

THE UTTARAKHAND VALUE ADDED TAX ACT, 2005

(Substituted vide The Uttarakhand Value Added Tax (Amendment) Act, 2012, published vide notification no. - 178/2012/XXXVI(3)/2008 Dt. 13-06-2012 w.e.f. 17/12/2012 Vide notification no.- 1099/2012/181 (120) / XXVII (8) / 08 Dt. 17-12-2012 as below)

48: Import of Goods into the State against Declaration:

(1) Any person or dealer (hereinafter in this Section referred to as importer) who intends to bring, import or otherwise receive, into the State from any place outside the State, any goods other than the goods specified in schedule (I) referred to in clause (a) of sub-section-(2) of section-4 exceeding such quantity or measure or of such value as may be notified by the state Government in that behalf, shall obtain the **prescribed** form of declaration or certificate from his assessing authority;

provided that where the importer intends to bring, import or otherwise receive such goods otherwise than in connection with business, he may, at his option, in the like manner obtain the **prescribed** form of certificate.

provided further that in case of the class of assesses, **authorized** by the commissioner Commercial Tax, may themselves download the declaration form of the series and serial no. as **prescribed** by the Commissioner, Commercial Tax and may use them in accordance with the Act and the rules made there under.

(2) Where such goods are to be consigned by road:

(a) The importer shall furnish to the consignor the declaration in the prescribed form in duplicate duly filled in and signed by him, and the owner or a person duly authorised by such owner or the driver or person-in-charge of a vehicle or of goods in movement, as the case may be, shall carry with him the copies of such declaration duly verified by the consignor in the prescribed manner together with such other documents as may be prescribed and shall produce the copies of such declaration and such documents if so required by an officer authorised under sub-section (1) or sub-section (2) of section-42 at any place.

(b) the importer shall preserve the copies of declaration and other documents delivered to him or his agent under clause (a) for such period as may be **prescribed** and produce them before the assessing authority in a manner and within a time as may be **prescribed** by the Commissioner.

(3) Where such goods are brought into the State as personal luggage, the person bringing them shall carry with him the declaration in the **prescribed** form duly filled in and signed by the importer and the importer shall submit the same for endorsement by the officer authorised by the Commissioner in this behalf in a manner and within a time as may be prescribed by the Commissioner.

(4) Where any person intends to bring, import or otherwise receive in the State from any place outside the State, any goods referred to in sub-section (1) otherwise than in connection with business and obtains the

prescribed form of certificate, the provision of sub-section (2) and sub-section (3) shall, mutatis mutandis apply as if the word “certificate” is substituted for the word “declaration” used therein.

(5) The owner or a person duly authorised by such owner or the driver or person-in-charge of a vehicle or of goods in movement, as the case may be, carrying any goods referred to in the preceding sub-sections shall stop the vehicle when so required by an officer authorised under sub-section (1) or sub-section (2) of section 42, at any place, and take it along with the goods and documents to the nearest office of Commercial Tax department or to any other place as directed by such officer and keep it stationary for so long as may be considered necessary by *such* officer and allow him to search the vehicle and inspect the goods and all documents referred to in the preceding sub-sections and shall, if so required, give his name address and the names and addresses of the owner or hirer of the vehicle and of the consigner and consignee of the goods.

(6) Where the officer making the search or inspection under this Section finds any person or dealer importing or attempting or abetting to Import any goods to which this section applies without being covered by proper and genuine documents referred to in the preceding sub-sections, it may;

(a) direct the person referred to in above sub section not to part the goods in any manner including re-transporting or re-booking till an enquiry is made, which shall not take more than seven days;

(b) order detention of such goods and if, for reasons to be recorded, is satisfied, after giving the owner or a person duly authorised by such

owner or the driver or person-in-charge of a vehicle or of goods in movement, as the case may be, an opportunity of being heard, that such goods were being so Imported in an attempt to evade assessment or payment of tax due or likely to be due under this Act, he may order **seizure** of such goods.

Provided that a list of all the goods seized under this sub-section shall be prepared by such officer and be signed by him, and a copy thereof shall be given to the person from whom goods have been seized.

(7) The officers seizing the goods under sub section (6) shall take all the measures necessary for their safe custody and forward the list, referred to in the proviso of sub section(6) along with other document relating to the seizure, to the assessing officer concerned.

(8) If such assessing officer, after taking into consideration the explanation, if any of the owner or a person duly **authorized** by such owner or the driver or person-in-charge of a vehicle or of goods in movement as the case may be and after giving an opportunity of being heard is satisfied that the goods were imported or abetted to import in contravention of the provisions of this section in an attempt to evade assessment or payment of tax due or likely to be due under this Act, it shall pass an order imposing penalty not exceeding forty percent of the value of such goods involved or three times the tax leviable on such goods under any of provisions of this Act, whichever is higher. The order of such penalty shall be properly served.

(9) The officer seizing the goods shall serve on the person referred to in the above sub section, an order in writing mentioning the fact of such seizure and indicating the amount, not exceeding such amount as would be sufficient to cover the penalty likely to be imposed, on the deposit whereof in cash, the goods so seized shall be released.

(10) Notwithstanding anything contained in sub-section (9), the Commissioner or such officer, not below the rank of Deputy Commissioner, as may be authorised in this behalf by the Commissioner, may, for sufficient reasons to be recorded in writing, direct that the goods be released without any deposit or on depositing such lesser amount, or furnishing security in such form other than cash, as he may deem fit.

