

State Government by notification may call for and examine the record relating to any order, (other than an order mentioned in Section 56) passed by any officer subordinate to him, for the purpose of satisfying himself as to the legality or propriety of such order and may pass such order with respect there to as he thinks fit.

- (2) No order under sub-section (1) affecting the interest of a party adversely shall be passed unless he has been given a reasonable opportunity of being heard.
- (3) No order under sub-section (1), shall, subject to the provisions of sub-section (3) of Section 51, be passed-
  - (a) to revise an order, which is or has been the subject matter of an appeal under Section 51, or an order passed by the Appellate Authority under that section,
  - (b) before the expiration of sixty days from the date of the order in question;
  - (c) after the expiration of four years from the date of the order in question.

**Explanation.-** Where the appeal against any order is withdrawn or is dismissed for non payment of fee specified in Section 74, or for non compliance of sub-section (1) of Section 51, the order shall not be deemed to have been a subject matter of an appeal under Section 51.

- (4) No dealer or any other person shall be entitled to file an application under this section.

**[53. 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

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1. Substituted vide Noti. No. 178/2012/10(120)/XXVII(8)/07, dated 13.06.2012 & Noti. No. 1099/2012/181(120)/XXVII(8)/08, dated 17.12.2012. with effect from 1st March, 2013. Prior to the substitution sub-section (1) of Section 53 read as under:

- (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, 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.

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.]

- (2-A) U.P.T. Act.
- (2)(a) Notwithstanding anything contained in sub-section (1), where the disputed amount of tax, fee or penalty does not exceed two thousand rupees and no question of law is involved, the appellant may, at his option, request to the Tribunal in writing for summary disposal of his appeal, whereupon the Tribunal may decide the appeal accordingly;
- (b) The manner and procedure of summary disposal of appeal shall be such as may be prescribed;
- (c) No revision shall lie against an order passed in appeal which has been disposed of summarily.
- (3) Section 5 of the Limitation Act, 1963 shall apply to appeal or other applications under this section.
- (4) The Tribunal may at any stage, after giving the appellant a reasonable opportunity of being heard, dismiss the appeal.
- (5) The Tribunal may, if it has not already dismissed the appeal under sub-section (4), after calling for and examining the relevant records and after giving the party a reasonable opportunity of being heard or, as the case may be, after following the procedure prescribed under sub-section (2):
- (a) confirm, cancel or vary such order, or
- (b) set aside the order and direct the Assessing or Appellate or Revising Authority or the Commissioner as the case may be, to pass a fresh order after such further enquiry, if any, as may be specified,
- (6) If any amount of tax, fee or penalty is reduced by the Tribunal under sub-section (5), he shall order that any money as may have been realized in excess of the due amount, be refunded according to the provisions of this Act:

**Explanation.-** The power to vary an order referred to in clause (a) includes the power to vary the order by reducing or enhancing

the amount of assessment or penalty. However before increasing the tax or other amount the dealer shall be given an opportunity of being heard on the proposal of increasing the liability.

- (7) Where an appeal under this section has been filed, the Tribunal may, on the application of the appellant moved along with the memorandum of such appeal after giving the parties a reasonable opportunity of being heard, stay the operation of the order appealed against or the recovery of disputed amount of any tax, fee or penalty payable, or refund of the amount due, or proceedings for reassessment under the order appealed against till the disposal of the appeal.
- (8) No application for stay of recovery of any disputed amount of tax, fee or penalty shall be entertained unless the applicant has furnished satisfactory proof of the payment of not less than one third of such disputed amount in addition to the amount required to be deposited under sub-section (4) of Section 51:

**Provided** that where the amount in dispute in appeal is less than rupees twenty five thousand the dealer shall not be required to deposit the one third of such disputed amount:

**Provided further** that the Tribunal may, for special and adequate reasons to be recorded in writing, waive or relax the requirements of this sub-section regarding payment of the one third of such disputed amount

