

## CHAPTER IX

### LIABILITY TO PRODUCE ACCOUNTS AND SUPPLY OF INFORMATION

Survey of  
unregistered  
dealers.

72.(1) With a view to identifying dealers who are liable to pay tax under this Act, but have remained unregistered, the Commissioner shall from time to time cause survey of unregistered dealers to be undertaken.

(2) For the purpose of such survey, the Commissioner may –

(a) by general or special notice, require any dealer or class of dealers to furnish the names, addresses and such other particulars as he may find necessary relating to the persons and dealers who have purchased any goods from or sold any goods to such dealer or class of dealers during any given period;

(b) call for details and particulars regarding the services provided by public utilities or any person which, in his opinion, are relevant and useful and cause the results of the survey to be published, from time to time, in any manner as he deems fit; and

(c) enter any place where a person is engaged in business, but is not registered or has not applied for grant of certificate of registration under this Act, whether such place is the principal place of business or not and require any person, whether the owner of the business or not, including any employee or any other person who at the time and place be attending in any manner to, or helping in, the business –

(i) to afford him the necessary facility to inspect such books of account or other documents as the Commissioner may require from him and which he may be maintaining in course of business at such place, and

(ii) to furnish such information as he may require as to any matter which according to him is useful for, or relevant to, any proceeding under this Act.

Explanation. - For the purposes of this clause, a place where the person is engaged in business shall also include any other place in which the person engaged in business or the employee or other person attending to or helping in the business states that any of the books of account or other documents or any part of the cash, stock or other

valuable articles or things relating to the business are kept or are reasonably believed to have been kept.

(3) The Commissioner may enter the place where the person is carrying on the business only during the hours at which such place of business is open for business and after sunrise and before sunset, and make or cause to be made extracts or copies from books of account and other documents inspected by him, make an inventory of any cash, stock or other valuable articles or things checked or verified by him, take samples of goods available at the time of inspection and record the statement of any such person which, according to him, may be useful for, or relevant to, any proceeding under this Act.

(4) The Commissioner while exercising powers under this section shall, on no account, remove or cause to be removed from the place where he has entered, any books of account, other documents, cash, stock or other valuable articles or things without giving receipt thereof.

Production and inspection of accounts and search of premises.

73.(1) The Commissioner may, subject to such conditions as may be prescribed, require any dealer or any other person to –

- (a) produce before him such books of account, registers and documents;
- (b) furnish such information relating to the stock of goods or purchases, sales or deliveries of goods or any other information relating to his business, as may be deemed necessary for the purposes of this Act;
- (c) allow access to the electronic records, if maintained by the dealer.

(2) All books of account, registers and documents relating to the stock of goods, purchases, sales or deliveries of goods by any dealer and all goods and cash kept in any place of business or warehouse, if any, by him or at any other place for and on behalf of him shall at all reasonable times be open to inspection by the Commissioner, and the Commissioner may take or cause to be taken such copies or extracts of the said books of account, registers or documents and such inventory of the goods found along with samples of such goods, as may be necessary for the purposes of this Act.

(3) Where the Commissioner, upon information in his possession or otherwise, is of the opinion that -

- (a) any person, to whom a notice under this Act was issued to produce or cause to be produced any books of account or other documents, has failed to produce or cause to be produced such books of account or other documents as required by or under such notice; or
- (b) any person, to whom a notice as aforesaid has been or may be issued, may not produce or cause to be produced any books of account or other

documents considered to be useful for, or relevant to, any proceeding under this Act; or

(c) books of account, registers or documents of any dealer may be destroyed, mutilated, altered, falsified or secreted or any sales by that dealer have been or may be suppressed, or any goods have not been or may not be accounted for in the books of account, registers or other documents required to be maintained under this Act, with a view to evading or attempting to evade payment of tax due under this Act,

the Commissioner or any other person appointed under section 3 if so authorised by the Commissioner may -

