

(TO BE PUBLISHED IN PART IV OF THE DELHI GAZETTE EXTRAORDINARY)
GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
FINANCE (T&E) DEPARTMENT
DELHI SACHIVALAYA, I.P. ESTATE: NEW DELHI-110002

No. F. 3(32)/Fin.(T&E)/2008-09/ JSfin/110

Dated 4/3/2009

NOTIFICATION

No. F. 3(32)/Fin. (T&E)/2008-09/ In exercise of
the powers conferred by sub-section (3) of section 73 the Delhi Value Added
Tax Act 2004 (Delhi Act 3 of 2005) and in supersession of Notification no.
F.101(341)/2005-Fin.(A/Cs)(ii)/1592 dated 27th June, 2005, the Lieutenant
Governor of the National Capital Territory of Delhi makes the following
rules, namely: -

RULES

1. **Short title and commencement**

- (1) These rules may be called the Delhi Value Added Tax Appellate Tribunal (Qualifications, Salaries, allowances and other conditions of service of Members) Rules- 2009.
- (2) They shall come into force on the date of notification.

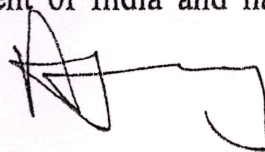
2. **Definition**

- (1) In these rules, unless the context other wise requires -
 - (a) 'Act' means the Delhi Value Added Tax Act, 2004 (Delhi Act 3 of 2005);
 - (b) "Administrative Member" means a member of the Tribunal, who is appointed on the basis of qualifications prescribed in clause (a) or clause (b) of sub-rule (1) of rule 3.

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- (c) "Form" means a form appended to these rules;
 - (d) "Judicial Member" means a member of Tribunal, who is appointed on the basis of qualifications prescribed in clauses (a) or (b) or (c) of sub-rule (2) of rule 3;
 - (e) "Lieutenant Governor" means the Lt. Governor of the National Capital Territory of Delhi appointed by the President under Article 239 read with Article 239-AA of the Constitution of India;
 - (f) "rules" means rules made under section 73 of the Act;
 - (g) "Tribunal" means the Appellate Tribunal defined in clause (c) of section 2 of the Act.
 - (2). The words "section" and "sub-section" respectively mean the relevant section or sub-section in the Act; and the words "sub-rule" means a sub-rule of a rule of these rules.

3. Qualifications

- (1) Subject to the stipulations contained in the proviso to sub-section (1) of section 73, a person shall not be qualified to be appointed as Administrative Member of the Tribunal unless he –
 - (a) has, for at least two years, held the post of a Joint Secretary to the Government of India or any other post under the Central or a State Government or Government of Union Territory carrying a scale of which is not less than that of a Joint Secretary to the Government of India and has for at least two



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years functioned as a quasi-judicial authority at the appellate level; or

(b) has for at least five years held the post of a Deputy Secretary to the Government of India or any other post under the Central or State Government or Government of Union Territory carrying a scale of pay which is not less than that of a Deputy Secretary to the Government of India and has for at least two years functioned as a first appellate authority under a law relating to sales tax/Value Added Tax.

(2) A person shall not be qualified to be appointed as a Judicial Member unless he:-

(a) has held a Civil Judicial post for at least ten years; or

(b) has been a member of the Indian Legal Service (not below Grade-III) for at least three years; or

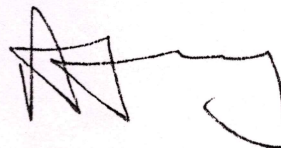
(c) has been in practice as an advocate for at least ten years.

Explanation:

For the purpose of this rule-

(i) in computing the period during which a person has held judicial office in the territory of India, there shall be included any period, after he has held any judicial office, during which the person has been an advocate or has held the office of a member of a tribunal or any post under the Union or a State or a union territory requiring special knowledge of law; and

(ii) in computing the period during which a person has been an advocate there shall be included any period during which the person has held any judicial office or the office of a



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member of a tribunal or any post under the Union or a State or a Union Territory requiring special knowledge of law after he became an advocate.