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from  
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- (9) Where the Tribunal passes an order under this section for the stay of recovery of any tax, fee or penalty or for the stay of the operation of any order appealed against and such order of the Tribunal results in the stay of recovery of any tax, fee or penalty, such stay order of the Tribunal shall not remain in force for more than forty five days unless the appellant has deposited the balance amount within thirty days of the receipt of the stay order and has furnished security to the satisfaction of the Assessing Authority concerned for the payment of the amount, the realisation whereof has been stayed:

**Provided** that where the amount stayed is less than rupees twenty five thousand, the dealer shall not be required to furnish the security in respect of such amount;

- (10)(a) An appeal against an order of the Appellate Authority under Section 51 shall be heard and disposed of-
- (i) by a bench of two members, when such order is passed by an Additional Commissioner (Appeals), or the amount of tax, fee or penalty in dispute exceeds two lakh rupees;
  - (ii) by a single member bench, in other case.

- (b) An appeal against an order passed under Section 52, or against direction given under sub-section (8) of Section 43 shall be heard and disposed of by a bench of two members;
- (c) An appeal against an order under sub-section (13) or sub-section (16) of Section 76 or a decision given under Section 57 shall be filed before the President and shall be heard and disposed of by a bench of three members.
- (d) The President may, if he so thinks fit-
- (i) direct an appeal to be heard and decided by a larger bench;
- (ii) transfer an appeal from one member to another member.
- (e) In a case before a bench consisting of two or more members, any order other than an order finally disposing of the case may be passed by any one of the members constituting the bench.
- (11) Any member who has previously dealt with any case coming up before the Tribunal in any other capacity or is personally interested in any case coming up before the Tribunal shall be disqualified to hear that case.
- (12) All appeals arising out of the same cause of action in respect of an assessment year shall be heard and decided together:
- Provided** that where any one or more of such appeals have been heard and decided earlier, and if the bench hearing the remaining appeals considers that such decision may be legal impediment in giving relief in such remaining appeals, it may, if the earlier decision was given-
- (a) by a smaller bench or a bench of equal strength, recall such earlier decision and proceed to decide all the appeals together;
- (b) by a larger bench, refer such remaining appeals to such larger bench having jurisdiction and thereafter such larger bench may recall such earlier decision and proceed to decide all the appeals together.
- (13) The decision of a case heard by a bench shall be in accordance with the opinion of the majority. Where the members are equally divided the President of the Tribunal may-
- (a) if he was not a member of such bench, give his own opinion or refer the case for the opinion of another member, whereupon the case shall be decided in accordance with such opinion: or
- (b) form a larger bench.
- (14) Where any case is heard by a Bench consisting of two members and the members are divided in their opinion on any point and

the other member or the members of the Tribunal are disqualified under sub-section (10) to hear the case or there are for the time being only two members including the President, the Government may appoint a person qualified to be appointed as a member of Tribunal, as an additional member to the Tribunal and the point shall be decided in accordance with the opinion of majority of the members of the Tribunal who have heard the case (including those who first heard it).

- (15) The Tribunal shall serve the appellant with notice, in writing, of the appeal decision setting forth the reasons for the decision.

#### 54. Constitution of Appellate Tribunal-

- (1) The Government shall appoint a Tribunal consisting of a President and such members as it think fit to perform the functions assigned to the Tribunal by or under this Act.

- (2) The President and the members shall be appointed from amongst-

*different from Sec. 10(1)(a) of T.T. Act*  
(a) the persons belonging to Uttarakhand Higher Judicial service who hold or have held a post not below the rank of Additional District judge; and

(b) the persons belonging to the Uttarakhand Trade Tax Service who hold or have held a post not below the rank of Additional Commissioner;

- (3) The State Government may prescribe such other qualifications or conditions for the appointment of the President and other members of the Tribunal as it may deem fit.

