

THE UTTARAKHAND VALUE ADDED TAX ACT, 2005

Sec. 34: Payment and Recovery of tax:

(1) Amount of tax admittedly payable shall be deposited in the prescribed manner along with the return of the respective tax period. Amount assessed as tax shall be deposited in the manner specified in and within **60 days** (30 days) (*substitued vide notification no.-1314/XXXVI(4)/2008 Dt. 31.03.2008*) of the service of order of assessment and notice of demand. Amount imposed by way of penalty shall be deposited in the prescribed manner and within 30 days of service of the order imposing such amount by way of penalty. Any other amount *including late fee, if any* except the amount of tax admittedly payable or assessed and penalty imposed, that may be determined as payable under any provisions of this Act, shall be paid in the prescribed manner and within the prescribed time:

Provided that where no such time has been prescribed, the period to deposit the due amount shall be deemed to be 30 days of the service of the order by which such amount has been determined.

(2) A registered dealer furnishing return under section 23 shall pay into the Government treasury, in such manner and at such interval as may be prescribed, the amount of tax due from him for the period covered under the return along with the amount of penalty or interest or *late fee, if any, or all the three* payable by him under section 23 *or late fee, if any, payable by him under section 25* and shall furnish a receipt from the Treasury *or proof of e-payment* showing the payment of such amount.

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

(3) A registered dealer furnishing a revised return in accordance with sub-section (9) or sub-section (10) of section 23 which shows that a greater amount of tax is due than was paid or payable in accordance with the original return, shall furnish along with the return a receipt showing the payment of the differential amount in the manner provided in sub-section (2).

(4) The tax admittedly payable shall be deposited within the time prescribed failing which simple interest at the rate of fifteen percent per annum shall become due and be payable on the unpaid amount with effect from the date immediately following the last date prescribed till the date of payment of such amount.

Explanation (1): for the purpose of this sub-section, the tax admittedly payable means the tax which is payable under this Act on the turnover of sales, or as the case may be, the turnover of purchases or of both, as disclosed in the accounts maintained by the dealer or admitted by him in any return or proceeding under this Act, whichever is greater.

Explanation (2): "Month" shall mean thirty days and the interest payable in respect of period of less than one month shall be computed proportionately.

(5) The amount of tax assessed under this Act in excess of amount of tax already deposited along with the interest payable according to the provisions of this Act shall be deposited in the manner specified in and within 30 days of service of order of assessment and notice of demand.

(6) If the tax (other than the tax admittedly payable to which sub-section (2) applies) assessed, reassessed or enhanced by any authority or Court remains unpaid for three months after expiration of the period specified in the order of assessment and demand notice, a simple interest at the rate of nine percent

per annum on unpaid amount calculated from the date of such expiration shall become due and be payable:

Provided that the amount of interest under this sub-section shall be re-calculated if the amount of tax is varied on appeal or revision or by any order of a competent Court.

(7) The amount of interest payable under sub-section (2), (3), (4) and (5) shall, without prejudice to any other liability or penalty that the dealer may incur under this Act or under any other law for the time being in force, be added to the amount of the tax and shall also be deemed for all purposes to be part of the tax.

(8) Where an order of assessment or reassessment referred to in sub-section (4) of section 32 or an order of assessment or reassessment referred to in sub-section (6) of section 32 has been made and tax payable is enhanced the dealer shall be liable to pay interest on such enhanced tax as if it was enhanced in the order of assessment made for the first time and for this purpose the date of service of the order of assessment and demand notice shall be deemed to be amended accordingly.

(9) Where realisation of any tax remained stayed by order of any Court or authority and such order of stay is subsequently vacated, the interest referred to in sub-section (6) shall be payable also for any period during which such order remained in operation.

(10) Any tax or other dues *including late fee, if any* payable to the State Government under this Act, any amount of money which a person is required to pay to the assessing authority under sub-section (14) for which he is personally liable to the assessing authority under sub-section (17) shall,

notwithstanding anything contained in any other law for the time being in force and subject to any special or general order of the State Government be recoverable as arrears of Land Revenue, or in the prescribed manner by the assessing authority or any other officer authorised by the State Government in that behalf and such authority or officer shall, for the purposes of such recovery-

- (a) have all the powers which a Civil Court has under the Code of Civil Procedure, 1908 for the purpose of recovery of an amount due under a decree;
- (b) have the power to require the assessing authority or such authorised officer having jurisdiction in any other area to make such recovery if the defaulter is or has property within the area of such other assessing authority or officer and there upon such other assessing authority or officer shall proceed to make recovery in the prescribed manner.

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

(11) Notwithstanding anything contained in sub-section (4) and (5) and notwithstanding any judgment, decree or order of any Court, Tribunal or other authority, where any notice of assessment and demand in respect of any tax or other dues under this Act, is served upon the dealer by an assessing authority and an appeal, revision or other proceeding is filed in respect of such tax or dues then -

- (a) where as a result of such appeal, revision or other proceeding the amount of such tax or other dues is enhanced, the assessing authority shall serve upon the dealer a fresh notice in respect of the amount by which such tax or other dues are enhanced, and any proceeding in relation to the amount specified in the notice already served upon him before the disposal of such appeal, revision or other proceeding may be continued from the stage at which it stood immediately before such disposal ;

(b) where as a result of such appeal, revision or other proceeding the amount of such tax or other dues is reduced-

(i) it shall not be necessary to serve upon the dealer a fresh notice but only the reduced amount shall be realised;

(ii) if any recovery proceedings are pending before any officer or authority other than the assessing authority, the assessing authority shall intimate such reduction to such officer or authority;

(iii) any proceeding initiated on the basis of notice or notices served upon the dealer before the disposal of such appeal, revision or other proceeding, including any recovery proceeding may be continued in relation to amount so reduced from the stage at which it stood immediately before such disposal;

(c) no fresh notice shall be necessary in any case where amount of the tax or other dues is not enhanced (with reference to the amount assessed by the assessing authority) as a result of such appeal, revision or other proceedings.