4. Disqualification

(1) No person-

- (a) who has entered into or contracted a marriage with a person having a spouse living; or
- (b) who having a spouse living, has entered into or contracted a marriage with any person shall be eligible for appointment as member.

Provided that the Lieutenant Governor may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and there are other grounds for so doing exempt any person from the operation of this rule.

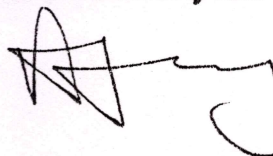
- (2) No person shall be eligible for being appointed as a member if he is less than forty years of age as on the last date for receipt of applications specified in the advertisement referred to in sub-rule (2) of rule 7.

5. Condition for appointment as a Member on Deputation basis.

Every person, who is a member of Judicial Service or is in Service under the Central Government or State Government or Government of a Union Territory and who fulfills the requisite qualification under rule-3 shall be eligible for appointment on deputation basis. Terms and conditions of appointment on deputation basis including pay & allowances, pension, leave and other benefits etc. will be decided by the Government.

6. Term of Office

Every person appointed as a Member of the Tribunal shall hold office for a term of three years from the date on



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which he enters upon his office, but shall be eligible for reappointment for another term of three years, provided that no such person shall hold office as member of the Tribunal after he has attained the age of sixty five years.

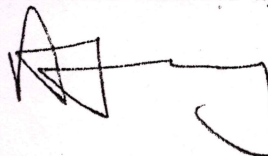
Provided further that an officer appointed on deputation basis shall be eligible for reappointment for another term of two years only so that total tenure of serving officer as Member on deputation basis does not exceed five years.

7. Method of Recruitment (1) There shall be a Selection Committee consisting of –
- | | | |
|--------------------------------------|---|----------|
| Chief Secretary | - | Chairman |
| Principal Secretary (Finance) | - | Member |
| Principal Secretary (Services) | - | Member |
| Principal Secretary (Law & Judicial) | - | Member |

- (2) The Selection Committee shall recommend persons for appointment of members from amongst the persons on the list of candidates prepared by the Finance Department of the Government after inviting applications therefore by advertisement.

Provided that the advertisement may seek application either from persons possessing the qualification prescribed in clauses (a) or (b) of sub-rule (1) or from persons possessing the qualification prescribed in clauses (a), (b) or (c) of sub-rule (2) of rule 3.

- (3) The Lieutenant Governor shall, after taking into consideration the recommendations of the Selection Committee, make list of persons selected for appointment as Administrative Member from among those possessing the qualification prescribed in clauses (a) or (b) of sub rule (1) of rule 3 and a separate list of persons selected for appointment as



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Judicial Member from among those possessing the qualification prescribed in clauses (a), (b), or (c) of sub-rule (2) of rule 3:

Provided that reserve lists of selected candidates shall cease to be valid on the expiry of six months from the respective dates when the relevant vacancies were filled from the lists.

8. Medical Fitness No person shall be appointed as a member unless he is declared medically fit by a Medical Board to be constituted by the Lieutenant Governor for the purpose.

Provided that fresh declaration of medical fitness shall not be required in case he has already been declared fit by an equivalent authority.

9. Oath of office and secrecy: Every person appointed as a member shall, before entering upon his office, make and subscribe to oaths of office and secrecy in Form-1 and Form-2.

10. Probation: (1) Every person, other than a person possessing any one or more of the qualifications prescribed in clause (a) or clause (b) of sub-rule (1) and clauses (a) or (b) of sub-rule (2) of rule 3, if appointed as a member shall be on probation for one year.

(2) The Lieutenant Governor may in case of any person appointed on probation, extend or reduce the period of probation in consultation with the Selection Committee constituted vide sub-rule (1) of rule 7.

(3) At any time during the period of probation and without any reasons being assigned such a person appointed on probation may be discharged from service as a member.



