

THE UTTARAKHAND VALUE ADDED TAX ACT, 2005

Sec. 3 : Incidence of tax:

- (1) Tax shall be levied and charged in accordance with the provisions of this Act on every sale made within the State by a dealer or a person;
- (2) Every person who is registered or is liable to be registered under the provisions of this Act shall be a taxable person and liable to pay tax in the manner provided in the Act.
- (3) Subject to provisions of sub-section (4) or sub-section (5) as may be applicable, every dealer or a person shall pay from the date he becomes so liable, a tax for each assessment year on his turnover, to be determined in the prescribed manner, of all sales inside the State, made on or after the date he becomes liable to pay tax at such rates as provided by or under section 4 of the Act;
- (4) Where a dealer carries on the business of-
 - (a) sale of any taxable goods in the course of inter-state trade or commerce; or
 - (b) sale of any taxable goods in the course of export out of the territory of India; or
 - (c) consigns any taxable goods for delivery at a place outside the State; or
 - (d) sale of any taxable goods purchased or received from outside the State; or

- (e)purchases of any taxable goods after furnishing any form of declaration or certificate prescribed either under Uttaranchal (the Uttar Pradesh Trade Tax Act,1948) Adaptation and Modification Order, 2002 or the Central Sales Tax Act,1956; or under this Act; or
- (f)sales or purchases of taxable goods if such dealer is already registered under the Uttaranchal (the Uttar Pradesh Trade Tax Act,1948) Adaptation and Modification Order, 2002 or the Central Sales Tax Act,1956; and desires to retain such registration after the commencement of this Act or applies for grant of registration voluntarily under the provisions of this Act; and
- (i) if such dealer has been carrying on the business in the immediately preceding assessment year and continues it on the date of commencement of this Act, he shall be liable to pay tax from the date of commencement of this Act; and
- (ii) if such dealer commences business on or after the date of commencement of this Act, he shall be liable to pay tax from the date on which any of events from (a) to (f) above takes place for the first time in any assessment year;

(5) Where any dealer carries on business of purchases and, or of sales of goods inside the State only and has neither furnished nor received any form of declaration or certificate prescribed under this Act or the Uttaranchal (The Uttar Pradesh Trade Tax Act, 1948) Adaptation and Modification Order, 2002 or the Central Sales Tax Act, 1956 or rules made or notifications issued thereunder in respect of any purchases or sales, and the business continues on the date of commencement of this Act, and

(a) if such dealer has been carrying on business for whole or part of the immediately preceding assessment year, and continues it on the date of commencement of this Act and-

(i) the aggregate of his turnover as per the provisions of the Uttaranchal (The Uttar Pradesh Trade Tax Act, 1948) Adaptation and Modification Order, 2002 in the preceding year exceeded the amount prescribed under sub-section (7) in case of whole year or the proportionate amount in case of part of the year, he shall be liable to pay tax from the date of commencement of this Act; or

(ii) the aggregate of turnover as per the provisions of the Uttaranchal (the Uttar Pradesh Trade Tax Act, 1948) Adaptation and Modification Order, 2002 for the period from the first day of the year of commencement upto the date of commencement of this Act, exceeds the amount prescribed under sub section (7) proportionately, he shall be liable to pay tax from the date of commencement of this Act; or

(iii) if such dealer is not liable to pay tax from the date of commencement, of the Act under clause (a) (i) and clause (ii) above, he shall be liable to pay tax from the date the aggregate of his turnover for the first time exceeds the taxable quantum in any assessment year; or

(iv) if such dealer is already registered under the Uttaranchal (the Uttar Pradesh Trade Tax Act, 1948) Adaptation and Modification Order, 2002 or the Central Sales Tax Act, 1956

and desires to retain it voluntarily, he shall be liable to pay tax from the date of commencement of this Act;

(b) if such dealer commences business in the year of commencement on the first day or any other subsequent date but before the date of commencement of this Act, and

(i) the aggregate of his turnover from commencement of business till the date of commencement of this Act exceeds the proportionate amount of taxable quantum, he shall be liable to pay tax from the date of commencement of this Act;

(ii) if such dealer is not liable to pay tax from the date of commencement of this Act, under sub clause (i) above, he shall be liable to pay tax from the date the aggregate of his turnover for the period starting from the date of commencement of business and ending on the last date of the assessment year, for the first time exceeds the proportionate amount of taxable quantum;

(c) (i) If such dealer commences business on or after the date of commencement of this Act either in the year of commencement or in any subsequent assessment year, he shall be liable to pay tax in such first assessment year from the date when the aggregate of his turnover for the period starting from the date of commencement of his business and ending on the last date of that assessment year for the first time exceeds the proportionate amount of taxable quantum; and

(ii) If such dealer is not liable to pay tax in the year of commencement of business as per sub- clause (i) above, he

shall be liable to pay tax in the first assessment year in which the aggregate of his turnover exceeds taxable quantum and shall be liable from the date his turnover so exceeds for the first time;

(6) Where by any order passed under this Act, it is found that any person registered as dealer ought not to have been so registered and the registration certificate is cancelled, then notwithstanding anything contained in this Act, such person shall be liable to pay tax for the period commencing with the date of his registration and ending with the date of such order, as if he was a dealer;

