

THE UTTARAKHAND VALUE ADDED TAX ACT, 2005

25: Assessment of Registered Dealer for the Assessment Year:

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

(1) There shall be an assessment of taxable turnover, amount of tax payable on such turnover, and amount of input tax credit admissible to a dealer for each assessment year or where the dealer has carried on his business for a part of an assessment year, for such part of assessment year during which the dealer has carried on business.

(2) Every dealer shall, for the assessment year, submit to the assessing authority in addition to periodical returns, an annual return of his turnover and the amount of tax due from him, complete in all material particulars, in the prescribed form and manner, including electronic methods, within the prescribed time, containing such information, particulars and annexure as may be prescribed, accompanied by supporting documents, including.

- (a) particulars of turnover of purchase, sale and other transactions and value of opening and closing stocks;
- (b) computation of his own final assessment of amount of tax due from him on the basis of such return including claim for input tax credit;
- (c) such declaration, certificates, and such other evidences on which the dealer relies in support of his claim of exemption, concession or

rebate of tax declared in 'the computation of his own final assessment of amount of tax due from him';

(d) proof of payment of the additional tax, interest, composition money or fee due as per computation of his own assessment;

(e) proof of tax or part thereof, if any claimed to have been deducted at source(TDS).

(f) proof of payment of late fee as may be prescribed in case such return is not filed within the prescribed time;

(g) a true copy of the audit report as required under section 62 of the Act and

(h) such other particulars, information, documents and statments as may be prescribed.

An annual return shall not be treated as such if it is not complete in all material particulars, is not filed in the prescribed form and manner, does not contain such information, particulars and annexures as may be prescribed or does not comply with the requirments of this sub-section. The date, on which the annual return as contemplated above is submitted, shall be treated as the date of its submission;

Provided that every dealer required to furnish annual return shall be liable to pay such late fee not exceeding rupees 2000/- for each month or part thereof, of delay in furnishing annual return, as may be prescribed, and pay before furnishing such return the full amount of tax, interest and late fee, if any, payable according to such return in the manner, as may be prescribed.

(3) Deemed Assessment:

Subject to the provisions of sub-section (4) and sub-section (9) of this Section, every dealer, excluding works contractors who have not opted for composition under the provisions of sub-section (2) of Section 7, shall be deemed to have been assessed to tax, based on annual return filed by him as provided in sub-section (2) of Section 25, provided that it is filed within the prescribed time or if filed late, but not beyond 30th June of the succeeding assessment year, along with the proof of the payment of late fee, if any.

(4) Notwithstanding anything contained in this section, from among the dealers who are deemed to have been assessed under sub-section (3), a dealer or dealers may be selected for assessment under sub-section (6) and sub-section (7). Selection of such dealer/s shall be made after scrutiny. Selection of dealer/s for scrutiny and thereafter selection for assessment, for an assessment year, shall be made in the manner as may be prescribed by the Commissioner.

(5) For the purposes of this Act and the rules made there under-

(a) the annual return, referred to in sub-section (2) of Section 25 or in sub-section (13) of Section 23, filed by the dealer, shall be deemed to the assessment order and the facts disclosed and the figures mentioned in such return shall be deemed to be a part of such assessment order; and

(b) the last date, prescribed for submission of annual return or the actual date, on which such return is filed along with the prescribed late fee, if any, whichever is later, shall be deemed to be the date of such assessment order.

(6) Notwithstanding anything contained in this section, to assess a dealer who has not been deemed assessed under sub-section (3) or who has been selected for assessment under sub-section (4), the assessing authority shall serve on such dealer, a notice requiring him to appear on a date and at a place specified therein, to attend and submit periodical returns and annual return of his turnover, if not filed earlier, along with the proof of payment of late fee, if any, and to produce or cause to be produced the books of accounts and all evidences on which the dealer relies in support of his returns including sale and purchase invoices, or to produce such evidences as may be specified in the notice.

Explanation : Opportunity given under this sub-section for submission of periodical returns and annual return shall not prevent the assessing authority from imposing penalties, interest or late fee, if any, under any other provisions of the Act, for not filing such returns within the time prescribed.

