

## **THE UTTARAKHAND VALUE ADDED TAX ACT, 2005**

### **Sec. 6: Input Tax Credit:**

(1) Input Tax Credit shall be allowed only to a *registered dealer*, and for the purpose of calculating the net tax payable by a registered dealer for any tax period after being registered, an input tax credit as determined under the provisions of this Act shall be allowed to such registered dealer for the tax paid or payable in respect of all taxable sales other than sale of goods specified in Schedule III or any other sales as may be prescribed:

Provided that **no input tax** credit shall be allowed in respect of the taxable purchases on which the tax is paid or payable under sub-section(10) of section 3;

Provided further that notwithstanding any thing contained in sub-section (1) or its proviso above, input tax credit in respect of purchases on which tax is paid or payable under sub-section (10) of section 3, shall be allowed in the following circumstances-

(a) purchase from a person who sells *agriculture or horticulture produce grown by him* or grown on any land in which he has an interest whether as a owner, usufructuary mortgagee, tenant or otherwise, or who sells *poultry or dairy products* from fowls or animals kept by him, and such persons are, in respect of such goods, not treated as a dealer under the provisions of sub-section (11) of section 2 of this Act; or

(b) purchase of any goods as may be notified by the State Government for this purpose, subject to such conditions and restrictions as may be specified in said notification.

(2) The input tax credit to which the registered dealer is entitled shall be the amount of tax paid by the registered dealer to the seller, on his turnover of purchases made during the tax period, intended to be used for the purposes and subject to the conditions as specified in this section and calculated in such manner as may be prescribed.

(3) Input tax credit shall be **allowed** for the goods purchased within the State of Uttaranchal, from a registered dealer holding a valid certificate of registration under section 15 or section 16, for the purpose of-

(a) sale in Uttaranchal; or

(b) sale in the course of inter-state trade and commerce; or

(c) sale in the course of export out of the territory of India; or

(d) use as raw material "**and consumables**" (*inserted vide notification no. 1314/XXXVI(4)/2008 Dated 31 March 2008*)

in manufacturing or processing of goods (other than those specified in Schedule I or Schedule III) and containers or other packing materials used for packing of such manufactured goods, for sale or resale within the State or in the course of inter-state trade or commerce;

(e) use as raw material "**and consumables**" (*inserted vide notification no. 1314/XXXVI(4)/2008 Dated 31 March 2008*)

in manufacturing or processing of any goods (other than

those specified in Schedule III) and containers and other packing materials used for packing of such manufactured goods, for sale in the course of export of goods out of the territory of India:

Provided that with reference to clause (d) above, in case such finished products are dispatched out side the state other than by way of sale, a partial amount of input tax credit shall be allowed in respect of tax paid ***in excess of 2 percent***, (*inserted vide notification no. 22 dated 01 January 2010*) on the ***raw materials*** used directly in the manufacture of such finished products;

Provided further that partial input tax credit shall be allowed in respect of tax paid ("in excess of the rate prescribed under sub section (1) of section 8 of the Central Sales Tax Act 1956") (*inserted vide notification no. 1314/XXXVI(4) Dated 31 March 2008*) ***in excess of 2 percent***, (*inserted vide notification no. 22 dated 01 January 2010*) on petroleum products used as fuel (other than Petrol. Aviation Turbine Fuel, Natural Gas and Diesel) and other fuels used in production of taxable goods or captive power, but excluding fuel when used as fuel in motor vehicles.

(4) (a) Where during a tax period a registered person purchasing goods (other than Capital goods) on which an input tax credit is admissible under the provisions of this section, and the purchases are used partially for various purposes specified in sub-section (3), input tax credit shall be allowed proportionate to the extent they are used for the purposes specified therein, and such different purposes include-

(i) sales consisting of sale of taxable goods and sale of goods exempted from tax, or

(ii) sales outside the State consisting of sale of goods and dispatches of goods in the form of consignment or stock transfer to other States, or

(iii) inputs being used in the course of business and inputs being used for any other purposes;

(b) Amount of input tax credit in respect of purchases of a particular commodity during the tax period shall be the aggregate of all amounts of input tax credit computed in respect of each purpose the commodity purchased is utilized. The total amount of input tax credit shall be the aggregate of input tax credit for all commodities;

(c) The method that is used by a person to determine the extent to which goods are sold or supplied, or used or consumed in the manufacturing of goods, or intended to be sold or supplied, or used or consumed in the manufacturing of the goods, for different purposes, should be in an intelligible form and fair and reasonable in the circumstances:

Provided that the State Government may, from time to time, frame rules consistent with the provisions of this Act for computation of input tax and when such rules are framed, no input tax shall be computed except in accordance with such rules.

