

CHAPTER V

RETURN AND RETURN DEFAULTS

Periodical
returns and
payment of
tax.

33. (1) Every registered dealer shall furnish returns in such form, for such period, by such dates and to such authority, as may be prescribed :

Provided that the Commissioner may, subject to such conditions and restrictions as may be prescribed, exempt any such dealer or class of dealers from furnishing such returns or require any such dealer to furnish –

(a) returns for such different periods; or

(b) separate return for each or any branch or place of business inside the State, where such registered dealer has more than one branch or place of business in the State.

(2) If the Commissioner has reason to believe that the turnover of sales or the turnover of purchases of any dealer is likely to exceed or has exceeded the taxable limit as specified in sub-section (4) of section 10, he may, by notice, served in the prescribed manner, require such dealer to furnish return as if he were a registered dealer, but no tax shall be payable by him unless his gross turnover exceeds the taxable limit provided under the said sub-section.

(3) A registered dealer, whose certificate of registration is cancelled by the registering authority under section 31, shall furnish a final return in such form as may be prescribed, within thirty days from the date of order of such cancellation.

(4) If any dealer, having furnished returns under sub-section (1) or sub-section (2), discovers any omission or error in any return so furnished, he may file a revised return before the date on which the return for next tax period becomes due.

(5) If any dealer, after furnishing a return under sub-section (1) or sub-section (2), discovers that a higher amount of tax was due than the amount of tax admitted by him in the original return for any reason, he may voluntarily disclose the same by filing a revised return for the purpose and pay the higher amount of tax as due at any time, in the manner provided under section 50 :

Provided that no such voluntary disclosure shall be accepted where the disclosure is made or intended to be made after receipt of the notice for tax audit under this Act, or as a result of such audit.

(6) Every dealer required to file return under sub-section (1) or sub-section (2) shall pay the full amount of tax payable according to the return or the differential tax

payable according to the revised return furnished, if any, in the manner provided under section 50.

(7) Every return under this section shall be signed and verified –

(a) in case of an individual, by the individual himself, and where the individual is absent, by any person duly authorised by him in this behalf ;

(b) in the case of a Hindu Undivided Family, by the Karta,

(c) in the case of a company or local authority, by the principal officer thereof;

(d) in the case of a firm , by any partner thereof not being a minor;

(e) in the case of any other association, by any person competent to act in that behalf.

Explanation.- For the purpose of clause(c) of sub-section (7), the expression “ principal officer” shall have the meaning assigned to it under clause (35) of section 2 of the Income Tax Act, 1961.

43 of
1961.

(8) Any return signed by a person who is not authorised under sub-section (7) shall not be treated as a return for the purposes of this Act :

Provided that any amount deposited on the basis of such return shall not be refunded except where it is established under the provisions of this Act to be otherwise not payable.

Default
in filing
of return.

34. (1) Where a dealer required to file return under sub-sections (1),(2) or (3) of section 33 –

(a) fails without sufficient cause to pay the amount of tax due as per the return for any tax period; or

(b) makes voluntary disclosure under sub-section (5) of section 33 showing a higher amount of tax to be due than was shown by him in the original return; or

(c) fails to furnish return,

such dealer shall be liable to pay interest in respect of –

(i) the tax, which he fails to pay according to the return ; or

(ii) the difference of the amount of tax according to the voluntary disclosure; or

(iii) the tax payable for the period for which he has failed to furnish return ;

at the rate of two per centum per month from the date the return for the period was due to the date of its payment or to the date of order of assessment , whichever is earlier.

(2) If a registered dealer, without sufficient cause, fails to pay the amount of tax due and interest payable thereon along with return or revised return in accordance with the provisions of sub-section (1), the Commissioner may, after giving the dealer a reasonable opportunity of being heard, direct him to pay in addition to the tax and the interest payable by him, a penalty at the rate of two per centum per month on the tax and interest so payable, from the date it had become due to the date of its payment or the order of assessment , whichever is earlier.

(3) If a registered dealer or any other dealer required to furnish return under sub-section (2) of section 33, without any sufficient cause, –

(a) fails to comply with the requirements under sub-section (2) or (3) of section 33, or

(b) fails to furnish, the proof of payment in relation to any voluntary disclosure made in accordance with sub-section (5) of section 33, or

(c) fails to furnish the proof of payment as required under sub-section (6) of section 33,

the Commissioner may, after giving the dealer a reasonable opportunity of being heard, direct him to pay in addition to any tax, interest and penalty under sub-sections (1) and (2) payable or paid by him, a penalty of a sum of rupees one hundred per each day of default subject to a maximum of rupees ten thousand.

(4) The penalties as provided under this section may be imposed by the Commissioner notwithstanding the fact that assessment proceedings have not been initiated against the dealer under section 42 or section 43.

(5) Any penalty imposed under this section shall be without prejudice to any prosecution for any offence under this Act.

Tax to be collected by registered dealers.

35. No person who is not a registered dealer shall collect in respect of any sale of goods by him in the State any amount by way of tax under this Act, and no registered dealer shall make any such collection except in accordance with the provisions of this Act and the rules and at any rate in excess of the rate specified for the purpose by or under this Act.

Rounding off of amount of tax or penalty.

36. The amount of tax or penalty payable or refundable for any period under the provisions of this Act shall be rounded off to the nearest rupee where such amount contains a fraction of a rupee being fifty paise or more, and where such fraction is less than fifty paise, it shall be ignored.

Rounding
off of tax
or penalty
for

Scrutiny
of
returns.

37. In calculating the interest payable under section 34, the amount of tax in respect of which such interest is to be calculated shall be rounded off to the nearest multiple of one hundred rupees, if such amount contains a part of rupees one hundred being fifty rupees or more, and if such part is less than fifty rupees it shall be ignored.

38.(1) Each and every return in relation to any tax period furnished by a registered dealer under section 33, shall be subject to scrutiny by the assessing authority to verify the correctness of calculation, application of correct rate of tax and interest, claim of input tax credit made therein and full payment of tax and interest, payable by the dealer for such period.

(2) If any mistake is detected as a result of scrutiny made under sub-section (1), the assessing authority shall serve a notice in the prescribed form on the dealer to make payment of the extra amount of tax alongwith the interest as per the provisions of this Act, by the date specified in the said notice.