- (4) The appointments to the Tribunal shall be made by the State Government-

(a) in case of persons who have been or are members of the Uttarakhand Higher Judicial Service, in consultation with the High Court; and

(b) in case of persons belonging to the Uttarakhand Trade Tax Service, by selection on the principle of merit from amongst persons who hold or have held the post not below the rank of Additional Commissioner of Trade Tax.

- (5) The provisions of Rule 56 of the U.P. Fundamental Rules as applicable in Uttarakhand, shall apply to every member of the Tribunal including the President as they apply to any other Government servant.

- (6) The head quarter of the President of the Tribunal shall be at Dehradun, and he shall exercise the concurrent jurisdiction over all the Benches in Uttarakhand.

- (7) The head quarters and jurisdiction of other single member

benches, referred to in sub-clause (ii) of clause (a) of sub-section (10) of Section 53. shall be such as the Government may, from time to time, in consultation with the President of the Tribunal, notify.

- (8) The President may, from time to time, constitute benches of two or more members, and specify the jurisdiction and place of sitting of such benches as he may consider necessary.
- (9) The members of the Tribunal shall be under the administrative control and supervision of the President.
- (10) The Tribunal shall, with the previous sanction of the Government make regulations consistent with the provisions of this Act and the rules made thereunder for regulating its procedure and the disposal of its business.
- (11) The regulations made under sub-section (10) shall be published in the official Gazette.

#### 55. Revision by High Court-

- (1) Any person aggrieved by an order under sub-section (4) or sub-section (5) of Section 53, other than an order under sub-section (2) of that section summarily disposing of the appeal or by an order passed under Section 30, by the Tribunal may, within ninety days from the date of service of such order, apply to the High Court for revision of such order.
- (2) A revision to the High Court may be made on question of law or an erroneous decision or failure to decide a question of law by the Tribunal.
- (3) The application for revision under sub-section (1) shall precisely state the question of law involved in the case and it shall be competent for the High Court to formulate the question of law or to allow any other question of law to be raised.
- (4) The Commissioner shall also be made a party to the proceedings before the High Court where appeal is filed by the dealer or other person.
- (5) Where an application under this section is pending, the High Court may, on an application in this behalf stay recovery of any disputed amount of tax, fee or penalty payable, or refund of any amount due under the order sought to be revised:

**Provided** that no order for stay of recovery of such disputed amount shall remain in force for more than thirty days unless the applicant furnishes adequate security to the satisfaction of the assessing authority concerned.

- (6) The High Court shall after hearing the parties to revision decide

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**CHAPTER VIII**  
**APPEAL AND REVISION**

**34. Appellate Authorities-**

- (1) An appeal under section 51 shall lie to -
- (a) the Additional Commissioner (Appeals) in case the order appealed against has been passed by a Joint Commissioner (Assessment); and
  - (b) the Joint Commissioner (Appeals) in all other cases.

**Explanation.-** The expression "Appeal" for the purpose of this Chapter includes an application by the Commissioner under sub-section (3) of section 51 of the Act.

- (2) An appeal under section 53 shall lie to the Tribunal.

**35. Memorandum of Appeal-**

- (1) Every appeal shall be presented in the form of a memorandum, written on watermark or any other stout paper.
- (2) The memorandum of appeal shall specify the name and complete address of the appellant, and shall set forth precisely and under distinct heads the grounds of objection and the relief prayed for and shall be signed by the appellant or his lawyer or his duly authorized agent and verified in the form given below:-
- (i) "I.....the appellant / on behalf of the appellant , do hereby declare that the contents of this memorandum are true to the best of my knowledge and belief."
  - (ii) "I.....the appellant / on behalf of the appellant do hereby further declare that the appeal is being filed for the first time and it has not been filed before":

**Provided** that in case of an Application by the Commissioner under Section 51 or an Appeal by Commissioner under Section 53, the memorandum of appeal shall be signed by the Commissioner or any other officer authorized by him for this purpose, and may be verified by the Departmental Representative or, as the case may be, by the State Representative.

