

(d) if such person does not reside in the head-quarters of the Mandal Parishad/Zilla Parishad and his address elsewhere is known to the Mandal Parishad Development Officer/Chief Executive Officer of Mandal Parishad/Zilla Parishad, respectively by sending the same to him by post, after obtaining certificate of posting at least ten days in advance of meeting in the case of an ordinary meeting or a special meeting and six days in advance in the case of an urgent meeting convened under the Act or the rules made thereunder.

RULES RELATING TO THE CONSTRUCTION OF REFERENCES TO THE GRAM PANCHAYATS, MANDAL PARISHADS AND ZILLA PARISHADS.

(G.O.Ms.No.378, Panchayat Raj, Rural Development & Relief (Mandal-I),
Dated 28th June, 1994.

In exercise of the powers conferred by sub-section (1) of Section 268 of the Andhra Pradesh Panchayat Raj Act, 1994 (Act No.13 of 1994) read with section 18 of the Andhra Pradesh General Clauses Act, 1891 (Act No.1 of 1891), the Governor of Andhra Pradesh hereby makes the following rules, namely :

RULE

The rules made under the repealed Andhra Pradesh Gram Panchayats Act, 1964 (Act No.2 of 1964) and the Andhra Pradesh Mandal Praja Parishads, Zilla Praja Parishads and Zilla Pranalika and Abhivrudhi Sameeksha Mandals Act, 1986 (Act No.31 of 1986) which are consistent with the provisions of the Andhra Pradesh Panchayat Raj Act, 1994 (Act No.13 of 1994) will continue to be in force under Sections 8 and 18 of the Andhra Pradesh General Clauses Act, 1891 as if they are made under the provisions of the Andhra Pradesh Panchayat Raj Act, 1994 (Act No.13 of 1994) until new rules are framed. In the application of the rules made under the repealed Andhra Pradesh Gram Panchayats Act, 1964 (Act No.2 of 1964) and Andhra Pradesh Mandal Praja Parishads, Zilla Praja Parishads and Zilla Pranalika and Abhivrudhi Sameeksha Mandals Act, 1986 (Act No.31 of 1986), but continuing under section 18 of the Andhra Pradesh General Clauses Act, 1891 any reference to "Mandal Praja Parishads", "Zilla Praja Parishads", and Sarpanch, Mandal Development Officer and District Development Officer shall, unless the context otherwise requires, be construed as a reference to "Mandal Parishad" "Zilla Parishad" and Person-in-charge, Mandal Parishad Development Officer, and Chief Executive Officer, respectively.

RULES RELATING TO CERTAIN TAXES AND LODGING OF MONEYS RECEIVED BY THE GRAM PANCHAYATS AND PAYMENT OF MONEY FROM THE GRAM PANCHAYAT FUND

(G.O.Ms.No.30, Panchayat Raj Rural Development and Relief, Dt. 20-1-1995)

As amended by :

1. G.O.Ms. No.113, P.R. & R.D. (Pts-II) Dt. 22.03.1996.
2. G.O.Ms.No. 96, P.R & R.D. (Pts. III) Dept., Dt. 14-03-2002.

In exercise of the powers conferred by sub-section (1) and clause (xxvii) of sub-section (2) of Section 268 of the Andhra Pradesh Panchayat Raj Act (Act No.13 of 1994) the Governor of Andhra Pradesh hereby makes the following rules relating to certain taxes and the lodging of moneys received by the Gram Panchayats and payment of moneys from Gram Panchayat Fund.

RULES : PART - I

A - GENERAL

RULES RELATING TO TAXES OTHER THAN THOSE SPECIFIED IN SECTION 71

1. (1) The executive authority shall, save as otherwise provided in these rules, determine the tax to which each person or property is liable:

Provided that in the case of taxes payable by the executive authority, the assessment shall be made by the gram panchayat.

2. As soon as may be after the tax payable by a person is determined for the first time under this Act, such a person shall be served with a notice in the prescribed manner and thereupon he shall be liable to pay the tax year after year on or before the prescribed date without any fresh notice therefor.

(a) If, at any time, it appears to the gram panchayat that any person or property has been inadequately assessed or inadvertently or improperly omitted from the assessment book relating to any tax or that there is any clerical or arithmetical error in the said books, it may direct the executive authority to amend the said books in such manner as it deems just or necessary:

Provided that no such direction shall be given, where it involves an increase in the assessment, unless the person concerned has been afforded a reasonable opportunity to show cause to the gram panchayat why the assessment books should not be amended as proposed.