(i) inspect or survey the place of business of a dealer or any other place where it is believed by the Commissioner or the person so authorised that business is being carried on or accounts and documents are being kept by such dealer;

(ii) direct such dealer to produce accounts, registers and documents relating to his business activities for examination;

(iii) inspect the goods in the possession of the dealer or in the possession of anybody else on behalf of such dealer, wherever such goods are placed;

(iv) make search of such places including the search of the person found there, where concealment of facts relating to the business is suspected;

(v) break open the door of any premises or break open any almirah, box, receptacle in which any goods, accounts, registers or documents of the dealer are expected to be concealed, where access to such premises, almirah, box or receptacle is denied;

(vi) record the statement of the dealer or his manager, agent or servant or take extracts from the record and put identification marks on accounts, registers or documents and on any door, almirah, box or receptacle.

Explanation. - The goods, accounts, registers or documents, which are found at any place of business or any other place, of a dealer shall be deemed to belong to the dealer, unless the contrary is proved by him.

(4) Notwithstanding anything contained in sub-section (3), the Commissioner or any officer appointed under section 3 if so authorised by the Commissioner may, without prior notice, undertake inspection of the place of business of a dealer or any other

place where it is believed that the business is being carried on or accounts are being kept by such dealer and take such other action as specified in that sub-section.

(5) Where any accounts, registers or documents are produced before an officer appointed under section 3 to assist the Commissioner in any proceeding under this Act, such officer may, for reasons to be recorded in writing, impound and retain them in custody for a period not exceeding six months, and shall give the dealer or any other person who has produced such accounts, registers or documents a receipt for the same.

(6) Where, at the time of inspection, the officer authorised by the Commissioner in this behalf has reason to suspect that the dealer is attempting to avoid or evade tax or is concealing his tax liability in any manner, he may, for reasons to be recorded in writing, seize such accounts, registers or documents of the dealer as he may consider necessary and shall give the dealer or any other person from whose custody such accounts, registers or documents are seized a receipt for the same, and may retain the same in his custody for examination, inquiry, prosecution or other legal action, for such period not exceeding six months.

(7) Notwithstanding anything contained in sub-section (6), the accounts, registers or documents impounded under sub-section (5) or seized under sub-section (6) may be retained beyond a period of six months and upto a maximum period of two years from the date of impounding or seizure, as the case may be, by such officer, after having obtained permission in writing from the Commissioner :

Provided that where the books or documents impounded or seized form a part of the record of assessment, the limitation as provided under this sub-section shall not apply.

(8) The officer authorised by the Commissioner under sub-section (3) may seize any goods liable to tax which are found in the possession of a dealer or in the possession of any person on behalf of such dealer and which are not accounted for in his accounts, registers or documents maintained in the course of his business, and a list of goods so seized shall be prepared by such officer and a copy thereof shall be given to the dealer or any other person from whose custody such goods are seized.

(9) Where it is not feasible to seize any accounts, registers or documents under sub-section (6) or any goods under sub-section (8), the officer concerned may serve on the owner or the person, who is in immediate possession or control thereof, an order that he shall not remove, part with or otherwise deal with them except with the previous permission of such officer, and, after serving such order, may take such steps as may be deemed necessary under the circumstances.

(10) The officer referred to in sub-section (8) may, after giving the dealer an opportunity of being heard and after holding such further enquiry as he may consider necessary, impose on him for the possession of goods not accounted for, whether seized or not under sub-section (8), a penalty equal to five times of the tax leviable or twenty

percent of the value of such goods, whichever is higher, and such officer may release the goods, if seized, on payment of the penalty imposed.

(11) The Commissioner shall have the power to confiscate any goods, whether or not they have been seized under this Act, of any dealer or person which are found in any office, shop, godown, vehicle, vessel or any other place of the dealer but not accounted for by him in his accounts, registers and other documents maintained in the course of business :

Provided that no such order for confiscation of goods shall be made without giving the dealer or person concerned an opportunity of being heard.