- (3) The memorandum of appeal under Section 51 shall be accompanied by a certified copy of the order appealed against and two true copies each thereof. The original copy of the memorandum and the certified copy of the order as aforesaid shall be retained by the Appellate Authority, and one copy each thereof shall be served on the Assessing Authority concerned and the Departmental Representative by the said authority.

- (4) The memorandum of appeal shall be accompanied with proof of payment of the fee payable under the Act, and in the case of an appeal under Section 51, also with a challan or a certificate of the Assessing Authority concerned showing deposit of the tax or fee in accordance with sub-section(4) of Section 51.
- (5) The memorandum of appeal under Section 53 shall be accompanied with a certified copy of the order appealed against and three true copies each thereof. The original of the memorandum and the certified copy of the order aforesaid shall be retained by the Tribunal and one copy each thereof shall be served on the Assessing Authority and the State Representative and in case of appeal filed by the Commissioner a copy shall be served on the opposite party.

### **36. Presentation of Memorandum of Appeal-**

- (1) The memorandum of appeal shall either be presented to the Appellate Authority or the Tribunal, as the case may be, by the appellant, his lawyer or his duly authorized agent, or be sent to such authority by registered post. A memorandum of appeal sent by ordinary post shall not be entertained.
- (2) If the memorandum of appeal is presented by the lawyer or an authorized agent, the vakalatnama or the power of attorney, as the case may be, shall also be enclosed therewith.
- (3) On receipt of the memorandum of appeal, the munsarim shall enter it in a register kept for the purpose, shall endorse on the memorandum the date of its presentation, examine it and record a report whether it has been presented within limitation in accordance with the prescribed procedure and is in order, and place it before the Appellate Authority or the Tribunal, as the case may be, for admission. If the memorandum of appeal is in order, it shall be admitted by the Appellate Authority or, as the case may be, by the Tribunal, unless it decides to dismiss it under Section 53.
- (4) If the memorandum of appeal is not in order or is not presented according to the prescribed procedure, it shall be rejected.
- (5) If the memorandum of appeal is received by registered post, the date of its receipt by the Appellate Authority or the Tribunal, as the case may be, shall be deemed to be the date of its presentation.
- (6) The provisions of these rules shall *mutatis mutandis* apply to any other application moved by or on behalf of the parties.
- (7) The Commissioner or any other officer authorized by him for this purpose may empower-

- <sup>1</sup>(i) any officer not below the rank of Commercial Tax Officer, to perform the functions of Department Representative before the Joint Commissioner (Appeal); or
- (ii) any officer not below the rank of Assistant Commissioner to perform the functions of Departmental Representative before the Additional Commissioner (Appeal); or
- (iii) any officer not below the rank of Assistant Commissioner to perform the functions of State Representative before the Appellate Tribunal.
- (8) In proceedings before the Appellate Authority or the Appellate Tribunal the Departmental Representative or the State Representative shall be competent to –
- (i) prepare and sign applications and other documents;
- (ii) appear, represent, act and plead;
- (iii) receive notices and other processes, and
- (iv) do all other acts connected with such proceedings on behalf of the Commissioner.

### 37. Disposal of Appeal-

- (1) The appeal shall be heard on the date to be fixed by the Appellate Authority or, as the case may be, the Tribunal.
- (2) The Appellate Authority or, as the case may be, the Tribunal shall cause a notice on the date fixed under sub-rule (1) to be served well in time on the parties to the appeal at the addresses mentioned in the memorandum of appeal, or on their lawyer or authorized agent.
- (3) The notice of cases fixed for hearing in a week shall be fixed on the notice board of the Appellate Authority or, as the case may be, the Tribunal on the last working day of the preceding week.
- (4) On the date of hearing, if all the relevant records of appeal have been received the parties present shall be given reasonable opportunity of being heard and the Appellate Authority or, as the case may be, the Tribunal may, after examining all the relevant records, decide the appeal:

**Provided** that if, despite proper service of the notice either party is not present the appeal may be heard and decided *ex-parte*.

