, within thirty days of the receipt of the return from the Commissioner, deposit, after examination as mentioned in sub-rule (3), in the bank account of the exporter the amount payable as drawback.
- (6) Notwithstanding any procedure contained in this rule with regard to submission of application for drawback, the Board may, for the purpose of disposal of the application for drawback within shortest time and speedily, issue general order so that the exporters may apply direct to the Directorate authority in prescribed Form alongwith necessary documents.

30. Duty drawback on application.-

- (1) A registered person who-
 - (a) exports on commercial basis; or
 - (b) manufactures or produces goods exempt from payment of tax and exports them or exports service exempt from tax, but does not supply any taxable goods or does not render any taxable service; or
 - (c) the person who according to section 16 is exempt from registration, shall have to apply in Form "Musak-22", along-with relevant documents as evidence of export, to the local value added tax office within six months of the completion of supply for receiving drawback of tax paid on inputs used in the manufacture or production of goods or supply of service.
- (2) The Board may, by order published in the official Gazette, determine, in the case of export goods on "flat rate" basis, the rate of tax to be paid back as drawback; and if any exporter intends to receive flat-rate based drawback, he shall, after the export of the relevant goods or service for the first time, furnish with the application mentioned in sub-rule (1), where possible, alongwith samples verified by the Customs Officer of the port of export, the necessary information in Form "Musak-23".

- (3) On receipt of the application under sub-rules (1) and (2), the Superintendent shall, if he is satisfied that it has been duly filled up, send it to the Commissioner for onward transmission to the Directorate.
- (4) On receipt of the application from the Commissioner, the Director General shall take necessary action under sub-rule (4) of rule 29 or, where applicable, sub-rule (5), and in this case, if any discrepancy is found in the amount of drawback allowed on the basis of preliminary audit, the discrepancy shall be adjusted against the subsequent drawback application of the concerned exporter.
- (5) For taking duty drawback afterwards at the same flat rate, submission of sample and furnishing of information as described in sub-rule (2) shall not be required, and if the applicant is an enlisted 'established exporter', according to sub-rule (4) of rule 29, and if not so enlisted, within 15 days of the receipt of the application from the Commissioner, on completion of its examination as described in sub-rule (3) of rule 29, and the amount of payable drawback shall be deposited by the Directorate in the bank account of the exporter.
- (6) If any exporter intends to take drawback for exported goods or service consignment-wise, he shall have to make an application in Form "Musak-24" for determining the rate or amount of drawback and shall have to append with this application an application for drawback according to the procedure described in sub-rule (1).
- (7) After receipt of the application mentioned in sub-rule (6) from the Commissioner, the Director General shall, if satisfied on preliminary examination that the application has been duly filled up, arrange survey within twenty one days of the receipt of the application.
- (8) The Director General may, for the convenience of examination, of the application, call for such documents as he considers necessary and, if the exporter fails to submit such documents within fifteen days of the call or within the period extended by the Director General, reject the application for drawback.
- (9) The Director General shall complete the survey within fifteen days of the receipt of the documents described in sub-rule (8).
- (10) Within seven days of the completion of the survey mentioned in sub-rules (7) and (9), the Directorate shall sanction the drawback and deposit the same through cheque in the exporter's bank account.

- (11) For the purpose of determination or re-determination of the flat rate of drawback, the officers of the Directorate may survey the organization engaged in the manufacture or production of goods or rendering of service (if applicable), and the organisation shall be bound to extend all cooperation to the officers of the Directorate engaged in survey.
- (12) In the case export by a person who does not manufacture or produce any exportable goods himself and purchases goods from actual manufacture or producer and exports it, he shall, for the purpose of determining drawback, have to procure information as mentioned in sub-rule (2) or, where applicable, sub-rule (6), from the actual manufacture or producer of the goods at his own initiative and submit the same to the local value added tax office. He shall ensure the cooperation from the concerned actual manufacture and producer with the survey officials of the Directorate in the performance of the functions related to drawback.

31. Supply of goods or rendering service in exchange of foreign currency against local or international tender.-

- (1) Any supply of goods or rendering of service by a registered Bangladeshi person in exchange of foreign currency against local or international tender shall, , in accordance with general principle of export, be considered as export under sub-section (2) of section 3 of the Act, if the foreign currency is repatriated through Bangladesh Bank;
- (2) If a registered person, who is required to submit return under section 35 of the Act, intends to take drawback of the input tax paid on raw materials used in goods supplied or service rendered in exchange of foreign currency against local or international tender, the relevant provisions of rule 29 shall apply in his case.
- (3) If a registered person, in whose case obligation mentioned in sub-rule (2) does not apply, intends to take drawback for input tax paid on raw material used in the goods supplied or service rendered in exchange of foreign currency against local or international tender, the provisions of rule 30 shall apply in his case.
- (4) In the cases as mentioned in sub-rule (2) and (3) while submitting return and application for taking drawback, return or application, as the case may be, shall be submitted alongwith the copies of tender, proof acceptance of tender, work order and the proof of payment in foreign currency.