11. Seniority and Chairman : ⁷ (1) The inter-se-seniority of persons appointed as members shall be determined in accordance with the length of service in the pay structure of PB-4 Rs. 37,400-67000+10000 (Grade Pay). A person, whose length of service in the pay scale is more than another, shall be reckoned as senior.

(2) The senior most member shall be appointed as Chairman:

Provided that during the tenure of any member appointed as Chairman, no other member shall be appointed as Chairman.

12. Resignation and Removal/Repatriation: (1) A member of the Tribunal may, by notice in writing under his hand addressed to the Lieutenant Governor, resign his office:

Provided that, unless he is permitted by the Lieutenant Governor to relinquish his office sooner, he shall continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon his office or until the expiry of his term of office, whichever is the earliest.

(2) No member shall be removed from his office except by an order made by the Lieutenant Governor.

(3) No member appointed on deputation basis shall be repatriated before his term except by an order made by the Lieutenant Governor.

13. Pay and Increments: (1) Each member shall receive pay in the pay structure of PB-4 Rs. 37,400-67000+10000 (Grade Pay) and earn annual increments in accordance with the rules applicable to



a Joint Secretary to the Government of India belonging to the Indian Administrative Service:

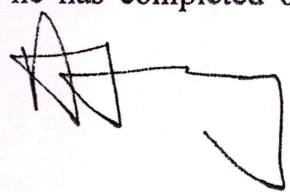
Provided that-

(i) the initial pay in the case of a person appointed as an Administrative Member shall be fixed at a stage which is arrived at by ascertaining the stage equal to or immediately above the last pay drawn by that person before retirement and by allowing one advance increment @ 3% in the pay structure of PB-4 Rs. 37,400-67000+10000 (Grade Pay) for every year of functioning as first appellate authority under the law relating to sales tax/Value Added Tax in Delhi or part thereof; and subsequent increment shall be granted on the first day of July every year subject to the condition that he has completed 6 months and above in the revised pay structure as on 1st of July as laid down in Rule-10 of CCS (Revised Pay) Rules, 2008.

(ii) the initial pay in the case of a person appointed as Judicial members shall be fixed -

- (a) in case of a person possessing the qualification prescribed in clause (a) or (b) of sub-rule (2) of rule 3 at a stage in the pay structure of PB-4 Rs. 37,400-67000+10000 (Grade Pay) equal to or immediately above the last pay drawn by that person before retirement:
- (b) in case of person possessing the qualification prescribed in clause (c) of sub-rule (2) of rule 3, at the minimum of the scale of pay structure of PB-4 Rs. 37,400-67000+10000 (Grade Pay).

And subsequent increment shall be granted on the first day of July every year subject to the condition that he has completed 6 months in the



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revised pay structure as on 1st of July as laid down in Rule 10 of CCS (Revised Pay) Rules-2008.

Provided further that the number of advance increments allowed under clause (i) of the first proviso shall not exceed three.

Provided also that in allowing advance increments under clause (i) of the proviso, part of any year below six months shall be ignored.

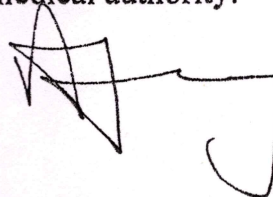
(iii) The officer appointed on deputation shall be given an option either to fix his pay in the pay scale of the post of Member or to draw his pay in his own pay scale plus deputation duty allowance as prescribed in FRSR.

14. Allowances

Every Member shall receive allowances appropriate to his pay at the rates admissible to a Group 'A' officer of the Central Government drawing pay in the pay structure of PB-4 Rs. 37,400-67000+10000 (Grade Pay).

15. Leave

- (1) A person, on appointment in the Tribunal as a member shall be entitled to-
 - (i) earned leave at the rate of fifteen days for every completed calendar year of service;
 - (ii) half pay leave on medical certificate or on private affairs at the rate of twenty days in respect of each completed year of service and the leave salary for half pay leave shall be equivalent to half of the leave salary admissible during the earned leave.
 - (iii) Leave on half pay can be commuted to full pay leave at the discretion of the member provided it is taken on medical grounds and is supported by a medical certificate from the competent medical authority.