(5) For the purpose of calculating the net tax payable by a registered person for his first tax period after commencement of this Act or his becoming registered, as the case may be, an input tax credit as determined under this section shall be allowed, subject to the following conditions, to the registered person for the tax paid or payable in respect of stock in hand of all taxable goods (excluding capital goods) purchased by the person prior to the

commencement of this Act, or, as the case may be, the person becoming registered-

(a) goods were purchased by a registered dealer for use in his business,

(b) goods were purchased not more than one year prior to the date of commencement of this Act or, as the case may be, the date of registration, and goods are in hand on such date,

(c) goods, if purchased before the commencement of this Act, have suffered tax under Uttaranchal (the Uttar Pradesh Trade Tax Act, 1948) Adaptation and Modification Order, 2002 and are also taxable under this Act,

(d) input tax credit shall be the actual rate of tax paid on purchase of such goods or the rate as applicable under this Act, whichever is lower,

(6) An input tax credit shall be claimed by a registered dealer in the following manner:

(a) In respect of goods held in the opening stock (excluding Capital Goods) on the date of commencement of this Act, or on the date the dealer applies for grant of registration, input tax credit shall be claimed in six equal monthly instalments in returns for the tax periods covering period of six months starting after expiry of (three) **"six"** (*inserted vide notification no. 1314/XXXVI(4/) Dated 31 March 2008*) months from the month in which the date of commencement of this Act or, as the case may be, the date of presentation of application for registration falls;

(b) In respect of purchase of Capital Goods up to the date of commencement of commercial production, a manufacturer shall be eligible to claim the input tax, in **two equal yearly** instalments following the year in which the date of first sale of such taxable goods falls. In case of purchase of Capital Goods after the date of commencement of commercial production, the total amount of such input tax credit for a financial year shall be claimed in two equal yearly installments commencing from the next financial year. The yearly instalments shall be claimed in the return for the period ending September "**or in the return of any of the subsequent tax periods**" *(inserted vide notification no. 1314/XXXVI(4)/2008 Dated 31 March 2008)* in each of the two years:

Provided that the amount of input tax credit in case of goods sold in the course of export out of the territory of India shall be claimed by dealer in ***one yearly installment*** instead of two yearly installments as above.

(c) In other cases input tax credit shall be claimed in the return of the tax period in which purchase of goods to which such input tax credit relates, have been made.

(7)(a) **No input tax** credit shall be allowed on purchase of Capital Goods when-

- (i) goods are not connected with the business of the dealer; or
- (ii) goods purchased from an un-registered dealer or a dealer whose Certificate of Registration has been cancelled; or
- (iii) goods purchased from outside the State; or

(iv) goods are purchased or paid for prior to the date of commencement of this Act or the date of registration under this Act; or

(v) goods are used in manufacturing or processing of goods exempt from tax or Special Category Goods specified in schedule III, or providing services or trading activities which are not liable to tax under this Act; or

(vi) goods are used for lease under an agreement of transfer of right to use goods (whether for a specified period or not) for any purpose; or

(vii) goods are used in connection with transfer of property in goods involved in the execution of works contract; or

(viii) goods on which tax being payable under this Act or under the Uttaranchal (The Uttar Pradesh Trade Tax Act, 1948) Adaptation and Modification Order, 2002 has not been paid on any earlier sale or purchase of such goods; or

(ix) goods are used in generation of energy/power including captive power; or

(x) goods have been already used, or acquired for use in any other factory or workshop in India.

**“(xi) goods purchased from a registered dealer who has given an option to pay Presumptive Tax at a percentage of turnover of sales under sub-section (1) of section 7 or a lump sum amount in lieu of tax on sale and / or purchase of such goods by way of composition under sub-section (2) of section 7.”**

*(inserted vide notification no. 1314/XXXVI(4)/2008 Dated 31 March 2008)*

Explanation: The Government may, by notification, declare any Capital Goods which shall not be deemed, for purpose of this section, to be included in plant, machinery and equipment above.

