

21. Procedure on receipt of application.—(1) On receipt of an appeal, the Authority shall cause a copy thereof to be forwarded to the¹[assessing authority concerned as well as to each State Government concerned with the appeal and to call upon them to furnish the relevant records:

PROVIDED THAT such records shall, as soon as possible, be returned to the assessing authority or such State Government concerned, as the case may be;]

(2) The Authority shall adjudicate and decide upon the appeal filed against an order of the assessing authority.

(3) The Authority, after examining the appeal and the records called for, by order, either allow or reject the appeal:

²[PROVIDED THAT no appeal shall be rejected unless an opportunity has been given to the appellant of being heard in person or through a duly authorised representative, and ³[also to each State Government] concerned with the appeal of being heard.]

PROVIDED FURTHER THAT where an appeal is rejected or accepted, reasons for such rejection or acceptance shall be given in the order.

(4) The Authority shall make an endeavour to pronounce its order in writing within six months of the receipt of the appeal.

(5) A copy of every order made under sub-section (3) shall be sent to the appellant and to the assessing authority.

22. Powers of the Authority.—(1) The Authority shall have the same powers as are vested in a Court under the Code of Civil Procedure, 1908. (5 of 1908) while trying a suit in respect of the following matters, namely:

- (a) enforcing the attendance of any person, examining him on oath or affirmation;
- (b) compelling the production of accounts and documents;
- (c) issuing commission for the examination of witnesses;
- (d) the reception of evidence on affidavits;
- (e) any other matter which may be prescribed.

⁴[(1-A) The Authority may grant stay of the operation of the order of the assessing authority against which the appeal is filed before it or order the pre-deposit of the tax before entertaining the appeal and while granting such stay or making such order for the pre-deposit of the tax, the Authority shall have regard, if the assessee has already made pre-deposit of the tax under the general sales tax law of the State concerned, to such pre-deposit;]

(2) Every proceeding before the Authority shall be deemed to be a judicial proceeding within the meaning of Secs. 193 and 228 of the Indian Penal Code, 1860 (45 of 1860) and the Authority shall be deemed to be a Civil Court for the purposes of Sec. 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

23. Procedure of Authority.—The Authority shall, subject to the provisions of this Chapter, have power to regulate its own procedure⁵[in all matters, including stay of recovery of any demand] arising out of the exercise of powers under this Act.

24. Authority for Advance Rulings to function as Authority under this Act.—(1) Notwithstanding anything contained in any other law for the time being in force and in Sec. 19 of this Act, the Authority for Advance Rulings constituted

1. Subs. by the Finance Act, 2003 (32 of 2003) Sec. 164 (a), dated 14th May, 2003 (w.e.f. 17th March, 2005).
2. Subs. by the Finance Act, 2003 (32 of 2003), Sec. 164 (b), dated 14th May, 2003 (w.e.f. 17th March, 2005).
3. Subs. for the words "also to the State Government" by Finance (No. 2) Act, 2004 (23 of 2004), Sec. 119 (c), dated 10th September, 2004.
4. Ins. by Finance (No. 2) Act, 2004 (23 of 2004), Sec. 119 (d), dated 10th September, 2004.
5. Subs. for the words "in all matters" by Finance Act, 2003 (32 of 2003), Sec. 165, dated 14th May, 2003.

under Sec. 245-O of the Income-tax Act, 1961 (43 of 1961) shall be notified by the Central Government in the Official Gazette, with such modifications as may be necessary, to make its composition in conformity with Sec. 19 of this Act, as the Authority under this Act fill such time an Authority is constituted under that section.

(2) On and from the date of the constitution of the Authority in accordance with the provisions of Sec. 19 of this Act, the proceedings pending with the Authority for Advance Rulings shall stand transferred to the Authority constituted under that section from the stage at which such proceedings stood before the date of constitution of the said Authority.

25. Transfer of pending proceedings.—On and from the date when the Authority is constituted under Sec. 19, ¹[any proceeding] arising out of the provisions contained in this Chapter—

- (i) which is pending immediately before the constitution of such Authority before the Appellate Authority constituted under the general Sales-tax law of a State or of the Union Territory, as the case may be; or
- (ii) which would have been required to be taken before such Appellate Authority,

shall stand transferred to such Authority on the date on which it is established.

26. Applicability of order passed.—An order passed by the Authority under this Chapter shall be binding on ²[each State Government concerned, the assessing authorities] and other authorities created by or under any law relating to general sales-tax, in force for the time being in any State or Union territory.