(b) Such amendment shall be deemed to have taken effect on the earliest date, either in the current year or in the two years immediately preceding it, on which the circumstances justifying the amendment existed.

3. (1) The executive authority shall give to every person making payment of a tax a receipt thereof signed by him or by some person duly authorised by him in that behalf.

(2) Such receipt shall specify -

- (a) the date of the grant thereof;
- (b) the name of the person to whom it is granted;
- (c) the tax in respect of which the payment has been made;
- (d) the period for which payment has been made; and
- (e) the amount paid.

B - ASSESSMENT OF THE HOUSE TAX

4. When the gram panchayat has resolved to assess houses for the purpose of house-tax either on their annual or their capital value, the rates fixed by the gram panchayats may either be proportionate to the value of each house, or may advance in systematic progression with the value of the house; but shall in no case decrease as the value of the house increases.

5. (1) When a proportionate rate has been adopted by the gram panchayat, it may group the houses in the village into classes to simplify the calculation and the collection of the tax.

(2) When a progressive rate has been adopted by the gram panchayat, it shall (i) prescribe principles of classification (as that a certain sum, which shall be tax-free shall be deducted from the assessment of each house, or that the progression shall be from a certain percentage in the lowest to a certain percentage in the highest class), and (ii) settle the precise number and limits of each class.

(3) The gram panchayat shall not in either case so arrange the classes as to affect substantially the principle of taxation whether proportionate or progressive, and the number of classes shall in no case be less than six.

6. (1) The Village Administrative Officer having jurisdiction over any area comprised in the village, shall on the requisition of the executive authority prepare and furnish to him a list of all houses within such area and shall enter in the list the names of owners and occupiers of such houses.

(2) The Village Administrative Officer shall be entitled for the preparation of such list, to receive such remuneration, if any, as the gram panchayat may, subject to the sanction of the District Collector, fix.

7. The executive authority shall, on the receipt of the list mentioned in rule 6, cause assessment books to be prepared, such assessment books shall show in distinct columns the name of the owner and of the occupier of each house, the class, if any, under which such house is taxed, the amount of the tax due and the date on which the tax is payable.

8. As soon as the assessment books are prepared, the executive authority shall, by beat of drum in the village, give public notice thereof and of the place or places where the books may be inspected together with an intimation that any petition objecting to the entries in the assessment books will be considered by the executive authority if it reaches within fifteen days from the date of such public notice. The executive authority shall dispose of any objection petition so received within a period of thirty days from the date of receipt of such petition.

9. (1) The executive authority may amend the assessment books at any time between one general revision and another by inserting any house therein or removing any house therefrom or by altering the valuation or classification of any house, or the amount of tax payable in respect thereof or, subject to any other rules which the Government may make in this behalf, by substituting therein for the name of the owner of any house, the name of any other person who has succeeded by transfer or otherwise to the ownership of the house:

(2) Such amendment shall be deemed to have taken effect on the first day of the year in which it is made :

Provided that when the amendment is made in any year after the expiration of the date on which payment of the tax is due, it shall have effect only from the succeeding year, except where the amendment gives effect to the fixation of the fair rent under the law relating to the control of lease and rent of building for the time being in force:

Provided further that, where the amendment is rendered necessary by reason of the fixation of the fair rent of a house under the law aforesaid, the amendment shall have effect as from the date on which the fair rent was so fixed:

Provided also that the decision of the executive authority in disputed case of transfer of ownership of a house shall not give the transferee a legal title to the house.

(3) In every case in which, between one general revision and another, the executive authority assesses any house for the first time or increases the assessment on any house otherwise than in consequence of a general enhancement of the rate at which the house tax is leviable, the executive authority shall intimate by a special notice to the owner or occupier of such house that a petition for revising the assessment will be considered, if it reaches the gram panchayat office within sixty days from the date of service of such notice in the case of the State or Central Government or a company, and within thirty days from the date of service of such notice in other cases.

²[(4) The above said sub-rules (1), (2) and (3) shall be applicable only to the new constructions and the extensions of the old constructions.]

10. Any person, many, at any time, not being less than thirty days or more than sixty days before the end of year, move the executive authority by revision petition to reduce the tax to which he is liable for the forthcoming year on the ground that the annual or capital value, as the case may be, of the house in respect of which tax is imposed, has decreased since the assessment of the house was last made or revised.

11. Immediately after the disposal of a revision petition under sub-rule (3) of rule 9 or under rule 10, the executive authority shall inform the petitioner or his authorised agent either orally or in writing of the orders passed thereon, and shall direct him to pay the amount fixed on revision within fifteen days after the date of receipt of such intimation or, if the amount is not yet due, within fifteen days from the date of which it becomes due, and shall, if necessary, cause the assessment books to be corrected.

