

Assessment & refund Under MVAT Act, 2002

Intensive Study Circle Meeting

Organized by

The Sales Tax Practitioner's Association of Maharashtra

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Introduction:

From the time MVAT Act has come in force hardly any Assessment Orders were passed, only Refund Orders were generally passed in case of Refund cases, as time limit for completing assessment were not getting time barred & therefore they were not on the Department's priority list. But as on date assessments of the two financial years i.e. 2005-06 & 2008-09 are on priority as they are getting time barred on 30th June 2013 (earlier this date was 31st March 2013) but due to the Notification Maharashtra Value Added tax (Amendment) Act, 2013, (Mah Act No. 4 of 2013 dtd 20-04-2013 time limit for passing order for F.Y. 2005-06 & 2008-09 is extended from 31st March 2013 to 30th June 2013. In view of above, let's discuss some of the provisions related to Assessment & Refund & Practical Problems & other Remedies etc.... which may be important to the STP's, C.A.'s & Advocates etc.... at time of Assessment & Refund.

Sec 21 Time Limit for Issue of Notice in Certain Cases

*** Sec. 21: No Notice for assessment in certain cases**

- 1. Where a return is filed by the prescribed date by a registered dealer, no notice calling the dealer for assessment in respect of the period covered by the return shall be served on the dealer after 2 years from the end of the year containing the period to which the return relates*
- 2. Where a registered dealer has not filed a return in respect of any period by the prescribed date, no notice calling the dealer for assessment in respect of the said period shall be served on the dealer after 3 years from the end of the year containing the period to which the return relates*
- 3. Notwithstanding anything contained in sub-sec (1) or (2), a notice for assessment in respect of any period ending on or before the 31st March 2008, may be served on the dealer within a period of 6 years from the end of the year containing the period to which the return relates"*

*** The above mentioned section is deleted w.r.e.f 01/04/2005 by Mah. 6 of 2011 & hence now there being no limit for issuing notice for assessment under MVAT Act, 2002.**

Generally In every law or an Act there is a time limit for issue of Notice for starting an Assessment but in MVAT act, as stated above, there is no time limit for issue of Notice for Assessment under MVAT Act. Therefore, now the time limit specified in every Sub-Section of Section 23 for completion of assesment , 15 days prior to that **(see Rule 21)** may be deemed to be the last date till which Notice for assessment can be issued as per my view & understanding.

Sec 23: Assessment under MVAT Act, 2002

Sec. 23(1): Assessment where Dealer fails to file a Return

“Sec 23 (1) Where a registered dealer fails to file a return in respect of any period by the prescribed date, the Commissioner may assess the dealer in respect of the said period to the best of his judgment without serving a notice for assessment and without affording an opportunity of being heard:

Provided that, if after the assessment order is passed, the dealer submits the return for the said period alongwith evidence of payment of tax due as per the return or submits evidence of return for the said period having been filed before the passing of the assessment order along with evidence of payment of tax due as per the return, then the Commissioner shall cancel, by order in writing, the said assessment order and after such cancellation, the dealer may be assessed in respect of the said period under the other provisions of this section:

Provided further that, such cancellation shall be without prejudice to any interest or penalty that may be levied in respect of the said period”

The time limit for passing the order in this case is 3 years from the end of the year

containing the said period. It is to be noted that the said order is non appealable. However, on dealer’s furnishing evidence of return being filed with payment of tax, such order will be cancelled. The dealer shall have to make application for cancellation of assessment in Form 304 as per Rule 24 (1).

No time limit to submit F.304, acc. To me.

Removed from MVAT 2nd amendment rules dtd 21.05.2013

(See Trade Circular 12T of 2012 – Where New Procedure for cancelling UAO is given)

Sec 23(2): Assessment of Full Books of Accounts, Notice in Form 301

“Sec 23(2) :Where the return in respect of any period is filed by a registered dealer by the prescribed date and if the Commissioner considers it necessary or expedient to ensure that return is correct and complete] and he thinks it necessary to require the presence of the dealer or the production of further documents, he shall serve on such dealer, a notice requiring him on a date and at a place specified therein, either to attend and produce or cause to be produced all documents on which such dealer relies in support of his return or to produce such documents or evidence as is specified in the notice”.