(7) If the dealer complies with the notice issued under sub-section (6) and the assessing authority after examining periodical returns the annual returns, books of account and documents and after considering all the evidences produced in the course of proceedings or the evidences collected or received by the assessing authority and after making such enquiry, as he may deem fit,

- (a) is satisfied that turnover of sales and purchases disclosed and amount of tax shown as payable by the dealer in the annual return is correct, assess the dealer to tax in accordance with the provisions of the Act, by an order in writing.
- (b) if the assessing authority is of the opinion that the turnover or the liability of the tax disclosed by the dealer and the amount of tax paid by the dealer does not appear to be correct shall give him reasonable opportunity of being heard by giving him a show cause notice stating the reason, for non acceptance of the turnover of sales or purchase or liability of tax as disclosed by the dealer, and after considering the reply submitted by the dealer;
 - (i) if he is satisfied that the turnover disclosed by the dealer in the annual return is correct, shall assess the dealer to tax by an order in writing according to the provisions of the Act,
 - (ii) if he is not satisfied with the reply submitted by the dealer, shall determine the turnover to the best of his judgement and the tax payable thereon according to the provisions of the Act, by an order in writing;

Provided that where the opportunity under sub-section (6) for submission of periodical returns and annual return along with the proof of deposit of late fee and production of books, accounts and documents and evidences on which the dealer relies in support of his returns including sale invoices, or for production of such evidences as may be specified in the notice has been afforded to the dealer but for any reason he has not availed such opportunity and thereby the assessing authority could not examine the correctness and propriety of

particulars shown in such returns, it shall not be necessary to issue show cause notice to such dealer before making an assessment order to the best of his judgement;

Provided further that, no assessment order under this subsection shall be passed after the time limit as prescribed in Section 32 of the Act.

(8) Any provisional assessment order in respect of any tax period under Section 24 shall not prevent the assessing authority to make final assessment and the provisional assessment order shall stand merged in the final assessment order passed under this Section.

(9) Tax audit:

(a) Notwithstanding anything contained in this Act tax audit of records and related documents of a dealer, selected for this purpose may be conducted for the purpose of ensuring the compliance by the dealer of requirements of the Act or for examining the correctness of periodical and final returns and admissibility of various claims including input tax credit;

Provided that no dealer may be selected for tax audit, for an assessment year for which proceedings under subsection (6) or (7) of Section 25 have been initiated or completed by the assessing authority;

Provided further that no dealer may be selected for tax audit for an assessment year after of expiration of five years from the end of such assessment year.

- (b) Tax audit may be conducted by an officer, posted in the tax audit wing or by any other officer authorized for this purpose by the commissioner;
- (c) The selection of dealer or dealers for the purpose of tax audit shall be in the manner as may be prescribed by the Commissioner,
- (d) Tax audit may be taken up in the office, business premises or warehouse of the dealer. However, the officer conducting audit may, if he deems fit, require the dealer either to attend and produce or cause to be produced the books of accounts and other documents in his office or any other place which may be specified in the notice,

If in compliance of the notice served in this sub-section, the dealer does not attend the office of the officer in charge of tax audit or any other place which may be specified in the notice; or if attends does not produce or cause to be produced the books of accounts and other documents, the officer in charge of tax audit may impose a penalty of upto Rs. 5000/- for each non compliance of the notice. No such penalty shall be imposed without giving the dealer a reasonable opportunity of being heard. The provisions relating to recovery of dues shall mutatis mutandis apply for recovery of imposed penalty;

- (e) The officer conducting the tax audit shall have powers to make or cause to be made extracts or copies from the books of accounts and other documents, seek such information or statement. which may be useful and relevant to any proceeding under this Act. The dealer shall provide full co-operation and assistance to the audit party during the course of audit.

If the dealer prevents or obstructs the officer from making extracts or copies from the books of the account and other documents required for the purpose of tax audit, or from seeking such information or statements required for the purpose of tax audit or does not cooperate and assist the audit party during the course of audit, the officer in charge of the tax audit may impose a penalty upto Rs. 10,000/- for each non compliance. No such penalty shall be imposed unless a reasonable opportunity of being heard has been given to the dealer. The provisions relating to recovery of dues shall mutatis mutandis apply for recovery of imposed penalty;

- (f) After the completion of the tax audit, a tax audit report shall be sent to the Assessing Authority and the dealer concerned;

Provided that in case the officer conducting the audit has reason to believe that;

- (i) the whole or any part of the turnover in respect of any tax has escaped the assessment; or
- (ii) the whole or any part of the turnover in respect of any tax has been under assessed; or
- (iii) the whole or any part of the turnover in respect of any tax has been assessed, at a rate lower than the rate at which it is assessable; or
- (iv) any exemption or deduction has been wrongly claimed; or
- (v) any tax credit has been wrongly claimed, no tax audit report shall be finalized without giving the dealer a reasonable opportunity of being heard.