12. (1) The executive authority shall not be bound to cause new lists or assessment books to be prepared every year, but may adopt those of the preceding year with such amendments as have been made or may be made for the preceding year :

2["Provided that a general revision of assessment books shall be made before commencement of every financial year. The House Tax shall be revised every year by a uniform hike of 5% on the existing house tax of the preceding years fixing the year 2000-2001 as the base year. In such of those villages where the last revision of house tax was conducted before 2000-2001 an yearly hike of 5% would be added and 2000-2001 base rate shall be worked out"]

Provided further that the Government may, by notification in the Andhra Pradesh Gazette, advance or postpone the date of general revision of assessment books or fix intervals at which such revision shall be made.

(2) ²[Omitted.]

* (3) The general assessment shall be deemed to have taken effect on the first day of the year.

13. The executive authority shall, subject to the provisions of rule 9, maintain the assessment books relating to the house-tax in accordance with ²[any yearly hike of 5% on the existing House Tax.]

C-TAX ON VEHICLES

14. (1) The Executive authority shall send to every person, supposed to have become liable to the payment of vehicle tax, a printed table to be filled up with such information respecting the vehicles kept or used by him as the executive authority considers necessary for the assessment of the tax.

(2) Such table shall be filled up with such information, in writing, and signed and dated and returned within one week of its receipt to the gram panchayat office by the person to whom it has been sent.

(3) On the expiry of the period of one week referred to in sub-rule (2), the executive authority shall cause a notice to be served on such person requiring him to pay within thirty days of such service the sum for which in the opinion of the executive authority such person is liable on account of the vehicle tax.

* The words "in which such notice is given" occurring in sub-rule (3) are omitted by the second amending G.O.

Rules relating to Vehicle Tax issued under Section 60 and 70 in G.O.Ms.No. 703, P.R & R.D (Pts. III) Dept., Dt. 1-11-1995 were repealed by G.O.Ms.No. 374, PR & RD (Rules) Dept, Dt.15-12-2001. Therefore, Part-C of these rules is no more relevant.

15. When any person pays the amount of tax due in respect of any vehicle, the executive authority shall grant him a licence to keep or use such vehicle for the period to which the payment relates.

16. A gram panchayat number shall be affixed to every vehicle for which a licence is granted under rule 15 and such number shall be registered in the gram panchayat office :

Provided that no gram panchayat number shall be required in the case of a vehicle to which number must be affixed under the provisions of any special law.

17. If a Gram Panchayat number or a number under the provisions of any special law is not affixed to a vehicle as required by rule 16, the executive authority may, at any time, seize and detain the vehicle :

Provided that no vehicle other than a bicycle, tricycle, or rickshaw shall be seized or detained when actually employed in the conveyance of any passenger or goods.

18. (1) If the vehicle seized is not claimed and the tax due thereon is not paid within ten days from the date of seizure, the executive authority may direct that the vehicle shall be sold in public auction and the proceeds of sale applied to the payment of -

- (i) the tax, if any, due on the vehicle sold;
- (ii) such penalty not exceeding the amount of the tax as the executive authority may direct; and
- (iii) a sum of fifty naye paise on account of charges incurred in connection with the seizure, detention and sale.

The balance of the proceeds of the sale shall be paid to the owner of the vehicle.

(2) If the owner of the vehicle or other person entitled thereto claims the same within ten days from the date of seizure or at any time before the sale, it shall be returned to him on payment of -

- (i) the tax due thereon;
- (ii) such penalty not exceeding the amount of the tax as the executive authority may direct; and
- (iii) a sum of twenty-five naye paise on account of charges incurred in connection with the seizure and detention.

D - APPEALS

19. An appeal shall lie to the Gram Panchayat in respect of the assessment and imposition of the following taxes:-

- (a) The assessment and imposition of house tax under ²[Rule 7] and the orders of the executive authority under rule 11 upon a revision petition;
- (b) The imposition by the executive authority of a tax on any vehicle; and
- (c) The assessment of a tax on agricultural land, the levy of which has been sanctioned by the Commissioner under this Act.

20. No appeal to a gram panchayat shall be heard -

- (i) unless it reaches the office of the gram panchayat before the date fixed for the payment of tax complained of; and
- (ii) unless, except when the executive authority otherwise directs on the ground of poverty, the tax in respect of which the appeal is presented has been paid or deposited at the office of the gram panchayat before the date referred to in clause (i) :

Provided that the gram panchayat may admit an appeal within fifteen days after the date referred to in clause (i), if cause is shown to its satisfaction for not preferring before the said date.