(b) **No input tax** credit shall be allowed on the capital or other expenditure on land, ***civil structure or construction, and motor car, accessories or spare parts.***

(c) In case of closure of business before the period specified above, no further input credit shall be allowed and input tax credit carried forward, if any, shall be forfeited;

(8) **No** input tax credit shall be allowed on purchase of goods, other than the Capital Goods, when-

(a) goods not connected with the business of the dealer; or

(b) goods purchased from an un-registered dealer or a dealer whose Certificate of Registration has been cancelled; or

(c) goods purchased from out side the State; or

(d) goods the ***sale of which is exempted*** under this Act or the goods used in manufacture, processing or packing of such goods; or

(e) goods whether goods as such or constituents of finished or semi finished goods which remain unsold in stock at the time of closure of business due to discontinuance by the dealer or cancellation of his registration or his being declared non-taxable under the provisions of this Act; or

(f) goods transferred outside the State, otherwise than by way of sale;  
or



- (g) in respect of raw material used in manufacture or processing of goods where the finished products are dispatched out side the State other than by way of sales; or
- (h) goods purchased from a registered dealer who has given an option to pay Presumptive tax at a percentage of turnover of sales under sub-section (1) of section 7 and a lump sum amount in lieu of tax on sale and, or purchase of such goods by way of composition under sub-section(2)of section 7; or
- (i) goods that are stolen or lost or destroyed or disposed of in any manner other than in *ordinary course of business* or goods distributed by way of free sample or gift; or
- (j) goods leased under an agreement of transfer of right to use any goods (whether for a specified period or not) for any purpose; or
- (k) goods sold by way of transfer of property in goods(whether as goods or in some other form) involved in the execution of works contract, or
- (l) goods on which tax being payable under this Act or under the Uttaranchal (The Uttar Pradesh Trade Tax Act, 1948) Adaptation and Modification Order, 2002 has not been paid on any earlier sale or purchase of such goods; or
- (m) Special Category Goods specified in Schedule III or the goods "**except molasses**"(*inserted vide notification no. 1314/XXXVI(4)/2008 Dated 31 March 2008*) used in manufacture, processing or packing of such goods;or
- (n) goods are used in generation of energy/power including captive power:

Provided that in respect of transactions falling under 'item (f)' **"item (g)"**, (*inserted vide notification no. 1314/XXXVI(4)/2008 Dated 31 March 2008*) a partial amount of input tax credit shall be allowed in respect of tax paid "in excess of the rate prescribed under sub section (1) of section 8 of the Central Sales Tax Act 1956" (*inserted vide notification no. 1314/XXXVI(4)/2008 Dated 31 March 2008*) **in excess of 2 percent** , (*inserted vide notification no. 22 dated 01 January 2010*) on the raw materials used directly in the manufacture of finished products;

Provided further that if input tax credit on purchase of goods in the circumstances referred to in 'item (f)' **"item (g)"**, (*inserted vide notification no. 1314/XXXVI(4)/2008 Dated 31 March 2008*) above, has been claimed by a dealer, the same shall stand reversed.

(9) (a) Input tax credit shall not be claimed by a dealer where the Sale Invoice from the registered dealer selling the goods evidencing the input tax paid is-

(i) not available with the dealer in original or its duplicate copy as per the provisions under section 60 ; or

(ii) the assessing authority has reason to believe that the original Sale invoice has not been issued by the selling dealer from whom the goods are purported to have been purchased;

(b) Where a taxable person does not have an original Sale invoice or a duplicate copy thereof, evidencing the input tax paid, Assessing Authority may after recording the reasons in writing allow an input tax credit in the tax period in which the credit arises where the assessing Authority is satisfied –

(i) that the taxable person took all the reasonable steps to obtain a Sale invoice;

(ii) that the failure to obtain Sale invoice was not due to any fault of the taxable person; and

(iii) the amount of input tax claimed by the taxable person is correct;

(10) If the input tax credit of a registered dealer, for a tax period exceeds the tax liability for that period, the excess amount shall be adjusted against the tax liability, if any, under the Central Sales Tax Act, 1956, for the same tax period and the balance shall be credited against **any outstanding** tax, penalty or interest **under this Act** or under the Central Sales Tax Act, 1956 and only the remaining amount shall be carried forward by the dealer to succeeding tax periods and the amount shall be deemed to be an input tax credit for that period:

Provided that if any amount is refundable to a dealer on account of sale of goods in the course of export, he shall , after the end of every quarter of a year, be entitled to the refund of excess amount as per the provisions of section 37 of this Act.

