

THE JAMMU AND KASHMIR ENTERTAINMENT TAX (CINEMATOGRAPH SHOWS) RULES, 1962

Notification

Dated Jammu, the 19th November 1962

SRO-360. -In exercise of the powers conferred by section 19 of the Jammu and Kashmir Entertainment (Cinematograph Shows) Act, 1962, the Government hereby make the following Rules, namely:

CHAPTER I

1. *Short title.* -(1) These rules may be called the Jammu and Kashmir Entertainment Tax (Cinematograph Shows) Rules, 1962.

(2) These shall come into *force* on 19th November 1962.

2. *Definitions.* -In these rules, unless there is anything repugnant in the subject or context;

(a) 'Act' means the Jammu and Kashmir Entertainment Tax (Cinematograph Shows) Act, 1962;

(b) 'Agent' means a person authorised in writing by a proprietor to appear on his behalf before any officer empowered under the Act to carry out the purposes of the Act;

(c) 'Assessing Authority' in respect of any proprietor means the Excise and Taxation Officer or Taxation Inspector appointed as such for the area in which the proprietors place *of* business is situated;

(d) 'Deputy Excise Commissioner' means the person appointed by that designation by the Government to assist the Commissioner, in relation to the area under his charge;

(e) 'Excise and Taxation Officer' means the person appointed by that designation by the Government to assist the Commissioner;

(f) 'Form' means the form appended to these rules;

(g) 'Section' means a section of the Act;

(h) 'Taxation Inspector' means the person designated as such to assist the Commissioner;

(i) 'Treasury' means the Government treasury, or sub- treasury of a district or tehsil as the case may be ;

(j) 'Year' means the financial year.

CHAPTER I

Superintendence and Control of the Administration under the Act

3. 'Prescribed authority' shall be
 - (a) the 'assessing authority' for the purposes of section 7, 8 and 10 of the Act; and
 - (b) the Deputy Excise Commissioner section 9 of the Act for the purpose of section 9 of the Act.
4. The accounts or documents required by the Government under section 11 of the Act shall be produced before and the powers under section 12 shall be exercisable by the Taxation Inspector and the Excise and Taxation Officer within their respective jurisdictions.
5. (1) The Commissioner shall superintend the administration and the collection of tax leviable under the Act.
 - (2) Subject to the general control and superintendence of the Commissioner the Deputy Excise Commissioner, shall control all other Officers appointed to assist the Commissioner under the Act, within his jurisdiction.
 - (3) The Excise Officer or the Taxation Inspector incharge of an area, is charged with the duty of carrying out the provisions of the Act and these rules subject to the overall control and directions of the Deputy Excise Commissioner and the Commissioner.

CHAPTER III

Securities and Payment of Tax

6. Securities. -Every Excise and Taxation Officer or the Taxation Inspector incharge of an area, shall maintain a register in Form J. K. E. T. 1, showing the securities deposited by the proprietor & of permanent cinema premises.
- 7: If the proprietor of a permanent cinema premises sells or otherwise disposes of his business or any part of such business, or effects any other change in the ownership, name, style, location, nature or extent of such business, or discontinues such business, he may soon after such sale, disposal, discontinuance or change, submit a report to that effect to the assessing authority, who shall make a report to the Commissioner for the refund of security if any, under sub-section (3) of section 5 of the Act, on an application from the proprietor or his legal heirs.
8. Payment of Tax:- (1) Every proprietor shall make the payment of tax in the manner provided and shall maintain a

register showing the number of shows held each day and the amount of tax leviable and deposited in respect thereof in Form J. K. E. T. 2.

(2) Every proprietor shall submit a return in Form J. K.E. T.3 to the assessing authority within seven days of the close of the fortnight to which it pertains unless extended.

(3) All payments shall be made by means of challans in Form J. K. E. T. 4. Challan forms shall be obtainable free of charge at the office of the assessing authority.

(4) Challans shall be filled up in quadruplicate, one copy of the challan shall be retained by the treasury. One copy shall be sent by the Treasury Officer to the Excise and Taxation Officer/Taxation Inspector incharge of the area and the third copy shall be returned to the proprietor duly signed in proof of payment. One copy thereof shall be attached to the fortnightly return required to be furnished in Form .T. K. E. T. 3 under sub rule (2) and the other copy shall be retained by the proprietor.