(g) The Assessing authority on the basis of the "tax audit report" may initiate necessary proceedings as per the provisions of the Act;

(10) In cases of the following dealers or class of dealers in respect of different transactions more than one assessment may be made for the same assessment year and will be treated as part of one assessment year-

(a) dealer who has obtained more than one authorization for transit of goods through the State; in respect of each authorization for transit of goods to the State;

(b) casual dealer who has no fixed place of business, by different assessing authorities in whose jurisdiction he has carried on business;

(c) unregistered dealer who imports taxable goods on each occasion, he imports the goods;

(d) unregistered dealer who either executes, works contracts or effects transfer of right to use any goods, for any purpose in jurisdiction of more than one assessing authorities and has no fixed place of business, by each assessing authority in respect of business carried out in his jurisdiction;

Provided that more than one assessment shall not be made in respect of the same turnover of sales or the same turnover of purchase..

(11) Where during the course of an assessment year the rate of tax on the turnover of any goods or class of goods is varied or an exemption in respect thereof is granted or cancelled the assessment, so far as it relates to the portion of such turnover for the period after the date of variation,

exemption or cancellation shall be made on the basis of the so varied or the exemption so granted or cancelled.

(12) Any assessment made under this section shall be without prejudice to any penalty imposed under the Act.

(Added vide notification no.- 103/XXXVI(3)/2014/21(1)/2014 Dt. 04.03.2014 w.e.f. 04.03.2014 as below)

25-A Deemed Assessments in Certain Cases:

(1) With the objective to dispose of a large number of pending annual assessments in which relatively smaller amount of turnover or tax is involved, notwithstanding anything contained in this Act, it is hereby provided that Commissioner may, by notification declare that the registered dealers, as listed in such notification, are deemed to have been self assessed, under The Uttarakhand VAT Act, 2005 or under sub-section (2) of section 9 of The Central Sales Tax Act, 1956 read with The Uttarakhand VAT Act for the assessment year as mentioned in such notification, on the basis of;

(a) the tax liability admitted in all the periodical returns, in the cases where all the periodical returns are filed but annual return is not filed till the date of commencement of the provisions of this section; and

(b) the tax admitted in the annual return, in the case where any or all of the periodical returns are not filed but annual return is filed till the date of commencement of the provisions of this section; and

(c) the tax admitted in the annual return, in the case where all of the

periodical returns and annual return are filed till the date of commencement of the provisions of this section:

Provided that-

assessment of such dealer is pending and is not related to the assessment years other than **2011-12 or 2012-13**; and

the “**Annual Gross Turnover**” of such dealer in the related assessment year is **not more than Rs. 1 crore**. However there shall be **no** such limit for the dealer who has exclusively dealt in the **Special Category Goods** as specified in schedule III at serial no. 2, 3 or 8, and sold it after purchase from registered dealers within the State; and

where any exemption, concession or rebate of tax under the provisions of the Central Sales Tax Act, 1956 or Uttarakhand VAT Act, 2005 is claimed, the annual return and the required declarations, certificate or other evidence in support of such claim are submitted as per provision of the related Act and Rules made there under; and

any appeal under Section 51 or Section 53 or any writ against any order or notice of the assessing officer under any section of the Act, related to such assessment year is not filed.

