

स्थिति हो, द्वारा राज्य के अन्दर से होकर माल के अभिवहन के लिये ट्रांजिट पास तैयार करने अथवा प्रस्तुत करने के बाद, धारा 50-क के अधीन स्थापित जॉच चौकी के प्रभारी अथवा धारा 42 या धारा 43 में सशक्त अधिकारी के समक्ष माल सहित ट्रांजिट पास की प्रतियां प्रस्तुत(produce) नहीं करता है अथवा धारा 50 के प्राविधानों के अनुसार यह प्रमाणित करने में असफल रहता है कि माल राज्य के बाहर ले जाया जा चुका है।

अधीन ऐसे माल पर आरोपणीय कर की तीन गुना धनराशि, जो भी अधिक हो।”

धारा 59 का
संशोधन

15. मूल अधिनियम की धारा 59 में -

- (क) उपधारा (10) में आए शब्द “दूसरे ब्यौहारी को” हटा दिये जायेंगे;
- (ख) उपधारा (10) के खण्ड (क) में शब्द “चालान” के पश्चात शब्द “प्रत्येक क्रमांकित” संख्या एवं जारी करने की तारीख सहित,” अन्तर्विष्ट कर दिये जायेंगे।

आज्ञा से,
अजय चौधरी,
अपर सचिव।

No. 178/XXXVI(3)/2012/35(1)/2012
Dated Dehradun, June 13, 2012

NOTIFICATION

Miscellaneous

In pursuance of the provisions of Clause (3) of Article 348 of the Constitution of India, the Governor is pleased to order the publication of the following English translation of ‘The Uttarakhand Value Added Tax (Amendment) Act, 2012’ (Adhiniyam Sankhya 09 of 2012).

As Passed by the Uttarakhand Legislative Assembly and assented to by the Governor on 11 June, 2012.

THE UTTARAKHAND VALUE ADDED TAX (AMENDMENT) ACT, 2012

(Act No. 09 of 2012)

An

Act

Further to amend The Uttarakhand Value Added Tax Act, 2005-

(Be it enacted by the Uttarakhand Legislative Assembly in the Sixty third year of the Republic of India, as follows :-

- | | |
|-------------------------------------|---|
| Short title and commencement | <p>1. (1) This Act may be called The Uttarakhand Value Added Tax Act, 2005 (Amendment) Act, 2012.</p> <p>(2) It shall come into force from the date of its notification by the Government in official gazette and different dates may be appointed for different provisions of this Act.</p> |
| Amendment of Section 2 | <p>2. In the Uttarakhand Value Added Tax Act, 2005, (hereinafter referred to as the "Principal Act"-</p> <p>(A) For the existing sub-section(7) of section 2, the following sub-section shall be substituted; namely-</p> <p>(7) Casual dealer:</p> <p>"Casual dealer" means a person who whether as principal, agent or in any other capacity, undertakes occasional transactions involving buying, selling, supplying or distributing goods or conducting any exhibition-cum-sale in the State of Uttarakhand, whether for cash or for deferred payment, or for commission, remuneration or other valuable consideration, for a period not exceeding 60 days at a time or such other period as may be prescribed and includes,</p> <p>(a) a transporter as defined in sub-section(49) of section 2 or a transporting agent, whether he has fixed place of business in Uttarakhand or not, who, while holding goods in custody for any person before or after their transportation, or while carrying goods in his vehicle, fails to disclose the name and address of the consignor or consignee in Uttarakhand or fails to furnish a copy of invoice, challan, goods receipt (G.R)/bilty or consignment note or document of like nature in respect of such goods, or</p> <p>(b) an owner or lessee or occupier of a warehouse who fails to disclose the name and address of the owner of any goods stored at his warehouse or fails to satisfy that such goods are for his personal</p> |

use or consumption, and such transporter, transporting agent or owner or lessee or occupier of a warehouse, shall be deemed to have purchased such goods on his own account.

(B) After existing sub-section (13) of section 2, the following sub-section (13A) shall be added; namely-

(13A) Document of Title :

"Document of Title" means, any document which confers a title of goods and includes a bill of lading, dock warrant, goods receipt/ bilty, railway receipt, warehouse keeper's certificate, warrant or order for the delivery of goods and any other like document used in the ordinary course of business as proof of the possession or control of goods, or authorizing or purporting to authorize, either by endorsement or by delivery, the possessor of the document to transfer or to receive goods thereby represented.

(C) For the existing sub-section (16) of Section 2, the following sub-section shall be substituted; namely-

Importer:

"Importer" in relation to any goods means a dealer who brings or receives any goods into the State from any place outside the State and includes a dealer-

(i) who makes first sale of any goods brought or received into the State from any place outside the State; or

(ii) who receives any goods into the State on behalf of any other persons from any place outside the State; or

(iii) on whose behalf any goods are received into the State from any place outside the State by any other person;

(D) After the sub-section (16) of Section 2, the following sub-section(16A) shall be added; namely-

(16A) Import :

"Import" means bringing or receiving of goods. into the State from outside the State or from outside the country, as a result of purchase or otherwise.

