(दो) वर्तमान उपधारा (8) के वर्तमान तीसरे प्रतिबन्ध के पश्चात् निम्नलिखित नया प्रतिबन्ध रख दिया जायेगा; अर्थात–

प्रतिबन्ध यह भी है कि खण्ड (ग) में दिये गये निर्देशों के उपरान्त पारित नये आदेश के विरूद्ध अपील करने पर पुनः खण्ड (ग) में नया आदेश पारित करने हेतु निर्देश नहीं दिया जायेगा।

धारा 53 में संशोधन

10. "मूल अधिनियम" की धारा 53 की वर्तमान उपधारा (8) का दूसरा प्रतिबन्ध हटा दिया जायेगा।

धारा 58 में संशोधन

11. "मूल अधिनियम" की धारा 58 की वर्तमान उपधारा (1) के खण्ड (xv) के के स्थान पर निम्नलिखित खण्ड रख दिया जायेगा; अर्थात्–

(1) **(xv)** प्रत्येक व्यतिक्रम के लिये रूपये दस हजार से अनधिक धनराशि;

धारा 61 में संशोधन

12. "मूल अधिनियम" की धारा 61 की वर्तमान उपधारा (1) में प्रयुक्त शब्दावली "6 वर्ष" के स्थान पर शब्दावली "8 वर्ष" रख दी जायेगी।

आज्ञा से,

जय देव सिंह,
प्रमुख सचिव।

No. 103/XXXVI(3)/2016/15(1)/2016
*Dated Dehradun, March 31, 2016*

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) Bill, 2016'** (Adhiniyam Sankhya 02 of 2016).

As passed by the Uttarakhand Legislative Assembly and assented to by the Governor on 29 March, 2016.

# THE UTTARAKHAND VALUE ADDED TAX (AMENDMENT) ACT, 2016

(Act No. 02 of 2016)

An

Act

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

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

**Short title and commencement**

1. (1) This Act may be called The Uttarakhand Value Added Tax, (Amendment) Act, 2016.

(2) This shall come into force at once

**Amendment of Section 17**

2. In Section 17 of the Uttarakhand Value Added Tax Act, 2005(hereinafter referred to as the "Principal Act") after Clause (h) of sub-section(11), the following clause shall be added; namely –

**(11)(hh)** If the transaction in connection of business is initiated through any other bank account or accounts other than the bank account or accounts declared in the registration application or effects the closing of the bank account; or

**Amendment in Section 25**

3. In Section 25 of the "Principal Act", the heading of sub-section (9) and for the existing clause (a), clause (e), clause (f) and clause (g) of sub-section(9), the following shall be substituted; namely –

**(9) Tax Audit And Tax Audit Assessment :**

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

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

(e) The officer conducting the tax audit shall have powers under section 42 of the Act and may also make or cause to be made extracts or copies from the books of accounts and other documents, inventory of stock, 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 accounts and other documents, inventory of stock 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) The tax audit authority shall after considering all the evidence collected by him or produced in course of the proceeding may :-

(1) Confirm the self assessment or assessment order which has already been passed; or

(2) Set aside the self assessment or assessment or reassessment order and reassess the turnover and tax of the dealer; or

(3) Assess the amount of tax due from the dealer if no assessment has been made so far;

Provided that no such assessment or reassessment shall be made unless a reasonable opportunity of being heard has been given to the dealer;

Provided further that not more than three adjournments shall be granted to a dealer for hearing of the case under this Section;

Provided further that period of limitation for making Assessment or Reassessment under this section shall be applicable as per section 32 of this Act.

(g) The tax audit officers shall have all the powers of an Assessing Authority.

**Amendment in Section 29**

**4.** In Section 29 of the "Principal Act", the heading of existing Section 29, and for the sub-section(1) the following heading and sub-section (1), and after clause (d) of this sub-section, the new following clause (dd) shall be added and for the sub-section (4), the following sub-section shall be substituted; namely –

**29. Assessment of the Turnover not Assessed or Assessed at lesser rate during the year :**

**(1)** Where for any year or part thereof, the Assessing Authority has reason to believe that the whole or any part of turnover or tax of the dealer in respect of any tax period has –

**(dd)** During Assessment rebate or concession has been allowed on the basis of submitted declaration form or certificate but such submitted declaration form or certificate is found to be false or wrong, afterwards; or

**(4)** If the Commissioner on his own or on the basis of reasons recorded by the Assessing Authority is satisfied that it is just and expedient so to do, he may authorise the Assessing Authority in that behalf, and then such assessment or reassessment not made after the expiration of six years after the end of such assessment year or after the expiration of four year from the date of the order sought to be reassessed, whichever is later notwithstanding that such assessment or reassessment may involve a change of opinion.