(iv) Extraordinary leave without pay and allowances up to a maximum period of one hundred eighty days in one term of office.

2. If a member is unable to enjoy full vacation on account of his occupation with the Tribunal, he shall be entitled to add to unenjoyed period of vacation to the leave account.

3. On the expiry of his term of office in the Tribunal, a member shall be entitled to receive cash equivalent of leave salary in respect of the earned leave standing to his credit, provided that the quantum of leave en-cashed under this sub-rule and rule 5 shall not in any case exceed [300] days.

Provided that the member appointed on deputation basis shall continue to be governed by the leave rules applicable in his parent cadre.

16. Leave sanctioning authority

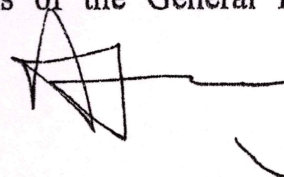
The Chief Secretary shall be the competent authority to sanction leave to any Member of the Tribunal.

17. Pension and Gratuity

The person appointed as a member of the Tribunal shall be governed by the new defined Contributory Pension Scheme. Provided that Member, appointed on deputation basis shall continue to be governed by pension rules, which were applicable to him before such transfer.

18. Provident Fund

A member of the Tribunal shall be governed by the new defined Contributory Pension Scheme. A member, appointed on deputation basis, shall be governed by the provisions of the General Provident Fund



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(Central Services) Rules, 1960, provided that he was appointed in his parent cadre before 01.01.2004 and is already subscribing to that fund before his joining as Member.

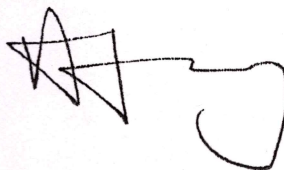
19. Travelling Allowances.

Every member of the Tribunal while on tour or on transfer (including the journey undertaken to join the tribunal or on the expiry of his term with the Tribunal to proceed to his home town) shall be entitled to travelling allowances, daily allowance, transportation of personal effects and other similar allowances at the same scales and the same rates as are applicable to a Joint Secretary to the Government of India from the Indian Administrative Services.

20. Leave Travel Concession. Every member of the Tribunal shall be entitled to Leave Travel Concession at the same rates and at the same scales and on the same conditions as are applicable to a Joint Secretary to the Government of India.

21. Accommodation. (1) Every member of the Tribunal shall be entitled to the use of an official residence from the General Pool accommodation of the Directorate of Estate or from the Government pool of the type admissible to an officer of the rank of a Joint Secretary to the Government of India stationed at Delhi on payment of the license fee at the rates prescribed by the Central Government from time to time.

(2) When a member is not provided with or does not avail himself of the accommodation referred to in sub-rule (1), he may be paid every month an allowance of an amount equal to thirty percent of his pay band plus grade pay.



- (3) Where a member occupies an official residence beyond the permissible period he shall be liable to pay additional licence fee or penal rent, as the case may be, and liable to eviction in accordance with the rules applicable to a Joint Secretary to the Government of India.

22. Facility of Conveyance. Every member of the Tribunal shall be entitled to a facility of staff car for journeys for official and private purposes in accordance with the Staff Car – Rules of the Government of India.

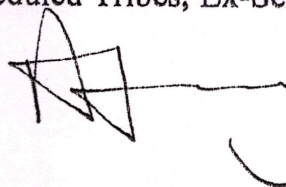
23. Facility for Medical Treatment. Every member of the Tribunal shall be entitled to medical treatment and hospital facility as provided in the rules applicable to the employees of the Government.

24. Residuary Provisions. The conditions of service of a member of the Tribunal, for which no express provision is available in these rules, shall be determined by the rules and orders for the time being applicable to a Joint Secretary to the Government of India belonging to the Indian Administrative Service.

25. Interpretation. If any question arises relating to the interpretation of these rules the decision of the Lieutenant Governor thereon shall be final.

26. Power to relax. Where the Lieutenant Governor is of the opinion that it is necessary or expedient so to do, he may, by order for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any class or categories of persons.