(E) After the sub-section (57) of Section 2, the following sub-section(58) shall be added; namely-

(58) Web site :

“Web site” means, world wide web of the department of commercial tax, Uttarakhand with domain “uk.nic.in” and with address <http://comtax.uk.gov.in> or any other website as may be notified by the Commissioner.

**Amendment of
Section 4**

3. After the existing section 4 of the “Principal Act”, the following section 4A shall be added; namely-

4A. Levy of tax by weight volume, measurement or unit on certain goods :

Notwithstanding anything contained in Section 3 and Section 4, the State Government may, by notification, fix the amount of tax payable on the sale or purchase of certain goods or a class of goods in respect of a specified area or whole of the State, on the basis of weight, volume, measurement or unit, and subject to such terms and condition as may be notified.

**Amendment of
Section 35**

4. In section 35 of the “Principal Act”, for the words “an amount equal to four percent” occurring in line no. 7 of sub-section (1) of section 35, the words “an amount equal to six percent” shall be substituted.

**Amendment of
Section 42**

5. After the existing section 42 of the “Principal Act”, the following section (42A) and (42B) shall be added; namely-

42A. Documents to be carried and information to be given regarding goods in movement :

The owner or a person duly **authorized** by such owner or the driver or person-in-charge of a vehicle or of goods in movement, as the case may be, who **intends the movement of goods**, exceeding such quantity or measure or of such value as may be notified by the state Government in that behalf shall, before movement of goods prepare such documents containing such information in this regard as may be, **prescribed** and submit such information to such authority in such form and manner within such time as may be, **prescribed** and during the movement of goods shall carry with him such document and invoice/ challan (as applicable), and document of title to goods/ GR/ Bilty or like other such documents .

42B. Control on clearing, forwarding or booking agent and any person transporting goods:

- (1) Every clearing, forwarding or booking agent or broker or any other person transporting goods, who in the course of his business handles documents of title to goods **or transports goods or takes delivery of goods** for or on behalf of a dealer or a person **and having his place of business in the State** shall, furnish information about his place of business in the State and also about vehicles or carriers owned or hired by him for transportation of goods to such authority in such form and manner and within such time as may be **prescribed**.
- (2) Every such agent or person referred to in sub-section (1) shall maintain true and complete record of the goods transported, delivered, or received for transport, containing such information as may be **prescribed** and the copy of documents of title relating thereto and shall furnish true and complete particulars and information relating to the transaction of goods of any dealer or person to the officer who is **authorized** for this purpose by the commissioner in such form and manner within such time as may be **prescribed** and shall produce the said record and the documents before such officer as and when required.
- (3) Any agent or person referred to in sub-section (1) who contravenes the provisions of the said sub-section (1) or sub-section (2), the authority referred to in sub section(1) or (2) may, after giving such agent or person an opportunity of being heard, direct him to pay by way of penalty an amount not exceeding one thousand rupees for the first contravention and if the contravention is continuing one with a penalty not exceeding two hundred rupees for everyday during which the offence continues.
- (4) Any agent or person referred to in sub-section (1) does anything directly or indirectly, which results in evasion of tax or would have resulted in evasion of tax if such evasion was not detected and prevented in time, the **prescribed** authority may, after giving him a reasonable opportunity of being heard, direct him to pay by way of penalty an amount not exceeding forty percent of the value of such goods involved in the transactions of a dealer or a person

or three times the tax, leviable on such goods, which appears to have been evaded or so sought to be evaded, whichever is higher. In such case, the agent or person referred to in sub-section (1), notwithstanding anything contained in this Act, shall be deemed to be a dealer and he shall also be liable to pay the tax so evaded or so sought to be evaded. The penalty and tax so imposed shall be without prejudice to his liability under any other provision of this Act or under any other law for the time being in force.

Explanation:

(i) "Clearing, forwarding, booking agent or broker" shall include a person who renders his services for clearing, forwarding or booking of or taking delivery of consignment of goods at railway premises, air cargo complex, containers depot, booking agency, goods transport company office or any place of loading or unloading of goods or contrives, makes and concludes, bargains and contracts for or on behalf of any dealer for a fee, reward, commission, remuneration or other valuable consideration or otherwise; and;

(ii) "Person transporting goods" shall, besides the owner, include manager, agent, driver, employee of the owner, a person in-charge of a place of loading or unloading of goods or in charge of a goods carrier carrying such goods for dispatch to other places or gives delivery of any consignment of such goods to the consignee.

(5) Notwithstanding anything contained in Section 51, any person aggrieved by order of penalty passed under sub-section (3) or sub-section (4) of this section may, within 60 days from the date of service of the copy of the order, appeal to such authority as may be **prescribed**. Provided that such appeal shall lie only if the proof of deposit of 50% of the amount of penalty, imposed under sub-section (3) or 25% of the amount of penalty imposed under sub-section (4) of this section is submitted.