CHAPTER IV

Refunds, Remissions and Exemptions

9. *Refunds.* -(1) An application for the refund of Tax paid in excess shall be made to the Excise and Taxation Officer or the Taxation Inspector of the area and this shall clearly and briefly specify the grounds on which the refund is claimed.

(2) Every such application shall be entered in a register in Form J. K. E. T. 5.

10. (1) The Excise and Taxation Officer or the Taxation Inspector incharge of the area, shall satisfy himself that the claim is admissible. He may require the applicant to make an oral deposition on oath, or solemn affirmation, or file an affidavit setting forth the circumstances in which the claim has arisen and may also, if he deems fit, call for evidence in support of such deposition or affidavit.

(2) The Excise and Taxation Officer or the Taxation Inspector in charge of the area. will then forward the case for refund with his comments, to the Deputy Excise Commissioner of the area concerned for orders.

(3) The Deputy Excise Commissioner may call for further evidence in support of the application.

(4) The Deputy Excise Commissioner will then record his orders in writing, either rejecting or accepting the application, either wholly or partially. His orders would be communicated to the Excise and Taxation Officer or the Taxation Inspector incharge of the area concerned, who would inform the applicant.

11. (1) where an order of refund has been passed under sub-rules (3) and (4) of rule 10 above, the Deputy Excise Commissioner incharge shall make the payment to the claimant through a refund voucher in Form J. K. E. T. 6 information whereof shall be conveyed to the officer incharge.

(2) If the proprietor desires payment by adjustment against any amount subsequently payable by him, a Refund Adjustment Order in Form J. K. E. T. 7 in duplicate authorizing the proprietor to deduct the sum to be refunded from the amount payable by him in respect of the next return period, following the sanctioning of the refund, shall be issued. The proprietor shall attach one copy of the Refund Adjustment Order in Form J. K. E. T. 7 to the next ensuing return to be furnished by him in support of his claim.

12. *Remissions.* -The procedure laid down in rules 9 to 11 shall apply *mutatis mutandis* to applications for remission under sub-section (2) of section 9 of the Act, except that application for remission shall be presented to the Excise and Taxation Officer or Taxation Inspector incharge of the area not later than three days of the incomplete show, for which remission is applied for. Such an application will be accompanied by an affidavit to the effect that the tickets holders have been refunded the price of their tickets in full.

13. *Exemptions.* -(1) Any proprietor claiming exemption, under sub-section (1) of section 6 of the Act, from the payment of tax in respect of a particular show or shows shall present an application for such exemption to the Deputy Excise Commissioner, at least ten clear days before the date of exhibition of the first show, who shall forward the same without delay to the Commissioner, with his recommendations, for such orders as the Commissioner may deem fit.

(2) All applications for exemption under sub-section (2) of section 6 of the Act, shall be made to the Commissioner at least seven days before the date of exhibition of the first show, who shall forward the same with his recommendations to the Government for their orders.

14. Where exemption is granted by the Commissioner under section 6 (1) of the Act, the Deputy Excise Commissioner shall issue to the proprietor a certificate in Form J. K. E. T. 8 and the proprietor shall comply with the conditions stated therein.

CHAPTER V

Registers, Assessment and Notices etc.

15. *Registers.* -Every Excise and Taxation Officer or Taxation Inspector incharge of an area shall maintain a demand and collection register in Form J. K. E. T. 9 showing the payment of tax composition money and other fees by the proprietors in the area of his charge.

16. Every Treasury Officer shall send to the Excise and Taxation Officer or Taxation Inspector of the area within the first week of each month, a statement of the amounts credited into the treasury under the Act and these rules during the preceding month.

17. *Assessment.*-(l) When it appears to the assessing authority to be necessary to make an assessment under section 8 of the Act in respect of a proprietor, he shall serve a notice in Form J. K. E. T. 10.

(a) calling upon him to produce his books of accounts or other documents, which such authority wishes to examine together with any objection which the proprietor may wish to refer and any evidence which he may wish to produce thereof or; and

(b) stating the period or the return period or periods in respect of which assessment is proposed, and he shall fix a date, ordinarily not less than 10 days after the date of the service of the notice for producing such accounts and documents and considering any objection which the proprietor may prefer.