Provided further that-

such dealer has not made any transaction of transfer of property in goods(whether as goods or in some other form) involved in the execution of a works contract; and

such dealer has not made any transaction of sale of “**iron and steel**” or “**edible oil**” to a registered dealer within the state or outside the state; and

such dealer has not made any sale, after purchase, of **bricks** or any kind of **minor minerals**;

such dealer has not sold any **Timber product**, the rate of tax on which is either zero or less than the general rate of VAT on Timber and which is made of such timber which is imported from outside the State or purchased from within the State on a concessional VAT rate; and such dealer has **not claimed a Refund of more than Rs. 5000.**

(2) Deemed assessment under sub-section(1) cannot be made a ground for any legal dispute, in any other assessment of the same dealer or in any assessment of any other dealer, regarding the rate of tax on a particular commodity, certain transaction being a transaction of sale of goods or service, certain transaction being an inter-state sale or intra-state sale or certain transaction being inter-state sale, consignment/ stock transfer etc.

(3) No proceedings for imposing or realising penalty or late fees for not filling or late filing of return or not depositing the admitted tax within prescribed time shall be initiated in the cases notified under sub-section (1) and if already initiated shall be dropped. However, the tax admitted or interest due, if not deposited shall be realised as per provisions of the Act.

(4) After the issue of the notification as provided in sub-section (1) if, on the basis of scrutiny or any information received, the assessing officer is satisfied that the tax liability in any case related to any assessment year exceeds the admitted tax liability by **Rs.5000** or more, the case for such an assessment year may be opened, with the permission of the Commissioner or the officer not below the rank of Joint Commissioner

authorised for this purpose by the Commissioner, for reassessment after examining the books of accounts and the related documents and notwithstanding anything contained in this Act the limit for opening such case for reassessment shall not be more than 5 year after the close of such assessment year and the limit for finalizing such reassessment shall not be more than one year from the date on which the case is opened.

(5) No appeal under the Act shall lie against any decision under sub-section (4) for opening any case for reassessment.

(6) “Annual gross turnover”, for the purpose of clause (ii) of sub-section (1), shall be the sum of :

The State Transactions as under:

- (a) taxable sales of goods within the State;
- (b) taxable purchase under sub-section(10) of section 3 of the Act;
- (c) non taxable sales of goods listed in sch.-I of clause (a) of sub-section(2) of section 4 of the Act;
- (d) non taxable sales of goods (as per other provisions of the Act);

and

The Inter-state Transactions as under:

- (a) taxable inter-state sale of goods;
- (b) non taxable inter-state sale of goods listed in sch.-I of clause (a) of

sub-section(2) of section 4 of the Act;

- (c) non taxable inter-state sale (as per other provisions of the Central Sales Tax Act, 1956);
- (d) turnover of export out of the Country;
- (e) value of goods stock transferred/ consigned to outside the State.

(7) To carry out the objective and purpose of this section Commissioner may, if required, issue necessary instructions or clarifications so that, due to minor omissions or errors on the part of any dealer, the benefit of the provisions of this section could not be denied.

Prior to the substitution Sec. 25 read as under :-

(1) There shall be an assessment of turnover of taxable sales, amount of tax payable on such turnover, turnover of taxable purchases and amount of input tax credit admissible to a dealer for each assessment year or where the dealer has carried on his business for a part of an assessment year, for such part of assessment year during which the dealer has carried on business.

(2) Every dealer shall submit to the assessing authority in addition to the returns for the tax period filed, an annual return of his turnover for the assessment year in the prescribed form, containing such particulars and accompanied by supporting documents, including

(a) particulars of turnover of purchase, sale and other transactions and value of opening and closing stocks;

(b) such declaration, certificates, and such other evidence on which such dealer relies in support of his returns;

(c) computation of his own assessment of amount of tax due from him on the basis of such returns including claim for input tax credit;

(d) proof of payment of the additional tax admitted as due and interest due as

per his own calculation; and
(e) *such other particulars, documents and statements as may be prescribed.*

*(3) The returns furnished by a dealer shall be duly acknowledged in the manner prescribed. The cases remaining after the scrutiny under the provisions of sub-section (4) shall be taken up for self assessment and in respect of such cases where all the returns including the annual return relating to an assessment year have been filed and are correct and complete in material particulars, the dealer shall, be deemed to have been self-assessed for that year and the acknowledgement of the annual return shall be deemed to be the copy of assessment order **and facts disclosed and figures mentioned in such return shall be deemed to be part of such assessment order.***

*Provided that where the returns are not complete in material particulars, the dealer shall be given an opportunity to complete them, and the assessing authority shall, after the required documents have been furnished to him and/or arithmetical mistake, if any, has been corrected and tax due, if any, as a result thereof has been paid, **pass an order in the matter.***

Explanation:- A return is complete in material particulars if it contains the information required to be furnished therein, is correct arithmetically, accompanied with the statutory lists, documents and proof of payment of tax due and the supporting declarations, certificates, or evidence required under this Act or the Central Sales Tax Act, 1956 in respect of amount of deductions (including deduction on the basis of input tax credit), exemptions and any other concessions or rebates claimed by the dealer in the returns are furnished.