(12)(a) The officer referred to in sub-section (8) may require any person –

(i) who transports or holds in custody any goods of a dealer, to give any information in his possession in respect of such goods or to allow inspection thereof ; and

(ii) who maintains or has in his possession any accounts, registers or documents relating to the business of a dealer, to produce such accounts, registers or documents for inspection.

(b) If the officer authorised under sub-section (6) has reason to suspect that any transporter, bailee, or the owner or lessee of a warehouse to whom the goods are delivered for transportation is attempting to contravene the provisions of clause (a), or evade payment of any tax due from him under this Act, he may, for reasons to be recorded in writing, seize any accounts, registers or documents as referred to in sub-clause (ii) of the said clause, of the transporter, bailee or, as the case may be, the owner or lessee of the warehouse as may be necessary, granting a receipt for the same and, on such seizure, he shall retain the same as long as may reasonably be necessary for examination thereof or for appropriate legal action.

(c) The powers conferred under clause (b) shall include the power to break open any almirah or box or receptacle in which any account, register or other documents of the transporter, bailee or the owner or lessee of a warehouse are believed to have been kept, or to break open the doors of any premises where any such account, register or documents of any goods referred to in the said clause are believed to have been kept.

(d) The powers under clause (c) shall not be exercisable by an officer below the rank of a Sales Tax officer appointed under this Act.

(e) The Commissioner shall have the power to seize any goods vehicle or seize and confiscate any goods of any transporter, bailee or owner or lessee of a warehouse, which are found in any office, shop, godown, vehicle or vessel or any other place while in transit but not accounted for by the transporter, bailee, or the owner or lessee of the

warehouse, as the case may be, in his accounts, registers and other documents maintained in respect of such goods :

Provided that before taking action for the confiscation of goods under this sub-section, the Commissioner shall give the affected person an opportunity of being heard and make an enquiry in the prescribed manner :

Provided further that where an affected person makes payment to the Commissioner the amount of tax at the appropriate rate payable in respect of such goods, to be assessed in the prescribed manner, with a penalty equivalent to twenty per centum of the value of the goods seized, the goods and the vehicle so seized shall be released.

(13) If a dealer fails to produce books of account and such other records and documents as may be required for the purpose of audit or fails to provide necessary cooperation to facilitate smooth conduct of audit or prevents, in any manner, the conduct of audit, the Commissioner may, after giving the dealer an opportunity of being heard, impose a penalty not exceeding rupees twenty five thousand on the dealer.

Establishment of check-posts and inspection of goods while in transit.

74.(1) The Government may, with a view to preventing or checking avoidance or evasion of tax, by notification, direct the establishment of a check-post or barrier or both at such places as may be specified in the notification and specify any of the officers appointed under sub-section (2) of section 3 to be in charge of every such check-post or barrier.

(2) The driver or person-in-charge of every vehicle or carrier of goods in transit shall -

(a) carry with him the records of the goods including “Challan” and “Bilties”, bills of sale or despatch memos and prescribed declaration form or way bill duly filled in and signed by the consignor of goods carried;

(b) stop the vehicle or carrier at every check-post or barrier set up under sub-section (1) or at any other place when so required by an officer authorised by the Commissioner in this behalf;

(c) produce all the documents, including the prescribed way bill relating to the goods, before the officer-in-charge of the check-post or barrier or the authorised officer;

(d) give all the information in his possession relating to the goods;

(e) allow the inspection of the goods or search of the vehicle by the officer-in-charge of the check-post or barrier or the authorised officer.

(3) Where any goods are in transit within the territory of the State, an officer authorised by the Commissioner in this behalf may stop the vehicle or the carrier or the

person carrying such goods, for inspection, at any place within his jurisdiction and the provisions of sub-section (2) shall apply mutatis mutandis for such inspection.