32. Supply of goods or rendering service in exchange of foreign currency against local back to back letter of credit.-

- (1) If any registered person supplies any goods or renders service (if applicable) to any bona fide exporter in exchange of foreign currency against local back to back letter of credit, such goods or service shall be deemed to have been exported in accordance with sub-section (2) of section 3 of the Act.
- (2) In the case of a registered person as mentioned in sub-rule (1), who is required to submit return under section 35 of the Act, drawback for the input tax paid by him for the raw materials used in the production of the goods or service supplied or rendered by him to any exporter in exchange of foreign currency against local back-to-back letter of credit, may be allowed under the provisions of rule 29.
- (3) If a registered person, in whose case the obligation mentioned in sub-rule (2) is not applicable, intends to take drawback for the input tax paid for the raw material used in the goods supplied or service rendered in exchange of foreign currency against local back-to-back letter of credit, the provisions of rule 30 shall apply in his case.
- (4) In the cases mentioned in sub-rules (2) and (3), alongwith the return and application, respectively, copies of local back-to-back letter of credit, copy of letter of credit for export and the proof of receipt of payment in foreign currency, attested by an officer authorised by the concerned back, shall have to be submitted.
- (5) In order to get benefit mentioned in this rule the bona fide exporter shall have to possess bonded or special bonded warehouse approved by the customs or any other approved authority. Information relating to internal exportable goods against back-to-back letter of credit, namely:- number and date of back-to-back letter of credit, name and address of deemed exporter, particulars and quantity of the goods and other related information, shall have to be mentioned in the Utilisation Permission (UP) or Utilisation Declaration (UD) issued in favour of the bona fide exporter by customs or any other approved authority. With an application under rule 29 for drawback the said Utilisation Permission (UP) or Utilisation Declaration (UD) also shall have to be appended. Simultaneously with the allowing of the drawback after necessary examination, the Directorate shall contact with the concerned customs authority controlling the bond of the bona fide exporter to be sure about the correctness of the information given in the Utilisation Permission (UP) or Utilisation Declaration (UD) and the information to be recorded in the passbook of the bona fide exporter and in the register of the warehouse.

- (6) The bona fide exporter shall record in the relevant passbook, register or in any other document specified by the Board the particulars of the maintenance, export or disposal in any other manner specified by the Board of the goods manufactured by using the goods procured and shall get it authenticated by the bond officer.
- (7) If the exporter fails to export the goods procured under back-to-back letter of credit or goods manufactured by them, it shall be obligatory for him to return the drawback taken by him in respect of the said procured goods within the period of two years of the date of the expiry of letter of credit or of the date of receipt of the said goods in the bonded or special bonded warehouse in accordance with section 98 of the Customs Act, 1969 (IV of 1969), whichever is earlier.

32A. Facility of zero tax and drawback in the case of backward linkage industry.-

The goods supplied or service rendered by a backward-linkage industry, hereinafter referred to as the said industry, may, subject to the following conditions, be deemed to be export under sub-section (2) of section 3 of the Act, namely:

- (a) the said industry shall have to supply goods or render service to hundred per cent. export oriented industry having licensed customs bonded or special bonded warehouse;
- (b) there shall have to be a utilization permission or utilization declaration in favour of the goods supplied or service rendered by such industries and the utilisation permission or the utilistion declaration shall contain the number and date of local back-to-back letter of credit or local letter of credit, the value added tax registration number, name and address, including the number and date of the local back-to-back letter credit, of the person who received the goods or service from the said industry;
- (c) the utilization permissions or utilization declarations alongwith the copies of letter of credit duly attested by the letter of credit opening bank, shall have to be at the disposal of such industry;
- (d) such industries shall submit an undertaking in non-judicial stamp of fifty taka denomination regarding the genuineness of all relevant documents and the certificate of foreign exchange earning in connection with the taking duty drawback under clause (b) and (c); copies of the challan in Form "Musak -11" issued against the supply of goods or rendering of service; original copy of bill of entry of import of inputs for the production of goods supplied and

service rendered or the 'Challan' in Form "Musak -11" issued by the supplier of the inputs and all other documents;

- (e) information regarding the facilities received under this rule shall be mentioned in the monthly return to be submitted by the said industry in Form "Musak-19" and half-yearly statement in this respect shall be submitted to the local value added tax officer in each January and July month.