[*\(substituted vide notification no. 22 January 2010 as above\)*](#)

(3) The returns furnished by a dealer shall be duly acknowledged in the manner prescribed. The cases remaining after the scrutiny under the provisions of sub-section (4) shall be taken up for self assessment and in respect of such cases where all the returns including the annual return relating to an assessment year have been filed and are correct and complete in material particulars, the dealer shall, be deemed to have been self-assessed for that year and the acknowledgement of the annual return shall be deemed to be the copy of assessment order;

*Provided that where the returns are not complete in material particulars, the dealer shall be given an opportunity to complete them, and the assessing authority shall, after the required documents have been furnished to him and/or arithmetical mistake, if any, has been corrected and tax due, if any, as a result thereof has been paid, **pass an order in the matter.***

Explanation:- A return is complete in material particulars if it contains the information required to be furnished therein, is correct arithmetically, accompanied with the statutory lists, documents and proof of payment of tax due and the supporting declarations, certificates, or evidence required under this Act or the Central Sales Tax Act, 1956 in respect of amount of deductions (including deduction on the basis of input tax credit), exemptions and any other concessions or rebates claimed by the dealer in the returns are furnished.

“(4) Notwithstanding any thing contained in sub-section (3) above, the cases of the following categories shall be subjected to regular assessment after scrutiny—

- (a) cases in which the gross turnover exceeds five crore rupees in a financial year;**
- (b) cases in which the claim of input tax credit exceeds five lakh rupees in a year;**
- (c) cases in which the claim of refund exceeds one lakh rupees in a year;**
- (d) cases based on definite intelligence about evasion of tax;**
- (e) cases selected to a maximum of 20% on the basis of any criteria or on random basis from amongst the cases covered under the provisions of sub-section (3) and sub-section (4) for self assessment;**

Provided that the State Government may, by notification in the Official Gazette, change the criteria for selection of cases for scrutiny.”

(substituted vide notification no.- 1314/XXXVI(4/2008). Dt. 31.03.2008 as above)

(4) Notwithstanding any thing contained in sub-section (3) above, the cases of the following categories shall be subjected to regular assessment after scrutiny-

- (a) cases in which the gross turnover exceeds fifty lakh rupees in a financial year;**
- (b) cases in which the claim of input tax credit exceeds three lakh rupees in a year;**
- (c) cases in which the claim of refund exceeds one lakh rupees in a year;**
- (d) cases in which there is fall exceeding fifteen percent in gross turnover or payment of tax compared to last year;**
- (e) cases in which the ratio between purchases and sales or between input tax and output tax or between stocks and sales is abnormally inconsistent with the general trend in the trade or industry ;**
- (f) cases based on definite intelligence about evasion of tax;**
- (g) cases in which the dealer fails to complete the return (s) in material particulars after being given an opportunity for the same;**
- (h) cases in which the claim of sale, purchase or consignment of goods, or input tax credit is not matching with the accounts of the other party to the transaction;**
- (i) cases selected to a maximum of 20% on the basis of any criteria or on random basis from amongst the cases covered under the provisions of sub-**

section (3) and sub-section (4) for self assessment:

Provided that the State Government may, by notification in the official Gazette, change the criteria for selection of cases for scrutiny.

