

No. 334/XXXVI(3)/2015/57(1)/2015
 Dated Dehradun, November 17, 2015

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 Cess Bill, 2015**' (Adhiniyam Sankhya 23 of 2015).

As Passed by the Uttarakhand Legislative Assembly and assented to by the Governor on 09 November, 2015.

THE UTTARAKHAND CESS ACT, 2015

(Act No. 23 of 2015)

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

An

Act

To provide for the purpose of State Disease Fund (Rajya Vyadhi Nidhi) and other matters connected therewith incidental there to;

Short title, extent and commencement- 1. (1) This Act may be called the Uttarakhand Cess Act, 2015.

(2) It shall extend to the whole of the State of Uttarakhand.

(3) It shall come into force on such date as the State Government may, by notification, appoint and different dates may be appointed for different provisions of this Act.

Definitions

2. In this Act, unless the context otherwise requires:-

- a) "Cess" means a charge levied for meeting the objectives of this Act;
- b) "Commissioner" means the "Commissioner" as defined in Section 2 of the UK Vat Act, 2005

- c) "Dealer" means "dealer" as defined in Section 2 of the Uttarakhand Value Added Act, 2005.
- d) "Goods" means "goods" as defined in Section 2 of the Uttarakhand Value Added Act, 2005
- e) "Notification" means a notification published in the Official Gazette of the State of Uttarakhand;
- f) "Person" means "person" as defined in Section 2 of the Uttarakhand Value Added Act, 2005.
- g) "Prescribed" means prescribed by the Act or by rules made thereunder;
- h) "Rules" means the rules made by the State Government under this Act;
- i) "Sale" means "sale" as defined in Section 2 of the Uttarakhand Value Added Act, 2005.
- j) "Sale Price" means "sale price" as defined in Section 2 of the Uttarakhand Value Added Act, 2005.
- k) "Schedule" means a schedule appended to this Act;
- l) "Vehicle" means "vehicle" as defined in Section 2 of the Uttarakhand Value Added Act, 2005.

PART- 1

CESS FOR DEVELOPMENT OF ROAD INFRASTRUCTURE

Levy and collection 3. (1) There shall be levied a cess under this Act;

of cess

- (a) For the purpose of development of Road Infrastructure, on the sale or purchase of such goods, within the State, as specified in Schedule-I of this Act, with effect from such date and at such point and at such rate, as the State Government may, by notification in the Official Gazette, specify, provided that such rate shall not exceed ten percent of the sale or purchase price of such goods, subject to the conditions, if any, as specified in the Schedule-I.
- (b) For the purpose of State Disease Fund (Rajya Vyadhi Nidhi), on the sale or purchase of such goods, within the State, as specified in Schedule-II of this Act, with effect from such date and at such point and at such rate, as the State Government may, by notification in the Official Gazette, specify, provided that such rate shall not exceed ten percent of the sale or purchase price of such goods, subject to the conditions, if any, as specified in the Schedule-II.

(c) For the purpose of protection of environment, on the goods carried by road, as specified in Schedule-III of this Act, with effect from such date and at such point and at such rate, as the State Government may, by notification in the Official Gazette, specify, provided that such rate shall not exceed Rupees Fifty per quintal of such goods, or 10 percent of the sale or purchase price of the goods, as the case may be, subject to the conditions, if any, as specified in the Schedule.

(2) Every dealer or person, who sells the goods specified in Schedule-I or Schedule-II and who is registered or is liable to be registered under the provisions of Uttarakhand VAT Act, 2005, shall be liable to pay cess in a manner and within a time, as may be prescribed.

(3) The owner or person duly authorized by such owner or the driver or person in-charge of the vehicle or of such goods, as specified in Schedule-III, in movement, as the case may be, who carries or intends to carry such goods by road shall, before movement of such goods, pay the said cess or cause such cess to be realized by such person and in such a manner as may be prescribed.

(a) Realization of tax through seller or supplier:
Notwithstanding anything contained in any other provision of this Act, any person who intends to carry the goods of Schedule-III to a place outside the State from any seller or supplier within the State, shall, at the time of taking delivery of the goods from the supplier, pay to such supplier the Cess payable on carriage of such goods to outside the State and the seller or supplier shall receive the cess so paid. The seller or supplier shall also be bound to give delivery of such goods to the transporter only when the amount of such cess has been paid by the transporter to the seller or supplier. The seller or supplier shall deposit the Cess so received, in such manner and within such time as may be prescribed.