²[(iii) No appeal lies to the Gram Panchayat where House Tax is revised every year by an yearly hike of 5% on the existing House Tax.]

21. The gram panchayat may, of its own motion or otherwise, cancel or modify any order passed by the executive authority reducing or remitting a tax.

22. The assessment books shall be corrected in accordance with any orders passed by the gram panchayat on appeal; in the event of the amount of any tax being reduced or remitted by the gram panchayat, the executive authority shall grant a refund accordingly.

23. The assessment of any tax when no appeal is made as herein before provided, and when such an appeal is made, the adjudication of the gram panchayat thereon, shall, subject to the revisionary powers of Government, be final :

Provided that where any assessment is not in accordance with the assessment books, nothing in this rule shall be deemed to prohibit a fresh assessment or demand of the tax being made in accordance therewith.

24. (1) The powers of the gram panchayat under rule 2, 19 and 21, shall, during any period in respect of which the Commissioner may, by notification, so direct, be exercised by a special officer appointed by him. And thereupon the gram panchayat shall cease to exercise the said powers during the said period and rules 2 and 19 to 23 shall have effect as if for the words 'gram panchayat' wherever they occur in those rules, and for the expression 'executive authority' in rule 20, the words 'special officer appointed by the Commissioner in this behalf,' were substituted.

(2) A Special Officer appointed under sub-rule (1) shall have all such powers of the gram panchayat and of the executive authority as are necessary for the purpose of exercising his powers under the said sub-rule and he shall be entitled to the same protection as the gram panchayat or the executive authority, as the case may be, is entitled.

(3) The special officer shall be paid out of the gram panchayat fund such salary and allowance as the Commissioner may fix. If a Government servant is appointed as a special officer, the gram panchayat shall also make such contribution towards the pension and leave allowances of that servant as may be required by the conditions of his service under the Government to be made by him or on his behalf.

E - COLLECTION OF TAXES

25. (1) When a house-tax is due from any person, the executive authority of the gram panchayat shall serve upon such person a bill for the sum due before he proceeds to enforce the provisions of rule 26.

(2) A notice under rule 14 and a bill under sub-rule (1) shall be signed by the executive authority or some person duly authorised by him in that behalf and shall contain -

- (a) a statement of the period and description, of the occupation, property or thing for which the tax is charged; and
- (b) a notice of the liability incurred in default of payment.

(3) Where a notice referred to in rule 14 or a bill referred to in sub-rule (1), has not been served or given either in the year in which the tax became due or in the succeeding year, the tax for the year first mentioned in this sub-rule shall not be recovered in the manner laid down in these rules:

Provided that where the assessment books have been amended under rule 2, the bill may be served either in the year in which the amendment was made or in the succeeding year.

(4) Nothing in this rule or in rule 26 shall preclude the gram panchayat from suing in a nyaya panchayat or civil court for the tax due to it.

26. (1) If the amount of the tax demanded is not paid within fifteen days from the service of the bill or the giving of the direction referred to in rule 11 or notice under rule 14 and if the person from whom the tax is due has not shown cause to the satisfaction of the executive authority why it should not be paid, the executive authority may recover by distraint under his warrant and sale of the movable property of the defaulter, the amount due on account of the tax together with the warrant fee and the distraint fee and with such further sum as will satisfy the probable charges that will be incurred in connection with the detention and sale of the property so distrained:

Provided always that the movable property described in the proviso to section 60 of the Code of Civil Procedure, 1908, shall not be liable to distraint.

(2) If for any reason the distraint or a sufficient distraint of the defaulter's property is impracticable the executive authority may prosecute the defaulter.

(3) The warrant under sub-rule (1) shall be in the form contained in Appendix-A to these rules or in some similar form, and for each such warrant a fee of 25 naye paise shall be levied.

(4) Under a special order in writing of the executive authority, any officer charged with the execution of a warrant of distress may, between sunrise and sunset, break open any outer or inner door or window of any building in order to make the distress, if he has reasonable grounds for believing that such building contains property which is liable to seizure, and if, after notifying his authority and purpose and duly demanding admittance, he cannot otherwise obtain admittance:

Provided that such officer shall not enter or break open the door of any apartment appropriated to women, until he has given three hours notice of his intention and has given such women an opportunity to withdraw.

