

## CHAPTER XI

### OFFENCES, PROSECUTION AND COMPOSITION OF OFFENCES

Offences  
and  
penalties.

82. (1) Whoever -

- (a) knowingly furnishes a false return ; or
- (b) not being a registered dealer, falsely represents that he is a registered dealer at the time when he sells or purchases goods ; or
- (c) knowingly produces false bill, invoice, cash memorandum, voucher, declaration, certificate or other documents for evading tax payable under this Act; or
- (d) knowingly keeps false account of the value of the goods purchased or sold by him in contravention of the provisions of this Act; or
- (e) knowingly produces false accounts or documents, or furnishes false information ; or
- (f) issues to any person, certificate, declaration or tax invoice under this Act or any false bill, cash-memorandum, voucher, delivery challan, lorry receipt or other document which he knows or has reason to believe to be false ; or
- (g) wilfully attempts, in any manner whatsoever, to evade any tax, interest or penalty payable under this Act,

shall, on conviction, be punished -

(i) where the amount of tax, interest or penalty, or all of them together involved is less than rupees fifty thousand in a year, with imprisonment of either description for a term which shall not be less than three months but which may extend to one year and with fine; and

(ii) in any other case, with imprisonment of either description for a term which shall not be less than six months but which may extend to two years and with fine.

(2) Whoever aids, abets or induces any person in commission of any act specified in clauses (a) to (g) of sub-section (1) shall, on conviction, be punished with imprisonment of either description which shall not be less than three months but which may extend to one year and with fine.

(3) Whoever -

(a) is engaged in any business as a dealer without being registered in willful contravention of section 24; or

(b) fails, without sufficient cause, to keep any accounts or record as directed in accordance with the provisions of this Act; or

(c) fails, without sufficient cause, to keep such records as required by the Commissioner under sub-section (3) of section 61; or

(d) fails, without sufficient cause, to comply with any requirements made of him under section 73; or

(e) voluntarily obstructs any officer making inspection or search or seizure under section 73, 74 or 75,

shall, on conviction, be punished with imprisonment of either description for a term which shall not be less than six months but which may extend to one year and with fine.

(4) Whoever fails, without sufficient cause, to furnish any return for any tax period by the date and in the manner prescribed under this Act shall, on conviction, be punished with imprisonment of either description for a term which may extend to one year and with fine which shall not be less than-

(a) rupees two thousand, if the tax due for the period covered by the return, not so furnished, does not exceed rupees twenty thousand;

(b) rupees five thousand, if the tax due for the period covered by the return, not so furnished, exceeds rupees twenty thousand but does not exceed rupees one lakh;

(c) rupees ten thousand, if the tax due for the period covered by the return, not so furnished, exceeds rupees one lakh.

(5) Whoever commits any of the acts specified in sub-sections (1) to (4) and when such act is a continuing one, he shall, on conviction, be punished with daily fine amounting to not less than rupees one hundred during the period of the continuance of the offence, in addition to the punishment provided under this section.

(6) Notwithstanding anything contained in sub-sections (1) to (5), no person shall be prosecuted under any of these sub-sections for any act referred to therein, if the total amount of tax evaded or attempted to be evaded is less than rupees two hundred during the period of a year.

(7) When a dealer accused of an offence specified in sub-sections (1) to (5), the person declared to be the manager of the business or the person holding power of attorney of such dealer or the person who in any manner acts for or on behalf of such dealer shall also be deemed to be guilty of such offence, unless he proves that the offence

was committed without his knowledge or that he exercised due diligence to prevent the commission thereof.

(8) In any prosecution for an offence under this section, which requires a culpable mental state on the part of the accused, the Court shall presume the existence of such mental state, but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

Explanation.- In this sub-section “culpable mental state” includes intention, motive, knowledge of a fact and belief in, or reason to believe, a fact.

Offences  
by  
companies  
and Hindu  
Undivided  
Families.

83.(1) Where any act specified in section 82 has been committed by a company, every person other than a nominated director who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. - For the purpose of this section, -

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to the firm, means partner in the firm.

(3) Where any offence under this Act has been committed by a Hindu Undivided Family, the Karta thereof shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render the Karta liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised due diligence to prevent the commission of such offence:

Provided further that where an offence under this Act has been committed by a Hindu Undivided Family and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any adult

member of the family, such member shall also be deemed to be guilty and shall be liable to be proceeded against and punished accordingly.

Cognizance  
of offence.

84.(1) No Court shall take cognizance of any offence under this Act or the rules, except with the previous sanction of the Commissioner and no Court inferior to that of a Magistrate of the first class shall try such offence.

(2) The offences punishable under sub-sections (1), (2) and clause (e) of sub-section (3) of section 82 shall be cognizable and non-bailable and other offences punishable under the said section shall be cognizable.

Investigation  
of offences.

85.(1) Subject to conditions, if any, as may be prescribed, the Commissioner may authorise either generally or in respect of a particular case or class of cases, any officer appointed under sub-section (2) of section 3 to investigate all or any of the offences punishable under this Act.

(2) Every officer so authorised shall, in the conduct of such investigation, exercise the powers, conferred by the Code of Criminal Procedure, 1973 upon an officer in charge of a police station for the investigation of a cognizable offence. 1974.

Compounding  
of offences.

86.(1) The Commissioner may, either before or after the institution of proceedings of any offence punishable under section 82, accept, by way of composition, from any person charged with any offence under sub-sections (1), (3) or (4) of the said section a sum not exceeding three times the amount of tax which would have been payable on the sale or purchase turnover to which the offence relates or rupees ten thousand, whichever is higher.

(2) On payment of such sum as may be determined by the Commissioner under subsection (1), no further proceedings shall be taken against the accused person in respect of the same offence and any proceeding, if already taken, shall not be proceeded with further.

Offences  
against  
officers.

87. Any person who obstructs, molests or assaults an officer appointed under sub-section (2) of section 3 to assist the Commissioner in or during the performance of his duties as are or may be conferred or imposed by or under the provisions of this Act, or does anything which is likely to prevent or obstruct the performance of any of such duties including recording of evidence, shall be liable for prosecution and, on conviction, be punished with rigorous imprisonment which may extend upto six months or fine not exceeding rupees twenty five thousand or both.