(b) Where any seller or supplier fails to recover the Cess or fails to deposit it under this section, he shall be liable to pay the Cess along with the interest and penalty to the extent of two times of the cess, which shall be recoverable as arrears of land revenue.

(4) The proceeds of the cess collected under different Schedules of this Act, shall be applied to specially created funds as follows:

(i) Cess collected under Schedule-I shall be applied to the Fund created for Development of Road Infrastructure and Road Safety Measures.

(ii) Cess collected under Schedule-II shall be applied to the State Disease Fund (Rajya Vyadhi Nidhi).

(iii) Cess collected under Schedule-III shall be applied to the Specially Created Fund for the Protection of Environment (Paryavaran Sanrakshan Kosh).

**Credit of the
proceeds of the cess
or fee to specially
created funds**

4. (1) The proceeds of the cess or the fee shall be applied respectively to the specially created funds as detailed in the foregoing provisions.

(2) The amount in the credit of the above funds shall be at the discretion of the State Government and it shall be utilized for the purpose for which it is levied and realized;

(3) If any question arises as to whether a purpose for which the fund is being utilized is a purpose falling under Section 3 or Section 4 or Section 5, the decision of the State Government thereon shall be final and conclusive.

(4) The person responsible for the payment of the Cess, shall deposit the amount of cess due from him in such manner as may be prescribed.

**Mutatis-mutandis
application of
different acts**

5. (1) Subject to other provisions of this Act and the rules made thereunder, the authorities for the time being empowered to assess, reassess, collect and enforce payment of any tax under the Uttarakhand Value Added, Tax Act, 2005, shall assess, reassess, collect and enforce payment of cess, including any

interest or penalty payable by a dealer or person, as if the cess or penalty or interest payable by such dealer or a person under this Act is a tax or penalty or interest payable by such dealer or a person under the Uttarakhand Value Added Tax Act, 2005 and for this purpose they may exercise all or any of the powers they have under the Uttarakhand Value Added Tax Act, 2005 and the rules framed thereunder and the provisions of such law, including the provisions relating to the returns, provisional assessment, assessment, reassessment, rectification, review, advance payment of tax, registration, imposition of the tax liability, recovery of tax from third parties, appeals, reviews, revisions, rectifications, references, refunds, rebates, interest or penalty, charging or payment of interest, compounding of offences, shall mutatis-mutandis apply.

(2) The provisions of Forest Rules relating to the issuance of Abhivahan Pass for movement of Timber shall be deemed to be part of this Act and the requirements of such Abhivahan Pass to be accompanied with Timber before their movement, shall be deemed to be mandatory requirement for the purposes of this Act.

**Powers of
commissioner**

6. (1) The Commissioner shall have jurisdiction over whole of the State and shall exercise all the powers conferred, and perform all the duties imposed upon him by or under the Act or Rules made thereunder;

(2) Consistent with the provisions of the Act and the Rules made thereunder, the Commissioner shall have superintendence over all officers and persons employed in the execution of the Act and the Rules, and the Commissioner may from time to time issue such orders, instructions and directions as he may deem fit for the proper administration of the Act and for regulating the procedure to be followed in carrying out the provisions of the Act and the rules:

Provided that no such instructions or directions shall be given so as to interfere with the discretion of the Appellate Authority in the exercise of his appellate functions.

(3) The Commissioner shall have all the powers exercisable by his subordinate authorities other than the appellate authorities.

(4) Subject to such restrictions and conditions as may be specified by the Government from time to time, the Commissioner may, by order in writing, delegate any of his powers and functions under the Act and the Rules made thereunder, to any officer subordinate to him.

**Inspection of
accounts, search
and seizures**

7. (1) With a view to prevent or check avoidance or evasion of cess or attempt of evasion of cess, the provisions of chapter-VI of Uttarakhand Value Added Tax Act, 2005 regarding Inspection of Accounts, Search and Seizures shall mutatis-mutandis apply.

Sale invoice

8. In case of sale or purchase of goods, the amount of cess charged shall be shown separately in the invoice. Other provisions of Section 60 of UK Vat Act, 2005 regarding sale invoice shall mutatis-mutandis apply.

**Powers of state
government to
make rules**

9. The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. However, where no rule has been framed regarding any matter, the Uttarakhand Value Added Tax Rule, 2005 shall mutatis-mutandis apply.

Indemnity

10. No suit, prosecution or other legal proceedings shall lie against the State Government or any officer of the State Government for anything, which is done or intended to be done in good faith under this Act and rules or regulations made thereunder.