1. Substituted vide Notification No. 324/XXVII(8)/2008, dated 14.5.08. Prior to the substitution clause (i) of sub-rule (7) of rule 36 read as under:

- (i) any officer not below the rank of Commercial Tax Officer, Grade-II to perform the functions of Departmental Representative before the Joint Commissioner (Appeal); or

- (5) Any applicant or opposite party shall be entitled to have his case argued before the Appellate Authority or the Tribunal by a lawyer or an accountant or, as the case may be, the State Representative.
- (6) Cross appeals arising out of the same case, admitted by the Tribunal, shall, as far as possible, be heard together.
- (7) The judgment in appeal shall be in writing and shall state-
  - (a) the points for determination;
  - (b) the decision thereon; and
  - (c) the reasons for such decision.
- (8) The appeal filed under Section 51, other than those covered under sub-section (2) of the said section, shall, as far as practicable, be disposed of within one year of the date of entertainment of the appeal.
- (9) Copy of every order under Section 51 or Section 53 shall be delivered to or served on the parties concerned free of charge. Copies of such order other than the first copy shall be given to the parties concerned on application and on furnishing copying folio of the value of two rupees.
- (10) The provisions of Rule 47 and Rule 48 shall, *mutatis mutandis* apply to service of notice, summons, order etc., under this Rule: **Provided** that service of any order passed by the Appellate Authority on the Assessing Authority or the service of any order passed by the Appellate Tribunal on the State Representative shall be deemed to be service on the Commissioner.

**38. Summary Disposal of Appeal-**

Where an appeal has been admitted by the Appellate Authority or the Appellate Tribunal, and the appellant has requested in writing for summary disposal of his appeal under the provisions of sub-section (2) of Section 51 or, as the case may be sub-section (2) of Section 53 the appeal shall be taken up for hearing as early as practicable and the same shall normally be decided within forty five days of its admission, but after the expiry of the period prescribed under the provisions of Section 51 or, as the case may be, Section 53 for filing the appeal .

**39. Revision by the Commissioner-**

The Commissioner or such other officer as may be authorized for the purpose of Section 52 of the Act, before passing any order with respect to it, may, in his discretion, ask an officer subordinate to him to make such enquiries, as he considers necessary.

**40. Giving effect to the Appellate or Revisional order-**

If any order passed in appeal or revision has the effect of varying any order, the Assessing Authority shall refund the excess tax or fee, or realize the deficit, as the case may be.

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

प्रतिबन्ध यह भी है कि खण्ड (ग) में दिये गये निर्देशों के उपरान्त पारित नये आदेश के विरुद्ध 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 (3) का दूसरा प्रतिबन्ध हटा दिया जायेगा।

धारा 58 में  
संशोधन

11. "मूल अधिनियम" की धारा 58 की वर्तमान उपधारा (1) के खण्ड (xv) 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.

*By Notification  
No. 103  
Dt: 31/3/2016*

**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 (3), 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.

No. 102/XXXVI(3)/2015/22(1)/2015

Dated Dehradun, March 31, 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 Value Added Tax (Amendment) Bill, 2015'** (Adhiniyam Sankhya 11 of 2015).

As passed by the Uttarakhand Legislative Assembly and assented to by the Governor on 31 March, 2015.