33. Drawback in respect of export by post.-

If a registered person who exports goods by post intends to take drawback for duty paid on the input used in the manufacture or production of the goods exported, he shall have to append to the return or, where applicable, the drawback application, the second copy of the declaration of the information given in Form "Musak-25" duly authenticated by the customs authority engaged in the concerned foreign post office.

34. Drawback in the case of foodstuff and other commodity supplied to vessels going abroad for consumption outside Bangladesh.-

Foodstuff and other commodities supplied by a registered person to a vessel going abroad for consumption outside Bangladesh shall be deemed to goods exported. If the said registered person intends to take drawback for the duty paid on the inputs used in the foodstuff and other commodities supplied, he shall have to append to the return or, where applicable, the drawback application submitted to the local value added tax office the copy of contract entered into with the concerned transport authority, purchase order and, in the case of all foreign transports, except Bangladesh flag vessels and aircrafts, evidence of receipt of the price in foreign currency.

34A. Refund.-

- (1) In the case of claim for refund under section 67 of the Act of the value added tax or, as the case may be, value added tax and supplementary duty or turn-over tax paid by a registered person through inadvertence, erroneously or due to misinterpretation or any other reason, the applicant shall have to submit to the concerned Divisional Officer or Commissioner of the Custom House or any officer, not below the rank of Assistant Commissioner, authorised by him in this behalf, the refund claim in Form "TR-31", in triplicate, within six months of the payment of the tax:

Provided that if Form "TR-31" is not readily available, the application may be submitted in plain paper instead of the said Form, and after so submitting the application the applicant shall have to fill in the said Form properly and get it regularised within next fifteen days of the submission of the application.

- (2) The Divisional Officer or the officer-in-charge of the Custom House may approve the refund claimed, after being satisfied about its authenticity on verification of the correctness of the refund claim submitted under sub-rule (1) and as to whether the money claimed has actually been deposited in the treasury. The officer approving the refund shall thereafter send a copy of the refund bill to the office of the Commissioner or the officer-in-charge of the Custom House for pre-audit. If, on pre-audit, the bill is considered to be correct, the concerned officer shall, after countersigning it, preserve one copy of the bill for office record and send one copy to the concerned district accounts officer or to the chief accounts officer and one copy to the concerned Divisional Officer:

Provided that it shall have to be disposed of within 90 (ninety) days of the receipt of the application for refund claim.

- (3) The concerned branch under the control of the approving officer shall, for the purpose of maintaining the proper accounts of the approved refund bill, maintain a register.
- (4) Notwithstanding anything contained in this rule, refund so claimed shall not be approved in a case where, at the local level, there is a provision and scope for adjustment of the money claimed as refund against the concerned registered person's input tax rebate.
- (5) In the case of processing of refund claim under this rule the relevant rules of the Bangladesh Treasury Rules shall apply.

35. Forfeiture and imposition of penalty.-

A registered person who contravenes any provision of these rules shall be liable to a penalty of an amount, being not less than twenty five per cent., and not more than seventy five per cent., the amount of value added tax or, where applicable, the value added tax and supplementary duty, and the goods or service (where applicable) related to such contravention shall be forfeited to the Government.

36. Goods forfeited to vest in the Government.-

The goods forfeited under the Act or these rules shall vest in the government forthwith and the officer giving the order of such forfeiture shall receive the confiscated goods and take them into his possession.

37. Disposal of goods forfeited.-

The goods forfeited and the goods in respect of which the opportunity of payment of fine in lieu of forfeiture has not been availed of within three months from the date of forfeiture may be disposed of by the Commissioner through sale by public auction or tender or in any other manner as the Board may direct.

38. Power to issue order, notification clarification or circular.-

In respect of any matters arising out of these rules the Board, the Commissioner or the Director General of the Directorate may issue, with respect to the matters related to its or his own jurisdiction, order, notification, clarification or circular.

39. Time-limit for removal of goods.-

Subject to payment of due tax against taxable goods and submission of challan (invoice), a registered person may, at anytime, remove the goods manufactured or produced or to be supplied by him from the place of manufacture or production or business. But the Commissioner may, on consideration of the nature of the goods, the process of its removal and the profile of the tax payer, if necessary, impose, by order, subject such to condition as may be specified in the order, impose restrictions in the matter of the timing the removal of any goods manufactured or produced by any registered person.