27. (1) The officer charged with the execution of warrant shall, before making the distraint, demand payment of the tax due and the warrant fee. If the tax and fee are paid, no distraint shall be made, but if the tax or fee is not paid, the officer shall –

(a) seize such movable property of the defaulter as he may think necessary;

(b) make an inventory of the property seized; and

(c) give to the person in possession of the property seized, at the time of seizure, a copy of the inventory and the notice of sale in the form contained in Appendix-B to these rules or in some similar form :

Provided that a period of seven days shall be allowed for paying the amounts due and redeeming the property seized.

(2) The distress shall not be excessive, that is to say, the property distrained shall be as nearly as possible equal in value to the tax due by the defaulter together with all expenses incidental to the warrant, distraint, detention and sale.

28. (1) If the amount due by the defaulter on account of the tax, the warrant fee and the distraint fee and the expenses incidental to the detention of the property, are not paid within the period of seven days mentioned in the notice given under rule 27 and if the distraint warrant is not suspended by the executive authority, the property seized or a sufficient portion thereof shall be sold by public auction under the orders of the executive authority who shall apply the proceeds of the sale to the payment of the amount due on account of the tax, the warrant fee and the distraint fee and the expenses incidental to the detention and sale of the property, and shall return to the person in whose possession the property was at the time of seizure, any property

or sum which may remain after the sale and application of the proceeds thereof as aforesaid. If the proceeds of the sale are insufficient for the payment of the amount due on account of the tax, the warrant fee and distraint fee and the expenses incidental to the detention and sale of the property, the executive authority may again proceed under rule 26 in respect of the sum remaining unpaid.

(2) When the property seized is subject to speedy and natural decay, the executive authority may sell it at any time before the expiry of the said period of seven days, unless the amount due is sooner paid.

(3) The executive authority shall consider any objection to the distraint of any property which is made within the said period of seven days and may postpone the sale pending investigation thereof. If the executive authority decides that the property attached was not liable to distraint, he shall return it, or, if it has already been sold, the proceeds of the sale to the person appearing to be entitled thereto and may again proceed under rule 26 and all fees and expenses connected with the first distraint and sale shall be recoverable from the defaulter, if it appears to the executive authority that he wilfully permitted the distraint of the property when to his knowledge it was not liable to distraint.

29. (1) Distraint fee shall be payable at such rates not exceeding those mentioned in Appendix-C to these rules as may be determined by the gram panchayat.

(2) such fees shall not be held to include the expenses incidental to the detention of any property distrained.

30. The property of a person in default under sub-rule (1) of rule 26 may be distrained wherever it may be found within the area of the gram panchayat.

31. If the tax due on account of any house remains unpaid in whole or in part at the end of the period specified in sub-rule (1) of rule 26 the executive authority may, if the said tax has remained unpaid for more than twelve months, require the occupier for the time being of such building to pay the amount within a specified period, not being less than fifteen days, and if the occupier fails to comply with such requisition, the executive authority may distraint and may sell any movable property found on the building, and the provisions of the foregoing rules, shall, *mutatis mutandis* apply to all distraints and sales effected under this rule, provided that no occupier shall be liable to prosecution or to a civil suit in respect of any sum recoverable from him under this rule unless he has wilfully prevented distraint or a sufficient distraint.

32. If any tax due from any person remains unpaid in whole or in part at the end of the period specified in sub-rule (1) of rule 26 and if such person has left India or cannot be found, the said tax or such part thereof as remains unpaid together with all sums payable in connection therewith shall be recoverable as if it were an arrear of land revenue.

33. (1) Every person who is prosecuted under sub-rule (2) of rule 26 shall be liable, on proof to the satisfaction of the court that he wilfully omitted to pay the amount due by him or that he wilfully prevented distraint, or a sufficient distraint, to pay a fine not exceeding twice the amount which may be due by him on account of –

(a) the tax and the warrant fee, if any, and

(b) if distraint has taken place the distraint fee and the expenses incidental to the detention and sale, if any, of the property distrained.

(2) Whenever any person is convicted of an offence under sub-rule (1) the court shall, in addition to any fine which may be imposed, recover summarily and pay over to the gram

panchayat the amounts, if any, due under the heads specified in clauses (a) and (b) of sub-rule (1) and may in his discretion, also recover summarily and pay the gram panchayat such amount, if any, as he may fix as the costs of the prosecution.

34. Neither the executive authority nor any officer or servant of the gram panchayat shall directly or indirectly purchase any property at any sale of distrained property held under the foregoing rules.

35. The District Panchayat Officer, the Divisional Panchayat Officer and the Extension Officer (Panchayats) having jurisdiction, shall also exercise the powers of the executive authority referred to in these rules in so far as they relate to the collection of taxes.