Notice in such cases is issued in Form 301 calling the dealer to attend & to produce or cause to be produced evidence i.e. books of account & other documents/evidence in support of the returns filled by him. **Time limit for passing the order is 4 years from the end of the year to which return relates.**

- As per 3rd proviso inserted by Maharashtra Value Added tax (Amendment) Act, 2013, (Mah Act No. 4 of 2013 dtd 20-04-2013 time limit for passing order for 2008-09 is extended from 31st March 2013 to 30th June 2013.

At time of assessment the dealer is generally required to furnish following statements & Forms:

- 1) VAT & CST Returns & Acknowledgements & Payment challan copies.
- 2) VAT Audit & TAX Audit report, if applicable, alongwith Trading, P&L A/c & Balance sheet with fixed assets schedules.
- 3) Monthwise Sale & Purchase summary details (having total break up of Net amt., VAT amt., OMS , Labour etc..) alongwith reconciliation with P & L A/c and returns .
- 4) Purchase list of Parties from whom purchases made during the year exceeds Rs.25,000/- alongwith their name ,address, VAT TIN & sample purchase bill copies & original Tax invoices for verification.
- 5) Original C - forms, H- forms, F-forms (duly filled in all respects) received against sales made against the declarations, with Invoices & transport receipts etc...alongwith statement.

- 6) Export related documents , i.e sale bill , bill of lading/ airway bill/shipping bill, packing list etc..., if export sale are there.
- 7) Contract copies in case of WCT , Forms 406, 409 etc..., Original WCT TDS Certificates, workings of WCT etc..
- 8) Letter of Authority.
- 9) Fixed Assets or Capital equipments etc.... purchased details, bills & ITC on the same.
- 10) Ledger confirmations of Top 10 parties
- 11) VAT Calculations, i.e Output VAT collected , ITC claimed, Reductions in set off, statement of Taxes paid already etc....
- 12) Other details, as per case to case requirements.

Sec 23(3): Best Judgment Assessment/ Ex Parte Assessment

U/s 23 (1) –
No
opportunity
of being
heard -
difference

“Sec 23(3) - Where a registered dealer has not filed the return in respect of any period by the prescribed date, then the Commissioner may, serve on the dealer a notice requiring him to attend on a date and at a place specified therein and after giving the dealer a reasonable opportunity of being heard, proceed to assess, to the best of his judgment, the amount of tax due from him”

When the dealer fails to file the return in respect of any period by the prescribed date, the Commissioner may issue a notice & proceed to assess to the best of his judgment.

Time limit for passing order under this sub section is 5 years from the end of the year to which return relates.

The Commissioner while passing any best judgment assessment order shall have to consider past records of the dealer & all the materials available before him. Under the power of best judgment, the Commissioner is not empowered to pass any order as per his wish. Whatever disallowances or estimations or additions made should be on sound basis or reason, otherwise it may not sustain in appeal. There is no standards for it but it should be sound & reasonable having regard to the circumstances of the case.

Imp. Judgements : -

- 1) State of Kerala V/s C Velkuty (1966) 60 ITR 239 (SC) –**

"The limits of the power are implicit in the expression "best of his judgment". Judgment is a faculty to decide matters with wisdom truly and legally. Judgment does not depend upon the arbitrary caprice of a judge, but on settled and invariable principles of justice. Though there is an element of guess- work in a "best judgment assessment", it shall not be a wild one, but shall have a reasonable nexus to the available material and the circumstances of each case."

2) CIT vs. Laxminarain Badridas (1937) 5 ITR 170 (PC) –

"The officer is to make an assessment to the best of his judgment against a person who is in default as regards supplying information. He must not act dishonestly or vindictively or capriciously because he must exercise judgment in the matter. He must make what he honestly believes to be a fair estimate of the proper figure of assessment, and for this purpose he must, their Lordships think, be able to take into consideration local knowledge and repute in regard to the assessee's circumstances, and his own knowledge of previous returns by and assessments of the assessee, and all other matters which he thinks will assist him in arriving at a fair and proper estimate ; and though there must necessarily be guesswork in the matter, it must be honest guesswork. In that sense, too, the assessment must be, to some extent, arbitrary. "

If not satisfied with the order, dealer can prefer Appeal in **Form 310**, within 60 days from the date of communication of the order which is a subject matter of the appeal.