**Deletion of Section 31**

**5.** Section 31 of the "Principal Act" Shall be deleted.

**Deletion of Section 32(6)**

**6.** Section 32(6) of the "Principal Act" Shall be deleted.

**Amendment in Section 34**

**7.** In Section 34 of the "Principal Act", after the existing sub-section (17), the following new sub-section (17A) Shall be added; namely–

**(17A)** If any amount is to be paid by a person to the Assessing Authority, under sub-section (14) of Section 34 of this Act, but the person fails to pay the amount, such person shall be liable to pay such amount not exceeding the amount due, as penalty, as directed by the Assessing Authority in writing, after giving him the opportunity of being heard.

**Addition of Section 34A**

**8.** After the existing Section 34 of the "Principal Act", the following new Section 34-A Shall be added; namely –

**34A. Tax to be first Charge :**

Notwithstanding anything to the contrary, contained in any law or contract, any amount of tax, penalty or other amount, if any, payable by a dealer or other person under this Act shall be first charge on the property of the dealer or such person.

**Amendment in Section 51**

**9.** In Section 51 of the "Principal Act"-

**(1)** After the existing sub-section (4), the following new sub-section (4A) Shall be added; namely –

**(4A)** Notwithstanding anything contained in this Section,

(i) no appeal against an ex-parte order shall be entertained unless the appellant has furnished satisfactory proof of the payment of sum equal to five percent of the amount of disputed tax or penalty or Rupees One Lakh which ever is less;

(ii) no appeal against any other order, besides ex-parte assessment order or penalty shall be entertained unless the appellant has furnished satisfactory proof of the payment of sum equal to twenty percent of the amount of disputed tax, penalty or any other amount or Rupees Five Lakh which ever is less;

(iii) no appeal, against any declaration form or certificate of turnover of concession or rebate, which is being rejected by the Assessing Authority or which are not being produced before the Assessing Authority, shall be entertained unless the appellant has furnished satisfactory proof of the payment of a sum equal to ten percent of the amount at general rate of tax payable under this Act, on the amount of the turnover of such declaration form or certificate, rejected or not produced.

**Explanation:** The above mentioned amount shall be in addition to the condition of the stay given under Sub-Section (6).

(2) After the existing third proviso of sub-section (8), the following new proviso shall be added; namely –

Provided further that on an appeal, against an order passed after the direction under Clause (c), no further direction to pass a fresh order be made under Clause (c).

**Amendment in Section 53**

**10.** In Section 53 of the "Principal Act", the existing second proviso of sub-section (8) shall be deleted.

**Amendment in Section 58**

**11.** In Section 58 of the "Principal Act", for the existing clause (xv) of sub-section (1), the following sub-section shall be substituted; namely –

**(1)(xv) A sum not exceeding rupees ten thousand for each default.**

**Amendment in Section 61**

**12.** In Section 61 of the "Principal Act", the word "six years" occurring therein sub-section (1), the words "eight years" shall be substituted.

By Order,

JAI DEO SINGH,

*Principal Secretary.*

353/16



## कारण एवं उद्देश्य

वर्तमान में ब्यौहारियों द्वारा जिन बैंक खातों के माध्यम से कारोबार का लेन--देन होता है, उन बैंक खातों को सम्बन्धित क0नि0 अधिकारियों को सूचित करने हेतु अधिनियम एवं नियम में स्पष्ट प्रावधान नहीं है, जिससे ब्यौहारियों द्वारा कारोबार के सम्बन्ध में विभिन्न बैंक खातों के माध्यम से किये गये लेने–देन की जांच की जा सकनी सम्भव नहीं है। उक्त जांच को सम्भव बनाने के उद्देश्य से धारा 17 की उपधारा (11) में संशोधन किया जाना अपेक्षित है।