**Amendment of
Section 43**

6. After existing section 43 of the "Principal Act", the following section 43A shall be added; namely-

43A. Movement of goods within the State or from State to outside the State :

- (1) Notwithstanding any thing contained in section-43 the owner or a person duly **authorized** by such owner or the driver or person-in-charge of a vehicle or of goods in movement, as the case may be (**hereinafter referred to as the transporter**), who intends the movement of goods exceeding such quantity or measure or of such value as may be notified by the state Government in that behalf, from any place in the state to any place outside state or from any place in the state to any other place in the State or from any place in the state to any other place in the State passing through any other State, **before movement of goods**, shall prepare information in this regard in the **prescribed** Form [hereinafter called the "Lorry Challan"] containing individual serialized number, the name and complete address of the consignor and consignee, quantity and description of goods, details of invoice/ challan (as applicable), and document of title to goods/ GR/ Bilty or like other such documents in respect of such goods and other information, in a manner, as may be **prescribed** :

Provided that the Govt., by a Notification, may provide for the submission of "Lorry Challan" to the **prescribed** authority before the movement of goods, in such form and in such manner, including online manner, as may be **prescribed** in the Notification.

- (2)(a) The **transporter** shall carry with him, the copy of such "Lorry Challan" duly signed by him and copy of other such documents and shall stop the vehicle, when so required by an officer authorised under sub-section (1) or sub-section (2) of section 42, at any place and take it along with the goods and documents to the nearest office of Commercial Tax department or to any other place as directed by such officer and keep it stationary for so long as may be considered necessary by such officer and allow him to search the vehicle and inspect the goods and the documents :

Provided that where the goods are transported from one place to another falling within the same local area of the state the commissioner may relax the condition of carrying "Lorry-Challan" or documents of title to goods with certain conditions and restrictions as it may deem fit. Here the "local area" means the local area as defined in section-2 of Uttarakhand Entry Tax Act, 2008.

(b) The transporter shall preserve the copy of such "Lorry Challan" for such period as may be **prescribed** and produce them whenever so required, **failing which he shall be liable to pay by way of penalty a sum of Rupees five hundred for each "Lorry Challan"**.

(3) Where the goods are for personal use or consumption and such goods are transported by any person in his personal vehicle, such person need not prepare or carry "Lorry Challan"

(4) The officer, referred to in preceding sub section, if after making search or inspection, is satisfied that;

(i) the transporter is transporting or attempting or abetting to transport any goods, to which this section applies, without preparing or submitting "Lorry-Challan" in the **prescribed** form and manner; or without carrying copy of such Lorry-Challan; or

(ii) the transporter is transporting or attempting or abetting to transport any goods, to which this section applies, without carrying invoice/ challan (as applicable), and document of title to goods/ GR/ Bilty or like other such documents in respect of such goods.

(iii) the weight/quantity or number of packages of goods being transported are uncovered by the Lorry-Challan; it may,

(a) direct the person referred to in above sub section not to part with the goods in any manner including re-transporting or re-booking till an enquiry is made, which shall not take more than seven days;

(b) order **detention** of such vehicle along with the goods.

(5) (a) if, at any stage, such officer is satisfied, after giving the transporter an opportunity of being heard, that the goods referred to in previous sub section were transported without submitting Lorry Challan in the **prescribed** Form and manner or without carrying Lorry Challan or other **prescribed** documents and that, such goods are;

(i) the goods other than the goods specified in schedule (1) referred to in clause (a) of sub-section (2) of Section-4; and

(ii) such goods were not meant for personal use or consumption;

it shall be deemed that such goods were so transported in an attempt to facilitate or assist to evade assessment or payment of tax due or likely to be due under the Act, and, in such case, the officer may seize such vehicle by an order in writing and notwithstanding anything contained in section-43 the transporter shall be liable to pay by way of penalty an amount which shall be quantified at the rate of rupees five hundred for a quintal or part of a quintal of such goods.

(b) if, at any stage, such officer is satisfied, after giving the transporter an opportunity of being heard, that the goods referred to in previous sub section were transported alongwith the copy of the Lorry Challan in the prescribed Form and manner, but any of the goods found in the vehicle were not covered by the "Lorry-Challan" and that, such goods are

(i) the goods other than the goods specified in schedule (1) referred to in clause (a) of sub-section (2) of Section-4 ;
and

(ii) such goods were not meant for personal use or consumption;

it shall be deemed that such goods were so transported in an attempt to facilitate or assist to evade assessment or payment of tax due or likely to be due under this Act, and, in such case, the officer may seize such vehicle by an order in writing and notwithstanding anything contained in section-43, the transporter shall be liable to pay by way of penalty an amount which shall be quantified at the rate of rupees five hundred for a quintal or part of a quintal of such goods :

Provided that, Govt. may by a notification issue general instruction not to demand penalty under sub-section 5(b) from the transporter in the circumstances where in pursuance of Section 43(5) or Section 43(7) the penalty or an amount sufficient to cover such penalty likely to be imposed has been deposited by such transporter referred to in sub-section 5(b). regarding the same goods :

Provided further that the State Government may by

Notification increase the amount of penalty provided under this sub-section.