36. In the case of a gram panchayat for which no executive officer is appointed, any notice or bill required to be served under these rules, on any person who, for the time being is acting as Sarpanch, such notice or bill shall be served on him, by an Inspecting Officer or the District Collector.

PART - II

LODGING OF MONEYS RECEIVED BY THE GRAM PANCHAYAT AND PAYMENTS OF MONEYS FROM THE GRAM PANCHAYAT FUND

*37. All moneys received by the gram panchayat shall be lodged in the nearest Government treasury.

38. (1) A Gram Panchayat may invest sums not required for immediate use, in fixed deposits for a period upto three years in the State Co-operative Bank and District Central Co-operative Banks approved by the Registrar of Cooperative Societies for the purpose or in any other manner prescribed.

(2) A Gram Panchayat may invest any surplus in the earmarked funds either in Government securities or in the debentures of the Co-operative Central Land Mortgage Bank or in any other manner prescribed.

39. A gram panchayat may, with the sanction of the Commissioner and subject to such conditions as to security or otherwise as he may lay down, leave its money in the custody of its executive authority :

Provided that no such sanction shall be necessary for leaving in the custody of the executive authority, a permanent advance not exceeding such sum as may be fixed by the Commissioner for such period as may be specified in such order.

40. All orders or cheques against the gram panchayat fund shall be signed by the ¹[Sarpanch of the Gram Panchayat.]

*[41. The drawing of moneys under rule 40 by the ³[Sarpanch] shall be subject to the control of and the conditions laid down by the District Panchayat Officer concerned.

42. (1) The District Panchayat Officer concerned may, for sufficient reasons to be recorded in writing, prohibit by an order any ³[Sarpanch] from drawing the moneys of the gram panchayat for such period as may be specified in such order :

Provided that no such order shall be passed unless opportunity of making representation has been given to the ³[Sarpanch] concerned :

* **Commissioner's Circular Memo. No. 1326/CPR-J5/2000 Dt. 14.02.2000 :** Executive Officers of notified Gram Panchayats and Sarpanchas of non-notified Gram Panchayats are directed to lodge all the moneys received by way of collection of taxes and other dues from the public in Government Treasury on the same day. Non-compliance of the instructions will be construed as temporary misappropriation of gram panchayat funds and the concerned are liable for suitable action under the APPR Act.

Provided further that the District Panchayat Officer may issue an interim direction to the ³[Sarpanch] not to draw the moneys of the gram panchayat pending the exercise of his powers under this sub-rule.

(2) Any ³[Sarpanch] aggrieved by an order passed by the District Panchayat Officer concerned under sub-rule (1) may prefer an appeal in writing to the District Collector concerned within seven days of the receipt of the order and the decision of the District Collector thereon shall be final.

(3) Every order passed under sub-rule (1) shall specify the name of the person or the authority who shall draw the moneys of the gram panchayat during the period during which the ³[Sarpanch] is prohibited from drawing such moneys.

(4) A copy of every order passed under sub-rule (1) or sub-rule (2) shall be communicated to all banks and treasuries in which the moneys of the gram panchayat are lodged.

(5) On and from the date of receipt of such order by any bank or treasury, no payment shall, for the period specified in such order, be made to the ³[Sarpanch] who is prohibited by such order from drawing the moneys of the gram panchayat.]

43. The treasury or bank in which the gram panchayat fund is lodged, shall, so far as funds to the credit of the gram panchayat admit, pay all orders or cheques against the fund, which are signed as required by rule 40 and sub-rule (3) of rule 42.

44. If the gram panchayat shall have given previous authority in writing, such treasury, bank or executive authority may at once pay out of the funds of the gram panchayat without such order or cheque, any expenses which the Government have incurred on behalf of the gram panchayat.

APPENDIX - A Distrain Warrant (Rule 26(3))

Warrant No. _____

To _____

(Name of officer charged with execution of warrant)

(Specify tax or taxes due and premises, if any in respect of which the tax is or taxes are due)

Whereas _____ of _____ has not paid or shown sufficient cause for the non-payment of the sum of Rs. P. due for the tax or taxes noted above for the _____ ending 19---- although the said sum has been duly demanded from the said and fifteen days have elapsed since such demand was made;

This is to command you to demand the said sum of Rs. failing the payment of which you are to distrain the goods and chattles of the said (or as the case may be, any goods and chattles found on the premises referred to), to the amount of the said sum of Rs. P. together with P. --- for warrant fee and distraint fee, making together a sum of Rs. P. and such further sum as may be sufficient to defray the charges of keeping and selling such distraint; and if within seven days next after such distraint, the amount due on account of the said tax or taxes and fees shall not be paid, together with such further sum as may be sufficient to defray the charges of keeping such distraint, to sell the said goods and chattels under orders to be hereafter issued by me, and to remit to the office of the gram panchayat the sale proceeds of the distrained property, out of which the amount due on account of the said tax or taxes and fees, namely, Rs. P. and the charges of keeping and selling such distraint will be deducted and credited to the fund, and the surplus, if any, returned to the owner of the goods and chattels, distrained. If distraint or sufficient distraint cannot be found of the goods and chattels of the said..... you are to certify the same to me together with this warrant.