2– टैक्स ऑडिट अधिकारी को प्रभावी बनाये जाने हेतु तथा नियमित कर निर्धारण में कतिपय महत्वपूर्ण वादों का निस्तारण अपेक्षित विश्लेषणात्मक दृष्टिकोण तथा detailing से करने के लिये टैक्स ऑडिट में कार्यरत अधिकारियों को कर निर्धारण अधिकारियों की शक्ति दिया जाना आवश्यक है ताकि वादों की जांच ऑडिट उपरान्त प्राप्त तथ्यात्मक सूक्ष्मता के साथ सम्पादित की जा सके। इस अनुक्रम में उत्तराखण्ड मूल्य वर्धित कर अधिनियम की धारा 25 (9) में संशोधन किया जाना अपेक्षित है।

3– विगत समय में फॉर्मों के सत्यापन नहीं होने के काफी मामले प्रकाश में आये हैं, जिनमें ऐसे मामले भी सम्मिलित हैं जो कालबाधित होने के कारण धारा 29(4) से आच्छादित नहीं हो पाते हैं, जिसके परिणामस्वरूप ऐसे मामलों में विधिक रूप से कोई कार्यवाही सम्भव नहीं होने के कारण राजस्व की हानि होती है। अतः फॉर्मों के गलत पाये जाने पर पुनः कर निर्धारण करने के सम्बन्ध में स्पष्ट प्राविधान न होने के कारण धारा 29 के शीर्षक तथा उपधारा (1) में संशोधन कर स्पष्ट प्राविधान प्रस्तावित किया गया है। इसी प्रकार उपधारा (4) में पुनः कर निर्धारण की समयसीमा कर निर्धारण वर्ष से छः वर्ष तक करने के साथ–साथ कर निर्धारण आदेश पारित होने के चार वर्ष पश्चात् तक का प्रावधान किया गया है।

4– उत्तराखण्ड मूल्य वर्धित कर अधिनियम की धारा 31 के अन्तर्गत वाद के एकपक्षीय निस्तारित होने के परिप्रेक्ष्य में व्यापारी द्वारा अनेक बार प्रार्थना पत्र पुनः सुनवाई हेतु प्रस्तुत किया जाता है, जिसके कारण कार्यालय का समय एवं शक्ति उक्त वाद के निस्तारण में अनावश्यक रूप से व्यय होती है, जबकि राजस्व हित में उक्त का कोई परिणाम नहीं निकलता है। इसके अतिरिक्त धारा 31 प्रार्थना पत्र अनिस्तारित रहने की दशा में बकाया वसूली स्थगित रहती है, जिसके कारण बकाया में अनावश्यक वृद्धि हो जाती है। अतः धारा 31 में कर निर्धारण अधिकारी की एकपक्षीय आदेश को पुनः सुनवाई हेतु खोलने की शक्ति को समाप्त किया जाना प्रस्तावित किया जाता है। धारा 32(6) में धारा 31 के अन्तर्गत खोले गये वाद के सम्बन्ध में समय सीमा नियत की गयी है जिसे समाप्त किया जाना प्रस्तावित किया जा रहा है।

5–वर्तमान में धारा 34(17) में ऐसे ब्यौहारी जिनके विरूद्ध बकाया है, सम्बन्ध में किसी अन्य संस्था यथा बैंक आदि के पास धनराशि होने पर उक्त बैंक आदि से जमा कराये जाने का प्राविधान किया गया है। इस सम्बन्ध में संस्था द्वारा भेजे गये नोटिस का अनुपालन नहीं करने पर अर्थदण्ड का प्राविधान करने के उद्देश्य से धारा 34 में उपधारा (17क) जोडा जाना प्रस्तावित किया जा रहा है।

6–ब्यौहारी या किसी अन्य व्यक्ति द्वारा देय कर का भुगतान नहीं किये जाने पर उसकी परिसम्पत्तियों पर प्रथम प्रभार वाणिज्य कर विभाग का होने के उद्देश्य से ताकि राजस्व की समुचित सुरक्षा की जा सके, धारा 34क जोड़ा जाना प्रस्तावित किया जा रहा है।

**डा0 इन्दिरा हृदयेश,**
**वित्त मंत्री।**

पी0एस0यू0 (आर0ई0) 04 विधायी / 186–2016–100+500 (कम्प्यूटर / रीजियो)।