

CHAPTER XXXIX

RULE RELATING TO REFERENCES AND APPLICATIONS UNDER SECTION 61 OF THE BOMBAY SALES TAX ACT, 1959

706. References to be sent to the Prothonotary and Senior Master¹[at Bombay or the Additional Registrar of the respective Benches as the case may be] – All references under section 61 of the Bombay Sales Tax Act, 1959, (hereinafter in this chapter referred to as “the Act”) shall be forwarded to the Prothonotary and Senior Master²[at Bombay or the Additional Registrar of the respective Benches as the case may be] and shall be dealt with on the Original Side of the High Court.

¹[Provided that References and applications fallings within the jurisdiction of Nagpur/Aurangabad/Panaji-Goa Benches of Bombay High Court shall be presented to the Additional Registrar of the Bombay High Court at Nagpur/Aurangabad/Panaji-Goa shall be disposed of by the Judges sitting at Nagpur/Aurangabad/Panaji-Goa

Provided further that the Chief Justice may, in his discretion order that any case arising in the jurisdiction of the said Benches shall be heard at Bombay.]

707. Notice of reference to party at whose instance reference is made - When the Maharashtra Sales Tax Tribunal refers a case to the High Court, it shall give notice of that fact to the party at whose instance the reference has been made and shall call upon him to take such steps in the office of the Prothonotary and Senior Master¹[at Bombay, or the Additional Registrar of the respective Benches as the case may be] as may be necessary for bringing the reference to a final conclusion

708. Filing statement of case, issuing notice and fixing date for the hearing - The party at whose instance a reference has been made shall file the statement of the case in the office of the Prothonotary and Senior Master¹[at Bombay, or the Additional Registrar of the respective Benches as the case may be] and shall forth with take steps to bring the reference to final conclusion. Such party shall apply to the Prothonotary and Senior Master¹[at Bombay, or the Additional Registrar of the respective Benches as the

case may be] to issue notice and to fix a date for the hearing of the reference and shall serve the notice on the opposite party. If such party fails to take such steps for two months from the receipt of the reference in the High Court, the Prothonotary and Senior Master ¹[*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] may set down the reference on board for orders. The court may pass such order on the reference as it may deem fit.

709. Preparation of paper book – The party at whose instance a reference has been made shall prepare the paper book which shall contain the statement of the case and other papers forwarded by the Tribunal. The paper book shall be typed or cyclostyled, but the Prothonotary and Senior Master ¹[*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] may, on the application of any party, direct that the paper book be printed. Two copies of the paper book shall be filed in the office of the Prothonotary and Senior Master ¹[*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] within two months from the date of the filing of the reference in the High Court.

710. Failure to file Paper Books – In the event of non-compliance with the last preceding rule, the Prothonotary and Senior Master ¹[*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] may set down the reference on board for orders. The Court may pass such orders on the reference it may deem fit.

711. Application to the High Court under Section 61 (1) – An application to the High Court under sub-section (1) of section 61 of the Act shall be presented to the Prothonotary and Senior Master ¹[*at Bombay, or the Additional Registrar of the respective Benches as the case may be*]. Such application shall be by petition. There shall be annexed to such petition copies of the order and judgment, if any, of the Tribunal, and also of the relevant documents on which the applicant wants to rely in support of his application.

712. Placing of application before the Court – The Prothonotary and Senior Master ¹[*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] shall place such application before the Court on a day appointed by the Chief Justice. The Court may either reject the application summarily or order a rule *nisi* to issue to show cause why the

order applied for should not be made. The rule shall be made returnable on such date as the Court may direct.

713. Service of rule nisi – The rule *nisi* together with a copy of the application shall be served on the opposite party i.e. on the assessee or the Commissioner of Sale Tax, as the case may be, at least fourteen days before the returnable date of the rule.

714. Time for furnishing copies of application – On a rule *nisi* being issued, the applicant shall furnish to the office of the Prothonotary and Senior Master ¹[*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] two typewritten or cyclostyled or printed copies of such application with all its annexures at least one week before the day fixed for the hearing of the rule.

715. Answer to rule nisi – Answer to the rule *nisi* shall be made on affidavit and the same shall be filed at least four days before the returnable date of the rule *nisi*. Two copies of such affidavit shall be furnished to the office of the Prothonotary and Senior Master ¹[*at Bombay, or the Additional Registrar of the respective Benches as the case may be*].

716. Copy of the Court's order and judgment to be sent to the Tribunal – Where the rule *nisi* is made absolute, the Prothonotary and Senior Master ¹[*at Bombay, or the Additional Registrar of the respective Benches as the case may be*] shall send a copy of the Court's order and judgment, if any, to the Tribunal.

717. Reference and applications to be heard by a bench – All references and applications under section 61 of the Act shall be heard by a bench of not less than two Judges appointed by the Chief Justice.

718. Chapter to apply to references and applications under section 34 of the Bombay Sales Tax Act, 1953 – The rules contained in this chapter shall, with any necessary modifications, apply to all references and applications of the Bombay Sale Tax Act, 1953.

1. These words inserted by G.N. of 11.2.2000, Part IV-C, Pg.87, M.G.G. Part IV-C.