Sec 23(3A): Time Limit for Asst. for period till 2007-08

This sub-section is substituted by Mah Act 6 of 2011 & provides that the assessment under sub-section (2) or (3) of section 23 for any period upto 31st March 2008 may be made ***within 7 years from the end of the year containing the said period.***

- As per proviso inserted by Maharashtra Value Added tax (Amendment) Act, 2013, (Mah Act No. 4 of 2013 dtd 20-04-2013 time limit for passing order for 2005-06 is extended from 31st March 2013 to 30th June 2013.

Section	Time Limit for Passing Order
23(3A) (for the period ending on or <u>before</u> <u>31st March 2008</u>)	7 years from the end of the year containing the said period.

23(2) & (3) for the period commencing on or <u>after 01st April 2008</u>	<p>a) <u>4 years (where returns are filed)</u> from the end of the year containing the said period.</p> <p>b) <u>5 years (where return is not filed)</u> from the end of the year containing the said period.</p>
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Sec 23(4) : Assessment for Unregistered Period

Where the dealer has failed to apply for registration within the time required, the Commissioner may issue Notice & assess him for any period or periods subsequent thereto. ***The time limit in this case is 8 years from the end financial year containing the said period.***

Sec. 23(5): Transaction/Period/Claim wise Assessment, Notice in Form 302:

Clause (a) of this sub section was substituted by Maharashtra Tax Laws (Levy & Amendment) Act, 2010 & is effective from 01/05/2010.

This section reads as follows;

*“Sec 23(5)(a) During the course of any proceedings under this Act, if the prescribed authority is satisfied that the tax has been evaded or sought to be evaded or the tax liability has not been disclosed correctly or excess set-off has been claimed by any dealer or person] **in respect of any period** or periods by not recording or recording in an incorrect manner, **any transaction of sale or purchase**, or that **any claim has been incorrectly made**, then in such a case notwithstanding that any notice for assessment has been issued under other provisions of this section or any other section of this Act, the prescribed authority may, after giving such dealer or person a notice in the prescribed form and a reasonable opportunity of being heard, initiate assessment of the dealer or person in respect of such transaction or claim.*

(b) During the course of any proceedings under section 64, if the prescribed authority is satisfied that the tax has been or is sought to be evaded, as provided under clause (a) by any dealer or person, the said authority may, after issuing a notice in the prescribed form and after giving a reasonable opportunity of being heard to such dealer or person, proceed to assess such dealer or person as provided in clause (a) in respect of any such transaction or claim relating to any period or periods and such authority shall, notwithstanding anything contained in section 59, be deemed to have the requisite jurisdiction and power to assess such dealer or person in respect of such transaction of

sale or purchase or claim, covered by clause (a) and such assessment proceedings shall, for all purposes of this Act, be deemed to have been transferred to such authority.

(c) The assessment proceedings under this sub-section shall be without prejudice to the assessment proceedings in respect of the said period or periods under any other provisions of this Act by any authority who otherwise has the jurisdiction to assess such dealer or person in respect of other transactions of sale or purchase or any other claim which are not covered by clause (a) and clause (b).

*(d) The assessment under this sub-section shall be made separately in respect of the transaction or claim relating to the said period or periods to the best of the judgment of the prescribed authority where necessary **and irrespective of any assessment made under this sub-section, the dealer may be assessed separately under the other provisions of this section in respect of the said period or periods:***

Provided that, once the dealer or person is assessed under this sub-section, no tax from such transaction or claim and penalty and interest, if any, consequent upon such tax shall be levied or demanded from such dealer or person, at the time of assessment to tax under the other provisions of this section in respect of the said period or periods relating to such transaction or claim.”

In Simple terms it means that if during investigation proceedings / or as per any information with the department, if tax-evasion or incorrect recording of transactions/claim in any period is noticed then transaction / period / claim wise assessment can be completed. The transaction / period / claim wise assessment can be made for a any transaction of sales/ purchase or any claim taken incorrectly for any period. This assessment shall be without prejudice to the other provisions of assessment & once the tax has been assessed on particular transaction / period / claim by the Assessing Officer it shall not be taxed again at the time of regular assessment.

Note - No Time Limit is given in Sec. 23(5), for Passing Asst. Order.

<p><u>Issues/Problems Faced during transaction / period / claim assesement also called as Issue Based Audit or Desk Audit by the department :</u></p>
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- 1.** J1 J2 mismatch or Excess ITC Credit due to bill date & delivery date difference & J3 J4 mismatch (i.e Dealer showing less purchase returns than the sales returns shown by suppliers).
- 2.** Composition dealer wrongly issuing Tax Invoice collecting VAT Separately & during the IBA/DA proceedings same being disallowed & purchasing dealer asked to pay the

same without first enquiring or initiating proceedings against the Non-compliant Composition dealer.