Notification

Notifn. No. TT-2-1712 / xi-9 (460) 94—V.P. Act 74- 56— Order - 9, dated 19th July, 1996³.—Whereas the State Government is satisfied that it is necessary so to do in the public interest, to grant exemption from tax in the course of inter-State trade or commerce by a dealer having his place of business in the State of Uttar Pradesh in respect of sales of two-wheeler automobiles manufactured by new units having a fixed capital investment of fifty crore rupees or more as also by units which may make additional fixed capital investment of fifty crore rupees or more in expansion, diversification, modernisation of the existing unit engaged in the manufacture of two-wheeler automobiles in the State.

2. Now, therefore, in exercise of the powers under sub-section (5) of Sec. 8 of the Central Sales-tax Act, 1956 (Act No. LXXIV of 1956) hereinafter referred to as the Act, the Governor is pleased to declare that the sales of two-wheeler automobiles in the course of inter-State trade or commerce by a dealer having his place of business in the State of Uttar Pradesh shall, subject to the conditions specified hereinafter, be exempt from payment of tax.

3. No tax shall be payable in respect of sales of such two-wheeler automobiles as are—

- (1) manufactured by such a new unit as has fixed capital investment of fifty crore rupees or more and as fulfil the conditions specified in this notification;
- (2) produced in excess of base production by an existing unit under foreign collaboration approved by the Government of India or any authority designated by it and making additional fixed capital investment of at least twenty-five per cent. of the original fixed capital investment without providing for

1. Subs. for the words "every appeal" by Finance (No. 2) Act, 2004 (23 of 2004), Sec. 119 (e), dated 10th September, 2004.

2. Subs. for the words "the assessing authorities" by Finance (No. 2) Act, 2004 (23 of 2004), Sec. 119 (f), dated 10th September, 2004

3. Published in the U.P. Gazette, Extraordinary, Pt. 4, Sec. (kha.), dated 19th July, 1999.

depreciation or fifty crore rupees, whichever is higher during a period of three years starting on or after 1st December, 1994 and the production capacity whereof after such investment has increased by at least twenty-five per cent.

Explanation.—For the purposes of this sub-paragraph, the sales of two-wheeler automobiles produced in excess of base production with reference to any assessment year shall also include the sales of stock of such goods as was in excess of base production in previous assessment year and had been carried forward in that assessment year.

- (3) manufactured by a unit under new foreign collaboration approved by the Government of India or any authority designated by it for the purpose after 1st December, 1994 and such unit intends to make an additional fixed capital investment of at least fifty crore rupees during the period of four years starting on or after 1st December, 1994.

4. The facility of exemption from tax mentioned in paragraph 3 above shall be subject to the following conditions in addition to the conditions referred to in Sec. 4-A of the Uttar Pradesh Trade Tax Act, 1948 (U.P. Act No. 15 of 1948):

- (i) that the date of starting production of such goods by the unit falls on or after 1st December, 1994 and not later than 31st March, 2000;
- (ii) that the facility of exemption of tax under this notification shall not simultaneously be available to a unit availing any such tax facility under any other notification issued under this section;
- (iii) that the unit is licensed or in respect whereof a letter of intent has been issued or which is registered permanently or otherwise by the appropriate authority in accordance with any law for the time being in force relating to licensing or registration of such unit;
- (iv) that the new unit is established on land or building or both owned or taken on lease for a period of not less than fifteen years by such unit or allotted to such unit by the Central or the State Government or any government company or any corporation owned or controlled by the Central or the State Government;
- (v) that the sales of two-wheeler automobiles for the purposes of exemption under this notification shall also include the sales of such by-products and waste products of a unit as are mentioned in the eligibility certificate issued to such unit under Sec. 4-A of the U.P. Trade Tax Act, 1948;
- (vi) that the total amount of tax exemption under the Act as also under the Uttar Pradesh Trade Tax Act, 1948 (U.P. Act No. 15 of 1948) shall not exceed the amount of fixed capital investment of the unit made during the period referred to in paragraph 3 of this notification but the amount of tax exemption under both the aforesaid Acts up to the end of any assessment year shall not exceed the additional fixed capital investment made up to the end of that year.
- (vii) that the facility of exemption from tax shall be available only for a period of eight years to be reckoned—
 - (a) in the case of a unit falling under sub-paragraph (i) of paragraph 3 from the date of the first sale or the date following the expiration of six months from the date of starting production, whichever is earlier, and