

THE UTTARAKHAND VALUE ADDED TAX ACT, 2005

Sec. 36: Refund:

(1) Subject to other provisions of this Act and the rules made thereunder, the assessing authority shall, refund to a person the amount of tax, penalty and interest, if any, paid by such person in excess of the amount due from him:

Provided that the amount found to be refundable shall first be adjusted towards the tax or any other amount outstanding against the dealer under this Act or under the Central Sales Tax Act, 1956, or the Uttaranchal (the Uttar Pradesh Trade Tax Act, 1948) Adaptation and Modification Order, 2002 and only the balance, if any, shall be refunded.

(2) Where any refund is due to any dealer according to the return furnished by him for any tax period, such refund may provisionally be adjusted as per the provisions under sub-section (10), sub-section (11) or sub-section (12) of section 6.

(3) If any amount is found to be refundable in accordance with sub-section (1) or sub-section (2), the refund *shall be made in the prescribed manner including electronic methods* within one month from the date of order of refund *or the date of receipt, of the order of refund by the assessing authority*, if such order is passed by any other competent authority or Court. If the refund is not *made* within sixty days of the date of such order or, as the case may be, the date of receipt of such order of refund by the assessing authority, the dealer shall be entitled to simple interest on such amount at the

rate of nine percent per annum from the date of expiry of such period to the date of refund.

Provided that if any amount is found to be refundable in the cases deemed to have been self assessed in accordance with sub-section (3) of Section 25, the refund shall be made within one month of the expiry of one year from the last date prescribed for filing the annual return relating to the particular assessment year or the actual date, when the annual return is filed, whichever is later.

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

(Prior to the substitution this sub section read as under)

(3) If any amount is found to be refundable in accordance with sub-section (1) or sub-section (2), the refund voucher shall be sent along with the order of assessment passed by the assessing authority, or as the case may be, within one month from the date of receipt by him of the order of refund, if such order is passed by any other competent authority or Court. If the refund voucher is not sent within sixty days of the date of such order or, as the case may be, the date of receipt of such order of refund by the assessing authority, the dealer shall be entitled to simple interest on such amount at the rate of nine percent per annum from the date of expiry of such period to the date of refund.

Provided that if any amount is found to be refundable in the cases deemed to have been self assessed in accordance with sub-section (3) of Section 25, the refund voucher, shall be sent within one month of the expiry of one year from the last date prescribed for filing the annual return relating to the particular assessment year or the actual date, when the annual return is filed, whichever is later

(proviso Added vide notification no.- 1314/XXXVI(4)/2008 Dt. 31-03-2008 as above)

(4) Notwithstanding any judgment, decree or order of any Court or authority no refund shall be allowed of any tax or fee due under this Act on the turnover of sales or purchases or both, as the case may be, admitted by the dealer in the returns filed by him or at any stage in any proceedings under this Act.

(5) Notwithstanding any thing contained contrary in this section any dealer to whom refund of any amount is allowed, may, before the date such refund is made, apply to the assessing authority for withholding the amount of refund for adjustment towards his future liabilities either under this Act or under the Central Sales Tax Act, 1956. If the dealer has presented his application for withholding amount of refund, the assessing authority shall withhold amount of refund. In such a case the dealer shall not be entitled for interest.

Explanation (1): The expression " Refund" includes any adjustment under the proviso to sub-section (1).

Explanation (2): *If the refund is made electronically the date of refund shall be deemed to be the date on which the refund is made, otherwise the date of refund shall be deemed to be the date on which intimation regarding preparation of the refund voucher is sent to the dealer in the manner prescribed.*

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

(Prior to the substitution this sub section read as under)

Explanation (2)- The date of refund shall be deemed to be the date on which intimation regarding preparation of the refund voucher is sent to the dealer in the manner prescribed.