(4) Where any goods in transit are without documents, or are not supported by documents as referred to in sub-section (2), or documents produced appear to be false or forged, the officer-in-charge of the check-post or barrier, as the case may be, or the officer authorised under sub-section (3), may -

(a) direct the driver or the person in charge of the goods or carrier of the goods not to part with the goods in any manner including transportation or re-booking the same till a verification of, or an enquiry into such goods is made, which shall be completed within a period of seven days ; and

(b) seize the goods for reasons to be recorded in writing giving receipt for the goods so seized to the person from whose possession or control the goods are seized.

(5) The officer-in-charge of the check-post or barrier or the officer authorised under sub-section (3), after giving the driver or person in charge of the goods a reasonable opportunity of being heard and holding such enquiry as he may deem fit, may impose, for possession or movement of goods (in transit), whether seized or not, in violation of the provisions of clause (a) of sub-section (2) or for submission of false or forged documents or way bill either covering the entire goods or a part of the goods carried, a penalty equal to five times of the tax leviable on such goods, or twenty per centum of the value of goods, whichever is higher, in such manner as may be prescribed.

(6) During the pendency of the proceeding under sub-section (5), if any one prays for being impleaded as a party to the case on the ground of involvement of his interest therein, the officer-in-charge or the authorised officer referred to in that sub-section may, if satisfied, permit him to be so impleaded, and, thereafter, all the provisions of this section shall mutatis mutandis apply to him.

(7) Subject to such rules as may be prescribed, the officer-in-charge of the check-post or barrier or the officer authorised under sub-section (3) may release the goods to the owner of the goods or to any person duly authorised by such owner, on payment of the penalty imposed under sub section (5) in addition to tax payable thereon.

(8) Where the driver or person in charge of the vehicle or the carrier is found guilty of violation of the provisions of clause (b), (c), (d) or (e) of sub-section (2), subject to the provisions of clause(a) of sub-section (4), the officer-in-charge of the check-post or barrier or the officer authorised under sub-section (3) may detain such vehicle or carrier and after affording an opportunity of being heard to such driver or person in charge of the goods or the carrier, may impose a penalty on him as provided under sub- section (5).

(9) Where a transporter, while transporting goods, is found to be in collusion or is likely to be in collusion with a dealer to avoid or evade tax, the officer-in-charge of the

check-post or barrier or the officer authorised under sub-section (3) shall detain the vehicle or carrier of such transporter and, after affording him an opportunity of being heard and with the approval in writing of the Commissioner, may seize and confiscate such vehicle or carrier.

(10) When a vehicle or boat carrying goods, coming from any place outside the State and bound for any other place outside the State, passes through the State, the driver or other person in charge of such vehicle or boat shall -

(a) declare, in such form and manner before the officer-in-charge of the first check-post or barrier, as the case may be, after his entry into the State, that the goods under transport shall not be unloaded, delivered or sold inside the State;

(b) obtain, in the prescribed manner, a transit pass in such form containing such particulars as may be prescribed, from the said officer; and

(c) deliver the transit pass so obtained to the officer-in-charge of the last check-post or barrier before his exit from the State, failing which, it shall be presumed that the goods carried thereby have been sold within the State by the owner or person in charge of the vehicle or boat:

Provided that where the goods carried by such vehicle or boat are, after their entry into the State, transported outside the State by any other vehicle, boat or conveyance, the onus of proving that the goods have actually been moved out of the State shall be on the owner or person-in-charge of the vehicle or boat.

Explanation.- Where a vehicle or boat owned by a person is hired for transportation of goods by any other person, the hirer of that vehicle or boat shall, for the purposes of this section, be deemed to be the owner of the vehicle or boat, as the case may be.