(7) Taxable Quantum-

(a) No dealer shall, except as otherwise provided under clause (e) of this sub-section, be liable to tax under sub-section (3), if, during the assessment year, the aggregate of his turnover of sales of all goods, whether such sale is made by the dealer directly or through his branch, depot or agent inside the State, or in the course of inter-state trade or commerce, or in the course of export out of the territory of India or by way of consignment outside the State, is less than the amount mentioned hereinafter-

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| (i) | in the case of manufacturers or producers
of any goods for sale | Rs 5 lacs |
| (ii) | in case of execution of works contract | Rs 5 lacs |
| (iii) | in case of transfer of right to use goods | Rs 5 lacs |
| (iv) | in case of dealers engaged in any other business | Rs 5 lacs |

Provided that the State Government may, by notification in the Gazette, fix a larger amount either in respect of all dealers in any goods or in respect of particular class of dealers;

(b) Nothing in clause (a) shall apply in respect of –

(i) the sale by a dealer of goods imported by him from out side Uttaranchal, the turnover whereof is liable to tax under this Act,

(ii) the sale by a dealer of-

(a) goods imported by him from out side Uttaranchal after furnishing to selling dealer a declaration under sub-section (4) of section (8) of the Central Sales Tax Act, 1956;

(b) goods purchased or imported by furnishing any declaration or certificate prescribed under any provision of this Act;

(c) goods manufactured by him by using the goods referred to in sub-clause (i) or sub-clause (ii);

(c) Where the amount specified in, or notified under clause (a) is altered during an assessment year, the tax payable by a dealer under this section shall be computed as follows:-

(i) on the turnover relating to the period prior to such alteration, as though the amount specified in or notified under clause (a) had not been altered; and

(ii) on the remainder, as though the altered amount has been in force on all material dates;

(d) Where tax is payable, and has been so paid, by a commission agent on any turnover on behalf of his principal, the principal shall not be liable to pay the tax in respect of the same turnover;

(e) (i) Every dealer commencing business during the course of an assessment year shall be liable to pay tax in that year with effect from the date immediately following the day on which the aggregate of his turnover from the date of commencement of his business for the first time exceeds the proportionate amount of taxable quantum;

(ii) Every dealer discontinuing business during the course of an assessment year, shall be liable to pay tax up to that date if the aggregate of his turnover for the period from the first day of the commencement of the assessment year to the date of discontinuance of his business exceeds the amount of taxable quantum proportionately.

Explanation: The dissolution of a firm or association of persons or partition of a Joint Hindu Family or transfer by a dealer of his business shall be deemed to be discontinuance of business within the meaning of this sub-section.

(8) For the purpose of calculating the gross turnover to determine the liability to pay tax under the Act-

(a) except as otherwise expressly provided, the turnover of all sales (whether taxable or not) and as the case may be, the turnover of all purchases on which tax is payable under the provisions of sub-section (10) of this section shall be included;

(b) the turnover shall include all sales and such purchases made by the dealer in his account and also on behalf of principals whether disclosed or not;

(9) Taxable Turnover -

(a) The tax payable by a dealer liable to pay tax under sub-section (3) of section 3 shall be levied on his taxable turnover of sales;

(b) Taxable turnover of sales in relation to a dealer liable to pay tax on sale of goods under sub-section (3) of section 3 shall be that part of the gross turnover of sales during any period which remains after deducting therefrom,

(a) sales of goods declared as exempt from tax in Schedule 1

(b) sales of goods which are shown to the satisfaction of the assessing authority to have taken place-

(i) in the course of inter-state trade or commerce, or

(ii) outside the State of Uttaranchal other than by way of sale,
or

(iii) in the course of export of the goods out of the territory of
India

Explanation: section 3, section 4 and section 5 of the Central Sales Tax Act, 1956 shall apply for determining whether or not a particular sale or purchase has taken place in the manner indicated in sub-clause (i), sub-clause (ii) or sub-clause (iii).

(c) in case of turnover of sales in relation to works contract certain deductions as may be prescribed and subject to such conditions and restrictions as may be imposed;

(d) such other sales as may be prescribed and subject to such conditions and restrictions as may be imposed;

(10) Tax on Purchases in certain circumstances - Every dealer who in the course of his business purchases any goods-

(a) from a registered dealer in the circumstances in which no tax under this Act is payable by that registered dealer on the sale price of such goods; or (b) from a person other than a registered dealer and tax on sale of such goods can not be levied on the seller either in view of any provision of this Act or because the selling dealer though liable to pay tax has not obtained registration; he shall be liable to pay tax on purchase price of such goods if-

(i) goods are not sold within the State of Uttaranchal, or in the course of Inter-State trade or commerce or in the course of export out of the territory of India; or

(ii) goods are consumed or used in the manufacture of goods exempt from tax under this Act; or

(iii) goods are used or consumed in the manufacture of goods and such manufactured goods are disposed of otherwise than by way of sale in the State of Uttaranchal or in the course of interstate trade or commerce or in the course of export out of the territory of India; or

(iv) goods are used or consumed otherwise,

and such tax shall be levied at the same rate at which it would have been levied under this Act on the sale of such goods within the State on the date of such purchases:

Provided that if the goods are purchased through a Commission Agent, whether for a Principal residing within the State or out side the State, the Commission Agent shall be liable to pay the tax and he may realise the same from the Principal.