3. F.Y. 2008-09 being the 1st year of Annexures all the VAT Tin Nos of the Customers & Suppliers not available & hence not inserted in the VAT audit report, , or wrong TIN insertion in VAT audit report resulting in notices of Sales suppression , J1 J2 mismatch, TAX Credit from Wrong TIN etc....
4. CST Declarations not filed properly & given by customers & even incomplete in some cases etc.... & Form C or F Excess Value – Value of C of F forms issued by the Central Repository is in excess of the OMS purchases shown in the Returns or 704.
5. Decalartions not recd. shown in Audit report, Consequential diff. Tax + Interest payable notices & Notices for Asked to pay MVAT / CST by Auditor.
6. Tax credit from Return defaulter, i.e Department proposes to recover Tax alongwith interst from ITC claimant dealer whose supplier has not filed returns, instead of catching hold that defaulting dealer first.
7. Tax Credit from RCC , i.e Disallowance of ITC claimed by the dealer on the Tax Invoice from such Suppliers whose registrations are cancelled prior to the audit period of the ITC claimant dealer.
8. ITC Disallowance from purchases effected from Hawala Dealers.

Acc. To my info. Hawala lists includes:
1)Hawala dealer,
2) Payment & Return defaulter,
3) Dealer not found at POB.

Imp. Note - Application in Form 316 (i.e. cancellation of Asst. Order in case of inability to remain present at time of hearing when Asst. Order was passed) cannot be made against the order passed under this sub section as explained in Sec 23(11).

Sec. 23(6): Notice in Form 315 - If Commissioner is of the opinion that there is non disclosure of sales/purchases, wrong set-off claim, deduction has been wrongly claimed or payment of tax at lesser rate, then notwithstanding anything contained in the other provisions of this section, he may serve a notice & proceed to assess after giving a reasonable opportunity of being heard. The ***time limit to pass assessment order here is within 6 years from end of year containing such period.***

Sec. 23(7): Where Fresh assessment has to be made to give effect to any findings or directions given by the Tribunal or High Court or supreme court , then notwithstanding anything

contained in this section, such assesment shall be made ***within 36 months from the date of communication of such finding or direction.***

Sec. 23(8): The Commissioner has powers to assess as provided in Sub-section (2) after providing an opportunity of being heard to the dealer & pass an assessment order, notwithstanding the fact that in a similar matter, the tribunal has given a decision against the state government or commissioner, if in such matter, the comm. has already filed appeal before the appropriate forum. However No recovery of such dues shall be made pending decision by such forum.

Sec. 23(9): Application to Commissioner in F. 305, to issue directions to complete assessment :

If dealer applies to the Commissioner in Form 305 (i.e. Form for application for the issuance of direction to the Assessing authority), where an assessment is pending, & if he considers that owing to the nature of the case, or amount involved or for any other reason, it is necessary, he may issue such directions for the guidance of the assessing authority, to enable him to complete the assessment & those will be binding on assessing authority. Directions which are prejudicial to the dealer shall not be issued without giving the dealer a reasonable opportunity of being heard.

The exact wordings used in the section are “ *The Commissioner , may on an application in the prescribed form made by any dealer, call for and **examine the record of any proceeding in which an assessment is pending** and.....*”

Issue :- Whether F.305 can be submitted only in case , where Assessment notice is issued & the assesment is pending or also in cases where no assesment notice is issued, but still dealer due to some circumstances & its facts of the case wants to apply or say in cases of refund proceedings ?

Sec. 23(10): Dealer may be assessed under a single notice and by a single order of assessment in respect of more than one period covered by a return as long as all such periods are comprised in one year.

Sec. 23(11): Cancellation of Assessment , Application in F.316 :-

*Where a dealer has been assessed under **sub-section (2), (3) or (4)** and he makes an application in the prescribed form to the Commissioner within thirty days of the date of*

service of the assessment order, for cancellation of the assessment on the ground that he had not been able to attend or remain present before the commissioner at the time of hearing when the assessment order had been passed, the commissioner shall, after verifying will cancel the order including penalty or interest levied and shall make a fresh assessment. The Fresh order of assessment may be passed **before the expiry of 18 months from the date of service of cancellation order**. The dealer can apply for such cancellation in Form 316 u/r 24(2) within 30 days from the date of service of the order, if the order is passed u/s 23(2), (3) & (4). The cancellation order shall be made in Form 317.