**THE UTTARAKHAND VALUE ADDED TAX (AMENDMENT) ACT, 2015**

(Act No. 11 of 2015)

An

Act

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

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

- |  |  |
|--|--|
| <b>Short title and commencement</b>                                  | 1. (1) This Act may be called The Uttarakhand Value Added Tax Act, 2005 (Amendment) Act, 2015.<br>(2) It shall come into force with immediate effect.  |
| <b>Amendment of sub-section (5) and sub-section (7) of Section 4</b> | 2. In section 4 of the Uttarakhand Value Added Tax Act, 2005, (hereinafter referred to as the Principal Act) :-<br>(1) for the words "at the rate of four percent" occurring in the existing clause (a) of sub-section (5), the words "at the rate of five percent" shall be substituted.<br><br>(2) for the words "at the rate of 2 percent" occurring in clause (a) of sub-section (7) and its first proviso, the words "at the rate of 3 percent" shall be substituted. |

**Amendment of sub-section (1), sub-section (3), sub-section (8) and addition of a new sub-section (18) after sub-section (17) of Section 6**

3. In section 6 of the Principal Act -

(1) After the existing two proviso of sub-section (1), the following new proviso shall be added; namely-

*Provided further that, in no case the amount of input tax credit or refund on any purchase of goods shall exceed the amount of tax, in respect of the same goods actually paid under this act or any earlier law, into the Government treasury;*

(2) For the existing first proviso of clause (e) of sub-section (3), the following proviso shall be substituted; namely-

*Provided that with reference to clause (d) above, in case such manufactured goods are dispatched outside the state other than by way of sale, a partial amount of input tax credit shall be allowed in respect of tax paid in excess of 3 percent on the raw materials used directly in the manufacture of such goods.*

(3) for the existing first proviso of sub-section (8), the following proviso shall be substituted; namely-

*Provided that in respect of transactions falling under (item g) a partial amount of input tax credit shall be allowed in respect of tax paid in excess of 3 percent on the raw materials used directly in the manufacture of goods.*

(4) after the existing sub-section (17), following new sub-section (18) shall be added; namely-

(18) Notwithstanding anything to the contrary contained in this section, where goods purchased or resold or goods manufactured or processed by using or utilizing such purchased goods are sold at a price which is lower than;

- (i) the purchase price of such goods in case of resale; or
- (ii) the cost price in case of manufacture,

the amount of input tax credit shall be claimed and be allowed to the extent of tax payable on the sale value of such goods or manufactured goods.

**Amendment of sub-section (2), sub-section (8) and sub-section (10) of Section 35**

4. In section 35 of the Principal Act -

(1) For the words "at the rate of four percent" occurring in clause (d) of the existing sub-section (2), the words "at the rate of five percent" shall be substituted.

(2) for the existing sub-section (8), the following sub-section shall be substituted; namely-

(8) If any such person as is referred to in sub-section (1) or in sub-section (2) or in sub-section (3)-

(3) For the existing clause (d) of sub-section (7), the following clause shall be substituted; namely-

(d) Where a dealer in whose favour a Recognition Certificate has been granted under clause(b) has purchased the goods after payment of tax at concessional rate or, as the case may be, without payment of tax under this sub-section and has used such goods for a purpose other than that for which the Recognition Certificate was granted or has otherwise disposed of the said goods, such dealer shall be liable to pay as penalty such amount as the Assessing Authority may fix which shall not be less than **one and half times the difference** between the amount of tax on the sale or purchase of such goods payable under this sub-section and the amount of tax payable under any other provisions of this Act, **but not exceeding twice** the amount of such difference.

(4) for the existing clause (e) of sub-section (7), the following clause shall be substituted; namely-

(e) Where a dealer, in whose favour a Recognition Certificate has been granted under clause(b), has purchased any goods including raw material, processing material or packing material and consumables after payment of tax at concessional rate or, as the case may be, without payment of tax under this section, and

- (i) the goods(as specified in schedule III) manufactured or processed by using or utilizing such goods; or
  - (ii) the goods (as specified in schedule III) so manufactured or processed, after being packed with such packing material;
- are sold or disposed of otherwise than by way of sale in the State or in the course of inter-state trade or commerce or in the course of export out of the Territory of India, such dealer shall be liable to pay, an amount equal to one and half times of the difference between the amount of tax calculated on the sale or purchase value of such goods at the general rate of tax provided in the schedules under this Act in respect of such goods and the amount of tax, at the concessional rate of tax under this section, on the sale or purchase such goods.