Station : _____

Date : _____

(Signature of the Executive Authority)

*[Rules 41 and 42 amended by G.O.Ms.No. 444, PR & RD (Pts-III) Dt.29.12.2005]

APPENDIX – B

Form of inventory and Notice of Sale.

(Rule 27 (i))

(State particulars of goods and chattels seized).

Take notice that I have this day seized the goods and chattels specified in the above inventory for the sum of Rs. P. due for the tax or taxes mentioned in the margin for the --- ending ---- 19--- and that unless you pay into the office of the gram panchayat the amount due together with the warrant fee, the distraint fee and the cost of keeping the goods and chattels, within seven days from the date of this notice, the goods and chattels will be sold on the ---- day of 19, at the gram panchayat office or at such other place the executive authority may direct, and that the goods and chattels may be sold at any previous date, if they are liable to speedy and natural decay.

Station : _____ Signature of the Officer
Date : _____ (executing the warrant of distress.)

APPENDIX – C

Table of maximum fees payable on distraints

(Rule 29 (i))

Sums distrained for –	Fees Rs. P.
1 Under/rupee	0.25
1 rupee and over but under 5 rupees	0.50
5 rupees and over but under 10 rupees	1.00
10 rupees and over but under 15 rupees	1.50
15 rupees and over but under 20 rupees	2.00
20 rupees and over but under 25 rupees	2.50
25 rupees and over but under 30 rupees	3.00
30 Do. 35 "	3.50
35 Do. 40 "	4.00
40 Do. 45 "	4.50
45 Do. 50 "	5.00
50 Do. 60 "	6.00
60 Do. 80 "	7.50
80 Do. 100 "	9.00
100 Rupees and over	10.00

-The above charge includes all expenses, except when peons are kept in charge of property distrained, in which case 25 p. shall be paid daily for each peon.

Non-publication of notice u/s 218 cannot be considered fatal, if no substantial prejudice is caused: While allowing a batch of appeals filed by the Vijayawada Municipal Corporation, the High Court of A.P. considered the implications of different Sections of the Hyderabad Municipal Corporation Act, 1955, which apply to Vijayawada Municipal Corporation also. Section 218 of that Act, (which is similar to Rule 8 of the Rules issued in G.O.Ms.No. 30, P.R and R.D and Relief, Dated 20-01-1995), requires that the Commissioner shall give a public notice when the assessment books are completed for inspection by the public. Section 220 (2) of that Act, (which is similar to Rule 9 (3) of the Rules issued in the said G.O. deals with issuance of special notice, where any premises have, for the first time, been entered in the assessment books or where there is increase in payment of taxes, which is to enable the affected parties to make a complaint against the same. No doubt the issuance of the special notice is to follow the issuance of public notice.

In the present case, no public notice was issued but special notices were issued to the

affected parties, who had also availed of the remedy by way of filing of revision petitions and which were also disposed of by the Commissioner as per the procedure prescribed. The High Court held that non-publication of public notice did not cause any real prejudice to the owners of the property, since the purpose of public notice under Section 218 was served by issuance of special notice under Section 220 (2). Following the decision of a Division Bench of the High Court in *Himayathnagar Rate Payers' Association case [1970 (2) ALT 134 Para 7]* to the effect that on account of non-publication of public notice strictly in accordance with the provisions of Section 218, the assessment would not be invalidated according to Section 684 of that Act, (which is similar to Section 267 of the APPR Act) as individual special notices were issued as required under Section 220 (2) of that Act, the High Court held that the provisions of the Act have, in substance, been complied with and the non-compliance of Section 218 (2), though is a defect, need not be attached with much significance since no special damage was caused to the owners by the so called defect. *Vijayawada Municipal Corporation rep. by its Commissioner v. Jumma Masjid Wakf (also known as Jamia Mosque) rep. by its Muttavalli and others. 2004 (3) ALT 191.*