(11) The officer-in-charge of any check-post or barrier or any other officer, duly authorised by the Commissioner, may detain any vehicle or boat and keep it stationary as long as may reasonably be necessary for examination of the contents therein and the records relating to the goods under transport by such vehicle or boat, and seize the same if, -

(a) it is presumed under clause (c) of sub-section (10) that the goods carried by the vehicle or boat, as the case may be, has been sold inside the State; or

(b) the driver or the other person-in-charge of the vehicle or boat, as the case may be, fails, without reasonable cause, to produce or deliver the transit pass required under sub-section (10); or



(c) he has reason to believe that the goods carried by the vehicle or boat, as the case may be, has been unloaded, delivered or sold inside the State in contravention of the declaration furnished under sub-section (10),

and, thereafter, he may direct the driver or the other person in charge of the vehicle or boat, as the case may be, to pay within a specified period, by way of penalty, a sum equivalent to twenty per centum of the value of the goods under transport by such vehicle or boat, as the case may be, or rupees twenty thousand, whichever is higher, in addition to tax as otherwise payable under this Act, failing which, the said officer may seize and confiscate the goods under transport or seize the vehicle or boat carrying such goods in the prescribed manner to recover such tax and penalty:

Provided that-

(i) before taking any action for confiscation of the goods, the officer shall give the driver or the person in charge of the vehicle or boat, as the case may be, an opportunity of being heard and, if necessary, may make an enquiry in the manner prescribed; and

(ii) where the goods under transport are not available at the time of seizure of the vehicle or boat, as the case may be, the officer may detain the vehicle or boat until such penalty and tax are paid and shall take or cause to be taken any steps he may consider proper for the temporary safe custody of the vehicle or boat, and the registered owner or the person having possession or control of such vehicle or boat and the driver or boatman, as the case may be, thereof shall be bound to comply with orders and directions as the said officer may, in respect of the movement of such vehicle or boat, issue for giving effect to such seizure.

(12) Where the goods seized are of a perishable nature they shall be sold in the prescribed manner.

(13) Where any goods seized under this section are sold, the sale proceeds thereof, after deduction of the tax including penalty payable under this section and the expenses incurred for such sale, be paid to the person from whom the goods are seized.

(14) No order of penalty shall be made under this section in respect of goods which are not liable to payment of tax under this Act.

Restriction  
on  
movement of  
goods  
through  
railways,  
water ways,  
air, postal  
and courier  
services.

75.(1) No person shall transport from any railway station, steamer station, air port, post office, courier office or from any other place whatsoever as the Government may, by notification, specify, any consignment of such goods exceeding such quantity as may be specified in the notification, except in accordance with such conditions as may be prescribed and such conditions shall be made with a view to ensuring that there is no evasion of tax payable under this Act.

(2) Any officer who may be authorised by the Commissioner in this behalf, may, for the purpose of verifying whether any goods are being transported in contravention of the provisions of sub section (1) and subject to such restrictions as may be prescribed, intercept, detain and search any road vehicle or river craft or any load carried by persons.

(3) Notwithstanding anything contained in this Act, where any transporter or bailee happens to be the railways, air ways, river craft, postal or courier services to whom goods are delivered for transportation keep such goods before delivery thereof in any office, warehouse, vessel, boat, receptacle or any other place, the Commissioner may subject to appropriate permission where necessary, enter into and search such office, warehouse, vessel, boat, receptacle or other place, and, thereupon, the person-in-charge of such goods and records relating thereto shall give all facilities for such examination and inspection and shall produce all relevant information as may be required relating to the goods.

Control on clearing, forwarding or booking agent and any person transporting goods and furnishing of information by such agent or person.

76.(1) Every clearing, forwarding or booking agent or broker or a person transporting goods who, in the course of his business, handles documents of title to goods, transports goods or takes delivery of goods for or on behalf of a dealer, shall furnish information about his places of business to such authority, within such time, in such form, as may be prescribed.

(2) Every agent, broker or person referred to in sub-section (1) shall maintain true and complete accounts, registers and documents in respect of the goods handled by him and the documents and title relating thereto, and shall furnish true and complete particulars and information relating to the transaction of goods of any dealer to any officer appointed under sub-section (2) of section 3 and authorised by the Commissioner for the purpose and shall produce such accounts, registers and documents before such officer as and when required by him.