(2) Where an assessing authority is satisfied about the accuracy of a return filed in Form J. K. E. T. 3, he shall issue a certificate in Form J. K. E. T. 14, and record particulars thereof on the return in Form J. K. E. T. 3.

18. Where the assessing authority determines the liability of the proprietor at a figure different from that shown in the return submitted under the provisions of the Act and these rules, the order shall state briefly the reasons therefor, but a failure to state reasons shall not affect the validity of the assessment order.

19. A proprietor, who has been served with an assessment order under rule 18 may prefer an objection in writing personally or through an Agent. No Court fee shall be payable in respect of any such objection.

20. After considering any objection made by the proprietor and any evidence produced in support thereof, the assessing authority after giving the proprietor an opportunity of being heard, shall assess the amount of tax (if any) to be paid by the proprietor.

21. Every assessing authority shall maintain a register in Form J. K. E. T. 11 in which he shall enter the details of each case instituted under rule 17.

22. *Notice of demand.* -(l) If any sum is payable by a proprietor under the Act. the assessing authority shall serve a notice in Form J. K. E. T. 12 and shall also fix a date not less than 30 days from the date of service by which the proprietor shall furnish the receipted challan in proof of such payment.

(2) When the challan is produced, the assessing authority shall make the necessary entry in the personal file of the proprietor.

23. (1) If on the date fixed under the aforesaid rule the defaulting proprietor has not paid the sum due, the assessing authority shall apply to the Collector for recovery as an arrear of land revenue of the tax unpaid giving the following particulars:

- (a) Name and full address of the defaulter;
- (b) Amount recoverable;
- (c) Period to which the amount relates;
- (d) Nature of the amount due; and
- (e) Head of account, to which the amount shall be credited.

(2) After taking necessary action the Collector shall report to the assessing authority what amount, if any, has been recovered and the date on which the recovery has been made.

(3) The assessing authority shall place the Collector's report on personal file of the proprietor.

24. Service of any notice or order under the Act or these rules may be effected in any of the following ways namely:

- (a) by sending it to the person concerned under a certificate of posting ; or
- (b) by giving or tendering it to the person concerned or his manager or agent, if any; or
- (c) if the person concerned or his manager or agent, if any, cannot be found by leaving it at the last known place of business or residence of the person concerned or by giving or tendering it to some adult male member of his family; or
- (d) if none of the methods aforesaid is practicable by affixing it in some conspicuous place at the last known place of business of the person concerned.

CHAPTER VI

Revision and Fees

25 *Revision.* - (1) A revision against an order passed under the Act by an authority subordinate to the Commissioner shall lie to the Commissioner. Every application for revision may be presented to the Commissioner by the proprietor or his agent

or it may be sent to the said authority by registered post. Every application for revision shall bear a court fee of Rs. 2 and it shall contain the following particulars :

- (a) the date of the order sought to be revised;
 - (b) the name and the designation of the officer who passed the order sought to be revised;
 - (c) the grounds of the revision briefly but clearly set out.
- (2) It shall be accompanied by a certified copy of the order required to be revised.
- (3) It shall be endorsed by the proprietor or his agent as follows :
- (a) that the amount of tax assessed and the amount 0:11 penalty if imposed has been paid; and
 - (b) that to the best of his knowledge and belief the facts set out in the application are true.
- (4) It shall be signed by the proprietor or his agent.

26. The application may be summarily rejected if the applicant fails to comply with any of the requirements of rule 25.

27. If the Commissioner does not reject the application summarily, he shall fix a date for its hearing. The revision petition shall be decided after considering any representation that may be made by the assessing authority after giving an opportunity to the petitioner or such person as in the opinion of the Commissioner may directly be interested in the result of the petition, of being heard in person or by a duly authorized agent. The Commissioner may before deciding the application himself hold such further enquiries or direct it to be held by the authority against whose decision the revision petition has been preferred, as may appear necessary to the Commissioner to meet the ends of justice. The order passed by the Commissioner shall be final.

By order of the Government of Jammu and Kashmir.

(Sd.).....
Secretary to Government,
Finance Department.