(11) Every dealer liable to file returns under section 23 shall, after the end of the assessment year, file, **within 90 days**, a statement showing his admitted tax liability and the amount of input tax credit for the assessment year after calculating the adjustments, if any, made between different tax periods during the relevant assessment year and also the amount if any, adjusted towards outstanding tax, penalty and interest dues.

(12) If any amount is claimed by the dealer to his credit in excess after adjustments as per sub-section (11) above, he may adjust such excess amount in subsequent year in returns of different tax periods.

(13) Notwithstanding any thing contained in sub-section (10), sub-section (11) or sub-section (12), the assessing authority shall determine the amount of input tax credit paid by the dealer in excess of his tax liability at the time of final assessment for the relevant assessment year under section 25 or section 26, and if any amount is found refundable, the same shall be refunded or adjusted under the provisions of section 36:

Provided that if the assessment for a financial year is not completed within a period of two years after the close of the relevant financial year, the dealer shall be entitled to provisional refund, if any, pending assessment and the due amount shall be refunded to him and the provisions of section 37 shall mutatis mutandis apply in case of such refunds.

(14) Adjustment in Tax Credit:

(a) Adjustments as provided under this section shall be made in relation to taxable sales by a person, when-

(i) the rate of tax charged to that sale is different from the rate of tax as applicable under the provisions of this Act; or

(ii) the sale amount is altered whether due to the offer of discount allowed as a normal trade practice or for any other reason; or

(iii) the goods or part of the goods sold have been returned to the seller within 6 months from the date of sale; and the seller has, as a result of the

occurrence of one or more of the events described in sub-clauses (i) to (iii) in clause (a) above-

(i) issued a Sale invoice in relation to that sale and the amount shown therein as tax charged on that sale is incorrect in relation to the amount properly chargeable on that sale; or

(ii) filed a return for the tax period in which the sale occurred and had accounted for an incorrect amount of output tax on that sale in relation to the amount properly chargeable on that sale;

(b) Where a seller has accounted for an incorrect amount of output tax as contemplated in clause (a), that seller shall make an adjustment in calculating the tax payable by that seller in the return for the tax period during which it has become apparent that the output tax is incorrect, and if-

(i) the output tax properly chargeable in relation to that sale exceeds the output tax actually accounted for by the seller, the amount of that excess shall be deemed to be tax charged by that seller in relation to a taxable sale attributable to the tax period in which the adjustment is to be made, and shall not be attributable to any prior tax period; or

(ii) the output tax actually accounted for exceeds the output tax properly chargeable in relation to that sale, that seller shall reduce the amount of output tax attributable to the said tax period in terms of section 4 by the amount of that excess:

(c) The credit allowed under sub clause (i) of clause (b) above is treated as a credit for input tax;

(d) No credit shall be allowed under (b) (i) clause above where

(i) the excess tax has been borne by the purchaser of the goods,

(ii) the sale has been made to a person who is not a registered person,

(iii) unless the amount of the excess tax has been repaid by the taxable person to the person from whom the excess tax collection is made, whether in cash or by adjustment through a credit note and the registered person maintains evidence to the satisfaction of the assessing authority for such payment;

(15) Credit notes and Debit notes:

(a) Where a Sale invoice has been issued and the amount shown as tax charged in the Sale invoice exceeds the tax payable under this Act in respect of that sale, the registered dealer making the sale shall provide the purchaser with a credit note to this effect.

(b) Where the Sale invoice has been issued and the tax payable under this Act in respect of the sales exceeds the amount of tax charged in that Sale invoice the registered dealer making the sale shall provide the purchaser with a debit note to this effect.

(c) In case of goods returned or rejected by the purchaser, a credit note to this effect shall be issued by the selling dealer to the purchaser and a debit note will be issued by the purchaser to the selling dealer.

(16) Reverse tax credit: If goods purchased for use specified under sub-section (3) are subsequently used, fully or partly, for purposes other than those specified under the said sub-section, the input tax credit there on shall be calculated and be reduced from the tax credit for the tax period during which the said utilization otherwise has taken place:

Provided that if part of purchased goods are utilized otherwise, the amount of reverse tax credit shall be proportionately calculated;

(17) Net Input Tax Credit: The net input tax credit to which a registered dealer is entitled shall be determined by the formula:

$$\text{Net Input Tax Credit} = A+B-C$$

Where

A = the amount of input tax credit the dealer is entitled to under sub-section (2).

B = tax credit as determined under sub-section (10) and sub-section (14) of this section.

C = reverse tax credit as determined under sub-section (16) of this section.