40. Disposal of unused or unusable materials.-

- (1) If a registered person considers later on that any input purchased by him on payment of value added tax to be unusable, he shall, for the purpose of disposal of such goods, submit an application in Form "Musak-26" to the local value added tax office.
- (2) The Superintendent shall, within seven (7) days after being informed as per sub-rule (1), if satisfied on spot inspection that the goods mentioned in sub-rule (1) is unusable by the registered person, send the application, with his opinion, to the Divisional Officer for a decision as to the disposal of the goods through supply or destruction.
- (3) The Divisional Officer shall, subject to his satisfaction, give his decision as to the disposal of the application received under sub-rule (1) within thirty (30) days of its receipt.

- (4) The Superintendent shall, in accordance with the decision given under sub-rule (3), direct the registered person to cancel the credit taken by him in respect of the input mentioned in sub-rule (1) and to make necessary adjustment in the account current and the subsequent return.

41. Disposal of goods manufactured or produced damaged or destroyed in accident.-

- (1) If a registered person considers that the goods manufactured or produced or stored for supply has, for the reason of being damaged or destroyed in accident or for any other reason become non-suppliable, he shall submit to the office of the local value added tax an application in Form "Musak-27" in the case of accident, within twenty-four hours, of the occurrence of the accident or in the case of any other reason, within twenty four hours of being informed of the matter, for disposal of such non-suppliable goods.
- (2) The superintendent shall, within three days of the receipt of the application mentioned in sub-rule (1), determine, after conducting spot inspection, the value of the goods damaged or destroyed in the accident mentioned in sub-rule (1) and the amount of the output tax in respect thereof and send the application with his opinion to Divisional Officer for giving his decision for the disposal of damaged or destroyed goods through destruction or in any other manner.
- (3) If the goods mentioned in sub-rule (2) is considered fit for supply partially or fully at reduced price, the Superintendent shall, after determining the proper price of such goods in has opinion, submit the application to the Divisional Officer for his approval.
- (4) The Divisional Officer shall, subject to his satisfactions, allow the supply or destruction of the goods mentioned in sub-rule (2).
- (5) The Superintendent shall, after receipt of proper direction from the Divisional Officer,-
 - (a) in the case of goods wholly destroyed or damaged, direct the applicant, after canceling the credit taken in respect of the input used in the manufacture or production of the said goods, in the Account Current and the subsequent return; or
 - (b) in the case of goods destroyed in the accident, after canceling the input tax credit proportionately on the basis of the difference between the normal

price and the reduced price approved by the Divisional Officer, to make adjustment in the account current and subsequent return.

41A. Supply and disposal of waste and by-product goods.—

- (1) A registered person shall, if the waste or by-product of the goods manufactured or produced by him is suppliable or non-suppliable, apply to the concerned Divisional Officer for its disposal.
- (2) The applicant shall, for the purpose of determination of taxable price of the waste or by product of the goods fit for supply, submit with the application a declaration of the price of the goods in accordance with section 5 and rule 3.
- (3) The registered person may destroy wholly non-suppliable waste or by-product at the place of its production because of its having no commercial value or out side the place of production, for health or environmental or structural reason, in the presence of the Divisional Officer or a value added tax officer nominated by him, following, so far as practicable, the provisions of the Bangladesh Environment Protection Act, 1995 (1 of 1995) or the rules made thereunder.
- (4) If any goods are destroyed under sub-rule (3), the Divisional Officer shall send a report in respect thereof to the Commissioner within seven (7) days of such destruction; and the registered person shall preserve the documents relating to it in accordance with the provisions of the Act.

42. Acceptance of the liability of the activities of agents or representatives by the registered person.-

If a registered person authorizes, directly or indirectly, any other person to perform any act under the Act or these rules, the liability of the act performed by the other person shall devolve on the registered person.

43. Procedure of recovery of government dues.-

- (1) The value added tax officer shall, before taking any action under section 56, remind, in writing, at least twice the concerned person from whom the Government dues are outstanding to pay such dues. In each letter at least seven days' time shall be given. If his business premises is to be put under lock and key or his movable or immovable property is to be attached and sold or sold without attachment, he shall be given at least two weeks' notice; and such action

shall not be taken without giving the concerned person the opportunity of being heard in person, if he so desires.

- (2) The value added tax officer mentioned in section 56 shall issue notice in Form "Musak-28" for recovery of the Government dues mentioned in clause (b) of sub-section (1) of the said section and shall issue a warrant in Form "Musak-29" in the case of freezing the bank account.
- (3) The value added tax officer referred to in sub-rule (2) shall, after preparing the notice in quadruplicate, send the first and the second copy to the person liable to pay the Government dues or to the bank and the third copy to the concerned taxpayer and preserve the fourth copy in his own office. The person or the bank authority to whom the first and the second copy is sent shall, after acknowledging the receipt of the first copy, return the second copy to the concerned officer after putting his signature on it.
- (4) For issuance of notice in Form "Musak-29" the procedure as laid down in sub-rule (3) shall be followed.