(12) In respect of any sum recoverable under this Act as arrears of Land Revenue, the assessing authority may, after 90 days of the service of the order of assessment and notice of demand, forward to the Collector a certificate for recovery under his signature specifying the sum due. Such certificate shall be conclusive evidence of the existence of the liability of this amount on the person who is liable and the Collector on receipt of the certificate shall proceed to recover from such person the amount specified therein as if it were an arrear of land revenue:

Provided that no such certificate for recovery shall be issued before giving a notice to the person/dealer to this effect;

Provided further that without prejudice to the powers conferred by this section the Collector shall, for the purpose of recovering the amount specified in the certificate shall have also all the powers which-

- (a) a Collector has under the Revenue Recovery Act, 1890; and
- (b) a Civil Court has under the Code of Civil Procedure, 1908 for the purpose of recovery of an amount due under a decree.

Explanation: The expression Collector includes an Additional Collector or any other officer authorised to exercise the powers of Collector under the law relating to land revenue for the time being in force in the State.

(13) Where any amount of tax or penalty is recoverable under this Act from the owner of a vehicle and recovery certificate has been issued, the officer competent to execute the recovery certificate may take the assistance of police and other officer or officials of the State Government in locating such vehicle or other vehicles of the same owner. If so required by the recovery officer such other officer or officials shall be empowered to detain such vehicle. Whenever any such vehicle is detained by any officer or official he shall give the cause of detention in writing to the person in charge of the vehicle at the time of detention and shall immediately inform the officer executing the recovery certificate. Officer executing the recovery certificate shall proceed with according to law to realise arrears against such owner of vehicle:

Provided that if amount recoverable is paid after detention of vehicle, the vehicle shall be set free;

Provided further that if at the time of detention some goods are loaded on it and owner of such goods is a person other than the owner of the vehicle, the owner or the person in charge of the goods shall be allowed to remove such goods from such vehicle if he so desires.

(14) Notwithstanding anything contained in any law or contract to the contrary, the assessing authority may, at any time or from time to time, by notice in writing the copy of which shall be forwarded to the dealer at his last address known to the assessing authority, require-

(a) any person from whom any amount is due or may become due to the dealer, or

(b) any person who holds or may subsequently hold money for or on account of the dealer, to pay to the assessing authority-

(a) forthwith upon the money becoming due or being held, or

(b) at or within the time specified in the notice not being before the money becomes due or is held, so much of the money as is sufficient to pay the amount due from the dealer in respect of arrears of tax or other dues under this Act, or the whole of the money when it is equal to or less than that amount.

Explanation: For the purpose of this sub-section, the amount due to a dealer or money held for or on account of a dealer by any person shall be computed after taking into account such claim if any, as may have fallen due for payment by such dealer to such person and as may be legally subsisting.

(15) The assessing authority may at any time or from time to time amend or revoke such notice.

(16) Any person making any payment in compliance with notice under sub-section (14) shall be deemed to have made the payment under the authority of the dealer and the receipt of the assessing officer shall constitute a good and sufficient discharge of the liability of such person to the dealer to the extent the amount referred to in the receipt.

(17) Any person discharging any liability to the dealer after the receipt of

notice referred to in sub-section (14) shall be personally liable to the assessing authority to the extent of the liability discharged or to the extent of the amount mentioned in such notice, whichever is less.

(17A) If any amount is to be paid by a person to the Assessing Authority, under sub-section (14) of Section 34 of this Act, but the person fails to pay the amount, such person shall be liable to pay such amount not exceeding the amount due, as penalty, as directed by the Assessing Authority in writing, after giving him the opportunity of being heard.

(Sub-section 17(A) has been ADDED vide notification no.- 103/XXXVI(3)/2016/15(1)/2016 Dt. 31.03.2016 w.e.f. 31st March, 2016 as above)

(18) Where a person, to whom a notice under sub-section (14) is sent, proves to the satisfaction of the assessing authority that sum demanded or any part of thereof is not due by him to the dealer, or that he does not hold any money for or on account of the dealer, then nothing contained in this section shall be deemed to require such person to pay the sum demanded or any part thereof, as the case may be, to the assessing authority.

(19) Notwithstanding anything to the contrary contained in any law for the time being in force, any tax payable under the provisions of this Act together with interest or penalty, shall be due for payment immediately when it becomes payable or assessed in the manner provided in this Act or the rules made thereunder and any such amount payable by a dealer on account of tax, penalty or interest or any amount which a person is required to pay under this Act shall be a first charge on the property of the dealer or such person.

(20) Notwithstanding anything contained in this Act, no tax, fee, interest or penalty under this Act shall be recovered and no refund shall be allowed if the amount involved for any assessment year is **less than 10 rupees**.

(21) The Assessing Authority shall have the powers to-

(a) withhold issuing of any Form or Certificate under the Act to a person, or a dealer or a casual dealer,

(b) Order seizure of goods being transported by a person, or a dealer or a casual dealer, from whom any tax, penalty, interest or any other amount under the provision of the Act is due.