(3) Where any agent, broker or person referred to in sub-section (1) contravenes the provisions of the said sub-section or sub-section (2), the Commissioner may, after giving such agent, broker or person an opportunity of being heard, direct him to pay by way of penalty –

(a) rupees two thousand for contravention of the provision of sub-section (1); and

(b) an amount equal to three times of the tax payable in respect of the goods involved in the transactions of a dealer which appears to have been evaded by such dealer, if the contravention pertains to the provisions of sub-section (2).

Explanation.- The expression -

(i) “clearing, forwarding, booking agent or broker” referred to in sub-section (1) shall include a person who renders his services for

clearing, forwarding or booking of or taking delivery of consignment of goods at railway premises, air cargo complex, container depot, booking agency, goods transport company office or any place of loading or unloading of goods or contrives, makes and concludes, bargains and contracts for or on behalf of any dealer for a fee, reward, commission, remuneration or other valuable consideration or otherwise; and

(ii) “person transporting goods” referred to in sub-section (1) shall include the owner, the manager, agent, driver and employee of the owner, a person who is in charge of a place of loading or unloading of goods, or of goods carrier carrying such goods for despatch to other places, or who gives delivery of any consignment of such goods to the consignee.

(4) Without prejudice to the provisions contained in sections 74 and 75, where a transporter or a bailee or the owner or lessee of a warehouse to whom goods are delivered for transportation keeps such goods before delivery thereof in any office, shop, warehouse, godown, vessel, boat, receptacle, vehicle or any other place, the Commissioner shall have the power to enter into and search such office, shop, godown, vessel, receptacle, vehicle or other place, as the case may be, and to examine the goods and inspect all records relating thereto and, in every such case, the transporter, bailee, owner or lessee of the warehouse or the person-in-charge of such goods and records shall give all facilities for such examination and inspection and shall produce the bills of sale or such other documents as may be required relating to the goods and give his name and address and the name and address of the transporter, bailee, owner or lessee of the warehouse or the person-in-charge of such goods and records, as the case may be.

Explanation.- For the purposes of this section, where goods are delivered to a transporter, bailee or the owner or lessee of a warehouse for transmission, the movement of the goods shall be deemed to commence at the time of such delivery and terminate at the time when delivery is taken from the transporter, bailee or the owner or lessee of the warehouse, as the case may be.

(5) If the Commissioner has reason to suspect that any transporter, bailee or the owner or lessee of a warehouse is attempting to contravene the provisions of sub-section (4) or to evade payment of any tax due from him under this Act, he may, for reasons to be recorded in writing, seize such accounts, registers or documents of the transporter, bailee or, as the case may be, the owner or lessee of the warehouse, as may be necessary, by issuing a receipt for the same, and shall retain the same as long as may reasonably be necessary for examination thereof or for a prosecution.

(6) The power conferred under sub-section (5), shall include the power to break open any box, almirah or other receptacle in which any account, register or other documents of the transporter, bailee or the owner or lessee of a warehouse or to break open the doors of any premises where any such account, register or documents or any goods may be kept.

(7) The powers exercisable under sub-section (6) shall not be delegated to any officer below the rank of a Sales Tax Officer appointed under this Act.

(8) The Commissioner shall have the power to seize any goods vehicle or seize and confiscate any goods of any transporter, bailee or the owner or lessee of a warehouse, which are found in any office, shop, godown, vehicle or vessel or any other place while on transit but not accounted for by the transporter, bailee or the owner or lessee of a warehouse, as the case may be, in his accounts, registers and other documents maintained in respect of such goods:

Provided that before taking action for the confiscation of goods under this sub-section, the Commissioner shall give the person affected an opportunity of being heard and make such enquiry as found necessary for the purpose :

Provided further that where the person affected makes payment to the Commissioner of the amount of tax payable in respect of such goods to be assessed in the prescribed manner, with a penalty equivalent to twenty per centum of the value of the goods seized, the goods and the vehicle seized as aforesaid shall be released.