Explanation-

for seizure and other actions regarding the goods referred to in this section, the provisions of section 43 shall mutatis- mutandis apply.

- (6) The officer seizing the vehicle shall serve on the Transporter, an order in writing mentioning the facts of such seizure and indicating the amount, not exceeding such amount as would be sufficient to cover the penalty likely to be imposed, on the deposit whereof in cash, the vehicle so seized shall be released in favour of the person from whose possession or control the vehicle is seized.
- (7) Notwithstanding anything contained in sub-section (6), the Commissioner or such officer, not below the rank of Deputy Commissioner, as may be authorised in this behalf by the Commissioner, may, for sufficient reasons to be recorded in writing, direct that vehicle be released without any deposit or on depositing such lesser amount, or furnishing security in form of irrevocable bank guarantee, as he may deem fit.
- (8) Notwithstanding anything contained in section (51) or (53), no appeal against the order of penalty passed under sub section (5) or order for security passed under sub-section (7) shall lie, unless the proof of deposit of entire amount of penalty or security as the case may be, is submitted.

Deletion of section 47

7. Section 47 of the "Principal Act" shall be deleted.

Amendment of Section 48

8. For the existing section 48 of the "Principal Act", the following section shall be substituted and a new section 48A shall be added; namely-

48. Import of Goods into the State against Declaration:

- (1) Any person or dealer (hereinafter in this Section referred to as importer) who intends to bring, import or otherwise receive, into the State from any place outside the State, any goods other than the goods specified in schedule (I) referred to in clause (a) of sub-section-(2) of section-4 exceeding such quantity or measure or of

such value as may be notified by the state Government in that behalf, shall obtain the **prescribed** form of declaration or certificate from his assessing authority;

Provided that where the importer intends to bring, import or otherwise receive such goods otherwise than in connection with business, he may, at his option, in the like manner obtain the **prescribed** form of certificate.

provided further that in case of the class of assesses, **authorized** by the commissioner Commercial Tax, may themselves download the declaration form of the series and serial no. as **prescribed** by the Commissioner, Commercial Tax and may use them in accordance with the Act and the rules made there under.

(2) Where such goods are to be consigned by road:

(a) The importer shall furnish to the consignor the declaration in the prescribed form in duplicate duly filled in and signed by him, and the owner or a person duly authorised by such owner or the driver or person-in-charge of a vehicle or of goods in movement, as the case may be, shall carry with him the copies of such declaration duly verified by the consignor in the prescribed manner together with such other documents as may be prescribed and shall produce the copies of such declaration and such documents if so required by an officer authorised under sub-section (1) or sub-section (2) of section-42 at any place.

(b) the importer shall preserve the copies of declaration and other documents delivered to him or his agent under clause (a) for such period as may be **prescribed** and produce them before the assessing authority in a manner and within a time as may be **prescribed** by the Commissioner.

(3) Where such goods are brought into the State as personal luggage, the person bringing them shall carry with him the declaration in the **prescribed** form duly filled in and signed by the importer and the importer shall submit the same for endorsement by the officer authorised by the Commissioner in this behalf in a manner and within a time as may be prescribed by the Commissioner.

(4) Where any person intends to bring, import or otherwise receive in the State from any place outside the State, any goods referred to in sub-section (1) otherwise than in connection with business and

obtains the prescribed form of certificate, the provision of sub-section (2) and sub-section (3) shall, mutatis mutandis apply as if the word "certificate" is substituted for the word "declaration" used therein.

(5) The owner or a person duly authorised by such owner or the driver or person-in-charge of a vehicle or of goods in movement, as the case may be, carrying any goods referred to in the preceding sub-sections shall stop the vehicle when so required by an officer authorised under sub-section (1) or sub-section (2) of section 42, at any place, and take it along with the goods and documents to the nearest office of Commercial Tax department or to any other place as directed by such officer and keep it stationary for so long as may be considered necessary by such officer and allow him to search the vehicle and inspect the goods and all documents referred to in the preceding sub-sections and shall, if so required, give his name address and the names and addresses of the owner or hirer of the vehicle and of the consigner and consignee of the goods.