**Power to remove
difficulties**

11. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty.

Over-riding effect on other laws 12. Save as otherwise provided in this Act, the provisions of this Act, or rules or regulations or bye-laws made thereunder, shall have effect notwithstanding anything inconsistent therewith contained in other law, enacted by the State Legislature and for the time being in force in the State of Uttarakhand.

Bar on jurisdiction of civil courts 13. No order passed or action taken under this Act, rules or regulation made thereunder, shall be subject to challenge except as provided in this Act and no civil court shall have jurisdiction in respect of any matter, which the Authority is empowered to decide and adjudicate upon.

SCHEDULE-I

Cess on Sale or Purchase of Goods

[Under sub-section (1) (a) of Section 3 of The Uttarakhand Cess Act, 2015]

Sl. No.	Description of Goods	Incidence of Cess	Rate
1.	Petrol	On first sale of goods in the State after import into the State from outside the State	One Rupee per litre
2.	Diesel	On first sale of goods in the State after import into the State from outside the State	Twenty Five paise per litre

SCHEDULE-II
Cess on Sale or Purchase of Goods

[Under sub-section (1) (b) of Section 3 of The Uttarakhand Cess Act, 2015]

Sl. No.	Description of Goods	Incidence of Cess	Rate of Cess
1.	All kinds of Liquor	At the point of sale to consumer	Two percent of the value of the goods.
2.	Khaini, Tobacco, Cigarette, Gutkha	At the point of manufacturer or at the point of first sale of goods in the State, after their import from outside the State.	Two percent of the value of the goods.

SCHEDULE-III
Cess on Carriage of Goods by Road

[Under sub-section (1)(c) of Section 3 of The Uttarakhand Cess Act, 2015]

Sl. No.	Description of Goods	Incidence of Cess	Rate of Cess
1.	Timber and wood of all kinds and of all trees of whatever species, whether growing, cut or sawn but not including their products and firewood.	On goods being carried by road to outside the State	Rs. 50 per quintal
2.	Ready to eat foods(fast foods) sold by Pizza Outlets or Fried Chicken Outlets, Pre-packed eatables, Pre-packed Soft drinks, fruit drinks, flavoured drinks and beverages but not including pre-packed lassi, buttermilk and milk.	At the point of manufacturer or at the point of first sale of goods in the State, after their import from outside the State.	5 percent of the value of the goods.

By Order,

JAI DEO SINGH,
Principal Secretary.

कारण एवं उद्देश्य

राज्य में, राज्य व्याधि निधि, सड़क अवसंरचना विकास व पर्यावरण के संरक्षण के उद्देश्य के लिए, राजस्व अर्जित करने हेतु उपकर(Cess) लगाने का निर्णय लिया गया है। इसके अन्तर्गत पेट्रोल पर रू० 1.00 प्रति लीटर व डीजल पर 25 पैसे उपकर लगाया जायेगा जिसका उपयोग सड़क अवसंरचना विकास के लिए होगा। सभी प्रकार की शराब पर उपभोक्ता बिन्दु पर माल के मूल्य का 2 प्रतिशत तथा खैनी, सिगरेट, तम्बाकू व गुटका में विनिर्माता या राज्य के बाहर से आयात किए जाने पर प्रथम बिक्री पर 2 प्रतिशत उपकर लगाने पर राज्य व्याधि निधि के लिए सभी प्रकार की इमारती लकड़ी व काष्ठ पर रू० 50 प्रति क्विंटल, तैयार खाने जैसे पिज्जा, फ्राईड चिकन, प्री-पैकड फ्रूट ड्रिंक्स आदि पर माल के मूल्य का 5 प्रतिशत, पर्यावरण के संरक्षण के उद्देश्य के लिए प्रस्तावित है। इस अधिनियम के अन्तर्गत राज्य सरकार को यह अधिकार प्राप्त होगा कि वह इसके भिन्न-भिन्न प्राविधानों को लागू करने के लिए भिन्न-भिन्न तिथि नियत कर सके।

इस हेतु एक नया अधिनियम "उत्तराखण्ड उपकर विधेयक, 2015" प्रख्यापित किया जाना प्रस्तावित किया जा रहा है। अतः "उत्तराखण्ड उपकर विधेयक, 2015" का आलेख सदन के विचारार्थ प्रस्तुत है।

डा० इन्दिरा हृदयेश
वित्तमंत्री