27. Saving. Nothing in these rules shall affect any reservations, relaxation of age limit, and other concessions required to be provided for the candidates belonging to the Scheduled Castes, the Scheduled Tribes, Ex-Servicemen and



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other special categories of persons, in accordance with the orders issued by the Central Government from time to time in this regard.

28. Repeal. The conditions of service of the member of the Appellate Tribunal determined vide the Finance Department, Government NCT of Delhi's Notification No. F.4 (31)/2000/Fin. (E-I) 321 Kha dated 11th July 2000 as amended by notification no F.101 (100)/2002/Fin.(A/Cs)/363-73 dated 30.04.2002 as extended vide notification no F.101(341)/2005-Fin.(A/Cs)(ii)/1592 dated 27.06.2005 shall cease to have effect on the date of the issue of this notification.

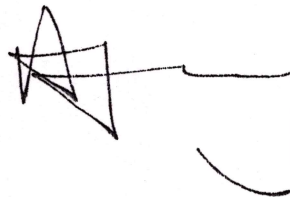
By order and in the name of the
Lieutenant Governor of the National
Capital Territory of Delhi.


(AJAY KUMAR GARG)
Joint Secretary (Finance)

FORM -1.
(See Rule-7)

Form of oath of office for Member Delhi Value Added Tax Appellate Tribunal.

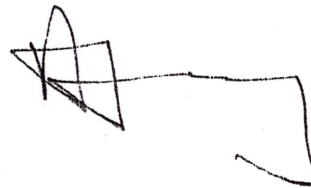
I, AB, having been appointed as Member, Delhi Value Added Tax, Appellate Tribunal, do solemnly affirm/do swear in the name of God that I will faithfully and conscientiously discharge my duties as Member, Delhi Value Added Tax, Appellate Tribunal, to the best of my ability, knowledge and judgment, without fear or favour, affection or ill-will.

A handwritten signature in black ink, consisting of a stylized, angular initial followed by a horizontal line and a large, open 'U' shape.

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FORM -2
(See Rule-9)

Form of oath of secrecy for Member Delhi Value Added Tax Appellate Tribunal.

I, AB, having been appointed as Member, Delhi Value Added Tax Appellate Tribunal, do solemnly affirm/do swear in the name of God that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as Member, Delhi Value Added Tax, Appellate Tribunal, except as may be required for the due discharge of my duties as such Member.

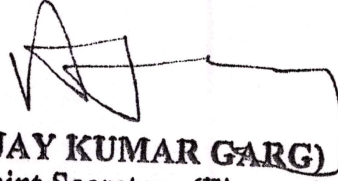
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No. F. 3(32)/Fin. (T&E)/2008-09/JSfin/110

Dated 4/3/2009

Copy forwarded for information and necessary action to: -

- 1 The Principal Secretary, G.A.D., Govt. of NCT of Delhi, Delhi Secretariat, I.P. Estate, New Delhi with one spare copy for its publication in the Delhi Gazette Part-IV (extraordinary) in today's date.
- 2 The O.S.D. to L.G., Raj Niwas, Delhi.
- 3 The Secretary to Finance Minister, Govt. of NCT of Delhi, Delhi Secretariat, New Delhi
- 4 The O.S.D. to the Chief Secretary, Govt. of NCT of Delhi.
- 5 The Principal Secretary (Law & Judicial) Govt. of NCT of Delhi, Delhi Secretariat, I.P. Estate, New Delhi.
- 6 The Principal Secretary (Services), Govt. of NCT of Delhi, Delhi Secretariat, I.P. Estate, New Delhi.
- 7 The Commissioner, Trade & Taxes Department, Vyapar Bhawan, I.P. Estate, New Delhi.
- 8 The Registrar, Value Added Tax Appellate Tribunal, Vyapar Bhawan, I.P. Estate, New Delhi.
- 9 Website.
- 10 Guard File


(AJAY KUMAR GARG)
Joint Secretary (Finance)