(6) Where the officer making the search or inspection under this Section finds any person or dealer importing or attempting or abetting to Import any goods to which this section applies without being covered by proper and genuine documents referred to in the preceding sub-sections, it may;

(a) direct the person referred to in above sub section not to part the goods in any manner including re-transporting or re-booking till an enquiry is made, which shall not take more than seven days;

(b) order detention of such goods and if, for reasons to be recorded, is satisfied, after giving the owner or a person duly authorised by such owner or the driver or person-in-charge of a vehicle or of goods in movement, as the case may be, an opportunity of being heard, that such goods were being so Imported in an attempt to evade assessment or payment of tax due or likely to be due under this Act, he may order **seizure** of such goods.

Provided that a list of all the goods seized under this sub-section shall be prepared by such officer and be signed by him, and a copy thereof shall be given to the person from whom goods have been seized.

- (7) The officers seizing the goods under sub section (6) shall take all the measures necessary for their safe custody and forward the list, referred to in the proviso of sub section(6) along with other document relating to the seizure, to the assessing officer concerned.
- (8) If such assessing officer, after taking into consideration the explanation, if any of the owner or a person duly **authorized** by such owner or the driver or person-in-charge of a vehicle or of goods in movement as the case may be and after giving an opportunity of being heard is satisfied that the goods were imported or abetted to import in contravention of the provisions of this section in an attempt to evade assessment or payment of tax due or likely to be due under this Act, it shall pass an order imposing penalty not exceeding forty percent of the value of such goods involved or three times the tax leviable on such goods under any of provisions of this Act, whichever is higher. The order of such penalty shall be properly served.
- (9) The officer seizing the goods shall serve on the person referred to in the above sub section, an order in writing mentioning the fact of such seizure and indicating the amount, not exceeding such amount as would be sufficient to cover the penalty likely to be imposed, on the deposit whereof in cash, the goods so seized shall be released.
- (10) Notwithstanding anything contained in sub-section (9), the Commissioner or such officer, not below the rank of Deputy Commissioner, as may be authorised in this behalf by the Commissioner, may, for sufficient reasons to be recorded in writing, direct that the goods, be released without any deposit or on depositing such lesser amount, or furnishing security in such form other than cash, as he may deem fit.
- (11) The penalty or such part thereof as remains after adjustment of any amount deposited under sub-section (9) shall be deposited in the prescribed manner within thirty days of the date of service of the copy of the order imposing the penalty. In default, the Assessing Authority shall cause the goods to be sold in such manner as may be prescribed and apply sale proceed thereof toward the penalty and, subject to the provisions of Section 36, refund the balance, if any.

(12) Where the officer seizing the goods, before forwarding the list and other documents referred in sub-section (7) to the Assessing Authority at any time thereafter, is of the opinion that the goods are subject to speedy and natural decay or where the tax assessed or penalty imposed, as the case may be, is not deposited in accordance with the provisions of this Act, the officer seizing the goods or the Assessing Authority, as the case may be, may, without prejudice to any other action that may be taken in accordance with other provisions of this Act, cause the goods to be sold by public auction in the prescribed manner. The sale proceeds of such goods shall be adjusted towards the expenses and tax assessed or penalty imposed. The balance, if any, shall be refunded.

(13) If the amount deposited under sub-section (9) is more than the amount of penalty imposed under sub-section (8), the excess amount so deposited shall be refunded in accordance with the provisions of Section 36

Explanation -1

For the purpose this chapter the person-in-charge of the vehicle shall include the owner of the vehicle and the hirer of the vehicle as the case may be.

Explanation -2

For the purpose of this chapter "goods in movement" means.

- (a) the goods which are in the possession or control of a transporting agency or person or other such bailee;
- (b) the goods which are being carried in a vehicle belonging to the owner of such goods; and
- (c) the goods which are being carried by a person.

48A. Transport of goods into the State against "Trip Sheet"

(1) Notwithstanding any thing contained in section-48 with a view to ensure that there is no evasion of tax payable under this Act the owner or a person duly authorized by such owner or the driver or person-in-charge of a vehicle or of goods in movement, as the case may be, (hereinafter referred to as the **transporter**) who intends to transport into the State from any place outside the State, any goods exceeding such quantity or measure or of such value as may be notified by the state Government in that behalf, before entering into

the state shall prepare and submit online information in a prescribed form (hereinafter called "Trip-Sheet") in such manner and within such time as may be prescribed.

provided that in certain circumstances, online submission of "Trip-Sheet" may be relaxed by the Commissioner for a specified period.

(2) Where such goods are transported into the State by road;

- (a) the transporter shall carry with him, the copy of such "Trip-Sheet" duly filled and signed by him and other documents as may be prescribed and shall stop the vehicle, when so required by an officer authorised under sub-section (1) or sub-section (2) of section 42, at any place and take it along with the goods and documents to the nearest office of Commercial Tax department or to any other place as directed by such officer and keep it stationary for so long as may be considered necessary by such officer and allow him to search the vehicle and inspect the goods, the "Trip-Sheet" and the other documents.
- (b) The transporter shall preserve the copy of such "Trip-Sheet" for such period as may be prescribed and produce it whenever so required, failing which he shall be liable to pay by way of penalty a sum of Rupees five hundred for each "Trip-Sheet".