Issuing demand notices without publication of notice u/s 218 is not sustainable

: In its wisdom, the legislature thought it appropriate that once the assessment book is prepared under Section 214, a notice of its being ready and available for inspection has to be published. When there was some ambiguity as to the mode of publication it amended the Act in the year 1969 and made the publication of notifications under sub-section (1) of Section 220 in official gazette, mandatory. When the legislature thought it fit that the interests of the citizens are protected by having resorted to such procedure, it is not for the courts to hold that it is not necessary to publish those notices. Such a pronouncement by courts would amount to repealing of Sections 218 and 219 and sub-section (1) of Section 220, from the Act. Enactment or repealing a provision of law is within the prerogative of the legislature. The courts cannot usurp the same. The only occasion for the courts to remove a provision from a statute book is, by striking it down as being unconstitutional when challenged and on being satisfied. Viewed from any angle, the action of the Corporation in issuing notices straight away under sub-section (2) of Section 220, and thereafter the demand notices, without following the procedure under Section 218, 219 and sub-section (1) of Section 220 cannot be sustained. It is impermissible in law to undertake an ex post facto publication of notices under Section 218 of the Act. What is required to precede, cannot be permitted to succeed. *Shan Zahoor and others v. Vijayawada Municipal Corporation represented by its Commissioner : 2004 (4) ALT 781 (Paras 61 & 62)*

District Panchayat Officer is not empowered to amend Assessment Books

straightway : Under Rule 9 of the Rules relating to taxes, lodging of moneys received by Gram Panchayat and payment of moneys from Gram Panchayat fund, it is only the executive authority, who is empowered to amend assessment books at any time between one general revision and another, by inserting any house therein or removing any house therefrom or by altering or substituting the name of the owner of any house. Even if an application is made to the second respondent (DPO) the same ought to have been sent to the Executive Officer. For this reason alone, the impugned order of the second respondent mutating the property in the name of another person must meet with invalidation as one without authority. Further under Section 128 (1) of the Act, any person aggrieved by the orders of the executive authority can prefer an appeal to Gram Panchayat. Under sub-section (2) of Section 128 of the Act read with

A.P. Gram Panchayat (Second Appeal) Rules, 2000, a second appeal would lie to the District Panchayat Officer, against an appeal under Section 128 (1) of the Act. As the second appellate authority exercised the power denying the petitioner right of filing appeal, the impugned order cannot be sustained and the same is accordingly set aside. *Gone Nagalaxmi v. Executive Officer, Station Ghanpur and others. 2004 (6) ALT 227 (Para 4).*

**RULES RELATING TO AUDIT, SURCHARGE, DISALLOWANCE
AND APPEALS.**

Note: These rules have become ineffective in view of the issuance of the State Audit Rules under the State Audit Act, 1989. Vide P.R. Commissioner's Memo No.8942/CPR & RE/H4/96 Dt.06-07-2004 printed at page 1024 •

**(G.O.Ms.No.190, Panchayat Raj and Rural Development (Pts-I) Department ,
Dt.23-05-1997)**

In exercise of the powers conferred by clauses (ix) & (x) of sub-section (2) of Section 268 of the Andhra Pradesh Panchayat Raj Act 1994, (Act No.13 of 1994), the Governor of Andhra Pradesh hereby makes the following rules relating to Audit, Surcharge, Disallowance and Appeals.

RULES

1. The Executive Authority of a Gram Panchayat shall submit all accounts to the auditor appointed under sub-section (1) and (2) of section 266 as required by him.
2. The auditor may :-
 - (1) (a) by summons in writing, require production of any books, deed, contract, Account, voucher, receipt or other document the perusal or examination of which, he may consider necessary ;
 - (b) by sommons in writting , require any person having the custody or control of any such document or accountable for it to appear in person, before him;
 - (c) require any person so appearing to make and sign a declaration with respect to such document or to answer any question or to prepare and furnish any statement relating thereto.
 - (2) Whoever fails to comply with any requisition lawfully made upon him under this rule shall be punishable with fine which may extend one hundred rupees.
3. (1) The auditor shall report to the Gram Panchayat :-
 - (a) any material impropriety or irregularity which he may observe in the expenditure or in the recovery of moneys due to the Gram Panchayat or in the accounts of the Gram Panchayat ; and
 - (b) any loss, waste or misapplication of moneys or other property owned by or vested in the Gram Panchayat, if such loss, waste or misapplication or misappropriation is a direct consequence of his neglect or misconduct, with the names of persons directly or indirectly responsible for such loss, waste, mis-appropriation or misapplication:

Provided that where the auditor himself is not able to assess the loss caused to the Gram Panchayat due to non-availability of the required material i.e., (records), he may address the concerned District Collector (PW) for furnishing the required information in respect of the following cases ; namely :-