(5) Save the cases covered under the provisions of sub-section (3) and sub-section (4) for self assessment, in rest of the cases the assessing authority shall, notwithstanding the fact that the dealer may already have been provisionally assessed under section 24, serve on such dealer in the prescribed manner a notice requiring him to appear on a date and place specified therein, to attend and produce or cause to be produced the books of account and all evidence on which the dealer relies in support of his returns including Sale invoice, or to produce such evidence as may be specified in the notice:

*Provided that such notice shall be **served** on the dealer before the expiry of one year from the last date prescribed for filing the annual return relating to the assessment year or the actual*

*date when the return has been filed, whichever is later, and after the notice has been **served** the case may be disposed of **within three years from the close of the year to which the assessment relates.***

(6) The assessing authority shall, after examination of returns, books of accounts and documents and after considering all the evidences produced in the course of proceedings including tax audit proceedings under sub-section (8) or collected by him otherwise and after making such enquiry, as it may deem fit, shall-

(a) If he is satisfied that turnover of sales and, or of purchases disclosed and amount of tax shown payable by the dealer in annual return is correct, assess the dealer to tax in accordance with the provisions of the Act, by an order in writing, on the turnover admitted by the dealer; and

(b) If he is of the opinion that the turnover disclosed and the amount of tax paid by the dealer does not appear to be correct, cause a notice to be served on the

dealer, stating the reason, for non acceptance of the turnover of sales or purchases or both, as disclosed by him and shall give him a reasonable opportunity of being heard and after considering the reply submitted by the dealer the assessing authority-

(i) if he is satisfied that the turnover disclosed by the dealer is correct, he shall assess the dealer, by an order in writing, to tax according to the provisions of this Act, on the turnover admitted by the dealer; or

(ii) if he is not satisfied with the reply submitted by the dealer he shall determine the turnover to the best of his judgment and tax payable thereon according to the provisions of this Act, by an order in writing.

Provided that where the opportunity for production of books, accounts and documents has been afforded to the dealer but for any reason he has not availed such opportunity and thereby the assessing authority could not examine the correctness and propriety of particulars shown in the returns, it shall not be necessary to issue show cause notice to such dealer before making an assessment order to the best of his judgment.

Provided further that no order under this sub-section shall be passed after the expiry of three years from the close of the year to which the assessment relates.

(7) Any provisional assessment order in respect of any tax period under section 24 shall not prevent the assessing authority to make final assessment and the provisional assessment order shall stand merged in the final assessment order passed under this section.

(8)(a) The assessing authority or any other officer authorised by the Commissioner may for the purpose of complying with the requirements of this Act, undertake audit of the records, stock in trade and related documents of the dealer, who is selected by the assessing authority in the manner as may be prescribed for the purpose.

(b) For the purpose of audit under clause (a) the assessing authority or any other officer authorised by the Commissioner shall examine the correctness of return or returns filed and admissibility of various claims including input tax credit.

(c) The audit may be taken up in the office, business premises or warehouse of the dealer. However, the assessing authority may, if he deems it necessary, require the dealer to either attend and produce or cause to be produced the books of accounts and other documents in his office or any other place which may be specified in the notice.

(d) The dealer shall provide full cooperation and assistance to the assessing authority or the authorised officer to conduct the proceedings under this section at his business premises and if it is found that the dealer or his authorised representative, without any reasonable cause, is not available or not functioning from such premises, the assessing authority shall assess the dealer under this section or, as the case may be, provisionally assess the dealer under section 24 of this

Act, to the best of his judgment as to the amount of turnover and tax due from the dealer.

(9) In cases of the following dealers or class of dealers in respect of different transactions more than one assessment may be made for the same assessment year and will be treated as part of one assessment year-

(a) dealer who has obtained more than one authorisation for transit of goods through the State; in respect of each authorisation for transit of goods to the State;

(b) casual trader who has no fixed place of business, by different assessing authorities in whose jurisdiction he has carried on business;

(c) unregistered dealer who imports taxable goods on each occasion, he imports goods;

(d) unregistered dealer who either executes works contracts or effects transfer of right to use any goods, for any purpose in jurisdiction of more than one assessing authorities and has no fixed place of business, by each assessing authority in respect of business done in his jurisdiction:

Provided that more than one assessment shall not be made in respect of the same turnover of sales or turnover of purchases.

(10) Where during the course of an assessment year the rate of tax on the turnover of any goods or class of goods is varied or an exemption in respect thereof is granted or cancelled the assessment, so far as it relates to the portion of such turnover for the period after the date of variation, exemption or cancellation shall be made on the basis of the rate so varied or the exemption so granted or cancelled.

(11) Any assessment made under this section shall be without prejudice to any penalty imposed under this Act