Explanation:-

In the circumstances where online submission of "Trip-Sheet" is relaxed, the provision of preparation of "Trip-Sheet" before entering into the State and provision of carrying it during transportation shall remain effective.

- (3) Where such goods are brought into the State as personal luggage, the person bringing them need not submit "Trip-Sheet".
- (4) The officer referred to in clause (a) of sub-section (2), if after making search or inspection is satisfied that;
 - (i)- the transporter is transporting or attempting or abetting to transport any goods to which this Section applies without submitting "Trip-Sheet" in the prescribed form and manner; or without carrying the copy of such "Trip-Sheet"; or
 - (ii) the weight/quantity or number of packages of goods being transported are uncovered by the "Trip-Sheet" it may,

(a) direct the person referred to in above sub section not to part with the goods in any manner including re-transporting or re-booking till a verification is done or an enquiry is made, which shall not take more than seven days;

(b) order detention of such vehicle along with the goods.

(5) (a) if, **at any stage**, such officer is satisfied, after giving the transporter an opportunity of being heard, that the goods referred to in previous sub section were transported without online submitting "Trip-Sheet" in the prescribed form and manner or without carrying copy of such "Trip-Sheet", and that, such goods **are**;

(i) the goods other than the goods specified in schedule (1) referred to in clause (a) of sub-section (2) of Section-4; and

(ii) such goods were not meant for personal use or consumption;

it shall be deemed that such goods were so transported by **the transporter** in an attempt to facilitate or assist to evade assessment or payment of tax due or likely to be due under this Act, and, in such case, the officer may seize such vehicle by an order in writing and notwithstanding anything contained in section-48 the transporter shall be liable to pay by way of penalty an amount which shall be quantified at the rate of rupees five hundred for a quintal or part of a quintal of such goods.

(b) if, **at any stage**, such officer is satisfied, after giving the transporter an opportunity of being heard, that the goods referred to in previous sub section were transported **alongwith the copy of the Online submitted "Trip-Sheet"**, but **any of the goods found in the vehicle were not covered by the "Trip-Sheet"** and that, such goods **are**

(i) the goods other than the goods specified in schedule (1) referred to in clause (a) of sub-section (2) of Section-4; and

(ii) such goods were not meant for personal use or consumption, it shall be deemed that such goods were so transported in an attempt to facilitate or assist to evade assessment or payment of tax due or likely to be due under this Act, and, in such case, the officer may seize such vehicle by an order in writing and notwithstanding anything contained in section-48 the transporter shall be

liable to pay by way of penalty an amount which shall be quantified at the rate of rupees five hundred for a quintal or part of a quintal of such goods.

Provided that, Govt. may by a notification issue general instruction not to demand penalty under sub-section 5(b) from the transporter in the circumstances where in pursuance of Section 48(8) or Section 48(9) the penalty or an amount sufficient to cover such penalty likely to be imposed has been deposited by such transporter referred to in sub-section 5(b), regarding the same goods.

Provided further that the State Government may by Notification increase the amount of penalty **provided under this sub-section.**

Explanation-

for the seizure and other action, regarding the goods referred to in this section, the provisions of section (48) shall mutatis-mutandis apply

- (6) The officer seizing the vehicle shall serve on the Transporter, an order in writing mentioning the facts of such seizure and indicating the amount, not exceeding such amount as would be sufficient to cover the penalty likely to be imposed, on the deposit whereof in cash, the vehicle so seized shall be released in favour of the person from whose possession or control the vehicle is seized.
- (7) Notwithstanding anything contained in sub-section (6), the Commissioner or such officer, not below the rank of Deputy Commissioner, as may be authorised in this behalf by the Commissioner, may, for sufficient reasons to be recorded in writing, direct that vehicle be released without any deposit or on depositing such lesser amount, or furnishing security in form of irrevocable bank guarantee, as he may deem fit.
- (8) Notwithstanding anything contained in section(51) or (53), no appeal against the order of penalty passed under subsection(5) or order for security passed under subsection (7) shall lie, unless the proof of deposit of entire amount of penalty or security, as the case may be, is submitted.

Amendment of Section 49 9. For the existing section 49 of the "Principal Act", the following section shall be substituted; namely-

49. Import of Goods into the State by Rail, River, Air, or Post(Substituted):

(1) Where any goods other than the goods specified in schedule (I) referred to in clause (a) of sub-section (2) of section 4 exceeding such quantity, measure or value as may be notified with reference to sub-section (1) of Section 48, are consigned by rail, river, air or post from any place outside the State, the importer shall not—

(a) obtain or cause to be obtained delivery thereof, unless he furnishes or causes to be furnished to such officer as may be authorised in this behalf by the Commissioner a declaration in the prescribed form in duplicate duly filled in and signed by him for endorsement by such officer; and

(b) after taking delivery, carry the goods away or cause the goods to be carried away from the railway station, steamer or boat station, air port or post office. as the case may be, unless a copy of declaration duly endorsed by such officer is carried with the goods :

Provided that if a registered dealer, before obtaining the delivery or causing to obtain delivery of the goods has online submitted the information, regarding the goods in a form prescribed by the Commissioner on the official website of the department and the to e-generated hard copy of such information is being carried during the movement of goods the dealer shall be deemed to have complied with the requirement, of endorsement of declaration form, made above.

