

THE UTTARAKHAND VALUE ADDED TAX ACT, 2005

Sec. 43: Power to Seize Goods:

(1) An officer authorised under sub-section (1) or sub-section (2) of section 42 shall have the power to seize any goods-

(a) which are found in the dealer's place of business or vehicle or any other building or place: or

(b) which, such officer has reason to believe to belong to the dealer and which are found in any place of business or vehicle or building or place, but are not accounted for by the dealer in his accounts or registers or other documents maintained in the course of his business:

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 dealer.

(2) Where any officer empowered by the State Government in this behalf has reason to believe that the goods found in any vehicle, building or place are not traced to any bona fide dealer or it is doubtful if such goods are properly accounted for by any dealer in his accounts , register or other documents, maintained in the course of his business, he shall have power to seize such goods and the remaining provisions of this section shall mutatis mutandis apply in relation to such seizure.

(3) An officer seizing the goods under sub-section (1) shall take all the measures necessary for their safe custody and forward the list, referred to in

the proviso to sub-section(1), along with other documents relating to the seizure to the assessing officer concerned.

(4) The said assessing authority shall serve on dealer or, as the case may be, the person in charge of goods at the time of seizure (hereinafter in this section referred to as the person in charge) a notice in writing requiring him to show cause, why a penalty should not be imposed.

(5) If such officer, after taking into consideration the explanation, if any, of the dealer, or as the case may be, the person in-charge and giving him an opportunity of being heard, is satisfied that the said goods were willfully omitted from being shown in the accounts, registers and other documents referred to in sub-section (1), it shall pass an order imposing a penalty not exceeding *forty percent* of the value of such goods as he deems fit.

(6) A copy of the order imposing penalty under sub-section (5) shall be served on the dealer or, as the case may be, the person in-charge.

(7) The officer seizing the goods shall serve on the dealer or, as the case may be, the person in-charge 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 in favour of the dealer or, as the case may be, the person in-charge.

(8)Notwithstanding any thing contained in sub-section (7),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 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.

(9) The penalty or such part thereof as remains after adjustment of any amount deposited under sub-section (7) 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 proceeds thereof toward the penalty and, subject to the provisions of section 36, refund the balance, if any, to the dealer or, as the case may be, to the person -in-charge.

(10) Where the officer seizing the goods, before forwarding the list and other documents referred in sub-section (2) or 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 to the dealer or, as the case may be, the person in-charge in accordance with the provisions of sub-section (9).

(11) If the amount deposited under sub-section (7) is more than the amount of penalty imposed under sub-section (5), the excess amount so deposited shall be refunded to the dealer or, as the case may be, the person in-charge, by the officer with whom it was so deposited in accordance with the provisions of section 36.