Imp. Note - Application in Form 316 (i.e. cancellation of Asst. Order in case of inability to remain present at time of hearing when Asst. Order was passed) can be made against the order passed under sub section (2) (3) & (4) only & not if order is passed under any other sub-section, i.e. the recent issue based or transaction assessment orders (notice issued in F.302) passed u/s 23(5) cannot be cancelled u/s Sec 23(11).

Assesment order u/s 23 & rule 23 shall be in **Form 303** (now F.303 also amended by MVAT 2nd amendment rules dtd 21.05.2013).

Section 51 - Grant of Refunds

Section 51 (1) – *Where a registered dealer has in any return, fresh return or revised return shown any amount to be refundable and has not undertaken to adjust such amount against the amount due as per any return in accordance with section 50, the commissioner shall, on an application made by the dealer and subject to rules, and other provisions of this act, grant refund of such amount to the said dealer.*

The Important points of Section 51 are as follows:

- The application for refund is required to be uploaded in E-Form 501. The Refund claimed amount in the application & the refund claimed reflected in the last return for that year should generally tally.
- The application for refund can be made after filing of return, fresh return or revised return, as the case may be, and necessarily not to wait for completion of year by following dealers:-

- a) An exporter with in the meaning of the section 5(1) or 5(3) of CST Act, if his exports are more than 50% of the total turnover.
- b) A unit specified in section 8(3), i.e. 100% EOU,SEZ,STP or EHTP,
- c) A unit holding certificate of entitlement under PSI schemes except tourism projects,1999 scheme,
- d) The canteen stores department or the Indian Naval Canteen Services,
- e) Dealer selling the goods in the course of Interstate trade & turnover of the said interstate sales in immediate previous year exceeds 50 % of his total turnover of sales for that year.

**In any other case application for refund can be made only after the end of the year .
{(Sec. 51 (2))}.**

- The Commissioner may on receipt of the Refund Application require the claimant dealer to furnish such Bank Guarantee for such period as may be prescribed. On receipt of such guarantee, the commissioner shall subject to rules, conditions and restrictions grant the dealer a refund of the amount claimed refundable within one month from the date of receiving such Bank Guarantee.

Section 51 (4) - *Save as otherwise provided in this section, the Commissioner shall grant the refund under this section within eighteen months from the end of the month containing the date of the receipt of the application for refund.* However for the Refund applications made on or before 31st march,2011, the time period is given as below:

Date of Application made	Refund to be made
In respect of the periods ending on or before the 31 st march 2010	On or before the 30 th September 2011
In respect of the periods beginning with the 1 st april 2010 and ending on the 31 st march 2011	On or before the 30 th June 2012

- The refund shall not be granted under this section if before the grant of refund, a notice for assessment covering the period to which the refund relates is issued or proceedings under subsection (3) or (4) of section 64 in respect of the period to which the refund relates are initiated. However, refund shall be granted of an amount equal to amount of Bank Guarantee furnished, if any.

- If it is found that the refund granted is in excess of the refund found due, then the excess shall be recovered as if it is a tax due from the dealer and on such excess, interest shall be leviable at the prescribed rate in rule 88(4) @ 1.25% per month or part thereof from the date of grant of the refund.

Section 51 (7) - *No refund under this section shall be granted unless an application as provided is made and no application under this section shall be entertained unless it is made **within eighteen months from the end of the year** containing the period to which the return relates.(Earlier 18 months time limit was 3 years, but substituted w.e.f 1.5.2011)*

But according to the Recent Bombay High Court judgment dated 22nd March 2013 in

Writ Petition No 10816 of 2012 , in case of M/s Sachin Impex vs. The State of Maharashtra & Ors.,

The refund of the petitioner was held up due to non-filling of F.501 within prescribed time & the petitioner filed a writ in the Bombay High Court requesting that the assessment of the dealer may be completed, since its refund is held up in consequence. The Bombay High Court passed the judgement in favour of the petitioner by directing the assessing officer to expedite the completion of the assessment.

Hence , now in cases where dealer's have failed to upload their F.501 refund application in time, they can take the support of the above Bombay High Court (jurisdictional high court) & make an application to the respective Joint/Additional Commissioner's to complete their assessment & grant the due refund.