(2) The provisions of sub-section (5), (6) and sub-section (7), (8), (9), (10), (11), (12) and (13) of Section 48 shall mutatis mutandis apply in respect of goods consigned by rail, river or post as they apply to import of goods by road under that Section.

Amendment of Section 50 10. For the existing section 50 of the "Principal Act", the following section shall be substituted and a new sub-section 50A shall be added: namely-

50. Transit of Goods by Road through the State against "Transit-Pass"

(1) Where a vehicle coming from any place outside the State and bound for any other place outside the State, carrying goods referred to in sub-section (1) of Section 48 passes through the State, the owner or a person duly authorised by such owner or the driver or person-in-charge of a vehicle or of goods in movement, as the case may be before entering into the state shall prepare and submit online declaration containing all the information regarding the goods, the vehicle, the document of the title to the goods/ GR/ bilty and the movement of goods and other information as required in the Form (hereinafter called "Transit-Pass") as may be prescribed by the Commissioner, complete in all respect in such manner and within such time as may be prescribed by the Commissioner. The owner or a person duly authorised by such owner or the driver or person-in-charge of a vehicle or of goods in movement, as the case may be while carrying such goods shall carry with him two copies of such "Transit Pass" duly signed by him, the document of the title to the goods/GR/bilty and invoice/bill or challan/ like document and after his exit from the state shall submit online declaration containing the description of the proof of crossing the state or reaching the other state and other information in a form, manner and within such time as may be prescribed by the Commissioner, and shall also submit, the satisfactory proof of crossing the State or reaching the destination State to such officer as may be authorised for this purpose by the Commissioner whenever so required by such officer failing which it shall be presumed that the goods carried thereby have been sold within the State :

Provided that where the goods carried by such vehicle are.

after their entry into the State, transported outside the State by any other vehicle or conveyance, the onus of proving that the goods have actually moved outside the State shall be on the person-in-charge of the vehicle for which transit pass was prepared and submitted :

Provided further that in certain circumstances, online submission of "Transit-Pass" and of information regarding exit from the state may be relaxed by the Commissioner for a specified period :

Provided further that with a view to ensure that there is no evasion of tax the vehicle, referred to in this section shall enter into and exit from the State only from such places as notified by the Commissioner.

Explanation:-

In the circumstances where online submission of Transit Pass is relaxed, the provision of preparation of Transit Pass before entering into the State and the provision of carrying it during transportation shall remain effective. In such case before exit from the State the vehicle along with the goods shall be stopped at a place notified by the Commissioner and the copy of Transit Pass be submitted to the officer so authorised for this purpose by the Commissioner at a place notified by the commissioner, failing which it shall be presumed that the goods carried thereby have been sold within the State.

- (2) In such a case as referred to in the above sub section the owner or a person duly authorised by such owner or the driver or person-in-charge of a vehicle or of goods in movement, as the case may be shall jointly and severally be liable to pay tax on such presumed sale of goods and also for payment of amount of penalty that may be imposed under the provisions of this Act.
- (3) Every person for whom a presumption under sub-section (1) exists that the goods have been sold within the State, such person/s. shall

be assessed to tax on the goods covered by each Transit-Pass separately by the officer authorised for this purpose by the commissioner :

Provided that this provision shall apply only to the cases of assessment arising after the date of commencement of this provision :

Provided further that no order of assessment or penalty under this section shall be passed until a reasonable opportunity of being heard is given.

50A. Erection of barrier for certain period :

With a view to prevent or check evasion of tax payable under this Act or to ensure the compliance of the provisions of this chapter, Commissioner may, in certain circumstances, by an administrative order setup check posts or erect barriers at such place or places which it deems fit by issuing an administrative order and the owner or a person duly authorised by such owner or the driver or person-in-charge of a vehicle or of goods in movement as the case may be, before crossing such check-post or barrier shall stop the vehicle and produce before the officer authorised by the commissioner for this purpose, the documents which are required to be carried with the goods in accordance with the provisions of this chapter, and allow the officer to search the vehicle and inspect the goods and the documents :

Provided that, notwithstanding anything contained in sec-50, where the check post or barrier has been setup under this section at a place near the place of exit of the vehicle from the State, the two copies of the "Transit Pass" shall be produced before the check post officer, out of which one copy shall be returned by the officer as a proof of exit of the vehicle from the State, failing which it shall be presumed that the goods carried by such vehicle have been sold within the State :