Such amount shall be due for the period in which such transaction of such manufactured or processed goods is made and be payable within the time limit, as prescribed for depositing the tax due for such period as is applicable in the case of such dealer.

**Explanation:** For determining whether a sale or purchase in the course of inter-State trade or commerce, within the State, or in the course of export out of India, the provisions of Sections 3, 4 and 5 of the Central Sales Tax Act, 1956, shall respectively apply.

(a) fails to make the deduction of the amount deductible under this section the Assessing Authority may, after giving such person an opportunity of being heard, by order in writing, direct that such person shall pay, by way of penalty, a sum which shall not be less than one hundred fifteen percent and not more than one hundred twenty five percent of such amount deductible under this section; or

(b) after deduction fails to deposit the amount so deducted in to the Govt. Treasury as required in sub-section (4), the Assessing Authority may, after giving such person an opportunity of being heard, by order in writing, direct that such person shall

(i) pay, by way of penalty, a sum equal to two percent of such amount, if the delay in depositing such amount is not more than a month; and

(ii) pay, by way of penalty, a sum which shall not be less than fifteen percent and not more than twenty five percent of such amount, if the delay in depositing such amount is more than a month.

(3) for the existing sub-section (10), the following sub-section shall be substituted; namely-

(10) Without prejudice to the provisions of sub-section (8), where the amount has not been deposited after deduction, the Assessing Authority, after giving an opportunity of being heard, may pass an order directing such person to deposit such amount together with the interest referred to in sub-section (9) and such amount together with such interest shall be a charged upon all the assets of the person concerned.

**Amendment of sub-section (3) of Section 50**

5. For the first proviso of the existing sub-section (3) of section 50 of the "Principal Act", the following proviso shall be substituted; namely-
- provided that such assessment may be done in the cases arising before or after the date of commencement of this provision.*

**Amendment of sub-section (10) of Section 53**

6. For the existing clause (b) of sub-section (10) of section 53 of the "Principal Act", the following clause shall be substituted; namely-

(b) An appeal against an order or direction passed under the following provisions of the Act, shall be heard and disposed of by a bench of two members;

(i) an order passed under section 52;

(ii) a direction given under sub-section (8) of section 43;

**Amendment of sub-section (1) of Section 58**

- (iii) a direction given under sub-section (7) of section 43-A;
- (iv) a direction given under sub-section (10) of section 48;
- (v) a direction given under sub-section (7) of section 48-A

7.

For clause (VII) in column-2 (Penalty) in the chart given in the existing sub-section(1) of section 58 of the "Principal Act", following clause shall be substituted; namely-

(vii) (a)(i) a sum equal to five percent of such tax if the delay in depositing such tax is not more than a month; and

(ii) a sum which shall not be less than ten percent and not more than twenty percent of such tax if the delay in depositing such tax is more than a month and the amount of such tax is up to twenty thousand; and

(iii) a sum which shall not be less than twenty percent and not more than thirty percent of such tax if the delay in depositing such tax is more than a month and the amount of such tax is more than twenty thousand.

(b)(i) a sum equal to five percent of such tax if the delay in depositing such tax is not more than a month; and

(ii) a sum which shall not be less than ten percent and not more than twenty percent of such tax if the delay in depositing such tax is more than a month and the amount of such tax is up to twenty thousand; and

(iii) a sum which shall not be less than twenty percent and not more than thirty percent of such tax if the delay in depositing such tax is more than a month and the amount of such tax is more than twenty thousand.

(c) a sum not less than the amount of tax realized or realized in excess but not more than twice the said amount.

By Order,

**JAI DEO SINGH,**  
Principal Secretary.