

THE UTTARAKHAND VALUE ADDED TAX ACT, 2005

Sec. 42: Power to order Production of Accounts and Power of Entry and Inspection:

(1) Any officer empowered by the State Government in this behalf may, for the purposes of this Act, require any dealer or any other person who carries on business of buying, selling or supplying goods for self or on behalf of other dealer, to produce before him any book, document or account relating to his business or relating to the business of other dealers, and may inspect, examine and copy the same and make such enquiries from the dealer or such person, relating to his business or business of other dealers, as he considers necessary:

Provided that books, documents and accounts of a period more than five years prior to the assessment year shall not be so required, unless in any special case for reasons to be recorded such officer considers necessary.

(2) All books, documents and accounts maintained by any dealer or a person in the ordinary course of business, the goods in his possession, and his place of business or vehicle shall be open to search and inspection at all reasonable time by such officers, as may be authorized by the State Government in this behalf. For the purpose of this section, the officer authorized thereunder may enter and search any place of business or vehicle or any other building or place where he has reason to believe that the dealer keeps or is for the time being keeping, any books, registers, documents, accounts or goods relating to his business and the officer may require any proprietor, employee

or any other person who may at that time and place be attending in any manner to, or helping in, the business-

(a) to afford him the necessary facility to inspect such books of accounts and other documents as he may require and which may be available at such place,

(b) to afford the necessary facility to check or verify the cash, stock or other valuable article or things which may be found therein, and

(c) to furnish such information as he may require as to any matter which may be useful for, or relevant to any proceedings under this Act:

(3) Notwithstanding any thing contained in this section, no business premises or residential accommodation shall be entered into, inspected or searched by such officer unless specially authorized by the Commissioner or such other officer not below the rank of a Joint Commissioner, as may be authorised in this behalf by the Commissioner.

Explanation: For the purpose of this sub-section, a place where the person is engaged in business will also include any other place in which the person engaged in business or the said employee or other person attending or helping in business states that any of the books of accounts or other documents or any part of the cash, stock or other valuable article or things relating to the business are or is kept.

(4) The officer authorised under sub-section (1) or sub-section (2) may make or cause to be made extracts or copies from books of accounts and other documents inspected by him, make an inventory of any cash, stock or other valuable article or thing checked or verified by him, and record the statement

of any person which may be useful for, or relevant to, any proceeding under this Act.

(5) If any officer authorised under sub-section (1) or sub-section (2) has reasonable grounds for believing that any dealer is trying to evade liability for tax or other dues under this Act and that any thing necessary for the purpose of an investigation into his liability may be found in any account, register or document he may seize such account, register or document as may be necessary. The officer seizing the account, register or document shall forthwith grant a receipt for the same and shall be bound to return them to the dealer or the person from whose custody they were seized, within a period of ninety days from the date of such seizure, after having such copies or extracts taken therefrom as may be considered necessary, provided the dealer or the aforesaid person authenticates such copies and extracts, and gives a receipt in writing for the account, register or document returned to him. The officer may, before returning the account, register or document, affix his signature and his official seal at one or more places thereon, and in such case the dealer or the aforesaid person will be required to mention in the receipt given by him the number of places where the signature and seal of such officer have been affixed on each account, register or document.

Explanation: In calculating the period specified in this sub-section the period during which proceeding under this Act remain stayed under the order of any Court or authority shall be excluded

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(6) Notwithstanding any thing contained in sub-section (5) the officer seizing any account, register or other document under that sub-section may for the reasons to be recorded by him in writing and with the prior approval

of the Commissioner, retain such account, register, or document for such period not extending beyond thirty days from the date of completion of all the proceedings under this Act in respect of the assessment years for which they are relevant as he deems necessary.

(7) An officer authorized to act under sub-section (1) or sub-section (2)-

(a) shall have the power to seal the place of the business, vehicle or any box, almirah or receptacle found on such place of business or vehicle in which he has reason to believe that any account, register or other documents or goods are kept or contained, if the owner or the person in occupation or incharge of such office, shop, godown, vehicle or box, almirah or other receptacle leaves the place or is not available or fails or refuses to open it when called upon do so;

(b) where the owner or other person in occupation or incharge of the office, shop, godown, or vehicle or of the box, almirah or other receptacle found in the office, shop, godown, vessel or vehicle is present but leaves the place or after an opportunity having been given to him to do so, fails to open, as the case may be, such office, shop, godown, vehicle or box, almirah or other receptacle, may break open the same and prepare a list of the goods and documents found therein.

(8) No person shall tamper with any seal put under sub-section (7).

(9) Any officer empowered under sub-section (1) or sub-section (2) may require any person,

(a) who transports or holds in custody, for delivery to or on behalf of any dealer, any goods, to give any information likely to be in his possession in respect of such goods or to permit inspection thereof;

(b) who maintains or has in his possession any account, book or document relating to the business of a dealer, to produce such account, book, or document for inspection.

(10) Where in the course of any search at the business place of a dealer any book of accounts, other documents, money or goods are found on the possession or control of any person, it shall be presumed, unless the contrary is proved, that such books of account, other documents, money or goods belong to such dealer.

(11) The officer who has made inspection or search or seizure of any books, accounts or documents or investigation or an officer who has made investigations under this section, on the basis of fact found, shall prepare a report in respect of such inspection or search or seizure or investigation and where the officer preparing the report is an officer different from the assessing authority, such officer shall forward a copy of such report to the assessing authority of the dealer.

(12) The assessing authority may require any dealer or a class of dealers to furnish the names, addresses and such other particulars as he may find necessary relating to the persons and dealers who have purchased any goods from or sold any goods to such dealer or class of dealers during any given period.

(13) The assessing authority may call for details and particulars from State or Central Government departments and financial institutions including banking companies, which, he is of the opinion, will be relevant and useful for the purposes of this Act.

(14) Notwithstanding the powers of the assessing authority to inspect books of account and enter and search any place of business of any dealer (both registered or unregistered) under this section, the Commissioner, with a view to identify dealers who are liable to pay tax under this Act, may from time to time cause a survey of unregistered dealers to be taken.

(15) The provisions of section 100 and section 165 of the Code of Criminal Procedure, 1973 shall, as far as may be, apply in relation to any entry, search or inspection under this section as they apply in relation to any inspection or search under the said Code.