Provided further that the Commissioner shall not setup any

check post or erect barriers for more than three month at a time :

Provided further that the commissioner shall get such an administrative order issued for setting up of such check post or erecting barriers, ratified by the Government

Amendment of Section 51 11. For the existing sub-section (1) of section 51 of the "Principal Act", the following sub-section shall be substituted; namely-

(1) First Appeal:

Any dealer or other person aggrieved by an order made by the Assessing authority or by an officer in charge of tax audit or any order passed under sub section (3) or sub-section(4) of section 42(B) other than,

(i) an order mentioned in section 56, or

(ii) an order passed under sub-section (8) of section 43, or

(iii) an order passed under sub-section (7) of section 43(A), or

(iv) an order passed under or sub-section (10) of Section 48; or

(v) an order of seizure passed under sub- section (5) of section 48(A); or

(vi) an order passed under sub-section (6) or sub-section (7) of section 48(A) may; within sixty days from the date of the service of the copy of the order, appeal to such authority as may be prescribed, and shall also serve a copy of the Memorandum of Appeal on the assessing authority.

Amendment of Section 53 12. For the existing sub-section (1) of section 53 of the "Principal Act", the following sub-section shall be substituted; namely-

"(1) Appeal to the Appellate Tribunal:

(1) Any person aggrieved by an order passed under section 51 (other than an order referred to under sub-section (2) of that section). under section 52, or under section 76, or a decision under section 57; or a direction under sub-section (8) of section 43; or an order passed under sub-section (7) of section 43(A); or an order passed under sub-section(10) of section 48; or an order passed under sub-

section (7) of section 48(A) may; within ninety days from the date of service of the copy of such order, decision or direction on him, prefer an appeal to the Tribunal:

Explanation:

For the purpose of this sub-section, the expression "any person" in relation to any order passed by an authority other than the Commissioner includes the Commissioner and, in relation to any order passed by the Commissioner includes the State Government."

Amendment of Section 56 13. For the existing section 56 of the "Principal Act", the following section shall be substituted; namely-

56. Orders against which No Appeal or Revision shall lie:

No appeal and no application for revision shall lie against-

- (a) an order or notice under section 24, section 25, section 26 and section 29 initiating an enquiry for assessment or reassessment;
- (b) an order or action under section 42 or sub-section (1), sub-section (2), sub-section (4), sub-section (7) of Section 43;
- (c) an order or direction passed under sub-section 2(a) or sub-section (4) of Section 43-A; or
- (d) an order of seizure passed or a notice for penalty issued under sub-section (5) of Section 43-A; or
- (e) an order passed under sub-section (6) of Section 43-A
- (f) an order under sub-section (4) of Section 25 or clause (c) of sub-section (9) of Section 25.
- (g) an order or direction passed under sub-section (5), sub-section (6) and sub-section (9) of section 48; or
- (h) an order or direction passed under sub-section 2(a) or sub-section (4) of Section 48-A; or
- (i) a notice for penalty under sub-section (5) of section 48A; or
- (j) an order of seizure of vehicle passed under sub-section (6) of section 48A.

Amendment of 14. In section 58 of the "Principal Act"-

Section 58

(a) Offence and Penalty provision of clause (xix) of sub-section (1) shall be deleted.

(b) For the existing clauses (xx), (xxi) and (xxiii) of sub-section(1), the following clauses shall be substituted; namely-

Section 58(1)

Offence

(xx) Fails or refuses to stop or keep stationary his vehicle for checking at a check post or barrier u/s 50-A or at any other place when so required to do so by an officer empowered u/s 42,43,43-A, 48 or 48-A

(xxi) Fails to prepare, submit or carry the "Transit Pass" as per provision of section-50 or to deliver the same as provided in section 50A

(xxiii) the owner or a person duly authorised by such owner or the driver or person-in-charge of a vehicle or of goods in movement, as the case may be, after preparing or submitting "Transit Pass" for transit of goods through the State, fails to produce copies of the "Transit Pass" along with goods before the officer in-charge of the check-post setup u/s 50-A or before the officer empowered u/s 42 or 43 or fails to

Section 58(1)

Penalties

(xx) A sum not exceeding ten thousand rupees.

(xxi) A sum not exceeding forty percent of the value of goods involved or three times of the tax livable on such goods under any of the provisions of this Act, whichever is higher.

(xxiii) A sum not exceeding forty percent of the value of goods involved or three times of the tax livable on such goods under any of the provisions of this Act, whichever is higher.

prove that the goods have been
carried outside the State as per
provisions of Section 50;

Amendment of 15. In section 59 of the "Principal Act"-

Section 59

- (a) The words "to another dealer" occurred in sub-section (10) shall be deleted.
- (b) In clause (a) of sub-section (10), after the words "challan" the words "containing an individual serialized number and date of issue" shall be inserted.

By Order,

AJAY CHAUDHARY,
Additional Secretary.