- When the Commissioner is satisfied that the refund is due, he shall record an order in **Form 502** showing the amount of refund due and shall communicate the same to the dealer.
- Earlier, there was no provision in the act, to c/fd the refund claim from 1 year to another , i.e. the dealer could have carry forward refund as per any return to subsequent period within the said year, but not to subsequent year, & administratively the commissioner issued Trade Circulars for allowing to C/fd the Refunds/excess (generally Rs.1 Lakh) upto certain amounts from 1 year to another. i.e.

Sr. No.	Trade Circular	Refund C/fd from year to year
1	2T of 2007, dtd. 08.01.2007	2005-06 to 2006-07

2	41T of 2007, dtd. 21.05.2007 42T of 2007, dtd. 31.05.2007	2006-07 to 2007-08
3	15T of 2010, dtd. 15.04.2010	2009-10 to 2010-11
4	6T of 2011, dtd. 15.04.2011	2010-11 to 2011-12
5	6T of 2012, dtd. 21.04.2012	2011-12 to 2012-13

*** Hence ,it can be noted that No c/fd was allowed in F.y. 2007-08 & F.y. 2008-09, compulsory Refund claim application to be filed.**

In any other case, it could not be carried forward to the next year. Such dealers, previously in that years, if their refund/excess amounts were more than the limit specified in the circulars or if there were no circulars would compulsorily had to file application in Form 501 within prescribed period, if they wanted to claim the refund. But now as per **proviso added to sub-section (2) of section 50 by Mah. Tax Laws (Levy & amendment) Act, 2013 (w.e.f 01.05.2013)**, refunds or excess upto Rs. 5 Lakhs for periods commencing on or after 01.04.2012 can be c/fd to immediate succeeding year) i.e. see below actual text of proviso added to sub-section (2) of section 50

Provided that , for the period commencing on or after the 1st april 2012, a dealer whose refund claim in a year is rupees five lakh or less, may, carry forward such refund to the return or revised return for immediate succeeding year to which such refund relates.

- For filling of Refund Application in E-Form 501 following details are required:
 - Invoice wise Purchase Register (including all items on which due eligible ITC have been claimed i.e. expenses, Capital assets etc.....) having columns of Date, Invoice No, Tin No, Net & Vat.
 - List of Declarations Received & Not received in the format specified in Annex C & Annex D of Form 501.
- The detailed refund Guidelines are explained in **Trade Circular 22T of 2010 dtd 05/10/2010 & 5T of 2011 dtd. 11/04/2011** & different types of Refund procedure are also explained therewith i.e. **a) Fast Track Scheme, b) Refund under Exporters Scheme, c) Part Refund for Annual Refund & d) General Refund.**

Sections 52 and 53: Interest on refund and interest on delayed refund

Section 52 – Interest on amount of Refund

- Refund of any tax becoming due to a R.D (i.e. due to any assesment order etc...) is entitled for interest @ 6% p.a. { Rule 88 (2) } commencing on the date next following the last date of the period to which the refund relates & ending on the date of the order sanctioning the refund or for a maximum period of 24 months, whichever is less.
- Section 52 provides that interest under this section shall not be granted towards any refund granted under section 51 , i.e. if Refund is applied in E- Form 501, u/s 51.

Section 53 – Interest on Delayed Refund

- In case of delayed refund, i.e. amount required to be refunded as per section 51 & it is not so refunded to him within 90 days of the respective period provided in Section 51 or as the case may be , of the date of the said order , then the commissioner shall pay interest @ 6% p.a. from the date immediately following the expiry of the period of 90 days to the date of refund.
- Rule 88: Rate of interest presently notified for Sections 52 and 53 is half percent of amount of tax for each month or for part thereof.

Sections 54 : Power to Withhold any Refund in certain cases

- Section 54 provides for withholding of any refund payable to dealer as a result of any order passed under the act where that order is subject matter of any appeal or further proceedings & competent authority has reasons to believe that grant of such refund will affect the revenue adversely.
- The withholding of refund cannot be made without approval from the commissioner. It is further provided that commissioner shall approve it only if he is of the opinion that on the conclusion of such appeal or further proceedings, then it may not be practical or possible to recover ay amount that may become recoverable as per that order. Further the order withholding refund cannot be passed after 30 days from the date of service of order giving rise to the said refund.

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