(11) The penalty or such part thereof as remains after adjustment of any amount deposited under sub-section (9) shall be deposited in the prescribed manner within thirty days of the date of service of the copy of the order imposing the penalty. In default, the Assessing Authority shall cause the goods to be sold in such manner as may be prescribed and apply sale proceed thereof toward the penalty and, subject to the provisions of Section 36, refund the balance, if any.

(12) Where the officer seizing the goods, before forwarding the list and other documents referred in sub-section (7) to the Assessing Authority at any time thereafter, is of the opinion that the goods are subject to speedy and natural decay or where the tax assessed or penalty imposed, as the case may be, is not deposited in accordance with the provisions of this Act, the officer seizing the goods or the Assessing Authority, as the case

may be, may, without prejudice to any other action that may be taken in accordance with other provisions of this Act, cause the goods to be sold by public auction in the prescribed manner. The sale proceeds of such goods shall be adjusted towards the expenses and tax assessed or penalty imposed. The balance, if any, shall be refunded.

(13) If the amount deposited under sub-section (9) is more than the amount of penalty imposed under sub-section (8), the excess amount so deposited shall be refunded in accordance with the provisions of Section 36

Explanation -1

For the purpose this chapter the person-in-charge of the vehicle shall include the owner of the vehicle and the hirer of the vehicle as the case may be.

Explanation -2

For the purpose of this chapter “goods in movement” means.

- (a) the goods which are in the possession or control of a transporting agency or person or other such bailee;
- (b) the goods which are being carried in a vehicle belonging to the owner of such goods; and
- (c) the goods which are being carried by a person.

Prior to the substitution this section read as under :-

48. Import of Goods into the State against Declaration:

(1) Any person (hereinafter in this section referred to as the importer) who intends to bring, import or otherwise receive, into the State from any place outside the State, any goods other than the goods exempted under the provisions of this Act exceeding such quantity or measure or of such value as may be notified by the State Government in that behalf, shall obtain the prescribed form of declaration or certificate from his assessing authority:

Provided that where the importer intends to bring, import or otherwise receive such goods otherwise than in connection with business, he may, at his option, in the like manner obtain the prescribed form of certificate.

Provided that the class of assessee authorised by the Commissioner, Commercial Tax may themselves download the Declaration Form for import of the series and serial no. prescribed by the Commissioner, Commercial Tax and may use them in accordance with the Act and the rule made thereunder.

(inserted vide notification no. 22 January 2010)

*(2) Where such goods are to be consigned **by road-***

(a)the importer shall furnish to the consignor the declaration in the prescribed form in duplicate duly filled in and signed by him, and the driver or any other person incharge of any vehicle carrying any such goods shall carry with him the copies of such declaration duly verified by the consigner in the prescribed manner together with such other documents as may be prescribed and shall deliver one copy of such declaration-

(i)where such goods are brought by road on which check-post or barrier is established under section 47, to the officer incharge of such check-post or barrier before crossing the check-post or barrier, and

(ii)where such goods are brought by road on which no check- post or barrier is established, to the officer incharge of the

nearest check-post or barrier established under the said section, before transporting such goods further within the State and the other copy of declaration and the remaining documents along with the goods to the importer or his agent,

(b) the officer incharge of the check-post or barrier shall grant a receipt for the copy of declaration delivered to him and it shall not be necessary for the driver or the person incharge of the vehicle to deliver any copy of the declaration at any other check-post or barrier that he may cross if he shows such receipts to the officer incharge of such other check-post or barrier;

(c) the importer shall preserve the other copy of declaration and other documents delivered to him or his agent under clause (a) for such period as may be prescribed and produce them before the assessing authority whenever demanded by it within such period.

(3) Where such goods are brought into the State as personal luggage, the person bringing them shall carry with him the declaration in the prescribed form duly filled in and signed by the importer and the importer shall submit the same for endorsement by the officer authorised in this behalf by the next working day.

(4) Where any person intends to bring, import or otherwise receive in the State from any place without the State, any goods referred to in sub-section (1) otherwise than in connection with business and obtains the prescribed form of certificate, the provision of sub-section(2) and sub-section(3) shall, mutatis mutandis apply as if the word "certificate" is substituted for the word "declaration" used therein.

(5) The driver or other person incharge of any vehicle carrying any goods referred to in the preceding sub-sections shall stop the vehicle at every such check-post or barrier, or when so required by an officer authorised under sub-section (1) or sub-section (2) of section 42, at any place, and keep it stationary for so long as may be considered necessary by the

officer incharge of the check-post or barrier or the officer authorised under sub-section (1) or sub-section (2) of section 42, as the case may be, and allow him to search the vehicle and inspect the goods and all documents referred to in the preceding sub-sections and shall, if so required, give his name and address and the names and addresses of the owner of the vehicle and of the consigner and consignee of the goods.

(6) Where the officer making the search or inspection under this section finds any person transporting or attempting or abetting to transport any goods to which this section applies without being covered by proper and genuine documents referred to in the preceding sub-sections and if, for reasons to be recorded, he is satisfied, after giving such person an opportunity of being heard that such goods were being so transported in an attempt to evade assessment or payment of tax due or likely to be due under this Act, he may order detention of such goods.

*(7) The provisions of sub-section (3), sub-section (6), **sub-section (7), sub-section (8), sub-section (9) and sub-section (10)** of section 43 shall mutatis mutandis apply to such detention as they apply to seizure under that section.*

(Added vide notification no.-331/XXXVI(3)/2010/52(1)/2010 Dt. 06.10.2010)